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THE DISCOURSE OF AMERICAN CIVIL SOCIETY

(with Philip Smith)

Civil society consists of actors, relationships between actors, and institutions. At the very heart of the *culture* of American civil society is a set of binary codes that discuss and interrelate these three dimensions of social-structural reality in a patterned and coherent way. In the United States, there is a "democratic code" that creates the discourse of liberty. It specifies the characteristics of actors, social relationships, and institutions that are appropriate in a democratically functioning society. Its antithesis is a "counterdemocratic code" that specifies the same features for an authoritarian society. The presence of two such contrasting codes is no accident: the elements that create the discourse of liberty can signify democracy only by virtue of the presence of antonymic "partners" in an accompanying discourse of repression.

In reconstructing the "discourse of civil society," we draw on historical notions of civilization and civility (e.g., Elias, 1978; Freud, 1961 [1930], Shils, 1975; Walzer, 1970) and also on the tradition of liberal political theory in which democracy is defined by the distinction between the state and an independent, legally regulated civil order (e.g., Cohen & Arato, 1992; Keane, 1988a, b). Civil society has institutions of its own—parliaments, courts, voluntary associations, and the media—through which moral regulation is administered. These institutions provide a public forum in which crises are defined and problems are resolved. Their decisions are not only binding but also exemplary. Most important from our perspective, however, is the fact that the institutions of civil society, and their decisions, are informed by a unique set of cultural codes.[1]

These codes show marked similarities from one national society to another; not only broad pressures of Western cultural history but also the very structures

of civil society, and its ability to interpenetrate with other social spheres, mandate a cultural structure that regulates civil life in similar ways. Such a homogeneity of core structures, however, does not preclude substantial and important variations in national form. Every civil society develops in a historically specific way. The terms *Bürgerliche Geselischaft, société,* and "society" name variations in the relations among state, economy, culture, and community in different national civil societies, just as they can be seen to suggest variations on widely shared cultural themes (e.g., Brubaker, 1992). In this chapter, we concentrate on the discourse of civil society as it is articulated in American society. We concentrate on America for two reasons. First, detailed, thick description tends to be the most persuasive in cultural sociology; one must fight against the tendency (tempting in comparative work) for interpretation to engage in a broad-brush-stroke portrayal of general themes. Second, America has typically been considered the closest approximation to a democratic nation-state. Here, if anywhere, we would expect to find the discourse of civil society in its most pristine form.

In the discourse of American civil society, democratic and counterdemocratic codes provide radically divergent models of actors and their motivations. Democratically minded persons are symbolically constructed as rational, reasonable, calm, and realistic in their decision-making and are thought to be motivated by conscience and a sense of honor. In contrast, the repressive code posits that anti-democratically minded persons are motivated by pathological greed and self-interest. They are deemed incapable of rational decision making and conceived of as exhibiting a tendency toward hysterical behavior by virtue of an excitable personality from which unrealistic plans are often born. Whereas the democratic person is characterized by action and autonomy, the counterdemocratic person is perceived of as having little free will, and, if not a leader, as a passive figure who follows the dictates of others.[2]

Accompanying this discourse on actors and their motivations is another directed to the social relationships that are presumed to follow from such personal needs. The qualities of the democratic personality are constructed as those that permit open, trusting, and straightforward relationships. They encourage critical and reflective rather than deferential relations among people. In contrast, counterdemocratic persons are associated with secretive, conspirational dealings in which deceit and Machiavellian calculation play a key role. The irrational and essentially dependent character of such persons, however, means that they still tend to be deferential toward authority.

Given the discursive structure of motives and civil relationships, it should not be surprising that the implied homologies and antimonies extend to social, political, and economic institutions. Where members of the community are irrational in motivation and distrusting in their social relationships, they will "naturally" create institutions that are arbitrary rather than rule governed, that use brute power rather than law, and that exercise hierarchy over equality. Such institutions will tend to be exclusive rather than inclusive and to promote personal loyalty over impersonal and contractual obligations. They will tend to favor the interests of small factions rather than the needs of the community as a whole.

The elements in the civil discourses on motives, relationships, and institutions are tied closely together. "Common sense" seems to dictate that certain kinds of motivations are associated with certain kinds of institutions and relationships. After all, it is hard to conceive of a dictator who trusts his minions, is open and honest, and rigorously follows the law in an attempt to extend equality to all his subjects. The semiologics of the codes, then, associate and bind individual ele-

Table 5.1 The discursive structure of actors

Democratic code	*Counterdemocratic code*
Active	Passive
Autonomous	Dependent
Rational	Irrational
Reasonable	Hysterical
Calm	Excitable
Controlled	Passionate
Realistic	Unrealistic
Sane	Mad

Table 5.2 The discursive structure of social relationships

Democratic code	*Counterdemocratic code*
Open	Secret
Trusting	Suspicious
Critical	Deferential
Truthful	Deceitful
Straightforward	Calculating
Citizen	Enemy

Table 5.3 The discursive structure of social institutions

Democratic code	*Counterdemocratic code*
Rule regulated	Arbitrary
Law	Power
Equality	Hierarchy
Inclusive	Exclusive
Impersonal	Personal
Contractual	Ascriptive
Groups	Factions
Office	Personality

ments on each side of a particular code to the other elements on the same side of the discourse as a whole. "Rule regulated," for example, is considered homologous with "truthful" and "open," terms that define social relationships, and with "reasonable" and "autonomous," elements from the symbolic set that stipulate democratic motives. In the same manner, any element from any set on one side is taken to be antithetical to any element from any set on the other side. Thus hierarchy is thought to be inimical to "critical" and "open" and also to "active" and "self-controlled."

The formal logic of homology and opposition through which meaning is created, and which we have just outlined, is the guarantor of the autonomy of the cultural codes—despite the fact that they are associated with a particular social-structural domain. However, despite the formal grammars at work in the codes, which turn the arbitrary relationships[3] between the elements into a set of relationships characterized by what Lévi-Strauss (1967) has termed an "a posteriori necessity," it would be a mistake to conceive of the discourse of civil society as merely an abstract cognitive system of quasi-mathematical relationships. To the contrary, the codes have an evaluative dimension that enables them to play a key role in the determination of political outcomes. In American civil society, the democratic code has a sacred status, whereas the counterdemocratic code is considered profane. The elements of the counterdemocratic code are dangerous and polluting, held to threaten the sacred center (Shils, 1975) of civil society, which is identified with the democratic code. To protect the center, and the sacred discourse that embodies its symbolic aspirations, the persons, institutions, and objects identified with the profane have to be isolated and marginalized at the boundaries of civil society, and sometimes even destroyed.

It is because of this evaluative dimension that the codes of civil society become critical in determining the outcomes of political processes. Actors are obsessed with sorting out empirical reality and, typifying from code to event, with attributing moral qualities to concrete "facts." Persons, groups, institutions, and communities who consider themselves worthy members of the national community identify themselves with the symbolic elements associated with the sacred side of the divide. Their membership in civil society is morally assured by the homology that they are able to draw between their motives and actions and the sacred elements of the semiotic structure. Indeed, if called on, members who identify themselves as in good standing in civil society must make all their actions "accountable" in terms of the discourse of liberty. They must also be competent to account for those who are thought to be unworthy of civic membership—who are or should be excluded from it—in terms of the alternative discourse of repression. It is through the concept of accountability that the strategic aspects of action come back into the picture, for differing accounts of actors, relationships and institutions can, if successfully disseminated, have powerful consequences in terms of the allocation of resources and power. Strategically, this dual capacity will typically result in efforts by competing actors to

tar each other with the brush of the counterdemocratic code while attempting to shield themselves behind the discourse of democracy. This process is clearest in the courts, where lawyers attempt to sway the opinion of the jury by providing differing accounts of the plaintiffs and defendants in terms of the discourses of civil society.

Before turning to our empirical investigation of this code, it is necessary to clarify the relationship between our theory and other work on American civic culture. Scholars such as Bellah (1985) and Huntington (1981) have argued that American political culture is characterized by fundamentally conflicting ideals and values. In contrast, our approach argues for a semantic commensurability between contrasting themes in American culture. Our claim that there is an underlying consensus as to the key symbolic patterns of American civic society, and a relationship of complementarity between differing components of the cultural system, reinforces earlier arguments by scholars such as Hartz (1955) and Myrdal (1944). In recognizing the existence of a shared culture in the civil society we do not, of course, claim that differing traditions and subcultures do not exist in America. The communitarian tradition, for example, has a very different conception of civility.

Discussions among intellectual and cultural historians have also been characterized by sharp disagreement over the nature of the basic ideas that underlie American political thought. Scholars have argued intensely (e.g., Bailyn, 1967; Bercovitch, 1978; Pocock, 1975) over the comparative merits of civic republicanism, Lockean liberalism, and Protestant Christianity in accounting for both the ideal and material forms of American political culture at different times. Our approach claims that these traditions, while importantly different in themselves, rest on a single more basic symbolic framework. Bailyn, for example, argues that fear of negative elements such as power and conspiracy were at the heart of American ideology. In contrast, Hartz highlights positive values such as individual autonomy and contractual relations. Others, in the republican tradition, emphasize more collectivist elements such as honesty, trust, cooperation and egalitarianism. We suggest that the binary organization of America's civic codes enables these competing interpretations to be seen as complementary rather than competing. Indeed, we would argue that our model provides less an alternative than a reunderstanding of the various particular claims that have been advanced by other scholars. As we understand the discourse of civil society, it constitutes a general grammar on which historically specific traditions draw to create particular configurations of meanings, ideology and belief. We are not arguing, in other words, that all understandings of American civil society can be reduced to a single discourse. Rather we assert that this broad discourse provides the possibility for the variety of specific cultural traditions, or rhetorical themes, that have historically characterized American political debate.

