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James Harrington on Equality, Agrarian Law, and Political Justice

Abstract:

Even though the political theorist James Harrington (1611–1677) has sometimes been acclaimed as a forerunner of Marxist views—mainly on account of his seeming economic determinism—his work has been mostly overlooked by historians of economic thought. This paper argues that beyond his dubious claim to fame as a seventeenth-century Marx, other aspects of Harrington’s thought deserve consideration, in particular his procedural approach to political justice and its consequences.

Keywords: James Harrington, equality, economic determinism, political justice, proceduralism, agrarian law, balance of power, procedural justice, republicanism, John G.A. Pocock, Crawford B. MacPherson

James Harrington (1611–1677) has generally been overlooked by historians of seventeenth-century economic thought, and is usually relegated to a footnote. Arguably, such a lack of scholarly attention is not entirely undeserved: Harrington is better known as a republican political theorist and utopian writer, focusing on constitutional matters quite foreign to the economic issues of his day. His connection to William Petty through the Rota

Club notwithstanding, he seems to have ignored economic considerations almost entirely, as having no bearing on the institutional arrangements to which he devoted most of his short publishing career (spanning four years at the end of the Interregnum) as a political writer.

One would search his works in vain for cogent and informed commentary on commerce and the balance of trade, credit and money, and the creation of wealth. Moreover, he appears to have missed most of the dramatic economic changes taking place during his lifetime.

Although he had travelled to the Netherlands in his youth, he did not seem to partake in the fascination of many of his fellow Englishmen for the Dutch Golden Age, nor did he think there were policy lessons to be learned from such irritating—as well as highly successful—neighbors. The fact that he labelled his magnum opus *Oceana* should not be mistaken for a prophetic concern for the British transatlantic world and early modern globalization. In spite of what some historians have described as his unrepentant jingoism and unmitigated approval of British imperialism—after all, *Oceana* is described by its first legislator, Lord Archon, in Roman and Machiavellian fashion as “a Commonwealth for increase” (Harrington 1992, p. 217; 1977, p. 320)—his appetite for expansion was closer to home and focused almost exclusively on Ireland.

The first part of this paper will provide a historiographical survey of Harrington’s ambiguous relationship to economic thinking. Focusing on his alleged economic determinism, we will examine the reasons why Harrington has captured (and might still capture) the interest of some historians and philosophers. Concluding that this approach is not as promising as it initially appeared, we will turn in the second part to Harrington’s awkwardly neglected contribution to proceduralism, which is relevant to issues of social and economic justice. We will be exploring his views on the “balance” in greater detail, ultimately reassessing his legacy in contrast with some influential accounts of his work.

I. A “SEVENTEENTH-CENTURY MARX”? HARRINGTON AND ECONOMIC THOUGHT

Property, the Balance, and the Rise of Economic Determinism

One key element of his political theory, however, has caught the attention of economically minded historians: his strong claim that forms of governments stand or fall according to “the balance of property,” which many have understood to be an early form of economic determinism. If politics is an art—in the sense that all political forms are artificial, as well as in the Machiavellian sense that legislators and political leaders are confronted with unruly material, chaos, and possible corruption over time—it should be built on a knowledge, or even a science, of “nature.” Legislators, in Harrington’s view, should always take into account what he calls the “foundation” of government, i.e. the distribution of (mostly landed) property among the people, lest they fail miserably, and “build in the air” (Harrington 1992, p. 60; 1977, p. 202).

Harrington thus famously explained the collapse of the Stuart monarchy he witnessed firsthand not by resorting to an accidental and largely avoidable sequence of events on top of personal moral failures (as Edward Hyde, first Earl of Clarendon, did in his posthumous *History of the Rebellion* (1702-1704)), nor by the undue influence of raving mad clerics and gentlemen infatuated with classical lore (like Thomas Hobbes in *Behemoth*). Instead, he saw it as the effect of long-term socioeconomic causes starting a century and a half earlier with the first Tudors. With the “Gothic balance” characteristic of feudalism decisively altered by Henry VII (represented by King Panurgus in *Oceana*), and the dissolution of monasteries under Henry VIII (Coraunus in *Oceana*), the nobility gradually lost the control of their lands to the gentry, and to those Harrington not unambiguously called “the people.” It was only a

matter of time before a government founded on a long-defunct distribution of property collapsed and was replaced by one more suited to the conditions now extant—Elizabeth I-Parthenia’s “love tricks” and “kind of romance” with the people could only postpone the inevitable (Harrington 1992, p. 56; 1977, p. 198). By the time *Oceana* was published in 1656, a republic was more or less the fate of England, for, as Harrington claimed, “where there is equality of estates, there must be equality of power, and where there is equality of power, there can be no monarchy.” Many of his contemporaries might have been blissfully unaware of the fact, but “the balance being in the people, the commonwealth (though they do not see it) is already in the nature of them” (Harrington 1992, p. 60; 1977, pp. 201–202).

Harrington’s “interpretation of his age”¹ thus appears to dovetail with socioeconomic explanations of revolutions most readily associated with later Marxist views. Richard H. Tawney claims, for instance, that Harrington’s “affinities are less with the architects of constitutions than with the thinkers who have attempted to depict their conception of the society of the future as a necessary deduction from the facts of social history” (Tawney 1978, p. 80). Largely impersonal forces and states of affairs such as economic conditions determine which viable “superstructure”—to make things worse, the very term is used by Harrington—might be erected upon them. A quasi-dialectical overthrow awaits governments that do not match their foundation. True political prudence, by contrast, consists in “the skill of raising such superstructures of government as are natural to the known foundations” (Tawney 1978, p. 60). It thus comes as no surprise that early twentieth-century Marxists such as Eduard Bernstein celebrated him as a seventeenth-century Marx, though later Marxist historians such as Christopher Hill criticized the statement precisely because Harrington departed from Marx by being too much of an economic determinist (Hill 1997, p. 280). Nor is it surprising that Tawney dismissed Montesquieu’s view (*Esprit des Lois*, XI. 6) that Harrington was

1 From Richard H. Tawney’s influential Raleigh lecture of 1941, which revived interest in Harrington among English-speaking historians.

irredeemably and irrelevantly utopian, claiming instead that “in spite of his dress of fancy, his work was not a Utopia, but partly a social history, partly a program based upon it” (Tawney 1941, p. 35).

