

THE JUST STATE

GREEK AND ROMAN THEORIES OF JUSTICE
AND THEIR LEGACY IN WESTERN THOUGHT

BENJAMIN STRAUMANN



WILEY Blackwell

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For Eva, Bruno, and Clara

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Preface and Acknowledgments

This book is meant to give an introductory survey of the political ideas and institutions from classical antiquity and their influence on Western institutions and ideas about politics. It is an opinionated survey, however, and will hopefully be of some interest to scholars as well. My work on this book has been a long time in the making and I owe thanks to a great many friends and colleagues as well as to students at New York University and the University of Zurich. From 2020 onwards my work has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation program (grant agreement No. 864309). My collaborators at the ERC-supported "Just City" project on the Ciceronian conception of justice and its reception at the University of Zurich have been extremely supportive and helpful indeed and I must thank them for reading and discussing numerous drafts of the present book over the years, and for helping with constructive criticism, original suggestions and congenial ideas along the way: Jeffrey Dymond, Signy Gutnick Allen, Andreas Gyr, Nikolas Hächler and Ana Kotarcic, as well as the former team members René de Nicolay and Enrico Piergiacomini. Those who have helped me develop my views over the years include Tilmann Altwicker, Theodore Arabatzis, Valentina Arena, Lauren Benton, Nehal Bhuta, Mirko Canevaro, Francis Cheneval, Janet Coleman, David Dyzenhaus, Dan Edelstein, Alberto Esu, Peter Garnsey, James Hankins, Sundar Henny, Kinch Hoekstra, Christoph Horn, Benedict Kingsbury, Dan Lee, Andrew Lintott, Phillip Mitsis, Andy Monson, Beat Näf, Wilfried Nippel, Josh Ober, Johan Olsthoorn, Anthony Pagden, Mike Peachin, Stefan Rebenich, Tobias Schaffner, Malcolm Schofield, Peter Schröder, Thomas Späth, Pete Stacey, András Sziget, Kaius Tuori, Jürgen von Ungern-Sternberg, Lars Vinx, Jeremy Waldron, Alex Yakobson, and Jim Zetzel. It is difficult to imagine how the book could have come about without the conversations with, and soundscape of, Eva, Bruno and Clara.

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Abbreviations and Text Editions

For classical texts standard editions such as Oxford Classical Texts or the Loeb Classical Library have been used. Abbreviations of classical authors and works follow the system used in the *Oxford Classical Dictionary*, 4th edition. Translations, unless otherwise indicated, are my own.

Introduction: Why Greeks and Romans? Why Ideas?

This book seeks to present an intellectual history of one of the most important contributions of Greco-Roman antiquity to the Western tradition: political thought, traced by way of the concept of justice. Athens, Sparta, and Rome and the political ideas they engendered have exercised a crucial impact on Western history, both in the realm of political thought and in the realm of events and institutions. This book traces the history of ancient political thought by focusing on one of its most important and fundamental legacies, the idea of justice. Classical political thought formulated viewpoints and arguments that have influenced our own, often implicit, assumptions about justice. Beyond the direct influence, classical political thought offers an immense, unrivaled reservoir of arguments and critical reflection, a more or less original and at times strange vantage point from which to examine our current assumptions and prejudices. What we call “classical political thought,” however, is by no means a unified body of thought – quite to the contrary, it is a debate, an ongoing argument, and at times a cacophony of very diverse and oftentimes contradictory voices, particularly when it comes to the idea of justice.

In the chapters following this introduction, we will discuss, in the first two parts, Greek and Roman theories of justice in their historical context, from some of the pre-Socratics to the later Roman Empire. The third part of the book will attempt to sketch the respective contributions of the Greek and Roman traditions of thinking about justice to early modern and Enlightenment political thought. There has been a tendency to overstate the influence of Greek, vis-à-vis Roman, political thought ever since democracy increasingly dropped its pejorative connotations from the nineteenth century onward, thus obscuring from our view the distinct contributions of Roman political thought. Roman conceptions of justice shall thus be rehabilitated in their significance and assigned their proper weight. Especially with regard to the idea of justice expressed as a system of *rights* – and potentially existing in tension with democracy – the emphasis on Athens and Greek political thought will have to yield to a more extensive treatment of the Roman tradition of justice. Thus, Cicero, Roman law, and Roman political thought and their concern with entrenched legal safeguards and property rights will be given the prominence they deserve. For the later reception of this tradition, the early modern tradition of natural law – Vitoria, Gentili, Grotius, Hobbes, Pufendorf, Locke – will be particularly salient given the important contributions these writers made to our modern, rights-based conception of justice and the fact that they all drew on Roman political and legal thought.

The Gradual Encroachment of Ideas

But first, let us ask, by way of introduction, why should we bother with historical ideas about politics at all, with the arguments, beliefs, and theories put forward by people in the past? Why not just focus on what people actually did, rather than on what they thought? Moreover, why should we bother with Greek and Roman ideas about politics and the state?

Ideas can be important in two ways. First, they might be interesting in and of themselves, quite apart from the causal effect they have had in the historical process. Second, they might simply be interesting insofar as they contributed to history, insofar, one might say, as they were successful, had an impact, and made themselves felt. Both answers, to different degrees, commit us to the importance of ideas. If we were convinced, by contrast, that ideas only ever serve to veil aggression and self-interest, or amount to mere rationalizations after the fact, there would be far less reason to take ideas seriously. One might then focus on what lies behind the ideas as the really important subject matter – economic processes, say, or power politics, or energy capture.