Finally, we should emphasize that we do not claim that this scheme provides the only level at which political and social debate is conducted. Although the

discursive structure we identify is continuously drawn on in constructing cultural understandings from contingent political events, the structure becomes the key foundation for public debate only in times of tension, unease, and crisis. Smelser and Parsons (1956) have argued that in periods of social tension communication becomes more generalized and abstract, shifting away from the mundane concerns with means and ends that characterize the discourse of everyday life. Writing from within an earlier functionalist medium, these theorists ascribed generalization to a combination of psychological strain and adaptive pressure for conflict resolution. We take a more cultural approach, conceiving of such crises as liminal, quasi-ritualized periods in which fundamental meanings are also at stake (Turner, 1974). When we examine conflicts over civic discourse, we are looking at generalized accounts in such liminal times.

How modern societies or subsets of these societies enter into such liminal periods of intense social drama, which groups or audiences are more influential or heavily involved, how and by what means these crises are eventually resolved, whether they polarize society or clear the ground for a new consensus—these are not questions that can be answered by interpretive analysis as such. We would argue, nonetheless, that the discursive dimension of civil conflict is fundamentally important. Habermas has argued that democratic authority must stand the test of thematization. Citizens must be able to defend the rationality of their actions by invoking the fundamental criteria according to which their decisions are made. That they do so in terms of "arbitrary" or conventional symbolic codes rather than the rationalistic, developmental frameworks that Habermas invokes makes the process no less important and, in fact, much more challenging from the perspective of a social science. As political language must inevitably contain a structured and symbolic dimension, the entirely rational conduct of politics—to which Habermas aspires—becomes an impossibility. Precisely because the processes that generate crises of democratic authority are less predictably rational than Habermas and other democratic theorists suppose, it is necessary to explore the codes of civil society in a much more complex and dynamic way.

HISTORICAL ELABORATIONS OF AMERICA'S CIVIL DISCOURSE

We propose to illustrate the plausibility of our approach by examining a series of crises and scandals in the past two hundred years of American history. Although in qualitative (and often also in quantitative) research rigorous falsification is impossible, we believe that by showing the pervasive nature of the same culture structure across time, types of events, and differing political groups our model can be established as a powerful explanatory variable in its own right. To this end, our historical discussion is more general and iterative than specific and detailing. Once again, we stress that we do not intend to explain any particular

historical outcome; in order to accomplish this, extremely detailed case studies are necessary. We offer, rather, the groundwork for such studies by demonstrating the continuity, autonomy, and internal organization of a particular cultural structure across time.

ATTACKS ON U.S. PRESIDENTS

As conspicuous individuals, presidents tend to be evaluated in the public discourse in terms of the discourse of actors. However, civil society rarely limits its discourse to only one subset of codes. As we will show, the types of relationships that U.S. presidents are thought to be involved in, and the institutions they are often attributed responsibility for, provide important contextual material for the evaluation of their motives.

Two speeches of no extraordinary historical significance provide a useful starting point for our empirical investigations. The first was delivered in the Senate by the Massachusetts senator Charles Sumner on May 31, 1872, and amounted to an attack on President Ulysses S. Grant. The second, delivered three days later, was a defense of Grant by the Illinois senator John Logan. In these speeches we can see how two individuals hold to the same discursive codes yet sharply differ in the way they apply them to the same referent, in this case President Grant.

According to Sumner, Grant was not a fit individual for the presidency. He argued in Congress that Grant was more interested in personal profit and pleasure than the public good. "The presidential office is treated as little more than [a] plaything and a perquisite. . . . Palace cars fast horses and seaside loiterings figure more than duties. . . . From the beginning this exalted trust has dropped to be a personal indulgence."[4]

Not only does Grant fail to live up to the republican ideal of duty—note the contrast between public "trust" and "personal" indulgence—but he is unable to conduct himself rationally. Sumner argues that Grant is not able fully to control and command his own actions. He is under the spell of uncontrollable psychic forces and treats people as enemies.

> Any presentment [*sic*] of the President would be imperfect which did not show how this ungovernable personality breaks forth in quarrel, making him the great presidential quarreler of our history. . . . To him a quarrel is not only a constant necessity, but a perquisite of office. To nurse a quarrel, like tending a horse, is in his list of presidential duties.[5]

Sumner saw Grant's irrational and selfish personality as tempting him to establish a government founded on counterdemocratic principles. Through personal whim, Grant has set up a government based on nepotism and militarism. This arbitrary organization displays a hierarchical structure and depends on secretive relationships and passive members.

> [Grant's various] assumptions have matured into a personal government, semi-military in character and breathing of the military spirit, being a species of caesarism or personalism abhorrent to republican institutions, where subservience to the President is the supreme law.[6]

> In maintaining this subservience he has operated by a system of combinations, military, political and even senatorial, having their orbits about him, so that, like the planet Saturn, he is surrounded by rings.[7]

In view of the fact that Grant's government was characterized by a "Quixotism of personal pretension," it is hardly surprising that the president was also seen by Sumner as acting outside the boundary of the law, most especially in his attempts to annex Santo Domingo to the United States. Notice also here how Sumner attempts to ally himself with the democratic discourse by stressing his own rationality.

> In exhibiting this autocratic pretension, so revolutionary and unrepublican in character, I mean to be moderate in language and to keep within the strictest bounds. The facts are indisputable, and nobody can deny the gross violation of the Constitution and of International law with insult to the Black Republic—the whole case being more reprehensible, as also plainly more unconstitutional and more illegal than anything alleged against Andrew Johnson on his mpeachment.[8]

In defending Grant, Senator Logan demonstrates a very different understanding of the appropriate arrangement of characters against the background of civil codes. He argues that it is Senator Sumner, not President Grant, who is best characterized by the counterdemocratic discourse. Sumner is denounced as not living up to the ethical demand for rational conduct and thought, as a complex intellectual elitist, as a liar, and as a selfish egotistical soul with an inability to act as an autonomous senator with a realistic worldview.

> I was sorry to see a Senator . . . lower himself as he did on this occasion, for the purpose of venting his spleen and vindictive feeling against a President and those who stand by him.[9]

> His statesmanship has consisted for twenty-four years in high-sounding phrases, in long drawn out sentences, in paragraphs taken from books of ancient character. . . . It consists of plagiarism, in declamation, in egotism.[10]

> Let us compare the tanner President with the magnificently educated Senator from Massachusetts, who has accomplished so much, and see how he will stand in comparison. The Senator from Massachusetts has lived his life without putting upon the records of this country a solitary act of his own origination without amendment of other men having more understanding than himself in reference to men and things. General Grant, the President of the United States, a tanner from Galena, has . . . written his history in deeds which will live.[11]

Logan not only pollutes Sumner by identifying him in terms of the elements of the counterdemocratic code but argues that Grant is best typified by the democratic ones. He does this by asking rhetorical questions that distance the president from the charges Sumner made. "In what respect has the President violated the law? I ask the Senator from Massachusetts to tell this country in what has he violated the constitution, in what particular.[12] . . . With whom has the President quarrelled? I do not know."[13]

Finally, Logan positively identifies President Grant with critical elements of the discourse of liberty, demonstrating that his honesty and good faith have allowed the legal order to be sustained, and cooperation and civility to rule. "President Grant has made an honest President. He has been faithful. The affairs of the world are in good condition. We are at peace with the civilized world, we are at war with none. Every State in this Union is quiet; the laws have been faithfully executed and administered; we have quiet and peace throughout our land."[14]

In the speeches of Sumner and Logan we see how two individuals are able to typify and legitimate the same persons and events in sharply different ways. Yet to see this process in purely individualistic terms would be a mistake. While every individual typifies, ad hocs, and accounts for events, they perform these activities with reference to cultural codes that are collectively held.

In the case of the impeachment of Andrew Johnson we see an attack on a president that was similar to Sumner's attack on Grant but was more severe and more widely shared. This is explicable in terms of Johnson's uncanny ability to alienate himself from large segments of the political community through his extensive (mis)use of executive powers, his antagonism toward Congress, and his soft line on the question of Reconstruction. The issue that led directly to his impeachment, however, was his attempt, without congressional permission, to remove Howard Stanton from his post in control of the War Office and to replace him with a personal friend, Lorenzo Thomas.

Andrew Johnson's opponents argued that he had a defective personality structure. He was held to be both calculative, selfish, and Machiavellian, as well as irrational, emotive, and foolish. The seeming contradiction between these two lines of attack is not apparent to "practical reasoners" who are embedded in the binary oppositions of America's central codes. Thus the *New York Daily Tribune* was able to reconstruct Johnson's Machiavellian strategy in an editorial of February 7, 1868, and to argue against Johnson later in the same month on the grounds that he had little self-control.