Now extolled as both a key witness and an active agent of the bourgeois revolution, Harrington’s scholarly fortune rose accordingly, and became entangled with controversies over “the rise of capitalism,” “the theory of possessive individualism,”² and above all with what has been called by Jack. H. Hexter “the storm over the gentry” (Hexter 1961). Was Harrington the spokesman for a rising bourgeois gentry (*pace* Tawney) ready to seize power, or the malcontent and nostalgic lost scion of a declining gentry (*pace* Hugh Trevor-Roper), which was losing touch with the realities of the day? In the eyes of Trevor-Roper, Harrington’s slogans about the decline of the Tudor nobility were in fact “quite irrelevant to the condition of the Elizabethan aristocracy” (Trevor-Roper 1951, p. 295), and Harrington was not the perceptive, cold observer he was once thought to be. Close examination of Harrington’s social standing and connections, as well as a massive statistical debate over change in land ownership and transfers of wealth both proved inconclusive and irrelevant, however, and Harrington gradually lost his status as the quintessential ideologue of the bourgeois revolution. As Judith Shklar puts it, “the gentry did not in fact accept Harrington’s ideas,” and he never was the prophet of the gentry (Shklar 1959, p. 682). Many scholars agree with her (and Hobbes) that he “got his notions from his beloved classics, not from any social experience” (Shklar 1959, p. 683).

2 For a discussion of Crawford B. Macpherson’s thesis, see the section titled *MacPherson’s “Birth of Capitalism” Interpretation* below.

Republicanism, "Interest," and the Arts of Government

John G.A Pocock's views, first expressed in *The Ancient Constitution and the Feudal Law* followed by *The Machiavellian Moment* and a major edition of Harrington's *Political Works* published in 1977—which became widely influential—seemed to deal the death blow to economists' interest in Harrington, when he firmly placed Harrington's theories and concerns within a purely political tradition (Neo-Machiavellian Republicanism). Following others (notably Zera Fink's seminal work on *The Classical Republicans*), Pocock stressed that Harrington's apparent focus on economic realities such as the distribution of property could be misleading and that his almost exclusive focus on land ownership betrayed the real source of his concern: a classical attention to its connection with military might. If, as formulated in *Oceana*, "an Army is a beast that hath a great belly and must be fed; wherefore this will come unto what pastures you have" (Harrington 1992, p. 13; 1977, p. 165), then the balance of property is essential to the preservation of government. This view has the additional merit of nicely explaining Harrington's lack of interest in trade or industry: He deemed them irrelevant to his purpose, which was focused on institutional arrangements conducive to the political stability of his "immortal commonwealth."

The student of Harrington (and of early modern English thought, generally speaking) should not be fooled by the fact that Harrington taps extensively into the language of "balance" and "interest"³ into believing that it automatically reflects a mode of economic or quasi-economic thinking. That said, there is a remarkable degree of overlap in terminology between political theory and economic thought during the period—usually via the language of the state and politics pervading economic vocabulary, rather than the other way around. This is certainly the case for both words under consideration.

3 Harrington promotes them as key terms in his political theory, as we will explore further below.

The newly fashionable language of “interest” was in vogue in England since the 1640 translation of *A Treatise of the Interest of the Princes and States of Christendom* (Gunn 1969) by the French Duke of Rohan. At first closely related to Machiavellian or Guicciardinian notions (such as reason of state) and to the parliamentary rhetoric of *Salus populi*, the idea of the public interest as a form of political justification ultimately gave birth to a whole literary genre of “England’s Interest.” Under the umbrella of “interest,” the traditional “arts of government” could increasingly incorporate economic considerations, as well as take on issues relating to the articulation of private and public interest from a different perspective. Harrington’s use of the term is itself revealing, particularly through its connection with reason and virtue, in that it bridges the gap between hard-boiled realism (indeed, pessimism with respect to selfishness and human nature) and the politically moralistic outlook of civic humanism: The institutional arrangements he proposed guaranteed that the composition of interests (and private reason) would harmonize into public interest and public reason under the guidance of wisdom. This is also the very reason why Harrington thought that a commonwealth would always be intrinsically better than other regimes, both in terms of stability and justice, as we will see in part two.

Much the same goes for the term “balance,” which is pervasive in both political and economic thought, and paramount in Harrington’s political theory. The need for a proper “libration and poise of orders” (Harrington 1977, p. 658) was liable to lead to economic, medical and political applications—Harrington’s frequent references to William Harvey being a case in point. As Andrea Finkelstein suggested in *Harmony and the Balance*, to talk of the balance is to suggest the need for a centering mechanism, one that could restore the unbalance or “overbalance” conducive to disease, impoverishment or anarchy (Finkelstein 2000, pp. 181ff). Harrington, no more than many early political economists or proto-economic thinkers of his time, did not assume that a built-in mechanism or overarching

providence existed that would automatically restore the system to its proper balance, though he, like them, seemed to believe that the notion of a balance pointed to a quasi-Aristotelian natural order of things.