The present book takes ideas and arguments, understood broadly as that which is built out of concepts, to matter in both of the ways just outlined. Whether or not ideas ever actually play a causal role in the historical process, independent from brute material forces, is an empirical question that I think can plausibly be answered in the affirmative. This book is not, of course, designed to give such an answer; rather, it assumes its plausibility while adding, here and there, modestly to the material required to give a fuller answer.

Ideas that are of *intrinsic* interest for us matter for the simple reason that they intrigue and engross us, often because they promise to be of help in answering and solving problems and questions of our own. It might of course also be the case that it is the very strangeness of certain ideas that makes them interesting to us. The history of political thought allows us to break out of the chance sliver in time and place we happen to inhabit and to free ourselves of those ideas and institutions that we simply happen to have inherited. By showing the contingency of many of our assumptions, the argument goes, history allows us to assume a standpoint independent from them. This is a convincing claim – but, as we shall see, it may not carry us quite as far as its proponents usually assume.

Some political ideas and theories have had great historical *influence*, an influence by no means restricted to the domain of ideas and theories but extending to the realm of what human beings have done or what they have suffered – extending, that is, to the realm of political, social, and economic history. Think of Marxism and its impact on world history; it would be impossible to explain most of the political history of the twentieth century without making mention of Marxism, and it would be, at the very least, difficult to discuss the political system of present-day China without any reference to the Chinese reception of Marxist ideas. Incidentally, this example also points to the difficulty with philosophies of history that assign material forces pride of place, as Marxism itself does: if historical materialism, as postulated by Marxism, were true, Marxism – a system of ideas, after all – should not have had the extraordinary historical impact in pre-industrialized parts of the world such as Russia or China.

One way of stating the difference is that historical influence operates on the level of *causes* and the intrinsic interest of ideas on the level of *reasons*. However, the two should not be neatly separated, for the simple reason that an understanding of ideas and political theories is very often a necessary condition for explaining what people in the past have done – understanding ideas (reasons) is necessary to explain actions (causes). Insofar as humans have been historically motivated by ideas, arguments, and theories, their actions can *only* be understood and described if the ideas

and theories they held are known to us. This can be shown by way of a few trivial examples. A man shows a booklet to a woman sitting at a counter – this may better and more accurately be described as the attempt of the man to enter the United States by showing a valid passport. This more accurate description requires that we know that people in a particular time and place held views pertaining to passports and borders and their importance. Someone scribbling something on a piece of paper can neither be understood nor correctly described if we do not know the ideas and intentions of this person, e.g., the intention to sign a contract of sale in order to acquire title to a piece of land. Examples like these are legion. We may conclude that studying the historical impact of ideas presupposes knowledge of these ideas.

Even if we grant that ideas and concepts are necessary to understand history, do ideas and concepts ever really amount to more than mere propaganda or rationalization? Do they ever really motivate historical actors? And even if we grant that an idea such as, e.g., the divine right of kings did in fact motivate some historical actors, we might still think of it as mere propaganda that was believed by those who stood to gain from it and had thus pragmatic reasons to believe it. But are there really any ideas that are of intrinsic interest, deserving to be scrutinized in their own right, even beyond their role in motivating historical actors in pragmatic ways?

Many historians are skeptical of the independent weight of ideas, both in the sense of having an impact on historical actors and even more so in the sense of having intrinsic interest. These skeptics prefer to think of intellectual history as the history of ideology, or what the classicist Ian Morris has dubbed “a pack of lies from which someone benefits.”¹ That there is plenty of ideology in this sense in history cannot be in doubt. But note that for a “pack of lies” to be able to benefit someone, it has to be believed by someone else – the idea of ideology implies, rather than debunks, the impact of ideas in the historical process. It does not, however, imply that ideas are ever intrinsically interesting. To find that out, we need to know whether *all* ideas are of this ideological character.

To illustrate, we may look to the way the historian J.G.A. Pocock has described his approach to the history of ideas. Pocock writes that ideas in the history of political thought should be treated “strictly as historical phenomena and—since history is about things happening—even as historical events: as things happening in a context which defines the kind of events they were.”² Here, ideas dissolve into context, which defines and gives shape to ideas. Marx famously put forward the following slogan to capture materialism: “It is not the consciousness of men that determines their existence, but, on the contrary, their social existence determines their consciousness.”³

The historian Jonathan Israel, on the other hand, insists on the primacy of ideas, which serve in his view as the engine of history: “A revolution of fact which demolishes a monarchical courtly world ... seems impossible, or exceedingly implausible, without a prior revolution in ideas ... whichever view of the philosophical ferment one adopts, there is no scope for ignoring the universal conviction during the revolutionary age ... that it was ‘philosophy’ which had demolished the *ancien régime*.”⁴

1 Morris, Ian, *Foragers, Farmers, and Fossil Fuels: How Human Values Evolve* (Princeton: Princeton University Press, 2015), xxi.

2 Pocock, John Greville A., *Politics, Language, and Time: Essays on Political Thought and History*, 2nd ed. (Chicago: University of Chicago Press, 1989), 11.

3 Marx, Karl, *A Contribution to the Critique of Political Economy*, trans. N. I. Stone (Chicago: Kerr & Co., 1904), 11.

4 Israel, Jonathan, *Radical Enlightenment: Philosophy and the Making of Modernity 1650–1750* (Oxford: Oxford University Press, 2001), 714–715.