> We can almost imagine the President's reasoning. I have had good use of Grant. He is an amiable man, easily bullied. He did well by me. . . . Now I've got

Stanton out. Before Congress meets the country will have forgotten all about him. Grant will go back to the army. I'll give some of the Radical Senators a tax collector or two, and get Steedman and Black through the Senate, just as I got Rousseau through. So I'll have Stanton out of the way and Grant a dead duck, for the Radicals will call him my decoy bird and not trust him. With the Tenure of Office Bill thus blown to atoms, things will be lovely all around.

> American gentlemen blushed when they remembered that a drunken Vice President had shaken his fist in the face of the ambassadors of foreign countries. . . . We saw the President bandying words with a mob in Cleveland, defending a riot and murder in St. Louis, and making wild, incoherent speeches at every station. . . . It is well to remember that morally he was long since tried by the common sense of his countrymen. (*New York Daily Tribune*, editorial, February 24, 1868)

Johnson displays drunkenness and bad temper; he is associated with riots, mobs, wildness, incoherence, and murder—the most anticivil act of all. These traits are counterposed to morality and common sense and to the fraternal term "countrymen."

Given these serious character flaws, it was inevitable that other aspects of the counterdemocratic discourse would be applied to Johnson. It was argued that he had a master plan to set up a network of passive toadies in the place of active and critical public servants. In a crucial debate one congressman argued, for example, that Johnson had attempted to replace Stanton in the War Office with "some fawning sycophant, who, for the sake of his patron, will consent to become the pliant tool in his hands for the accomplishment of his base purpose." The result of such acts, he goes on to argue, could only be the destruction of the institution of office and, eventually, of democracy itself. "If [Johnson] may exercise such a power in this case [the Stanton removal] he has only to remove every civil officer who will not consent to be a fawning slave to his will, obedient to his power and destroy the Republic."[15]

More generally, it was argued in Congress that Johnson's intention was to break the law. This institutional violation was inevitable, considering his fatally flawed character.

> In his maddened zeal to accomplish his evil designs, he has set at defiance the laws and law making power of the land.

> Andrew Johnson . . . deliberately and intentionally strikes at the majesty of the law and attempts to trample it beneath his feet. This act . . . removed the mask from the man who was made President by the act of an assassin and proclaimed . . . that Andrew Johnson would not hesitate to set the laws at defiance where they interfered with his plans, and if an opportunity offered to proclaim himself dictator upon the ruins of the Republic.[16]

Note that these simple arguments are built on a series of interlaced antinomies. The alternative to sacred civility is evil calculation, to decent law-making madness and defiance. The nation will be taken from majesty to ruin, from republic to dictatorship.

Those who were opposed to President Johnson argued for his exclusion from civil society on the basis of his counterdemocratic motives, arguing that he was attempting to establish repressive relationships and institutions in the place of the existing system, which was seen as essentially democratic. Those who supported Johnson saw events in a completely different light, though they employed the same code. First, they opposed the rhetoric of moral confrontation itself, arguing in effect that the climate of symbolic generalization that had demanded the application of morally sanctioned codes was overblown. Suggesting that events should be understood not in terms of transcendental values but rather in the more mundane framework of detailed legal technicalities, Johnson's supporters claimed that what we would today call a "realpolitik" attitude was necessary in order to sustain the national interest in the demanding period of Reconstruction. Among Johnson's most influential supporters was the *New York Times*:

> Congress has on its hands already quite as many subjects of grave and pressing importance as it can dispose of wisely. To throw into the political arena now, so exciting a subject as impeachment . . . would be not only to postpone a wise and beneficient restoration of the Union and peace, but to invite a renewal of the dangers from which we have just escaped. (editorial, February 14, 1868)

> In our judgement the impeachment of the President is wholly out of place so long as the constitutionality of the law is in controversy. (editorial, February 24, 1868)

But a more direct confrontation with the polluting categories of Johnson's indictment was also necessary. In his own defense, Johnson argued that his efforts to remove Stanton from the War Office without congressional permission had been designed to test a point of law rather than to usurp power. Accepting this typification, the *New York Times* wrote: "Mr. Johnson's method of carrying out his purposes has always been more objectionable than the purposes themselves. His present controversy is a case in point" (editorial, February 24, 1868).

Because the actual relationship between the "method of carrying out one's purposes" and the "purposes themselves" is unknowable, readers and political actors are being asked to fill in the missing links through a kind of "documentary method."[17] In principle, differing opinions of the same events and personalities can be formed, or "documented," by persons with the same raw information. In practice, however, the information of public life is cooked, not raw: it is itself shaped by collective, cultural logics that permit only certain combinations

of interpretations to make sense. It is not possible for Johnson to attempt to usurp power and at the same time to be seen as a rational, morally concerned person. It is possible, however, for Johnson to test the constitutionality of the law regarding the Tenure of Office Act and to remain a democratically minded individual. Because the *New York Times* believes in the worthiness of Johnson's intentions in removing Stanton from office, it is bound to argue that those who seek his impeachment are constituted by the counterdemocratic code. "Reason, judgement or patriotism has nothing to do with the purpose now proclaimed [impeachment]. In its inception and in its exercise it is partisanship worked up to the point of frenzy and aggravated with a personal hate, of which many who yesterday voted for impeachment will shortly be ashamed" (editorial, February 25, 1868).

Given these particularistic and irrational motivations, it should by now come as little surprise that those opposed to Johnson were accused in Congress not only of attacking the President, but also the fabric of democratic society. On the one side there is tyranny, fury, fanaticism, and usurpation; on the other the constructive activities of the patriots and their constitution. "Mr. Chairman, in the brief time allowed me under the tyrannical rule of the majority of this House, I can but glance at the topics which present themselves for consideration now that a partisan caucus has determined to complete the usurpation of the Government by the impeachment and removal of the President."[18] "This attack is directed against the walls of our Government, which were reared by the patriot fathers, and whose foundations were laid deep down in the constitution of our country—the fear is that they will not be able to resist the fury of this tornado of fanaticism."[19]

It should also come as little surprise that the type of social relationship invoked in this attack was considered to be repressive, involving the use of secrecy and calculation along with the brutal use of power.

> In the name of the larger liberty the American people are asked to consent to the embrace of a monster whose hidden mechanism is managed by the unprincipled Stanton, aided and abetted by the controlling men in the Radical party. . . . The efforts of Mr. Stanton have been directed to establish an armed despotism in this country. . . . This plot is reaching its culmination in the recent action of this body in impeaching the President of the United States.[20]

EVALUATING INSTITUTIONS AND BUSINESS

One might suppose that the economic sphere is understood and evaluated merely in terms of its efficiency in providing for the generation, safekeeping, and distribution of wealth. However, this is not the case. Even economic institutions and transactions are liable to the process of generalization, through which they become understood via the semiotic and moral distinctions that we have

outlined in this chapter. The so-called Bank War of the 1830s provides a case in point. The issue at hand was the renewal of the charter of the Bank of the United States, which was due to expire in 1836. The bank had been chartered and endowed with various unusual rights and privileges by Congress in 1816. Those opposed to the renewal of the charter were led by the president, Andrew Jackson. In the case of presidents, as we have shown, their high individual visibility leads to a focus on psychological motivations. In contrast, attacks on institutions such as the bank, which tend to be more diffuse, usually focus on social and institutional relationships and activities.

A recurring theme in the assaults of the opponents of the bank are gothic images reminiscent of the macabre aspects of the literature of the time. In congressional debates images abound of darkness, intrigue, and strange uncontrollable powers threatening to the civil society. "The bank was an institution whose arms extended into every part of the community. . . . An institution like this, which by the mere exertion of its will could rise or sink the value of any and every commodity, even of the bread we ate, was to be regarded with a jealous watchfulness."[21]

> And what is that influence? Boundless—incalculable. Wielding a capital of sixty million dollars, with power to crush every state bank in the Union; having thereby in its iron clamp the press, the counting house the manufactory and the workshop; its influence penetrates into every part of this vast country, concentrating and directing its energies as it pleases.[22]

The bank had such a polluting power that it could transform democratic into counterdemocratic social relationships.

> We moreover view it as one of the most stupendous engines of political power that was ever erected; capable of being exerted not only against the head, but every branch of the government, corrupting by its money, and awing by its power the virtuous and independent action of the representatives of the people in prostituting them to its base and sinister purposes.[23]

Associated with this corrupt and awesome power—which prostitutes and debases once autonomous citizens—was an aura of secrecy antithetical to the type of relationships that would have characterized a democratic institution. Important evidence for this was the opposition of the bank's supporters to an open public enquiry. The bank's opponents argued that an open and rational investigation of the bank would be necessary to discover the truth.

> Our debate is set on the supposition that the charter has dissolved . . . that the bank is no longer a living power but a cadaver—a dead subject, which we should examine with the dispassionate scrutinity of a surgeon who lets no piece

> of corrupted flesh, no bone or muscle, however monstrous, escape the edge of this knife.[24]

Dispassionate fairness implies not only rationality and objectivity but vitality and life itself; the sinister and secretive bank, in contrast, is identified with death, with the pollution of corrupted, monstrous flesh.