Agrarian Laws as Social Engineering

Oceana as a work of theory and fiction is deeply steeped in the mechanical and artificial imagination of the time, the minute description of its institutional arrangements revealing so many cogs and wheels of a magnificent clockwork designed to maintain the “body politic” in its prime condition. Harrington’s theory evinces no confidence in the virtue of citizens outside the institutional framework that sets them on the right path: “‘Give us good men and they will make us good laws’ is the maxim of the demagogue [...] but ‘Give us good orders and they will make us good men’ is the maxim of a legislator and the most infallible in the politics” (Harrington 1992, p. 64; 1977, p. 205). The role of the legislator is thus to institute “orders” in such a way as to ensure that no overbalance occurs, and that means constraining citizens’ actions, much like the cats trapped in a device that struck Harrington so strongly when he chanced to witness it in Italy:

At Rome I saw one [pageant] which represented a kitchen, with all the proper utensils in use and action. The cooks were all cats and kitlings, set in such frames, so tied and ordered, that the poor creatures could make no motion to get loose, but the same caused one to turn the spit, another to baste the meat, a third to skim the pot and a fourth to make green sauce. If the frame of our commonwealth be not such as causeth everyone to perform his certain function as necessarily as this did the cat to make green sauce, it is not right. (Harrington 1977, p. 744)

In Harrington's works, nature and art echo each other in that the best legislator, as a true "political artist" in the tradition of "the greatest artist of the modern world," Niccolò Machiavelli, is the one able to create the artefact that comes closest to nature as a self-regulating mechanism: All governments and "orders" are thoroughly and definitely artificial, but they must be built on nature (Davis 1981, p. 693).

That is why Harrington sets great store by the specific agrarian laws of Oceana. If the commonwealth is to endure through the vicissitudes of time, and the attending corruption that is always to be expected in this sublunary world, it has to be set up in such a way as to counterbalance possible degenerating effects, by preventing overbalance, which, in his view, is the root of all sedition. The thirteenth order of Oceana guarantees that no man should start in life with owning land worth more than £2,000 in revenue by dividing the father's estate among the remaining sons:

And no man, not in present possession of lands above the value of two thousand pounds by the year, shall receive, enjoy (except by lawful inheritance), acquire or purchase unto himself lands within the said territories amounting, with those already in his possession, above the said revenue. (Harrington 1992, p. 101; 1977, p. 231)

Harrington considers agrarian laws to be fundamental laws, "or the centre of this commonwealth" (along with the peculiarly Harringtonian intricacies of the ballot), "the agrarian by the balance of dominion preserving equality in the root" (Harrington 1992, pp. 100–101; 1977, p. 231). No landed interest will become overbearing to the point that it will eventually overthrow the wise institutions of Oceana, "so stating property in land at such a balance that the power can never swerve out of the hands of the many" (Harrington 1992, p.

234; 1977, p. 333). Such a relative equality in property is a necessary prerequisite for stability, and here Harrington (for once) begs to differ when confronted with Machiavellian wisdom: “A commonwealth that is internally equal hath no internal cause of commotion, and therefore can have no such effect but from without. A commonwealth internally unequal hath no internal cause of quiet, and therefore can have no such effect but by diversion” (Harrington 1992, p. 158; 1977, p. 274–275).

Harrington’s understanding of *commonwealth*, of course, draws on Roman history, and here as elsewhere one could claim as the classical scholar Fergus Millar did that “in a very striking way, Harrington’s *Oceana* represents the only example of a systematic attempt to imagine how the institutions of the Roman Republic could be transformed (sometimes out of all recognition) to function as those of a republic that was also an extensive territorial state: namely, England itself” (Millar 2002, p. 81). He conceives agrarian laws not as the outcome or seed of social strife (which they mostly were in Roman times, and condemned as such by a majority of remaining Roman sources), but rather as the definitive solution to social conflict, and one that would definitely be closer to social engineering. To understand this shift better, we should not discount the other key ancient source Harrington was fond of referring to: the Hebrew Bible. Eric Nelson has shown convincingly how the rise to fame of the *Respublica Hebraeorum* theme contributed to the elaboration of redistributive schemes in Renaissance Europe and specifically England (see Nelson 2010, pp. 57–87), “because God trumps even Cicero” (Nelson 2010, p. 77)—Tully being no friend of agrarian laws, to be sure.

When the rule of reason becomes identified with the rule of God, justice and political wisdom become in turn indistinguishable. “A commonwealth, I say, of this make is a minister of God upon earth, to the end that the world may be governed with righteousness” (Harrington 1992, p. 221; 1977, p. 323). It may well be that Harrington’s unexpected contribution to the theory of justice will prove to be of more interest to the history of

economic thought than his purported economic determinism and whether or not he was the spokesman of a seventeenth-century bourgeois revolution, as we will argue in the next and final part of this paper.

II. POLITICAL JUSTICE AND THE BALANCE OF AUTHORITY

In this section, we focus on Harrington's account of political justice, by first examining and eventually rejecting influential but misleading accounts of his notion of "the balance," then by analyzing his procedural views in light of Rawls' theory of justice. This will in turn shed light on Harrington's artificialism and its bearing on social and economic issues, as seen from a moral perspective, beyond the obvious consequences for constitutional theory.

Balance of Authority vs Balance of Power

The term "balance" mentioned earlier is quite ambiguous throughout the history of early modern political theory, but even more so in Harrington. We should distinguish between at least three senses of the term:

1. The "balance of power" in Harrington's strict sense of the term (where "power" consists in external and material goods, distinct from competence and thus from political authority) corresponds to the way in which the unequal "distribution of shares in land as to the three grand interests" (*A System of Politics*, in Harrington 1977, p. 836; 1992, p. 271) determines the "predominant interest," either that of the one (the king), the few (the nobility), or the many (the people). For instance, "if one man has the whole, or two parts in three of the whole land or territory, the interest of one man is the predominant interest, and causes absolute monarchy" (ibid). According to Harrington, the distribution of land is and should be determined by the agrarian laws. Taking his cue from Aristotle and of Machiavelli (in his

Discourses on the First Ten Books of Titus Livius), Harrington thinks that the basic structure of society, with respect to the distribution of land and property, is produced by the legislator.