J.M. Keynes, the most famous economist of the twentieth century, positioned himself, interestingly, firmly in Jonathan Israel's camp. Keynes famously expressed the view with much force: "The ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influence, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back. I am sure that the power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas."⁵

This is not a new way of seeing history and the way it is shaped, indeed driven, by ideas. Max Weber had already held a version of it, and so did, before him and among many others, Georg Wilhelm Friedrich Hegel or Thomas Hobbes. In Weber's view, it is "interests (material and ideal), and not ideas which have directly governed the actions of human beings. But the 'worldviews' that have been created by ideas have very often, like switches, determined the tracks on which the dynamic of interests has propelled behavior."⁶ For Weber, the effect of ideas is indirect: interests govern human behavior directly, but what *counts* as an interest in the first place is determined, in turn, by ideas. One might say that ideas according to Weber condition in the last resort what options of behavior there are.

Hegel may well be too burdened with certain metaphysical assumptions and, especially, with the interpretive difficulties that come with his work, but fortunately, we need not appeal to German idealism to make the case for the relevance of ideas in history. The seventeenth-century English philosopher Thomas Hobbes (1588–1679) was an ardent materialist if there ever was one, but he was a materialist with a capacious understanding of what concepts and ideas in general were capable of doing. Hobbes, too, believed in Keynes's "encroachment of ideas," some of which he likened to a venom. The mere reading of Greek and Roman books could, Hobbes insisted, have deadly consequences and easily jeopardize the stability of states:

And as to rebellion in particular against monarchy, one of the most frequent causes of it is the reading of the books of policy and histories of the ancient Greeks and Romans; from which young men, and all others that are unprovided of the antidote of solid reason, ... receive withal a pleasing idea of all they have done ... From the reading ... of such books, men have undertaken to kill their kings, because the Greek and Latin writers ... make it lawful and laudable for any man so to do, provided before he do it he call him tyrant. ... From the same books they that live under a monarch conceive an opinion that the subjects in a popular Commonwealth enjoy liberty, but that in a monarchy they are all slaves... . I cannot imagine how anything can be more prejudicial to a monarchy than the allowing of such books to be publicly read, without present applying such correctives of discreet masters as are fit to take away their venom⁷

Ideas contained in ancient "books of policy and histories" have dangerous causal powers, on Hobbes's view. The effect of the venom of ancient political thought is that men may kill their kings, something that they would not do, according to Hobbes, if it weren't for the ideas contained in the Greek and Latin books. So here we have a reason, again, this time put forward by no other than the

⁵ Keynes, John M., *The General Theory of Employment, Interest and Money* (London: Palgrave Macmillan, 1936), ch. 24, 383.

⁶ Weber, Max, *Gesammelte Aufsätze zur Religionssoziologie* (Tübingen, 1963), 252. My translation, using Sam Whimster's as well the 1946 edition by Hans Gerth and C. Wright Mills in *From Max Weber*.

⁷ Hobbes, Thomas, *Leviathan*, R. Tuck (ed.) (Cambridge: Cambridge University Press, 1996), ch. 29, 225f.

arch-materialist Hobbes, to take seriously the causal effect of ideas in history. But why should we pay particular attention to Greek and Roman ideas about political order, rather than, say, Germanic, or Carthaginian, or Near Eastern ideas? Why, indeed, pay attention to any ancient ideas, and not just modern ones? The answer to this question cannot avoid taking a stance on the intrinsic interest and importance of some of these ideas.⁸

Why Greeks and Romans?

We do not have any reflections of a systematic and critical nature on politics and political order in the ancient world other than Greek and Roman ones. We do have evidence, it is true, of ideas about moral degeneration, as well as counsel and panegyrics addressed to rulers and kings in the ancient Near East, yet there is no systematic thought on political and social order. Other ancient peoples, such as the Carthaginians, the Celts, the Scythians, or the Germanic peoples, have not left us any relevant evidence. The most important reason for this must be sought in the specifically Greek form of political organization, which also lies at the etymological root of our terms “politics” and “political” – namely the Greek city-state, the *polis*. It was the *polis* that provided the background for our earliest political theorists, and these *poleis*, these Greek city-states, have produced the earliest evidence we have for sustained and systematic political thought. In a sense, this is almost a tautological statement, for it has been argued that it was in these city-states that politics itself was invented in the first place. In an instructive discussion of the concept of politics, the ancient historian Moses Finley has argued that the philosopher Michael Oakeshott’s concept of politics as the “activity of attending to the general arrangements of a set of people whom chance or choice has brought together” is far too broad to be of analytical use.⁹ Finley insists that politics necessarily takes place within states, as opposed to “the manifold groupings which exist within a state, social, economic, educational or whatever.” He further insists on focusing on “states in which decisions are binding and enforceable,” and in which those “*binding* decisions are reached by discussion and argument and ultimately by voting.” This criterion – that binding decisions be reached by discussion, argument, and voting – leads Finley to leave Rome under the emperors out of the realm of politics, for “although there was discussion in the Principate, the final and effectively unrestrained power of decision on matters of policy rested with one man, not with voters (not even with the hundreds comprising the Senate).”¹⁰ We need not be quite as strict, however, since aspects of political and especially legal thought developed under the emperors should certainly be accorded weight in a survey of ancient political thought, as opposed to Finley’s account of ancient politics.

It is very doubtful whether the Greeks actually discovered politics in Finley’s sense, but it is clear that they did in fact invent a way of *thinking* about and critically reflecting politics. There are numerous examples of societies throughout human history that have developed political systems based on broad participation and consent, e.g., the Huron in North America or the people of Tlaxcala in Mesoamerica prior to Hernán Cortés’s arrival in 1519.¹¹ But the Greeks invented a

8 For an argument why historians cannot avoid taking a stance on the plausibility of rational explanation of actions in history, see Skorupski, John, “Reason in History,” in M. van Ackeren, L. Klein (eds.), *Philosophy and the Historical Perspective* (Oxford: Oxford University Press, 2018), 117f.