Given the bank's secretive nature and power, it is only to be expected that its opponents would also find evidence that it was a particular institution favoring the interests of the enemies of civil society, of foreigners and the domestic elite over those of the American people. Therefore, on returning the Bank Bill, President Jackson included in his message to Congress the argument that "the stock will be worth more to foreigners than to citizens of this country."

> If we must have a bank with private stockholders, every consideration of sound policy, and every impulse of American feeling, admonishes that it should be purely American. Its stockholders should be composed exclusively of our own citizens. . . . If we cannot, at once, in justice to interests vested under improvident legislation, make our government what it ought to be, we can, at least, take a stand against all new grants of monopolies and exclusive privileges, against any prostitution of our government to the advancement of the few at the expense of the many.[25]

Supporters of the bank perceived things differently. As with the supporters of Johnson, they tried to prevent the application of moral categories altogether by arguing that events had not reached a symbolic crisis point and that the bank could, consequently, be evaluated on utilitarian grounds.

> Sir, it is the highest eulogium [*sic*] that can be provided on the Bank of the United States that it provides the Government with a sound currency of a perfectly uniform value, at all places, for all its fiscal operations, and at the same time enables that Government to collect and disburse its immense revenues in the mode least oppressive to the community. If the same functions were exclusively devolved upon the state banks . . . the absolute distresses and necessities of the country would drive those banks into the fatal policy of suspending specie payments in twelve months.[26]

Insofar as they accepted symbolic generalization as inevitable, the bank was also, but less often, justified in terms of the specific details of the democratic discourse. For example, one supporter argued against the assertion that it was a secretive institution, claiming that, to the contrary, the bank was open and honest. "Bank checks are in circulation everywhere, and are seen every day. The amount issued by the bank is known, the bank has furnished the information."[27]

Defenses of the bank's moral status were less often resorted to, however, than

attacks on the bank's opponents, who were portrayed as themselves counterdemocratic. In rebutting one Congressman's allegations of corruption, one of the bank's most important supporters remarks: "Has he not received some admonitions on the subject of yielding his ear too credulously to those suspicions which are whispered by anonymous and irresponsible informers. . . . I have no doubt that some dark insinuation has been poured into the gentleman's ear."[28]

Criticisms of the bank are discredited through their association with anonymity, which is suspicious because it allows people not to take responsibility for their statements. The rationality of the critics' thought processes, and the integrity of their motivations, are also called into question.

> I have no doubt that the gentleman regards the Bank of the United States as a great national curse, and I can, therefore, very well conceive that his mind will give credence to much slighter evidence against the bank than would satisfy a mind differently prepossessed, or having no prepossessions of any kind.[29]

> To destroy the existing bank . . . would be an act rather of cruelty and caprice, than of justice and wisdom.[30]

Caprice speaks of irrationality and lack of control, cruelty of a lack of conscience and good will. These motives are themselves polluting; they make it seem unlikely that the "curse" on the nation could have come only from the actions of the bank itself. President Jackson too came under attack via the counterdemocratic rubric. His highhanded dealings in the Bank War, including the firing of the secretary who refused to follow his orders to withdraw federal deposits from the Bank of the United States and place them in the state banks, were taken as important evidence of despotic inclinations. Seizing the moment, Henry Clay, Jackson's main political opponent, argued that the president had "assumed the exercise of power over the Treasury of the United States not granted to him by the Constitution and laws, and dangerous to the liberties of the people."[31] Given this lawlessness, Clay is also able to assert that Jackson was determined to rule by power and to set up a network of repressive relationships within the government.

> We are in the midst of a revolution, which, although bloodless, yet we are advancing to a concentration of all powers of Government in the hands of one man. By the exercise of the power assumed by the President of the United States in his letter to this cabinet, the powers of congress are paralyzed except where they are in compliance with his own will.[32]

Thus, while the opponents of the bank were inclined to perceive its activities in a highly generalized framework, the proponents of the bank employed a mix-

ture of a mundane means-ends interpretation of its activities with a generalized interpretation of the motives and methods of its detractors. This would seem to suggest that in a given crisis the two levels of discourse are not mutually exclusive. The level of generalization will vary according to the objects being typified and the strategic positions and interests of the participants.

The Teapot Dome scandal of the mid-1920s provides the second example of how the legitimacy of institutions and their transactions can be determined only in their relationship to codes. Teapot Dome was one of several scandals involving President Harding's administration that had only just begun to come to light when he died. He was succeeded by his vice-president, Calvin Coolidge, under whose administration the investigations were conducted. Teapot Dome was the name of a geological structure in Wyoming that contained a reserve of oil set aside by Congress for the exclusive use of the navy. Along with other reserves, it was intended to provide an emergency supply in case of war. In 1924 a scandal arose when it became public knowledge that an executive order had been issued by Harding transferring jurisdiction over the reserve from the secretary of the Navy to the secretary of the Interior. It also became known that the secretary of the Interior, Albert Fall, had negotiated a sale of some of the reserves to the oil magnates Harry F. Sinclair and Edward L. Doheny, the former having purchased Teapot Dome, the latter the Elk Hills reserve in California. Proceeds from the sale were not placed in the Treasury but went directly to the navy to be used for improvements to bases, which amounted to $102 million spent without congressional authorization. Moreover, Fall received various gifts and undisclosed sums of money.

Those attacking the Teapot Dome deals saw them as strongly counterdemocratic, as secretive, illegal transactions that had been entered into for selfish reasons using Machiavellian calculation. As in the case of the Bank War, we see the opponents of the deals exhibiting a strong suspicion of the corrupting nature of large financial institutions and identifying themselves with the protection of the democratic ideals.

> See the marvelous cunning with which this thing was done. It is perfectly plain that for years these precious oil reserves had been watched with covetous eyes by these greedy exploiters. It was the vigilance and the courage and honesty of preceding administrations which held them off as they endeavored to encroach day after day, creeping and crawling and hungering for the gold hidden there, even though they had to betray and imperil a nation to get it.[33]

The oilmen are identified by the terms *cunning*, *greed*, *covetousness* (selfishness), and *exploitation*. These terms establish them as outside of civil society, which they appear to imperil and betray, much as the creeping and crawling serpent had once betrayed Eve. Against these amoral and nonhuman creatures, courageous, honest, and vigilant citizens seek to defend the nation.

> We are the immediate guardians of the Government. Are we going to stand off and permit big looters on the outside who have accumulated millions, maybe in questionable ways, to come and lay their tempting offers before unfit public officials hungry for the ill-gotten gain of corrupt transactions to open the doors to the nations natural resources and brazenly barter them like sheep in the market place.[34]

The image of rapacious leaders demands passive and deferential followers. Once again, an image emerges of networks of actors behaving like puppets under the control of manipulative leaders. Although the leaders are seen actively as "combining and confederating,"[35] the mass of the people involved are depicted as passive and under the control of the leaders.

> It is perfectly amazing that in three great law departments, with many learned experts and many thousands of men, every one of whom knew or ought to have known that this thing was fraught with evil, there was not a voice raised. Cabinet officers, learned lawyers, shrewd experts were moved around like pawns upon a chessboard by unseen and cunning hands or by the avaricious of Fall. . . . I cannot understand how one wise Iago could delude all these trusting Othellos about him, how one cunning and avaricious soul could exercise a kind of hideous hypnosis over hundreds of men.[36]

To combat the evils of Teapot Dome, two strategies presented themselves. The first was for an investigation to be carried out that would exemplify the discourse of liberty. Thus, in an important speech, President Coolidge counterposes the repressive associations and growing pollution of the scandal with promises of immediate punishment, which is attached to the antonymic set of openness and clarity, nonpartisanship, and the interests of the civil community. "For us we propose to follow the clear, open path of justice. There will be immediate, adequate, unshrinking prosecution, criminal and civil, to punish the guilty and to protect every national interest. In this effort there will be no politics, no partisanship."[37]

The second strategy was to ignore the niceties of the legal system and simply to declare the contracts null and void before the issue went to court. This strategy is particularly illuminating because it reveals the compromises with repressive codes that authorities often declare to be necessary if democracy is to be protected and repaired. "I do not care what legal phrases are used in fraudulently transferring the property of the Government of the United States to a band of marauders with their millions. I am ready to set a precedent by saying that these deals shall be declared off the minute the Government discovers the scandal and the crime."[38]

By this point in our discussion the reader will probably be able to guess the kinds of strategies used by those few who wished to defend the deals. They are

well illustrated by a statement issued by the oil speculator Doheny. He argued that those investigating the deal were motivated by selfish political concerns rather than high ideals.

> The election in November—not the legality of the oil leases—is the sole factor now controlling the politicians who are conducting the so-called oil investigation. . . . The American people send senators and representatives to Washington to legislate. But some of the latter find they can gain far more publicity by acting as gum-shoe detectives than in trying to act as statesmen. (statement in *Washington Post*, March 3, 1924: 1)

Due to this selfish attitude, it is the investigators and not Doheny who pose a threat to law and constitutionality. "The attempt is now being made to destroy the leases and convict myself and other citizens in an atmosphere deliberately prejudiced and poisoned. Such an attempt cannot succeed without destroying the sacred constitutional right to a fair and impartial trial" (statement in *Washington Post*, March 3, 1924: 2).