2. The balance of authority is distinct from the above. It is the way in which, within a psychological or a collective process, one faculty counterbalances the other. Harrington has in mind the balance of reason and the passions, and its political counterpart: The most rational balance of political authority rests upon the division between the competence to deliberate and the competence to decide.⁴ Harrington sharply distinguishes between authority and power. Whereas “power” is generally linked with external goods, authority rests upon internal goods, or psychological talents. In a sound commonwealth, the political balance of authority mainly consists in the interaction between the debate of the senate and the decision of the people.

3. A third sense is the Polybian balance of the one, the few, and the many. The Greek historian Polybius (*Histories*, VI) claimed that the Roman Republic had reached stability by combining the monarchic (the Consuls), aristocratic (the Senate), and democratic elements (the Centuriate Assembly) into a mixed constitution.

There are three caveats to this typology:

First, in Harrington’s *Oceana* the second and third sense of “balance” (Harrington’s view on political authority and Polybius’s idea of a triad of political elements) are somehow merged into one category.

Second, the triad of the one, the few, and the many appears under two different headings—the balance of property, and the constitutional or Polybian balance. We should keep in mind that *one*, *few*, and *many* do not have exactly the same meaning in both contexts. In one context, they stand for social and economic categories of landowners; in the other, for political institutions. Most commentators neglect this subtle difference.

⁴ There is also a third competence, that of execution, which, in the political context, corresponds to the magistracy, as distinct from both houses.

Third, Harrington uses the phrase “balance of authority” only once in *Oceana*: “We have wandered the earth to find out the balance of power; but to find out that of authority we must ascend, as I said, nearer heaven, or to the image of God, which is the soul of man” (Harrington 1992, p. 19; 1977, p. 169). The use of the expression “balance of property,” as a synonym for “balance of power,” is most frequent. This does not imply, however, that Harrington’s interest in the balance of authority is unimportant and incidental.

As Andrew Lockyer puts it: “Harrington’s idea of the balance of property is distinct from, but related to, his idea of constitutional balance (‘balance’ in the former case means ‘preponderance’, in the latter, ‘mixture’, ‘poise’ or ‘equation’). <...> The notion of constitutional balance is an adaptation of the classical Polybian view that the most stable form of government is a mixture of the pure forms, where the powers or virtues of one, few and many, reflecting the social composition of the state, are ‘balanced’” (Lockyer 2006, p. 459). There is little to add to this commentary, which lucidly contrasts constitutional balance with the balance of power, that is, of land. In passing, let us note that Lockyer’s statement about the dependence of the balance of authority on what he terms the “social composition” should be qualified. It does indeed depend on the balance between social groups, but only indirectly, through the moral structure it requires. As we will soon see, the thesis of the balance of authority being a direct function of the “social composition” is typical of Crawford B. MacPherson’s and of Yves C. Zarka’s interpretations of Harrington, which are oversimplified.

Harrington’s constitutional doctrine is supposed to be a solution to the central problem of practical deliberation. Given the typology of (1) “private reason, which is the interest of a private man,” (2) “reason of state” understood as the “interest of the ruler or rulers”, and (3) reason *tout court*, “which is the interest of mankind, or of the whole,” which Harrington also terms “right reason” (Harrington 1992, pp. 21–22; 1977, pp. 171–172), the practical problem

is how to shift from private reason to right reason or the public interest. It seems at first glance that Harrington draws on spontaneous altruistic tendencies in human nature when he invokes the “law of nature.” However, if we take a closer look, it appears that he is not that optimistic. Harrington is well aware of the necessity of institutional constraints on choices. A central passage deserves to be quoted at length:

It may be said that the difficulty remains yet; for be the interest of popular government right reason, a man does not look upon reason as it is right or wrong in itself, but as it makes for him or against him. Wherefore, unless you can show such orders of a government as, like those of God in nature, shall be able to constrain this or that creature to shake off that inclination which is more peculiar to it, and take up that which regards the common good or interest, all this is to no more end than to persuade every man in a popular government not to carve himself of that which he desires most, but to be mannerly at the public table, and give the best from himself to decency and the common interest. But that such orders may be established as may, nay must, give the upper hand in all cases to common right or interest, notwithstanding the nearness of that which sticks to every man in private, and this in a way of equal certainty and facility, is known even to girls, being no other than those that are of common practice with them in divers cases.

(Harrington 1992, p. 22; 1977, p. 172)

What follows is the famous procedure of two girls making sure that they divide a cake equitably, by agreeing that the one who cuts the cake is not the first to choose. Harrington then explains his cake metaphor in the context of government: “Dividing and choosing, in the language of a commonwealth, is debating and resolving; and whatsoever, upon debate of the senate, is proposed to the people, and resolved by them, is enacted *auctoritate patrum et jussu*

populi, by the authority of the fathers, and by the power of the people, which concurring, make a law” (Harrington 1992, p. 24; 1977, p. 174).

That concurrence between deliberation and decision, which together constitute the legislative, is a necessary condition for members of a state to be citizens, governed by laws and not by the will of some.⁵ Now the question is how should we understand the connection between Harrington’s account of power in the strict sense and his account of authority? How is political justice linked to social and economic equality or inequality? This is a controversial issue among commentators.

A Critique of Zarka’s Critique of Harrington’s Organicism

In *Philosophie et politique à l’âge classique*, Yves C. Zarka delineates and defends the Hobbesian understanding of political will as a public will, distinct from the private will of the prince. The will of Leviathan is public insofar as it has been “authorized” by the wills of the individuals participating in the pact. Zarka claims that, compared to Hobbes, Harrington regressed to the archaic organicist view that the people are divided into at least two distinct castes, one being guided, with the other, the “natural aristocracy,” being the guide (Zarka 1998, pp. 132–133). Thus, Harrington would have missed the potentially democratic element in Hobbes’s understanding of the political will as the representation of the will of anybody that was party to the social contract. According to this line of interpretation, Hobbes matters far more than Harrington to the history of the modern concept of political will, not only because Hobbes replaces natural functions with the construction of political representation, but also because, contrary to Harrington, he emancipates the theory of power from the theory of property.