9 Quoted in Finley, Moses, *Politics in the Ancient World* (Cambridge: Cambridge University Press, 1983), 51.

10 Ibid. 52. Italics his.

11 See Stasavage, David, *The Decline and Rise of Democracy* (Princeton: Princeton University Press, 2020), ch. 2, for numerous examples of the existence of participatory politics in this sense and for its very wide spread.

highly original way of reflecting their historical experience and it is therefore the realm of *normative ideas and argument about politics and law* that constitutes the most plausible case for Greek and Roman exceptionalism. To a certain extent, there are institutional grounds for this exceptionalism, too. While there are other historical examples of participation- or consent-based political systems, we know few of them as well as we know the city-state of the Athenians, or the Roman Republic. Nor do we know any early Iron Age societies, apart from the Greek city-states, that institutionalized communal decision-making, where decisions taken by a large assembly were *binding* on the community and where such decisions found expression in normative *laws*. These two institutional features, communal normative law-making and a formalized communal decision-making procedure, are, at least on our current evidence, very much an exceptional feature of Archaic Greece and can be said to constitute a “great leap.”¹² The combination of our deep historical knowledge of their institutions, politics, as well as their political thought is what makes the Greeks and Romans stand out. It is this combination that allows us to see not only how historical institutions worked and what kind of political theory was implicit in them, but also how political actors and thinkers thought about existing institutions and states, and what kind of normative ideas about institutions they put forward.

The fascination inherent in this particular combination of empirical and normative evidence, as well as the originality of ancient ideas and institutions, explain the extraordinary impact of Greek and Roman ideas about politics on the later history of political thought. This impact can still be felt, and recently attempts have proliferated by historians, philosophers, and political scientists to learn and derive conclusions from the ancient states and the ideas they engendered.¹³ Apart from their intrinsic fascination and originality, Greek and especially Roman ideas and institutions also retained their influence because of what later political thinkers perceived as their various pragmatic successes – Athens after the Persian Wars provided an example of successful self-government for some, the Hellenistic kingdoms could be interpreted as large territorial fiscal states, and the Roman Republic offered not only the longest-lived, but also the largest historical example of stable self-government.

The most interesting function served by Greek and Roman political thought for us is perhaps that it provides a vast reservoir of normative ideas, arguments, and critical reflection that is very well suited to shed light, and cast critical doubt, on our own most fundamental normative assumptions. Some of these ideas were in fact tried out in the polities of the ancient Mediterranean world, and not a few normative concepts inhere implicitly in the institutions of those polities and can be gleaned from them. We are, therefore, dealing not only with a reservoir of normative political philosophy but also with a laboratory of sorts – the laboratory of ideas operating in history. The philosopher David Dyzenhaus has described this aptly as “a complex mix of the empirical and the normative in that the past is a resource for making claims about both how it was thought things should work and how those normative ideas in fact worked.”¹⁴

12 See Raaflaub, Kurt, “The ‘Great Leap’ in Early Greek Politics and Political Thought,” in D. Allen, P. Christesen, P. Millett (eds.), *How to Do Things with History: New Approaches to Ancient Greece* (Cambridge: Cambridge University Press, 2018).

13 See, e.g., Skinner, Quentin, *Liberty Before Liberalism* (Cambridge: Cambridge University Press, 1997); Flaig, Egon, *Die Mehrheitsentscheidung: Entstehung und kulturelle Dynamik* (Paderborn: Schöningh, 2013); Ober, Josiah, *Demopolis* (Cambridge: Cambridge University Press, 2017); Carugati, Federica, *Creating a Constitution: Law, Democracy, and Growth in Ancient Athens* (Princeton: Princeton University Press, 2019); Schwartzberg, Melissa, *Counting the Many: The Origins and Limits of Supermajority Rule* (Cambridge: Cambridge University Press, 2013).

14 Dyzenhaus, David, “The Safety of the People is the Supreme Law,” *The New Rambler* (October 25, 2016).

The ancient historian and political theorist Josiah Ober recently called in a similar vein for an approach to political theory that is “at once evaluative, explanatory, and historical.” Such a “hybrid approach,” Ober believes, is “not the method of most contemporary political theory,” but it is the method “employed by many of the most prominent political theorists of classical antiquity and the early-modern western tradition.” This approach calls for a fusion of normative inquiry with positive political theory and historical reasoning. *Normative* inquiry seeks to find answers to the questions of what we should want (“the good”) and what is just (“the right”); *positive* political theory seeks to explain problems of collective action and analyzes strategic behavior; and *historical* reasoning aims at showing the normative and positive in action over time by “tracing changes over time in the dynamic relationship of norms to institutions and social behavior.”¹⁵

It is very important to stress that the intellectual resources provided by classical antiquity are not in any way monolithic or unanimous; these resources present us, rather, with an ongoing *debate* about concepts central to politics – a debate or “clash of reasoned views” about notions of justice, the idea of freedom, ideas concerning merit and virtue, about political stability, order, and the nature of law. Moreover, this ancient laboratory of ideas operating in history has special relevance for us, as the classicist Kurt von Fritz has argued. The political institutions and conditions of the ancient world, von Fritz wrote in an article published in 1976, bear a far greater similarity to our modern ones than any of the historical epochs “from early medieval times to the third quarter of the 18th century.” Von Fritz mentions an additional, important point: the enormous amount of autonomous political entities in early classical history as well as the long-term nature of ancient history stretching more than 10 centuries allowed for far more variety and far more combinations of political forms than the relatively short time span between the last quarter of the eighteenth century and today. This allows us to investigate political phenomena separately, especially those – von Fritz mentions despotism, tyranny, and totalitarianism – that have tended to appear together in modern history.¹⁶

