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Rogers M. Smith: Stories We Tell Ourselves

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We tell stories, about ourselves and others, to ourselves and others. The stories help us answer such questions as who we are as a people and what we hold to be valuable. They do the political work of holding the country together, or tearing it apart, of building up political coalitions and inspiring them to action. Rogers M. Smith has long been interested in such stories. He has, perhaps, listened to them more carefully than most, and as a result has found new insights into what kind of people we Americans are and has laid bare how we have struggled over our ideals and aspirations.

Smith works at the intersection of American politics, public law, and political theory. Across a range of both theoretical and substantive works, he has argued that ideas matter in politics. Empirical scholars of politics have long emphasized the primacy of material interests in driving political behavior. Ideas can be all too easily dismissed as interesting in the seminar room but epiphenomenal in the meeting hall. But, Smith argues, ideas are not merely philosophically interesting. They shape how we understand our interests and how we conceive of our identities. We misunderstand political development if we cannot account for how the realm of ideas shapes our social and political reality.

Smith was a leading figure in linking the study of law, courts, and the Constitution in political science to the emerging field of American political development. Although

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2018–2019 APSA President
Rogers M. Smith

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that research often highlighted the study of historical politics, Smith was among those who emphasized that the point of studying politics and history was not merely to understand the past but to understand how the past helps form the present and how the dynamics of politics work over time. Enduring social structures, including ideological constructs and traditions, channel daily politics, and politics encompasses not only how individuals make choices within those institutional arrangements but also how they struggle to overcome or reinforce those inheritances.

His particular substantive interests have become all too relevant to our current political moment. Smith has been fascinated by the construction of political identity, including perhaps the most fundamental legal identity of citizenship. The meaning and boundaries of American citizenship have been points of political contestation for as long as there has been a country. While liberal values have often been central to those debates, racial politics have been a persistent feature as well. Not just an unfortunate sideshow, arguments about race have been an integral element of the American political tradition. The recurrent dream of a post-racial America has been repeatedly dashed by darker forces that insist that race is constitutive of America. We have not told one story about ourselves. We have told many, and those stories fit uneasily alongside one another.

Smith was born in South Carolina but soon moved with his family to Springfield, Illinois. His traditionally Southern Democratic family had drifted into the pro-business Republican Party of Dwight Eisenhower. Hailing from a politically engaged clan, Smith developed an early interest in politics and spent his high school years climbing the ranks of the Illinois Teen-Age Republican Federation, but by the end of the 1960s he had soured on the political culture of Illinois and of the post-Barry Goldwater GOP.

Politically rudderless, he was attracted by the emphasis on big questions in political philosophy at James Madison College at Michigan State University and enrolled there in 1971. At Michigan State, he was exposed to such dedicated instructors as Richard Zinman, Ken Waltzer, and Peter Lyman. He discovered a passion for political

philosophy and scholarship, though did not find a natural place of rest in the turbulent currents of the early 1970s.

He spent the latter half of the 1970s in the PhD program in the Department of Government at Harvard University. There he wanted to explore the points of contact between political philosophy and American politics, and he found a vibrant intellectual environment of quarrelling and politically engaged philosophers. Judith Shklar, Michael Walzer, and Harvey Mansfield did not insist that students agree with them, but did insist that they think. Each in their own way was reexamining the liberal tradition and what it had to say for contemporary American politics in the post-civil rights, post-Vietnam War, post-Watergate era. Smith was happy to embark on that same project, though his pursuit of it did not match up with that of any of his professors.

With Robert McCloskey's death and Martin Shapiro's departure, Harvard's Government Department was left without a scholar of public law. Smith wound up serving as a teaching assistant for Archibald Cox, of the Harvard Law School faculty. Though Cox was an eminent constitutional lawyer and significant public figure, he was no political scientist. A graduate student's desire to place the actions of the Supreme Court within their intellectual and political context or examine the philosophical foundations of the justices' constitutional opinions held little appeal to Professor Cox. "Mr. Smith, I'm a case man." Nonetheless, Smith found American constitutional law to be a useful domain for exploring the philosophical foundations of the American political system.

The late 1970s was a fertile time for grand constitutional theory. Constitutional law professors like John Hart Ely, Ronald Dworkin, Owen Fiss, and Raoul Berger were taking inspiration from the frenzy of the Warren Court and early Burger Court and the example of such ambitious projects in political philosophy as that of John Rawls to try to create an overarching normative theory that could ground and direct constitutional law and justify the active exercise of judicial review. Smith's dissertation was part of a boomlet of work in political science that sat at the crossroads of political philosophy and public law and tried to perform a similar task. By the 1980s, scholars in political science departments like Hadley Arkes, Sotirios Barber, Walter Murphy, Walter Berns, David O'Brien, and Stephen Macedo were producing their own ambitious projects trying to make normative sense of

American constitutional law. From Berkeley, Martin Shapiro (1983, 543) railed at the new "jurisprudence of values" for sacrificing the hard-won gains of the behavioral revolution and his own more positive and descriptive "political jurisprudence."