Doheny accuses his accusers of failure to observe their official duties and of being not only vain and prejudiced but farcical in their destructive pursuits. Constructing the oilmen as citizens, he argues that the efforts to punish them threaten to pollute (poison) the values of fairness and impartiality, that form part of the sacred center of democratic life.

Finally, Doheny argues that his own actions were in accordance with the democratic code. Far from being treasonous, he asserts, his leases were undertaken for the common good. He goes on to contrast his own noble and self-sacrificing gesture with the dirty tactics of his opponents, who have deceived the civil society as to his true generosity and patriotism.

> Admiral Robinson, Chief of Engineers of the Navy, and other experts, have testified that the Dehony leases, including the construction of the tankage at Pearl Harbor, were essential to the protection of the Pacific Coast. . . . Senator Walsh and his Democratic colleagues know full well that in order to make the Pacific coast safe against enemy attack my company has actually advanced to the government nearly $5 million for which we will have to wait for payment for an indefinite period. But by insinuations of scandal and actual scandal mongering, they have successfully obscured that fact from the public. (statement in *Washington Post*, March 3 1924: 2)

It is one of the many ironies of the Teapot Dome affair that the facilities constructed by Doheny at Pearl Harbor as part of his Elk Hills deal later helped prevent the total collapse of the U.S. Pacific Fleet after the Japanese attack.

DISSENT OVER STATE POLICIES

Whether policies are understood as a threat to the values and unity of the American nation or accepted as legitimate depends crucially on the coding that is made of them. In this section, we briefly demonstrate how differing opinions about policy are shaped by the democratic and counterdemocratic codes.

The Nullification Crisis of 1832 provides a miniature of the political understandings that characterized America on its way to the Civil War. The rhetoric of states' rights was a territorially and historically specific version of the democratic code, and it was on this basis that a convention in South Carolina nullified acts approved by Congress imposing high tariffs on imported manufactured goods. The South Carolinians argued that these were prejudicial to their interests, that the tariffs would raise the cost of living for those in the South while favoring the northern manufacturing states. These objections were not couched in a mundane means-ends idiom, however; they were pitched in an intensely moral discourse. The Nullification Ordinance itself begins with an indictment of Congress as a repressive institution, characterized by counterdemocratic social relationships and motivations.

> Whereas the Congress of the United States, by various acts, purporting to be acts laying duties and impost on foreign imports, but in reality intended for the protection of domestic manufactures, and giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext from imposing higher and excessive duties on articles similar to those to be protected, hath exceeded its just powers under the Constitution, which confer on it no authority to afford such protection, and hath violated the true meaning and intent of the constitution, which provides for equality in imposing the burdens of taxation upon the several states and portions of the confederacy.[39]

South Carolina is associated with equality and the Constitution, Congress with particularity, oppression, and foreign threat. As was the case in the Bank Crisis and Teapot Dome, the aggrieved party sees itself as coolly, openly, and rationally opposing the insidious corruption creeping into American society.

> A disposition is manifested in every section of the country to arrest, by some means or other, the progress of the intolerable evil. This disposition having arisen from no sudden excitement, but from the free temperate discussion of the press, there is no reason to believe it can ever subside by any means short of the removal of the urgent abuse.[40]

If the federal government used force against South Carolina, it would be but more evidence of the its repressive character. "Unless the President is resolved to disregard all constitutional obligations, and to trample the laws of his country under his feet he has no authority whatever to use force against the States of South Carolina."[41]

South Carolina represented itself not as attacking the Union but as attempting to rejuvenate it—as closer to the symbolic center of America than was the institutional center itself. It identified itself with rationality, law, and constitutionality against oppression, tyranny, and force. Those opposed to nullification, naturally, inverted this relationship between South Carolina and the democratic code. President Jackson, to take one example, argued that South Carolina was guilty of selfishly challenging the rule of law, accusing it of provoking violent rather than rational behavior.

> This solemn denunciation of the laws and authority of the United States, has been followed up by a series of acts, on the part of the authorities of the state, which manifest a determination to render inevitable a resort to those measures of self-defense which the paramount duty of the federal Government requires. . . . In fine she has set her own will and authority above the laws, has made herself arbiter in her own cause, and has passed at once over all intermediate steps to measures of avowed resistance, which, unless they be submitted to, can be enforced only by the sword. . . . The right of the people of a single State to absolve themselves at will and without the consent of the other states, from their most solemn obligations and hazard the liberties and happiness of the millions composing this union, cannot be acknowledged.[42]

The president's message is clear: the arbitrary will and coercive force characteristic of South Carolina endanger the consent, liberty, and the rule of law prevalent in the wider civil community. Violent action is therefore justified in order to protect the integrity of that civil community.

AMERICA'S CIVIL DISCOURSE IN ITS CONTEMPORARY FORM

Critical social science, whether issuing from the left or from the right, tends to argue that modernization strips individual and institutional actions of their ethical moorings, creating anomie and chaos, and allowing a shallow world dominated by instrumental rationality. From this perspective, it might be objected that the examples of intense public valuation we have discussed thus far relate only to earlier, more "traditional" epochs in American history. It could be argued that in the course of this century, social evolution—rationalization, capitalism, secularization—has intensified, producing a tendency for discourse

that is less excited and more mundane and "rational." In this final section of this chapter we present evidence for the contrary view: late twentieth-century American society continues to be permeated by the discourse we have described. We do not claim here that nothing has changed. Clearly, discourses at more specific, intermediate levels reflect the historical conditions and controversies in which they arise. In the twentieth century, for example, the discourse of states' rights has faded in importance while that of civil rights for individuals has grown. What we do claim is that there is a continuity in the deep structure from which these discourses are derived and to which they must appeal.

Unfortunately for social science, history never repeats itself exactly. We are thus unable to provide precise "controls" for our antihistoricist experiment by investigating crises that are exactly parallel to the ones we have analyzed earlier. Still, there are broad similarities between the issues involved in the following cases and the previous examples. The case of Richard Nixon's fall in the early 1970s demonstrates many affinities with the impeachment of Johnson one hundred years earlier. The Iran-Contra affair of the late 1980s demonstrates that the structures of civil discourse are as relevant to the understanding of today's executive scandals as they were during Teapot Dome. Indeed, we would maintain that the correspondence between more contemporary and earlier discussion is at times so remarkable that one could swap statements from earlier and later crises without altering the substantive thrust of either argument.

Yet, although the similarities are fundamental to one side of our argument, the differences from case to case are important to another. The postwar examples show yet again the astonishing malleability of the codes that are applied contingently to a wide and scattered array of issues. Indeed, in the final example we discuss, we expand the scope of this chapter to show how America's civil discourse is used to understand foreigners and foreign powers, not only domestic forces and events.

RICHARD NIXON AND WATERGATE

The discourse involved in the push for the impeachment of President Nixon in 1974 is remarkably similar to that of the impeachment of President Johnson some one hundred years earlier. Although the particular issues in hand (in the Watergate break-in and coverup, the misuse of surveillance powers of the FBI, CIA, and the IRS, the president's failure to obey various subpoenas to hand over documents and tapes, and the secret bombing of Cambodia) contrast with those of Johnson's impeachment (the Tenure of Office Act, the Stanton Removal, and various statements opposing Congress), the generalized understandings made by the impeachers were shaped by the logic of the same symbolic structure. As was the case with Johnson, Nixon's motivations were perceived by many in terms of the counterdemocratic discourse. As deliberations by the congressional committee on the impeachment of Nixon made clear, central to this perception was an

image of the president as a selfish and fractious person who was interested in gaining wealth and power at the expense of the civil community. "The evidence is overwhelming that Richard Nixon has used the Office of President to gain political advantage, to retaliate against those who disagreed with him, and to acquire personal wealth."[43] "He created a moral vacuum in the Office of the Presidency and turned that great office away from the service of the people toward the service of his own narrow, selfish interests."[44]

True to the codes, this self-centered attitude was understood to have arisen from an irrational, unrealistic, slightly paranoid motivational structure. Because of these personality needs, it was argued, Nixon evaluated others, without reasonable cause, in terms of the counterdemocratic rhetoric of social relationships. "Once in the White House, Mr. Nixon turned on his critics with a vengeance, apparently not appreciating that others could strenuously disagree with him without being either subversive or revolutionary."[45]

Irrational, selfish, and narrow motives are connected to sectarian rather than cooperative and communal relations. They cannot form the basis for an inclusive, conflict-containing, civil society. Time and again Nixon was described as deceitful, calculating, suspicious, and secretive—unacceptable characteristics in a democracy. These perversities, it was believed, led him to resort to counterdemocratic and illegal political practices. Nixon had covered up his dark deeds by making false excuses for himself. He had acted in a calculating rather than honorable manner to maximize his own advantage regardless of morality and legality. "To defend both the bombing [of Cambodia] and the wire-tapping, he invoked the concept of national security. . . . The imperial presidency of Richard Nixon came to rely on this claim as a cloak for clandestine activity, and as an excuse for consciously and repeatedly deceiving the Congress and the people."[46]

> We have seen that the President authorized a series of illegal wire-taps for his own political advantage, and not only did he thereby violate the fundamental constitutional rights of the people of this country but he tried to cover up those illegal acts in the very same way that he tried to cover up Watergate. He lied to the prosecutors. He tried to stop investigations. He tried to buy silence, and he failed to report criminal conduct.[47]

These procedures and relationships were viewed by Nixon's accusers as a dangerous source of pollution, a disease that had to be stopped before it could infect the rest of the civil society, destroying the very tissues of social solidarity. "Mr. Nixon's actions had attitudes and those of his subordinates have brought us to verge of collapse as a Nation of people who believe in its institutions and themselves. Our people have become cynical instead of skeptical. They are beginning to believe in greater numbers that one must look out only for himself and not worry about others."[48]

The president's motivations and relationships were seen as subversive of democracy. His administration had developed into an arbitrary, personalistic organization bent on concentrating power. The institutional aim was, as the *New York Times* argued, dictatorship and an authoritarian coup d'etat.