We must bear in mind, however, that the ideas and institutions of the ancient world, as similar as they may be in *some* respects to our own, are in other regards extremely foreign to Western twenty-first century ideas about justice. This is perhaps too obvious to mention, but when we consider the fact that in both the Greek city-states and the Roman state chattel slavery played a crucial role and was hardly ever criticized as an institution; and when we further consider that in both Greek and Roman law women were considered to have no legal personality, or only a very diluted kind of legal personality at best; we must appreciate consequently that in those regards Greek and Roman societies were far closer to the world-historical average than especially Western societies from roughly the twentieth century onwards have been. At Athens and Rome, slaves were central to economic life; slaves must have made up between a fourth and a third of the population of Attica in the fifth and fourth centuries BCE and perhaps almost a fifth of the population of Roman Italy in the late Republic and the early Empire. The US South before the Civil War was in many ways comparable, although there was no racial slavery in antiquity; at Athens and Rome slaves were active in all sectors of the economy and did not just perform manual and agricultural labor; and manumission rates were as high in Rome as they were low in the American South.¹⁷ Women in

15 Ober, Josiah, *Demopolis*, 12.

16 Fritz, Kurt von, “Totalitarismus im antiken Griechenland und Rom,” in K. von Fritz, *Antike Verfassungsgeschichte und Verfassungstheorie* (Berlin/New York: Walter de Gruyter, 1976), 568f.

17 I rely on Lenski, Noel, “Framing the Question: What Is a Slave Society?,” in N. Lenski, C. M. Cameron (eds.), *What Is a Slave Society? The Practice of Slavery in Global Perspective* (Cambridge: Cambridge University Press, 2018), 15–58, especially 45f.

Population, 200 to 2021

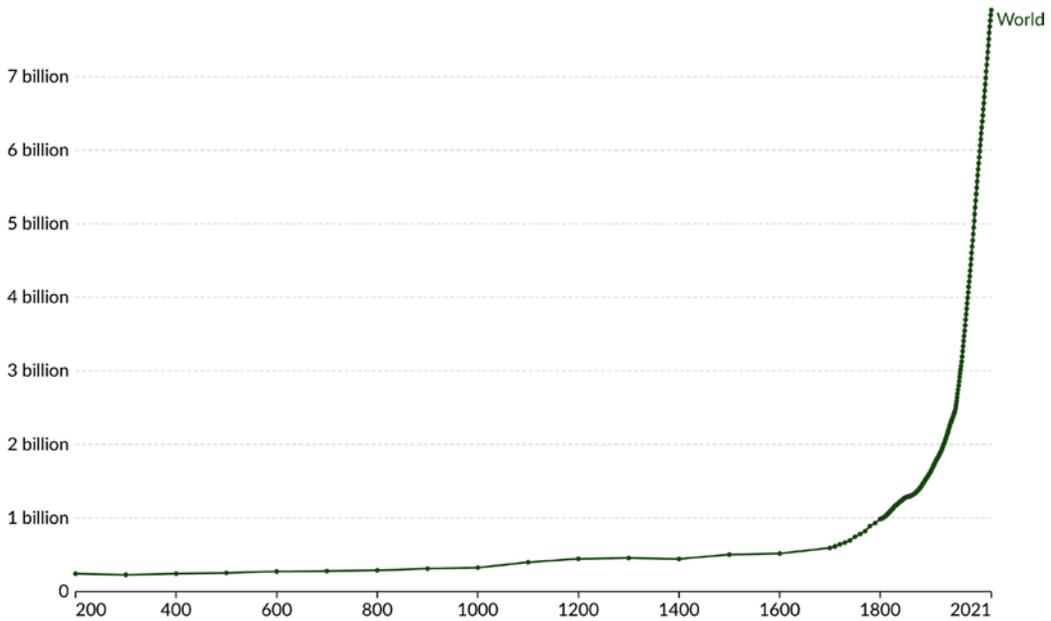


Figure 1 World population growth from antiquity to 2021. Source: OurWorldInData.org/Our World In Data/CC-BY-4.0.

Athens and Rome had no political rights and required a male guardian to transact business; however, as we shall see, Roman women did acquire considerably more legal capacity over time, more indeed than in later European legal systems until the twentieth century.

We also need to keep in mind the enormous gap that separates us from *any* pre-modern society in terms of economic development: in 2022 a country such as the United States had a GDP per capita of about USD 76,000, or 34,000 in so-called Geary-Khamis dollars (a unit with the purchasing power of USD in 1990), whereas estimates about the Roman economy, however rough and however impossible to determine, tend to assign values of around 700 per capita (Geary-Khamis unit).¹⁸ This means that people today in rich Western countries – notwithstanding enormous population growth (see Figure 1) – have per capita at least 40 times as much at their disposal than Greeks or Romans did. This is of course due to the industrial revolution, starting in the late eighteenth century, and everything it brought in its wake, namely enormous economic advancement (see Figure 2) – without doubt one of the most profound world-historical turning points, if not the most profound.

We now have three important reasons for studying Greek and Roman political thought. First, not only have the classical debate and the institutions of some of the city-states and empires of

¹⁸ Scheidel, Walter, Steven J. Friesen, “The Size of the Economy and the Distribution of Income in the Roman Empire,” *Journal of Roman Studies* 99 (2009): 61–91, at 74.

Global average GDP per capita over the long run

These historical estimates of GDP per capita are adjusted for inflation.