5 For more on the Aristotelian patrician ideal of citizenship and the idea of being free by the laws, not from the laws, see Andrés De Francisco’s account (2006, pp. 276-277).

Zarka is well aware that the categorial distinction between authority (which draws on goods of the mind) and power (corresponding to the goods of fortune) is crucial to Harrington's political theory and is explicitly anti-Hobbesian. As he argues, "the political consequences that Harrington draws from that distinction are of the utmost importance, since they allow him to define power by establishing it upon the theory of property" (Zarka 1998, pp. 138–139), with the balance of land determining the political system. As to the other branch of the distinction, this reading excessively downplays Harrington's understanding of political authority. Zarka does not mention the cake-cutting model at all, nor the procedural aspects of Harrington's views on authority. The only thing he focuses on is Harrington's use of "natural aristocracy" as a constitutional order, which he understands as a quasi-ontological order (Zarka 1998, pp. 139–140, 145). He thus construes Harrington's "reason of mankind" or "interest of mankind" or "right reason" as being substantively superior and external to individual or "private" reason. It is then quite easy to argue that Hobbes' conception of political will, insofar as it is authorized by individuals, avoids the shortcomings of Harrington's alleged organicist or functionalist view of a hierarchical society.

However, that interpretation is weak. Although it is true that Harrington does not base authority on a procedure of authorization (or representation), it is simply not true that he bases political authority on a natural order or that he accounts for it by subscribing to an (oversimplified) Aristotelian account of moral and natural excellence. For the basis of authority lies in institutional constraints, i.e. "orders of a government" that are "able to constrain this or that creature to shake off that inclination which is more peculiar to it, and take up that which regards the common good or interest." Such procedural constraints are "known even to girls," who know the "you cut, I choose" method. As Harrington says in his *Prerogative of Popular Government*, "every man has an interest what to choose, and that choice which suiteth with every man's interest, excludeth the distinct or private interest or

passion of any man, and so cometh up to the common and public interest or reason” (Harrington 1977, p. 416). However, “natural frailty,” which is present in the governing body as well as among the governed, works against that sense of common interest:

In the frame of such a government as can go upon no other than the public interest, consisteth that whole philosophy of the soul which concerneth policy: and this whole philosophy of the soul being throughout the commonwealth of Oceana demonstrated. <...> The main of this philosophy consisteth in deposing passion and advancing reason to the throne of empire. (Harrington 1977, p. 415)

The “philosophy of the soul” that Harrington has in mind here rests upon the Platonic analogy between the soul of the city and the soul of the individual. Most important is the idea that passion must be deposed and reason advanced by the use of institutional constraints that affect the governing as well as the governed.

Yet Zarka remains silent on Harrington’s procedural theory of the construction of public reason. He does not see that the vocabulary of nature does not prevent Harrington from insisting on the artificial dimension of public choice. Harrington’s point is not simply that the people should be guided by enlightened aristocracy, but rather that enlightened aristocracy as a social and economic group, by itself, would promote its own interest, against the interest of the whole people, unless it is forced to contribute to the interest of the commonwealth as a political entity and solely in an advisory role: “The wisdom of the few may be the light of mankind; but the interest of the few is not the profit of mankind nor of a commonwealth.” It is true that Harrington considers that in a commonwealth “natural aristocracy” is “the only spur and rein of the people” (Harrington 1992, p. 142; 1977, p. 262); however, it also works the other way round: The popular horse is guided by the aristocratic rider in a way that

diminishes the relevance of the equestrian metaphor, since in this case it is the horse that always makes the decision in the end.

To sum up, Zarka's interpretation misses the point of constitutional constraints because he is obsessed with the seeming organicist dimension of Harrington's conception of society. This is not to deny the significance of the language of nature in Harrington's *Oceana*. The point is that the organicist or functionalist flavor of "orders"⁶ does not prevent Harrington from formulating the idea of some kind of procedural justice, as John Rawls recognized (more on this below).

Pocock lucidly construes Harrington's "natural aristocracy" in opposition to standing aristocracy "whether one of birth, tenure or sanctity" (Pocock, in Harrington 1977, p. 66). Here "natural" does not refer to the inertia of social facts, but to the quasi-statistical distribution of skills, Harrington's point being that among any group of people there are always a few whose advice might prove helpful (see Harrington 1992, p. 23; 1977, p. 172: "A third will be wiser, or at least less foolish, than all the rest"). There are causal, not conceptual, links between the two: In order to develop the intellectual abilities typical of "natural aristocracy" you must have the leisure that is accessible to members of the standing aristocracy. So it is no wonder that the nobility and gentry would provide most members of the senate.

Pocock's Civic Humanist Interpretation

Pocock's account of the case is not fully satisfactory either. He sees the cake-sharing example as a case of equality and not of authority, so that in his view it gives little clue as to the constitutional separation between the senate, the popular assembly, and the magistracy:

⁶ Harrington's "orders" echo Machiavellian *ordini*, as Pocock points out (Pocock, in Harrington 1977, p. 67).