> One coherent picture emerges from the evidence. . . . It is the picture of a White House entirely on its own, operating on the assumption that it was accountable to no higher authority than the wishes of and the steady accretion of power by the President. It is the picture of a Presidency growing steadily more sure that it was above and beyond the reaches of the law. (editorial, July 31, 1974)

Yet, despite the mounting tide of evidence against Nixon in the early summer of 1974, he still had significant support. Those who continued to support him did not counter the discourse of repression with the picture of a flawless, pristine paragon of democratic morality; they tended to argue, rather, that in the messy world of political reality, Nixon's personal behavior and political achievements were not inconsistent with that discourse broadly conceived.

> The President's major contribution to international peace must be recognized to compensate for other matters, to a substantial degree. (letter to the editor, *New York Times*, August 1, 1974)

> As has been written to many representatives on the Judiciary Committee, President Nixon's lengthy list of accomplishments rules out impeachment. Let us be grateful we have such a fine leader, doing his utmost to establish world peace. (letter to the editor, *New york Times*, july 31, 1974)

> As in the case of the evidence relating to the Plumbers' operation they show a specific Presidential response to a specific and serious problem: namely, the public disclosure by leaks of highly sensitive information bearing upon the conduct of American foreign policy during that very turbulent period both domestically and internationally.[49]

These statements suggested that in a world characterized by realpolitik, it would be unwise to punish Nixon's peccadillos when, on balance, he had supported and advanced the cause of the good. Especially important in this equation were Nixon's foreign policy initiatives with the Soviets and Chinese, as well as his ending the Vietnam War, all of which were presented as having advanced the cause of "peace," a state of affairs analogous with inclusive social relationships. Related to this argument was another that focused not on the impact of the president but on the consequences of impeachment itself. These consequences, it is suggested, militate against a prolonged period of distracting,

generalized discourse. "Certain members of Congress and the Senate urge the President's removal from office despite the impact such a disastrous decision would have on America's political image and the economy." (letter to the editor, *New York Times*, August 1, 1974)

> We would do better to retain the President we in our judgment elected to office, for the balance of his term, and in the meantime place our energies and spend our time on such pressing matters as a real campaign reform, a sound financial policy to control inflation, energy and the environment, war and peace, honesty throughout Government, and the personal and economic rights and liberties of the individual citizen against private agglomerations of power in the monolithic state.[50]

The message is that, because of political realities, both mundane political and wider moral goals can be effectively attained only by avoiding impeachment.

The use of these arguments, however, did not preclude Nixon's supporters in Congress from also understanding events in a more generalized manner. They held the impeachment inquiry and its committee members strictly accountable in terms of the two antithetical moral discourses. They linked the lack of hard, irrefutable evidence of the commission to their concern that the inquiry measure up to the highest ethical standards. In principle, therefore, they were compelled to refuse to consider Nixon guilty of an impeachable offense until his accusers could produce a "smoking gun" proof of his direct, personal, and willful involvement in an indictable crime. "To impeach there must be direct Presidential involvement, and the evidence thus far has failed to produce it."[51] "Now many wrongs have been committed, no question about it, but were those wrongs directed by the President? Is there direct evidence that said he had anything to do with it? Of course there is not."[52]

Nixon's supporters pointedly contrasted their hard line on the issue of proof with that of his detractors. They described these opponents in terms of the discourse of repression: Nixon's critics were willing to support impeachment on the basis of evidence that a rational and independent thinker would not accept. Indeed, the critics' motive was greed, their social relationships manipulative. They were the very paradigm of a counterdemocratic group: a bloodthirsty and suggestible mob unable to sustain the dispassionate attitude on which civility depends. "I join in no political lynching where hard proof fails as to this President or any other President."[53] "I know that the critics of the President want their pound of flesh. Certainly they have achieved that in all the convictions that have taken place. However, they now want the whole body, and it is self-evident that it is Mr. Nixon who must supply the carcass" (letter to the editor, *New York Times*, July 31, 1974). "Yes, the cries of impeachment, impeachment, impeachment are getting louder. . . . For the past year allegation after allegation has been hurled at the President. Some of them have been stated so often many people have come to accept them as facts, without need of proof."[54]

This evaluation of the impeachers' motives and social relationships was accompanied by a negative evaluation of the institution involved in the impeachment process. They were described as performing in an arbitrary manner, treating Nixon as an enemy rather than as a fellow citizen, and trying to maximize their own power rather than the power of right. This disregard for the law endangered the democratic foundations of society; it could, indeed, create an antidemocratic revolution.

> [We are] each convinced of the serious threat to our country, caused by the bias and hate pumped out daily by the media. (letter to the editor, *New York Times*, July 31, 1974)

> The Supreme Court decision that President Nixon must turn over Watergate-related tapes . . . can make any President virtually a figurehead whose actions can be overturned by any arbitrary high court order. . . . The Court has, in effect, ignored the Constitution, written its own law, and demanded it be considered the law of the land. (letter to the editor, *New York Times*, July 29, 1974)

> Five members of the committee have made public statements that Mr. Nixon should be impeached and they have not been disqualified from voting. Leaks detrimental to the President appear almost daily in the media. . . . When public hearings begin, I fully expect women to appear with their knitting, each a modern Madame Defarge, clicking their needles as they wait for Richard Nixon's head to roll. (letter to the editor, *New York Times*, July 2, 1974)

A MODERN SCANDAL: THE IRAN-CONTRA AFFAIR

The Iran-Contra affair of the late 1980s provides evidence of the continuing importance of the cultural codes that we have identified as central in the social definition of scandal. As was the case with Teapot Dome, this more recent incident involved the evaluation of transactions and activities undertaken by members of the executive branch without the knowledge or consent of Congress. In late 1986, information emerged that a small team in the Reagan administration, spearheaded by Lieutenant-Colonel Oliver North, had sold arms to Iran, in return for which Iran was to use its influence to obtain the release of American hostages held by various Islamic groups in the Middle East. As a further twist in the tale, the money raised from the sale was used to support a secret operation in Central America backing the anticommunist "contra" guerrillas in Nicaragua. Once the action came to light, a process of generalization rapidly occurred in which the motivations, relationships, and institutions of North and his associates became the subject of intense public scrutiny.

The weeklong session of the joint congressional inquiry in which North was the key witness is a useful place to examine this cultural process, which centered

around dramatically different interpretations by North and his detractors of the same empirical events. Of the greatest importance to those who denounced the affair were the social relationships involved, which they described in terms of the counterdemocratic code. The administration officials involved were perceived by their critics as an elite "secret team," operating clandestinely and furthering their own particularistic and illegal aims through a web of lies.

> Foreign policies were created and carried out by a tiny circle of persons, apparently without the involvement of even some of the highest officials of our government. The administration tried to do secretly what the Congress sought to prevent it from doing. The administration did secretly what it claimed to all the world it was not doing.[55]

> But I am impressed that policy was driven by a series of lies—lies to the Iranians, lies to the Central Intelligence Agency, lies to the Attorney General, lies to our friends and allies, lies to the Congress, and lies to the American people.[56]

> It has been chilling, and, in fact, frightening. I'm not talking just about your part in this, but the entire scenario—about government officials who plotted and conspired, who set up a straw man, a fall guy [North]. Officials who lied, misrepresented and deceived. Officials who planned to superimpose upon our government a layer outside of our government, shrouded in secrecy and only accountable to the conspirators.[57]

Such "conspirators" could not be expected to trust other institutions and persons in government; according to the semiotic foundations of common-sense reasoning, they could treat them only as enemies, not as friends. This attitude was understood as antithetical to the democratic ideal. "Your opening statement made the analogy to a baseball game. You said the playing field here was uneven and the Congress would declare itself the winner. [But we] are not engaged in a game of winners and losers. That approach, if I may say so, is self-serving and ultimately self-defeating. We all lost. The interests of the United States have been damaged by what happened."[58]

These kinds of relationships not only were taken to confound the possibility of open and free political institutions but also were perceived as leading to inevitably foolish and self-defeating policies.