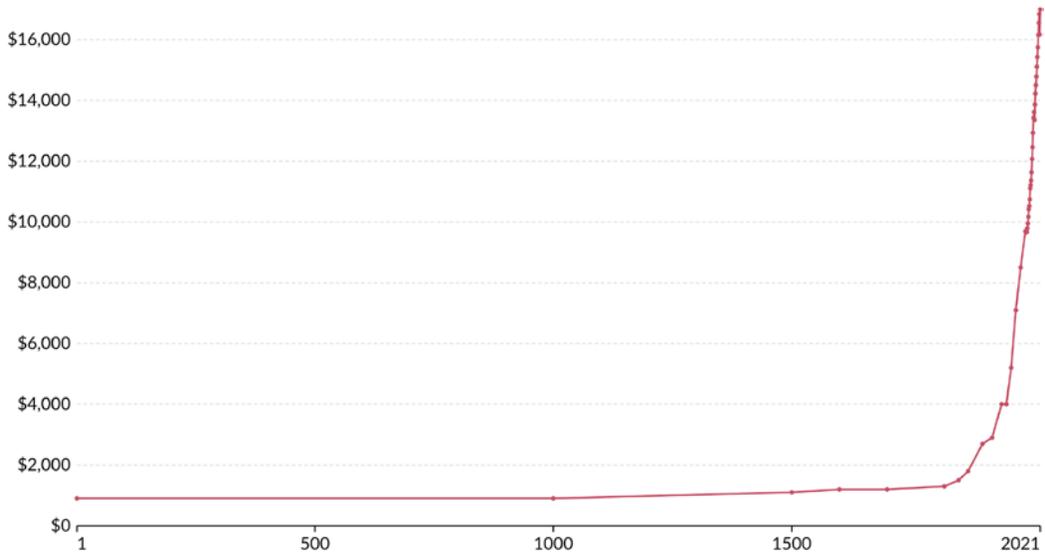


Figure 2 Average global GDP per capita from antiquity to 2021. Source: OurWorldInData.org/Our World In Data/CC-BY-4.0.

classical antiquity contributed importantly to our own assumptions and institutions, but it is, second, also the case that they are comparatively speaking rather exceptional and of intrinsic importance. Third, they help us to take a step back, as it were, and interrogate and evaluate our own political ideas and assumptions from a much more elevated vantage point than that provided by a debate confined to the history and the voices from the post-Second World War era. The study of ancient political thought, then, allows us to leave the parochial confines of the circumstances and ideas we happen to have been born into and assume a viewpoint that provides a far wider horizon.

The escape from the province of our own era and contingent circumstance should prove an attractive offer to everyone, perhaps especially to social scientists, who, suffering from historical provincialism and rarely leaving the homey post-1945 epoch, can ill afford to refuse it. Political science is always in danger of extrapolating from far too small a sample size and accounting only for very recent institutions and ideas, while professional historians have been skeptical when it comes to long-term perspectives that go beyond any one epoch. Historians have also shown a marked tendency to suspect “whig history” wherever they look and to distrust the causal power of ideas and arguments – a rather paradoxical distrust given the fact that it is precisely rigorous, empirical historiography that has testified, time and again, to the causal power of ideas and to their ability to move light-footedly between epochs, cultures, and languages.

The Use and Energy of Ideas and Concepts

If ideas and concepts are indeed among the “most migratory things in the world,”¹⁹ how do we explain their ability to have an effect in the world? It is a recent commonplace among intellectual historians and even some philosophers that we are not supposed to resort to what they call derogatorily mere “ideas in the Platonic heavens,” but instead are supposed to attend to the way ideas are in fact shaped by, and used in, historical contexts. Sometimes, this is taken to imply that ideas, concepts, and arguments cannot escape their immediate historical contexts and are of necessity bound to their contingent uses. But one need not be a Platonist to acknowledge the fact that ideas and concepts do in fact escape their immediate contexts and are not by any means necessarily held hostage by their contingent uses. Nor are ideas impotent, as we saw Keynes pointing out above. I will say more about this shortly, but it should be clear that these insights, if vindicated, will allow us (a) to judge how normative thought impacted practices and institutions in the past, and (b) to interrogate the normative premises and assumptions we ourselves take for granted. Such interrogation might then, in turn, (c) have an effect on existing institutions and practices.

The view of ideas in history on display here is predicated on a conception of progress in the normative domain; studying ancient political thought will enable us to assess arguments and make up our own minds as to which arguments are the winning ones. If we are to learn from past debates and their historical consequences, and if we accept the claim that ideas at least sometimes do have an impact on historical events and are not merely the epiphenomenal foam on the waves of history, then we have to be prepared to try and assess ideas, concepts, and arguments on their merits.

Now how is it even possible for ideas, that is to say, mere concepts, and the arguments composed from these concepts, to affect history and institutions? One way to think about this is by looking at how economic historians have tried to find out about the causes of economic growth. One approach, championed by the winner of the 2018 Nobel Prize in economics Paul Romer, emphasizes the role of innovation for economic growth. How do ideas impact economic growth? Romer believes that there are *conceptual* foundations for innovation and hence for economic growth. The way this works is, first, that people worldwide are able to share discoveries with each other and, second, that these discoveries and ideas can then be combined in an unfathomable amount of ways. The key is that ideas are what economists call “nonrival” goods, that is to say, that they can be used at the same time by any number of people without being depleted. By contrast, a rival good, such as a hammer, can only be used by one person at a time. Romer invites us to picture a house under construction. “The land on which it sits, capital in the form of a measuring tape, and the human capital of the carpenter are all rival goods... . Contrast this with the Pythagorean Theorem, which the carpenter uses implicitly by constructing a triangle with sides in the proportions of three, four, and five. This idea is nonrival. Every carpenter in the world can use it at the same time to create a right angle.”²⁰ Nonrivalry allows for enormous scale.