“The two girls are of perfectly equal rationality; neither has any capacity to which the other defers because she does not share it, and the principle so far demonstrated is in fact that of equality and not authority” (Pocock, in Harrington 1977, p. 65). Pocock insists that political decisions are “more complex than the sharing of a cake.” It is true that it does not matter which of the two girls is in charge of dividing and which is in charge of choosing; all that matters is that the one who chooses is not the one who cut up the cake. Pocock observes that, on the contrary, having competent people in the senate matters a lot and requires specific mental capacities. But does it matter to political justice as such? Moreover, Pocock does not consider the fact that a stupid child might not understand that, according to that procedure, the optimal strategy would be to divide the cake into two equal parts. This is just to suggest that even in the cake-sharing case some mental abilities are presupposed. One significant difference that remains between the two situations is that the skills expected from the members of the senate are not of the kind that are learned simply from playing a repeated game.

Pocock is perfectly correct when he stresses the importance of Harrington’s own understanding of the separation of power (not in the Harringtonian sense of “power”) as a necessary condition of political justice. Any overlap between the authorities in charge of deliberation and decision is a seed of injustice: “If either group encroaches on the other’s function, the latter has begun to be excluded from authority and even to be subjected to power; injustice, inequality, corruption and fortune have begun to operate” (Pocock, in Harrington 1977, p. 66). What is wrong with Pocock’s reading is that he does not see that this precise point implies that the cake-sharing case, at least in Harrington’s opinion, accounts well for the separation between the senate and the assembly. If members of the senate were stupid, this would no doubt diminish the efficiency and relevance of their proposals to the popular assembly, but it would not affect political justice per se, in Harrington’s view. This

point is difficult to accept, as is the whole comparison between the cake-cutting model and political legislation, for reasons we will soon discuss; but this is the way Harrington sees it.

For nothing in Harrington's treatment of the cake-sharing case justifies equating it with the demonstration of a "principle of equality" (Pocock, *ibid.*), whereas Harringtonian bicameralism would enact a "principle of authority." On the contrary, Harrington applies the cake-sharing model quite explicitly to account for the "whole mystery of a commonwealth, which lies only in dividing and choosing" (Harrington 1992, p. 22; 1977, p. 172). The answer cannot come from elsewhere: "The senate then having divided, who shall choose? Ask the girls." (Harrington 1992, p. 24; 1977, p. 173) Political justice thus understood depends on the procedure.

It is important to note that, at least in the case of collective choice issues, Harrington, contrary to Hobbes, does not consider that decisions or resolutions amount to the necessary conclusion of a process of deliberation. Decisions are external to the deliberations that they bring to an end. The popular assembly hears enough from the senate to take a stand on a given issue. The final resolution does not simply flow from the deliberative process as conclusions flow from premises or effects from causes. Harrington's "philosophy of the soul" draws on a rhetorical and judicial model rather than on a logical or mechanical one.⁷

As Lockyer says, Pocock's main purpose is to fight against the presentation of Harrington as a "class ideologue, spokesman for a rising bourgeois class or a waning aristocracy," or "an ascending or descending gentry" (Lockyer 2006, p. 458). Harrington's fascination with the balance of property has little to do with a defense of the landed interest, but more with Machiavellian considerations about the stability of governments. Thus, Pocock's target is MacPherson's social and economic reading of Harrington, to which we now turn.

⁷ For a discussion of present-day models of deliberation, see Philippe Urfalino (2005).

MacPherson's "Birth of Capitalism" Interpretation

MacPherson thinks that there are two “central ambiguities” in Harrington’s political theory. He claims that “in a theory which hinges almost entirely on the balance of property between the few and the many, the nobility and the people” (MacPherson 1962, p. 161), it is not clear whether the gentry is included in the few or in the many. Sometimes it is included in the nobility, sometimes it is distinguished from it. The other ambiguity, which we will not be discussing here at length, concerns the balance or overbalance of property. “Overbalance” means possession of more than half the land either by the few, the many, or the one, with this distribution of property determining the distribution of “power” and thus the political system (a “Gothic balance,” “commonwealth,” or “absolute monarchy,” respectively). MacPherson thinks that Harrington does not develop the latter hypothesis in a thorough and consistent manner.

MacPherson gives great importance to the gentry controversy, that is, the historical debate about the alleged rise of the gentry during the sixteenth and seventeenth centuries, which in some interpretations (including MacPherson’s) fits in with the Marxist idea of the rise of a bourgeois society in early modern Europe. Thus, the Harringtonian concept of the balance of property, and the view, popular among English republicans, that it had shifted from the Crown to the gentry, serves as a useful historical category to describe major social and economic transformations in early modern England (MacPherson 1962, pp. 168–171). Thus MacPherson tends to overlook the political and constitutional sense of the concept of balance.

By focusing on the ambiguity of “gentry,” MacPherson misses the procedural aspects of the distinction between the few and the many. He does not see that there is also a balance of the few and of the many in the context of authority, distinct from that of power, so that “the few” is not always synonymous with landed nobility. Instead, “the few” may also stand for

what Harrington calls the “natural aristocracy,” which refers to excellence in the goods of the mind rather than to wealth in the goods of the body or fortune, although the two are closely linked. It is significant that in Harrington’s vocabulary “aristocracy” and “nobility” are not interchangeable, as is obvious from the following passage: “If neither the people, nor divines, and lawyers, can be the aristocracy of a nation, there remains only the nobility; in which style, to avoid farther repetition, I shall understand the gentry also, as the French do by the word *noblesse*” (Harrington 1992, p. 137; 1977, p. 258). Here “nobility” is a social and economic category, whereas “aristocracy” is a political concept.

Commenting on the cake-sharing case, MacPherson reads it as illustrating the necessary concurrence of two social classes (MacPherson 1962, p. 184). Zarka offers a similar reading, even though he does not conflate authority with power, as MacPherson does when he speaks of the separation of powers in the non-Harringtonian sense.