> A great power cannot base its policy on an untruth without a loss of credibility. . . . In the Middle-East, mutual trust with some friends was damaged, even shattered. The policy of arms for hostages sent a clear message to the States of the Persian Gulf, and that message was, that the United States is helping Iran in its war effort, and making an accommodation with the Iranian revolution, and Iran's neighbors should do the same. The policy provided the Soviets with an opportunity they have now grasped, with which we are struggling to deal. The policy achieved none of the goals it sought. The Ayatollah got his arms, more Americans are held hostage today than when this policy began, subversion of U.S. interests throughout the region by Iran continues. Moderates in Iran, if any there were, did not come forward.[59]

In dealing with attacks on his motives and the relationships in which he was involved, North used several strategies. At a mundane level he denied the illegality of his actions, pointing not only to various historical precedents but also to the legal justification of the "Hostage Act," which had given the American executive vast autonomy over policy in recovering American hostages. North also drew on aspects of the generalized codes to defend and interpret not only his own actions but those of Congress. First, he argued that while the methods he employed and the relationships he developed could be characterized within the discourse of repression, they were necessary means in order more effectively to promote the cause of the good. Second, North argued that his own motivations were, in fact, compatible with the discourse of liberty. Finally, North suggested that it was actually the policies of Congress that could best be construed in terms of the discourse of repression, not the Administration's own.

In defending the secrecy of his operations and his lies to Congress, North denied particularistic motivations and drew attention to his higher, more universal aims. He argued in strongly patriotic terms that secrecy and lies were necessary in a world threatened by antidemocratic Soviet power, that dealings with polluted terrorist parties were necessary in order to protect the purity of American civic life, and that his policies in Central America had the extension of democracy as their noble aim.

> If we could [find] a way to insulate with a bubble over these hearings that are being broadcast in Moscow, and talk about covert operations to the American people without it getting into the hands of our adversaries, I'm sure we would do that. But we haven't found the way to do it.[60]

> Much has been made of, "How callous could North be, to deal with the very people who killed his fellow Marines?" The fact is we were trying to keep more Marines in places like El Salvador from being killed.[61]

> I worked hard on the political military strategy for restoring and sustaining democracy in Central America, and in particular El Salvador. We sought to achieve the democratic outcome in Nicaragua that this administration still supports, which involved keeping the Contras together in both body and soul.[62]

As long as democratically motivated, rational individuals were involved, North argued, counterdemocratic methods would be legitimate and safe. "There

are certainly times for patience and prudence, and there are certainly times when one has to cut through the tape. And I think the hope is that one can find that there are good and prudent men who are judicious in the application of their understanding of the law, and understanding of what was right. And I think we had that."[63]

With great success North argued that he was just such a man. Public discourse before the trial had portrayed North as a counterdemocratic figure. It was argued on the one hand that he was a passive zombie blindly following the dictates of his superiors and on the other that he was a Machiavellian maverick pursuing his own "gung-ho" policies. In the symbolic work of the hearings, North managed to refute these characterizations, drawing attention to his dynamic patriotism and the autonomy of his White House role, while at the same time demonstrating a sense of his officially regulated position on the White House team.

> I did not engage in fantasy that I was President or Vice President or Cabinet member, or even Director of the National Security Council. I was simply a staff member with a demonstrated ability to get the job done. My authority to act always flowed, I believe, from my superiors. My military training inculcated in me a strong belief in the chain of command. And so far as I can recall, I always acted on major matters with specific approval, after informing my superiors of the facts, as I knew them, the risks, and the potential benefits. I readily admit that I was counted upon as a man who got the job done. . . . There were times when my superiors, confronted with accomplishing goals or difficult tasks, would simply say, "Fix it, Ollie," or "Take care of it."[64]

Although he was a "patriot" who understood his own actions and motivations s informed by the discourse of liberty, North did not feel that the actions of ome other Americans could be constituted in the same way. Notably, he aserted that he had been driven to his own actions by a weak and uncertain Conress, which had first decided to support and then to withdraw support from the Contras," North described this congressional action as arbitrary and irrational, s a betrayal of persons who were fighting for liberty and against repression in entral America.

> I suggest to you that it is the Congress which must accept at least some of the blame in the Nicaraguan freedom fighters matter. Plain and simple, the Congress is to blame because of the fickle, vacillating, unpredictable, on-again off-again policy toward the Nicaraguan Democratic Resistance—the so-called Contras. I do not believe that the support of the Nicaraguan freedom fighters can be treated as the passage of a budget. . . . [They] are people—living, breathing, young men and women who have had to suffer a desperate struggle for liberty with sporadic and confusing support from the United States of America.[65]

North understood Congress to be repressive not only in its treatment of the Contras but also in its investigation of himself and his associates. In denying that he would receive a fair hearing North drew attention to what he saw as the arbitrary use of power by Congress and its deceit in making the executive branch into a scapegoat for its own foolish policies. Far from being the case that he had treated Congress without trust, it was members of the congressional investigation who had treated him as an enemy, declaring him to be guilty and announcing that they would refuse to believe his testimony even before he had spoken. The actions of the congressional committee were threatening to pollute the universal, timeless rules of the American "game."

> You dissect that testimony to find inconsistencies and declare some to be truthful and others to be liars. You make the rulings as to what is proper and what is not proper. You put the testimony which you think is helpful to your goals up before the people and leave others out. It's sort of like a baseball game in which you are both the player and the umpire.[66]

> The Congress of the United States left soldiers in the field unsupported and vulnerable to their communist enemies. When the executive branch did everything possible within the law to prevent them from being wiped out by Moscow's surrogates in Havana and Managua, you then had this investigation to blame the problem on the executive branch. It does not make sense to me.[67]

> As a result of rumor and speculation and innuendo, I have been accused of almost every crime imaginable—wild rumours have abound.[68]

MODERN FOREIGN POLICY: MAKING SENSE OF GORBACHEV AND GLASNOST

Earlier in this chapter we demonstrated how the discourses of liberty and repression underlie debates in which U.S. presidents and domestic threats to American civil society are evaluated. In this final section we show that these symbolic structures also underpin the typifications that actors deploy in evaluating foreign persons and threats.

Throughout the Cold War, public discourse represented on the Soviet Union and its leaders as paradigmatic of the repressive code. The Soviet Union was framed as a secretive state controlled by an unfathomable oligarchy of party cadre, which was forever scheming and plotting in murky ways to extend its power both within the Soviet Union and without. This image remained unqualified until the death of Chernenko and the rise of Mikhail Gorbachev to the position of general secretary in 1985. Soon after his assumption of power, many in America began to argue that both Gorbachev himself, and a reborn Soviet Union, could be understood in terms of the discourse of liberty rather than that

of repression. This typification gradually grew in strength until even hardline anticommunists such as Ronald Reagan and George Bush were persuaded that Gorbachev was deserving of American support, a trustworthy person with whom one could negotiate.

Part of the reason for this transformation lay in what were perceived as Gorbachev's personal characteristics. In contrast to dour, frumpy, and frequently ailing Kremlin apparatchiks such as Chernenko, Brezhnev, and Gromyko (who was described by the media as "Grim Grom" and by President Reagan as "Mr. Nyet"), Gorbachev was seen as outgoing, honest, charismatic, young and healthy. Bush, for example, said he was impressed by Gorbachev's candor, and the American president characterized the Soviet leader in terms of the discourse of liberty. "I asked him if he would take a sleeping pill? And he said: 'I've just been thinking about that.' You know," Bush added, "I can't imagine any of his predecessors being so open as that." (*Los Angeles Times*, December 12, 1987: n.p.).

Jesse Jackson mentioned Gorbachev's realism and rational behavior, in order to prevent him from being infected by comparison with a Nikita Krushchev, who lacked rational self-control. "He'll not be beating shoes on tables like Khrushchev. . . . [He is] very well-versed academically and experientially" (*Los Angeles Times*, December 12, 1987: n.p.).

Even more important than Gorbachev's motives, however, was his effort to transform the Soviet's domestic and foreign policy. His reformist domestic policies of *glasnost* and *perestroika* were seen as implying a radical break with the earlier structure of Soviet institutions and relationships, shifts that would parallel the new perception of Soviet motives. These policies, it was increasingly believed, offered the prospect of an open society in which free discussion would replace censorship, where decentralization would lead to the evolution of a rational and nonhierarchical society. In foreign policy, for example, Gorbachev's arms control initiatives were seen as belying the traditional image of the Soviets as aggressors hell-bent on world domination.

Supporters of Gorbachev's new discursive status argued that his pronouncements were more than mere rhetoric. They pointed to concrete evidence through which Gorbachev's Russia could be distinguished from the totalitarian Russia and asserted that he was involved in a righteous struggle to bring about the transformation from repression to freedom, and from madness and ideology to trust and realism. These shifts allow the restoration not only of criticism but of civil humanism as well.

> Gorbachev has gone much further than many expected in his pursuit of glasnost, or openness. It is not only in some decentralization in economic controls, the release of Andrei D. Sakharov from internal exile and the permission for emigration extended to certain dissidents. It is particularly noticeable in the press. For the first time since Josef Stalin came to power, one can now see significant criticism and public debate.[69]

> The Soviet Union is softening its ideology of global struggle into a vision of pragmatic humanism. It has replaced Stalin's paranoia with a spectacular call for mutual trust backed by a series of largely unilateral concessions, including withdrawal from Afghanistan and the promise to demobilize half a million troops.[70]

In order to account for those who did not share their typification of Gorbachev, his American supporters invoked the discourse of repression. One commentator, for example, identifies some of Gorbachev's detractors as powerful, self-interested elites, such as "the military-industrial complex, legions of professional cold-warriors and self-described national security intellectuals, certain Jewish organizations and an array of other special interests." He goes on to argue that while these factions are unable to accept a realistic interpretation of the situation because it would damage their own particularistic interests, American opposition to Gorbachev can be understood more generally as an irrational pathology akin to what psychoanalysts term "projection."