This is a neat and intuitive way of explaining how innovation can causally impact economic growth. But it also provides an intuitive way of understanding the role of ideas in history more generally speaking. Romer employs the metaphor of atoms and bits, or physical objects and recipes: ideas are like recipes for “rearranging physical objects” or atoms, and since there are almost infinitely many ways of rearranging atoms, there is enormous scope for innovation and therefore

19 Lovejoy, Arthur O., “Reflections on the History of Ideas,” *Journal of the History of Ideas* 1, no. 1 (1940): 4.

20 Jones, Charles I., Paul M. Romer, “The New Kaldor Facts: Ideas, Institutions, Population, and Human Capital,” *American Economic Journal: Macroeconomics* 2, no. 1 (2010): 227.

growth. But ideas, or recipes, are not exclusively concerned with the arrangement of physical objects, as Romer recognizes – indeed, ideas about justice, political organization, and institutions can be as causally important in the historical long term as the ideas that provide the conceptual foundation for scientific innovation. In this case, we might say that we are dealing with ideas that act as recipes for rearranging other ideas or *concepts* rather than physical objects. If these concepts are rearranged in certain ways – more about that shortly – and gain traction, we get institutions, and institutions can be thought of as a kind of transmission belt between ideas and events. Consider, e.g., the case of family law and monogamous marriage systems: there is reason to think that the relatively recent institution of monogamy, which is not attested before sixth-century BCE Athens, had an important causal effect on social and economic development over the last 2600 years or so.²¹

Concepts can be regarded as the basic unit of social reality.²² Out of concepts such as “money,” “marriage,” “law,” or “consul,” social reality is built. These concepts act in history in the sense that they can and sometimes do become part of social reality, especially when they become institutionalized. The legal institution of marriage, for example, is clearly an objective part of social and historical reality at various points in time, and it is a part of social reality that crucially depends on the users of the institution having conceptual knowledge. But knowing the relevant concepts does not in and of itself create institutions; rather, as the philosopher John Searle has argued, institutions and institutional facts are created by speech acts he calls “declarations.” Declarations are speech acts that at the same time declare that a state of affairs exists and – by that very declaration – bring that state of affairs into being. In Searle’s terminology, declarations are speech acts that have simultaneously “world-to-word” (seeking to change the world) and “word-to-world” (seeking to describe the world) “direction of fit.” Declarations try, that is, simultaneously to “change the world to match the content of the speech act” and describe the world that came about as a consequence of the declaration itself. A pure example of a declaration is a promise. When we promise something, we *make* it thereby the case that we promise, by saying “I promise.”²³

Searle thinks that we use declarations systematically to build social reality and its institutions. At bottom, declarations serve to give expression to what Searle calls “status functions,” the ascription of a certain status to something. Status functions take the general form “X counts as Y in C,” as in “Marcus Tullius Cicero (X) counts as consul (Y) of the Roman Republic in 63 BCE (C).” Or we might say that a particular piece of paper only counts as money because we ascribe the status of money to it: “This green piece of paper (X) counts as a one-dollar bill (Y) in the United States today.”

So far one could be forgiven for thinking that this is simply an idealist dream. All we need to do for something to exist is to issue a Searlean declaration that that something, in fact, exists? Clearly, more than wishful thinking and declaring is needed for a declaration to be successful. Apart from the conceptual underpinning, there has to be *collective action*, namely collective recognition of the social fact in question. Cicero was consul in 63 BCE by virtue of the collective recognition that he was in fact consul, and the one-dollar bill in my pocket is money by virtue of our collective recognition that it is in fact money.

21 See Lape, Susan, “Solon and the Institution of the ‘Democratic’ Family Form,” *Classical Journal* 98, no. 2 (2002–2003): 117–139; Scheidel, Walter, “A Peculiar Institution? Greco-Roman Monogamy in Global Context,” *The History of the Family* 14, no. 3 (2009): 280–291; Seligson, Daniel, Anne E. C. McCants, “Polygamy, the Commodification of Women, and Underdevelopment,” *Social Science History* 46 (2022): 1–34.

22 For an elaboration of this claim, see Straumann, Benjamin, “The Energy of Concepts: The Role of Concepts in Long-Term Intellectual History and Social Reality,” *Journal of the Philosophy of History* 14, no. 2 (2020a): 147–182.

23 See J. Searle, *Making the Social World: The Structure of Human Civilization* (Oxford: Oxford University Press, 2010), 11–15.

Note that individual wishful thinking on its own does not manage to declare something a social fact that is not a social fact; but note also that individual wishful thinking cannot simply undo an actual social fact either – Harold Skimpole in Charles Dickens’s novel *Bleak House* does not successfully undo the social fact of money simply by virtue of claiming that he had no idea of it. Note also that although social and institutional facts only exist, on this picture, insofar as they are being declared to exist and collectively recognized to exist – although they only exist, in short, insofar they are represented as existing – still there are routinely *consequences* of institutional facts that are not themselves dependent on conceptual knowledge and collective recognition. Searle gives the example of a recession: whether or not an economy finds itself in recession is not dependent on it being represented as in recession, but whether or not something is in fact money *does* depend on it being represented as such. We can have a recession, then, without having the concept of recession, but we cannot have money, property, marriage, consuls, or presidents without having the concepts plus collective recognition.²⁴

The Cult of Contingency, or: Is Everything Constructed?