Let us end this section with a few words about the controversy between MacPherson and Pocock. Against Pocock’s *Ancient Constitution and the Feudal Law* (1957), MacPherson maintains that Harrington was well aware of the importance of market relationships and of the economic dimension of the agrarian law (MacPherson 1962, pp. 174–176) and that “the capitalist relation had penetrated to the land, in the form of racking of rents” (p. 178). One good argument for restoring Harrington to his place in the history of economic ideas is his interest in colonial subjugation as a means of accumulating wealth. MacPherson makes a good point when he draws attention to Harrington’s speculations about the way in which Panopean (Irish) rents should increase the cash flow for English landlords, especially if Panopea (Ireland) were repopulated with Jews, who would be more efficient than the Irish (MacPherson 1962, p. 180). However, this is not sufficient to refute Pocock’s textual and contextual arguments, which he develops mainly in the Introduction to his edition of Harrington’s *Political Works* (1977). There he shows that, although “Harrington knew there

was such a thing as trade,” his “perception of emerging capitalism” was marginal rather than essential to his thought (Pocock, in Harrington 1977, pp. 56–57). “His economics were *oikonomika* in a Greek sense” (Pocock, in Harrington 1977, p. 63). The proof is Harrington’s lack of interest in the cases of Holland and Genoa, in which wealth did not derive from land but from trade, and did not consist in property but in money (Pocock, in Harrington 1977, pp. 60–61). If Pocock is correct against MacPherson, as he seems to be, then we think we understand why Harrington only plays a marginal role in the history of economic thought. Yet, even though Pocock has made a good case against that kind of social and economic reading, this does not prevent Harrington from connecting with the history of economic thought from a different angle, as we will show in the final section.

The Balance of Authority in Light of John Rawls’ Typology of Procedural Justice

Let us get back to the cake-cutting case and the way in which it is a case of procedural justice. The same result would occur regardless of whether the person cutting the cake is aware that she will be the last to choose a piece (you cut, I choose), or if the one cutting the cake lacks information about who will be the first to choose, so that in the cake-cutting case the sharers are in a situation analogous to that of people deliberating behind a veil of ignorance. There is an obvious similarity between Harrington’s example and a Rawlsian procedure that would ensure a fair distribution of primary social goods.

Indeed, Harrington’s view on a fair legislative process silently resurfaces in Rawls’ *Theory of Justice*. Before elaborating on this, let us deal with an objection to the relevance of the cake-sharing example. The practical problem would be far more serious were the cake not homogeneous: Suppose that the chocolate and praline are on one side of the cake, and the cherries on the other, and each girl likes some ingredients and not others. If one gets the part

she does not like, the result is not optimal. Another factor that might falsify Harrington's proposal is envy: Everyone knows that even when we get the piece of cake we want, we still desire our neighbor's, not because we are still hungry, but because we envy him. However, these kinds of considerations do not constitute decisive objections, since in the simple cake-cutting case the participants agree in advance about what the fair outcome is: equal pieces, nothing else and nothing more. This is a case of what Rawls terms "perfect procedural justice," but it is not a case of "pure procedural justice."

For Rawls distinguishes between pure procedural justice, on the one hand, and two other kinds of procedural justice, perfect and imperfect, on the other.⁸ As Brian Barry explains: "The point of saying that the outcome is one of pure procedural justice is that there is no way of saying what is a just distribution in advance of the decisions that people actually choose to make." (Barry 1995, p. 214). Rawls' comments on the difference between the *imperfect* procedural justice that is at work in a criminal trial, and the *perfect* procedural justice illustrated by the cake-sharing case, suggest that something is wrong in Harrington's application of the model of cake-sharing to the whole process of bicameral deliberation. For Harringtonian bicameralism ensures that the process is fair, but not necessarily the outcome, simply because the outcome cannot be reduced to the equivalent of a unique determinate division of pieces of cake. A variety of more or less acceptable decisions may be achieved through a procedure constraining private interest to serve public interest. In the simplest and purest cake-cutting case such a divergence is ruled out, not because the fairness of the

8 According to Rawls (1999), perfect procedural justice has two features: first, an independent criterion for what constitutes a fair outcome of the procedure, and second, a procedure that is guaranteed to lead to this fair outcome. Imperfect procedural justice shares only the first characteristic of the former—there is an independent criterion for determining the fairness of the result—but no procedure to guarantee that this fair result will be achieved. In a situation of pure procedural justice, on the other hand, there is no criterion for what constitutes a just outcome other than the procedure itself.

procedure would automatically be transferred to the outcome,⁹ but simply because the procedure cannot fail to produce exactly the expected outcome, whose fairness has been previously defined. Once that desired outcome has been substantively defined, “it is possible to devise a procedure that is sure to give the desired outcome,” (Rawls 1999, p. 74). In passing, we should note that, since the fairness of the outcome is not intrinsically dependent on the procedure, there is nothing to preclude successful alternative procedures from producing equal pieces of cake, as Barry (1989, p. 265) points out.

Whereas, in the case of the cake-sharing, following the procedure constrains individual maximization to ensure the expected outcome, in the case of a criminal trial or (for quite different reasons) concrete political deliberation, following the procedure is a necessary but not in all cases sufficient condition for obtaining the right outcome. A criminal trial, according to Rawls, enacts imperfect procedural justice (“independent criterion of what is a fair division” combined with the absence of a guarantee that this fair division will be achieved through the procedure), whereas concrete political deliberation is a case of what Rawls terms *quasi*-pure procedural justice: There is no independent standard of the fair outcome, the procedure being a necessary condition of a fair outcome, but that fair outcome is not fully determined—it is vaguely situated within a range of possibilities that are acceptable. When discussing quasi-pure procedural justice, Rawls gives the example of a parliament: “We must rely on the actual course of discussion at the legislative to select a policy within the allowed bounds. These cases are not instances of pure procedural justice <read: they are instances of *quasi*-pure procedural justice> because the outcome does not literally define the right result.” (Rawls 1999, p. 318) For instance, various healthcare policies may be considered acceptable within “the allowed bounds.” The cake-sharing case differs from that quasi-pure procedural justice in two respects: The standard of a fair outcome

⁹ As it would in the case in pure procedural justice, illustrated by gambling, which is distinct from perfect procedural justice insofar as the criterion to assess the outcome is not defined independently of the procedure

is defined independently of the procedure and the procedure cannot fail to lead to a determinate fair division. As Rawls notes, “perfect procedural justice is rare, if not impossible, in cases of much practical interest” (Rawls 1999, p. 74). This considerably diminishes the scope and importance of Harrington’s way of solving “the whole mystery of a commonwealth.”