> Any acknowledged improvement in the Soviet system threatens their political, economic and ideological well-being. For many of them the necessity of eternal cold war against the Soviet Union is theological rather than analytical. . . . America seems to have developed a deep psychological need for an immutably ugly Soviet Union in order to minimize or obscure its own imperfections.[71]

Despite the growing power and influence of the pro-Gorbachev typification through 1987, many still believed that he should be considered, and treated, in the manner appropriate to a counterdemocratic person. The assault of these persons on what was increasingly becoming the dominant typification of Gorbachev took on several strands. They argued that there was a substantial continuity between Gorbachev's Russia and previous Soviet regimes. They pointed to continuing secrecy and repression and argued from this that the Soviet Union should continue to be treated by America in the skeptical manner appropriate for dealings with a counterdemocratic power. They interpreted Gorbachev's thought as traditional, fanatical, and amoral Marxist-Leninist dogma, cunningly wrapped up in a devious and guileful disguise.

> If the Soviet Union will not trust its own citizens to travel freely to other countries, or to read foreign publications, or to know the truth about how much their government spends on weapons, or to express their skepticism about the party line and official policy, how then can the Soviet leaders expect outsiders, including Americans, to trust the Soviet Union?[72]

> The Gorbachev who wrote "Perestroika" is a classical Leninist—flexible, adaptable, skillful in the pursuit and use of power, absolutely committed to "the revolution," to socialism, to a one party state, and not at all disturbed about the high human cost of past Soviet policy.[73]

This gap between appearance and substance was a recurring leitmotif in diverse comments. Attention was drawn to Gorbachev's public relations skills. He was denounced as merely a "master of propaganda," a criminal trickster cynically manipulating the media in order to subvert democracy and further his own mysterious power over the American public. In this way it was argued that, like all previous Soviet leaders, he was "really" proposing an inscrutable, and counterdemocratic, agenda.

> The Gorbachev regime, more worldly-wise and media wise, acts more skillfully to exploit network rivalry. Incentives are created to temper coverage in order to win favor. If these subtle pressures are not resisted, the Soviets will have succeeded in manipulating American television, and thus the American people. . . . his larger aim is to influence American opinion in ways that will make it harder for anyone who succeeds Reagan to impose unwanted choices on the Soviet Union. It will be fascinating to watch Gorbachev go about his work. He is very good. So keep your eyes open—and your hand on your wallet.[74]

In addition to discrediting Gorbachev's motivations, his detractors attempted to discredit those who argued that he was democratically minded. They gave tit for tat, asserting that belief in Gorbachev could only have come about from personal vanity or defective and emotive thinking. Those who trusted him, therefore, could be understood in terms of the discourse of repression.

> It is very difficult to credit Reagan's somewhat mystical sense that a new era has dawned with Gorbachev. Instead his change of heart can be accounted for only in other, less rational, terms. . . . One explanation may lie in the effect that nearly eight years at the pinnacle of power have had on an elderly and not terribly well-educated mind. There is considerable evidence that Reagan's ego has expanded in the twilight of his presidency as he gropes for a place in history.[75]

> Gorbachev has fulfilled the Western yearning for some automatic nostrum promising relief from tension.[76]

CONCLUSIONS

In this chapter, we have suggested that the culture of civil society should be conceived as a system of symbolic codes that specify good and evil. Conceptualizing culture in this way allows it causal autonomy—by virtue of its internal semiologics—and also affords the possibility for generalizing from and between specific localities and historical contexts. Yet at the same time our formulation allows for individual action and social-structural factors to be included in the analytical frame. The codes, we have argued, inform action in two ways. First,

they are internalized, hence provide the foundations for a strong moral imperative. Second, they constitute publicly available resources against which the actions of particular individual actors are typified and held morally accountable. By acknowledging the importance of phenomenological processes in channeling symbolic inputs, our model shows that it is precisely these contingent processes that allow codes to make sense in specific situations for specific actors and their interests.

In addition to this claim about action, our model takes account of social structure. We have argued, in theoretical terms, that relatively autonomous cultural codes are specified vis-à-vis subsystems and institutions. Their content, we have suggested, reflects and refracts the empirical dimensions in which institutions are embedded. Our studies, indeed, provide crucial empirical insights into the relationship between culture and social structure and, more specifically, into the relationship between civil society and the state in American society. They demonstrate that conflicts at the social-structural level need not necessarily be accompanied by divergent values, or "ideologies," at the ideational level. To the contrary, in the American context at least, conflicting parties within the civil society have drawn on the same symbolic code to formulate their *particular* understandings and to advance their *competing* claims.

The very structured quality of this civil culture, and its impressive scope and breadth, help to underscore a paradoxical fact: differences of opinion between contending groups cannot be explained simply as the automatic product of divergent subcultures and value sets. In many cases, especially those that respond to new historical conditions, divergent cultural understandings are, to the contrary, an emergent property of individual and group-level typifications from code to event. This is not to posit a radically individualist theory but rather to suggest a more interactive conception of the link between cultural and social structures on the one hand and the actors, groups, and movements who have to improvise understandings always for "another first time" on the other. Because worthiness can be achieved only by association to the discourse of liberty or by active opposition to the discourse of repression, political legitimacy and political action in the "real world" are critically dependent on the processes by which contingent events and persons are arrayed in relation to the "imagined" one. In light of these relations among culture, structure, and typification, we can credit the role of political tactics and strategies without falling into the instrumentalist reductions of "institutionalism" on the one hand or elusive concepts like "structuration" or "habitus" on the other.

Although in this chapter our studies were drawn from spheres of life that may be considered political in a narrow sense, we are confident that the discourses and processes we have discovered provide insights into other domains in which questions of citizenship, inclusion, and exclusion within civil society are at stake. Women and African-Americans, for example, were for a long time excluded from full citizenship (and to some extent still are) in part because of a

negative coding. In these cases the discourse of motivations was mobilized to identify purported intellectual deficiencies. These deficiencies were variously attributed to a naturally emotive and fickle disposition and to a lack of the education necessary to become an informed and responsible member of the civil society.[77] Similarly, schizophrenics and the mentally ill, to take another example, have long been marginalized on the basis of alleged qualities such as lack of self-control, deficient moral sensibility, inability to function autonomously, and the lack of a realistic and accurate world view. Since the 1960s their champions have asserted that this view is mistaken (Laing, 1967). They argue that the mentally ill have a unique insight into the true condition of society. In general this counterattack has used the discourse of institutions and relationships to assault the psychiatric professions and their practices. As a final example, during the 1950s in the United States the persecution and marginalization of "communists" was legitimated through a discourse that drew on the counterdemocratic codes of relationships and institutions.

Our studies have established the remarkable durability and continuity of a single culture structure over time that is able to reproduce itself discursively in various highly contingent contexts. On the basis of this discovery, it seems plausible to suggest that this culture structure must be considered a *necessary* cause in all political events that are subject to the scrutiny of American civil society. The wide-ranging nature of our survey, however, also has distinctive drawbacks, for only by developing a more elaborated case study would we be able to detail the shifts in typifications that allow culture to operate not only as a generalized input but also as an *efficient* cause. Even if we could show this to be the case, however, we would not wish to suggest that cultural forces are cause enough alone. We merely argue that to understand American politics, one must understand the culture of its civil society, and that the best way to understand that political culture is to understand its symbolic codes.

6

WATERGATE AS DEMOCRATIC RITUAL

In June 1972, employees of the Republican party made an illegal entry and burglary into the Democratic party headquarters in the Watergate Hotel in Washington, D.C. Republicans described the break-in as a "third-rate burglary," neither politically motivated nor morally relevant. Democrats said it was a major act of political espionage, a symbol, moreover, of a demagogic and amoral Republican president, Richard Nixon, and his staff. Americans were not persuaded by the more extreme reaction. The incident received relatively little attention, generating no real sense of outrage at the time. There were no cries of outrage. There was, in the main, deference to the president, respect for his authority, and belief that his explanation of this event was correct, despite what in retrospect seemed like strong evidence to the contrary. With important exceptions, the mass news media decided after a short time to play down the story, not because they were coercively prevented from doing otherwise but because they genuinely felt it to be a relatively unimportant event. Watergate remained, in other words, part of the profane world in Durkheim's sense. Even after the national election in November of that year, after Democrats had been pushing the issue for four months, 80 percent of the American people found it hard to believe that there was a "Watergate crisis"; 75 percent felt that what had occurred was just plain politics; 84 percent felt that what they had heard about it did not influence their vote. Two years later, the same incident, still called "Watergate," had initiated the most serious peacetime political crisis in American history. It had become a riveting moral symbol, one that initiated a long passage through sacred time and space and wrenching conflict between pure and impure sacred forms. It was responsible for the first voluntary resignation of a president.

How and why did this perception of Watergate change? To understand this