We are now in possession of an explanatory skeleton. Ideas and concepts are nonrival and can therefore reach, and be used by, a great amount of people across space and time. When used collectively in Searlean declarations, concepts become building blocks of social reality and institutions. Social and historical reality thus consists in the last analysis of the concepts used in Searlean declarations and a kind of collective action: the collective recognition that turns declarations into institutional facts. We need conceptual content, therefore, and in addition collective action, something more empirical and social-scientific that makes concepts catch on. Again, this is not exhaustive, since on top of this there is an infinite amount of unintended consequences that are part of social reality but are not mind-dependent in the way declarations are, such as, for example, recessions.

If we focus too much on the conceptual part of this explanatory skeleton, we risk losing sight of an extremely important fact. It is tempting to believe that since ideas and concepts such as “money” or “consul” are in a way up to us humans, the institutional facts they refer to – money, government, the consulate – can be done away with quite easily. It is tempting to believe, that is, that since social reality is in a sense made up by us, or “constructed,” as the jargon has it, we are at liberty to change or undo it. The temptation is sometimes expressed in the language of contingency: since our concepts and the institutions built on them are contingent, they can easily be changed. Contingent in this context tends to mean “not metaphysically necessary,” or at least “non-natural.” Now the problem is of course that it does not follow from something being contingent that it is easily changed. Nor does it follow from something being part of nature that it cannot be changed. Compare smallpox and money: the former was entirely natural but could eventually be eradicated, while the latter, while obviously contingent in the sense of “non-natural,” cannot easily be done away with, to put it mildly.

The reason for the recalcitrant nature of even the most obviously contingent institutional facts lies in the collective-action part of our explanatory skeleton. To undo an institution we need conceptual change, but we also need collective action. Gay marriage may provide an example: first, it was realized that the conception of marriage as exclusively between men and women was

²⁴ See Searle, *Making the Social World*, 116f.

contingent. But collective action was still required; the existing conception of marriage and the institution that rested on it were criticized as unjust and a competing conception of marriage was put forward; and only when this competing conception caught on and found collective recognition was it possible to change the institutional facts. Note that a collective change of mind is necessary, but not sufficient, to change social reality; as Thomas Hobbes pointed out with exceptional clarity, people can be collectively caught in very durable, but very unpleasant equilibria, because collective action that would allow us to exit such equilibria cannot be had. Lastly, there might be constraints of a purely biological nature; our behavioral dispositions are historically contingent and clearly malleable, but we are not infinitely malleable either. Some features of our psychology might be simply too difficult to override. In such cases, in the absence of genetic engineering and if, as philosophers like to say, ought implies can and obligations have to be possible and doable, these psychological constraints might be impossible to overcome.

History will be a very useful guide when it comes to finding out about such constraints, both those pertaining to collective-action problems and those that might be said to be biological and hardwired. We should, therefore, add a historical dimension to our explanatory skeleton. As a result, we will have to think along three dimensions: (a) a *conceptual* dimension; (b) a dimension that includes *constraints*, both biological constraints and those imposed by collective-action problems; and (c) a *historical* dimension that includes the other two dimensions and tracks conceptual and institutional change over time.

Overview of Contents

The first part of the book is concerned with Greek political thought. In the first chapter, we will discuss the emergence of the city-state, the *polis*, in Greece and the earliest expressions of reasoning about politics. Then in some sense “pre-political” society of the Homeric epics and normative political thinking as shown in the poems of Hesiod will be considered as well as Solon’s political ideas. Chapter 2 opens with the earliest example of abstract Greek political theory, the constitutional debate in Herodotus, and gives an account of the historical development and institutional background of democratic Athens. Early elements of democratic thought and the ideas of the sophists are discussed. Chapter 3 deals with Plato’s *Republic* and analyzes the views advanced against democracy. The chapter closes with an examination of Plato’s *Statesman*, the *Crito*, and the *Laws*. Chapter 4 engages with Aristotle’s conception of justice, first by way of a survey of his criticism of Plato and then by applying criteria of justice to Aristotle’s own view of the best state. Aristotle’s empirical analysis of existing states will be considered as well. Chapter 5 deals with the political ideas of the Hellenistic philosopher schools, especially with the immensely influential Stoic idea of natural law. We will ask whether the Stoics had the concept of rights.

The second part of the book is concerned with Roman political thought. Chapter 6 examines the historical and institutional context within which the political ideas of the Romans took shape, the Roman Republic, and the description of the Roman constitutional order by the Greek historian Polybius. We will investigate the political ideas that arose during the late Roman Republic, where, in the context of constitutional crisis and arguably for the first time in the history of political thought, we see the development of a new, normative concept of constitution. Cicero’s works of political philosophy are dealt with in Chapter 7. It will be important first to connect Cicero with the Stoic strands of thought he inherited, especially in Cicero’s *Republic*, the *Laws* and *On Duties*, the better to understand the specifically Roman character of Cicero’s natural law theory. Chapter 8 treats the change from the Roman Republic to the monarchy of the principate; the rise of the

Church as a state within the state; and the consequences of this development, culminating in Lactantius's, Ambrose's, and especially Augustine's novel theories of justice.

The third and last part of this book seeks to draw some broad conclusions with regard to where the most salient strands of political thought originating in classical antiquity can be located in the period from the Middle Ages to the late eighteenth century. Chapter 9 engages with the Greek perfectionist tradition of thinking about politics, especially Aristotelian political thought and its medieval and early modern legacy. Chapter 10 traces the reception of Roman ideas about justice from the rediscovery of the Roman law of the *Digest* around 1100 to early modern thought about politics. Roman law and Cicero's political thought helped bring about new ideas about the state of nature that proved particularly influential. Chapter 11 seeks to situate these ideas in the crucial historical events of the eighteenth century, especially the American, French, and Haitian revolutions. In the Conclusion, I offer some thoughts and suggestions on the extent to which we have inherited Greek and Roman theories of justice.