This is also the kind of difference that Pocock might have been trying to articulate when he unconvincingly contrasted the principle of authority with that of equality, claiming that the cake-cutting case demonstrated the latter rather than the former. A stupid senate or a passionate popular assembly would tend to produce unsatisfactory outcomes even though the whole process from the senate’s deliberation to the popular assembly’s decision would remain within constitutional bounds.

III. CONCLUSION

The historical approaches to Harrington we have discussed are exceptions to the general neglect of his work. When historians specializing in economic thought have taken an interest in him, it was often, as we have shown, for the wrong reasons. Although interesting, mainstream interpretations of Harrington tend to overlook the fact that his work matters most to the history of constitutional thought and conceptions of collective practical deliberation. Although he is considered to be a political theorist rather than a philosopher in his own right, his “philosophy of the soul” is a minor but interesting milestone in the development of the modern idea of political and social justice. His elusive comments on the balance of authority, which are unexpectedly revived in a corner of Rawls’s *Theory of Justice*, should not be overshadowed by his lengthy analyses of the balance of power or dominion in land.

One might object that Harrington was more interested in the Machiavellian question of the stability of political institutions than in the moral dimension of justice, and if that is the case, it should be difficult to read Harrington from a Rawlsian angle. However, as we hope to have shown, there is a moral dimension to his idea of an “empire of laws, not of men”: Through the procedural aspects of political legislation, partial agents (whose interests are “more private than comes duly up to the law”), whether individual or collective, are forced to achieve the kind of impartiality that is typical of “common right and justice” (*Prerogative of Popular Government*, in Pocock 1977, p. 401). Under the guise of “nature,” Harrington introduced a form of proceduralism, which, albeit imperfect, has a bearing on issues of social and economic justice.

REFERENCES

- Barry, Brian. 1989. *Theories of Justice*. Berkeley: University of California Press
- Barry, Brian. 1995. *Justice as Impartiality*. Oxford: Clarendon Press.
- Davis, J. Colin. 1981. “Pocock’s Harrington: Grace, Nature and Art in the Classical Republicanism of James Harrington.” *The Historical Journal* 24 (3): 683–697.
- De Francisco, Andrés. 2006. “A Republican Interpretation of the Late Rawls.” *The Journal of Political Philosophy* 14 (3): 270–288.
- Fink, Zera S. [1945] 2011. *The Classical Republicans, An Essay on the Recovery of a Pattern of Thought in Seventeenth-Century England*. Eugene, OR: Resource Pub.
- Finkelstein, Andrea. 2000. *Harmony and the Balance: An Intellectual History of Seventeenth-Century English Economic Thought*. Ann Arbor: University of Michigan Press.

- Gunn, J. A. W. 1969. *Politics and the Public Interest in the Seventeenth Century*. London: Routledge and Kegan Paul.
- Harrington, James. 1977. *The Political Works of James Harrington*. Edited by J. G. A. Pocock. Cambridge: Cambridge University Press.
- Harrington, James. 1992. *The Commonwealth of Oceana and A System of Politics*. Edited by J. G. A. Pocock. Cambridge: Cambridge University Press.
- Hexter, Jack H. [1958] 1961. "Storm over the Gentry." In J.H. Hexter, *Reappraisals in History: New Views on History and Society in Early Modern Europe*. New York: Harper & Row, pp. 117–162.
- Hill, Christopher. [1958] 1997. "James Harrington and the People." In C. Hill, *Puritanism and Revolution*. New York: St. Martin's Press, pp. 269–281.
- Lockyer, Andrew. 2006. "Pocock's Harrington." *Political Studies* 28 (3): 458–464.
- MacPherson, Crawford Brough. 1962. *The Political Theory of Possessive Individualism: Hobbes to Locke*. Oxford: Clarendon Press.
- Millar, Fergus. 2002. *The Roman Republic in Political Thought*. London: Brandeis University Press.
- Nelson, Eric. 2010. *The Hebrew Republic: Jewish Sources and the Transformation of European Political Thought*. Cambridge, MA: Harvard University Press.
- Pocock, John Greville Agard. 1957. *The Ancient Constitution and the Feudal Law: A Study of English Historical Thought in the Seventeenth Century*. Cambridge: Cambridge University Press.
- Rawls, John. 1999. *A Theory of Justice*. Second revised edition. Oxford: Oxford University Press.
- Shklar, Judith N. 1959. "Ideology Hunting: The Case of James Harrington." *The American Political Science Review* 53 (3): 662–692.

- Tawney, Richard H. 1941. "The Rise of the Gentry, 1558–1640." *The Economic History Review* 11 (1): 1–38.
- Tawney, Richard H. [1941] 1978. "Harrington's Interpretation of His Age." In J. M. Winter, ed., *History and Society: Essays by R. H. Tawney*. London: Routledge, pp. 66–84.
- Trevor-Roper, Hugh R. 1951. "The Elizabethan Aristocracy: An Anatomy Anatomized." *The Economic History Review* (New Series) 3 (3): 279–298.
- Urfalino, Philippe. 2005. "La délibération n'est pas une conversation. Délibération, décision collective et négociation." *Négociations* 2 (4): 99-114.
- Zarka, Yves C. 1998. *Philosophie et politique à l'âge classique*. Paris: PUF.