In *Liberalism and American Constitutional Law*, Smith (1990) offered both an interpretation of the American constitutional tradition and a normative analysis of the ability of constitutional law to underpin a sustainable American public philosophy. Louis Hartz (1955, 10) had famously argued that American law "flourished on the corpse of philosophy" and depended on the fact that Americans took their "ethics for granted" and had enjoyed (or suffered from) an unbroken commitment to unconsidered liberalism. Smith argued that this was wrong as a descriptive matter. American history recorded a constant struggle over the philosophical commitments contained in its law, with judges repeatedly reconceptualizing liberalism itself while also borrowing elements from competing political traditions. If modern American constitutional law was recognizably liberal, that was not the result of a simple elaboration of an unchanging set of philosophical commitments inherited from the American Revolution but the result of lively legal and philosophical debates and pitched political battles that had brought constitutional law to its current state.

Smith also thought that American constitutional law contained the materials needed to provide for a normatively attractive public philosophy. Borrowing a phrase from James Madison, Smith (1990, 5) argued that "a more credible contemporary liberal constitutionalism" should be dedicated to "rational liberty," that is a "dedication to promoting the capacities of all for reflective self-direction." He hoped that this "neo-Lockean" theory would resolve the normative debates surrounding liberalism more effectively than approaches grounded primarily in a "commitment to democracy, to religious or moral virtue, or even to egalitarian justice per se." Enlightenment rationalism recast on the philosophical foundation of democratic pragmatism promised to reconcile individual liberty and collective self-governance, the traditional twin horns of the American constitutional dilemma.

The tug of pure normative theory did not last. Smith was hired at Yale University to teach constitutional law in the political science department and history of political thought in the Directed Studies program. He had discovered a love for teaching while in

graduate school, and that persisted into his new job at Yale (resulting in the potential kiss-of-death of a university teaching prize just before his promotion to the not-yet-tenured rank of associate professor). He spent some time attempting to develop his idea of rational liberty into a comprehensive political philosophy in a similar vein to what was being produced at the time by Bill Galston, Joseph Raz, and Amartya Sen, that could navigate between the emphasis on liberal neutrality in John Rawls, Ronald Dworkin, and Bruce Ackerman and the "liberalism of fear" of Judith Shklar, but progress was slow. Try though he might, Smith began to doubt whether the conclusions of the best liberal political philosophy could simply be understood to be the right answers to hard questions in American constitutional law, no matter what Ronald Dworkin said. (A former student framed this as the problem of "our (im)perfect Constitution" (Graber 1989).) At the same time, he began to worry that his preferred set of liberal values were simply contestable Protestant middle-class values that could never be adequately grounded in universal principles. As pure normative theory seemed increasingly hopeless, debates in the history of political thought beckoned.

AMERICAN CITIZENSHIP

As Smith was working on his ideas about the neo-Lockean Constitution, two interrelated debates were raging in political philosophy and in intellectual history. Addressing himself to those debates catapulted Smith in a new direction. In political philosophy, many theorists were locked in a debate on the merits of liberalism versus communitarianism. Liberalism as a political philosophy articulated by theorists like John Rawls and Ronald Dworkin emphasized autonomous and rational individuals freely choosing political and moral commitments. Communitarianism as a political philosophy articulated by theorists like Michael Sandel and Alasdair MacIntyre emphasized the ways in which individuals were embedded in preexisting communities and the extent to which their moral and political understandings were constituted by those social contexts. In intellectual history, many scholars were locked in a debate over the influence of the liberal tradition on American culture and politics versus the influence of a civic republican tradition. The more traditional liberal view represented by Louis Hartz and others emphasized the predominance of values of individualism, liberty, and property-holding

in American political thought. The revisionist republican view represented by Gordon Wood and others emphasized existence of an earlier, rival intellectual tradition that focused on egalitarianism, virtue, and political participation.

Smith imagined that the history of American citizenship laws and their judicial interpretation could provide some purchase on assessing the significance of these competing theoretical traditions. These rival theories had distinctive implications for the details of and justifications for the rules of citizenship, and so the legal history surrounding citizenship should provide some evidence of whether and when republicanism or liberalism mattered in American law and should provide some fodder for thinking through the significance and attractiveness of liberalism and communitarianism.

His historical research soon led him to doubt the adequacy of the prevailing debate. Although there were certainly traces of republican and liberal ideology in the history of debates over American citizenship, the primary sources revealed much more as well. Advocates in those political and legal debates appealed not only to individualist voluntarism and to egalitarian communitarianism, but also to white supremacy, Christian identity, patriarchal values, and even feudal remnants. The arguments about citizenship seemed more complex than the scholarly categories would allow. Moreover, the history of American citizenship laws did not seem to establish a single dominant tradition or a transition between a past and a modern tradition but instead seemed to show an ongoing struggle among competing traditions with no clear or permanent victors. Arguments had waxed and waned across American history, and it was political complacency to assume that darker forces had been eternally vanquished by the modern civil rights movement.

An early cut at this research was written with Yale law professor Peter Schuck. In *Citizenship without Consent*, Schuck and Smith (1985) examined two odd tensions within liberalism and American citizenship laws. Liberalism would seem to emphasize voluntary communities constituted by consensually contracting individuals. Earlier feudal theories of politics emphasized the significance of one's birthplace and inherited bonds of allegiance and duty. And yet, within the contingent circumstances of American political development the embrace of birthright citizenship was a liberalizing move that expanded rights and recognition to the

former slaves. These competing conceptions of citizenship had further implications for the modern phenomenon of illegal aliens in American law. Schuck and Smith mounted a normative argument that liberal values would point toward "a constitutional commitment to citizenship based on mutual consent—the consent of the national community as well as that of the putative individual member" (6). The argument had provocative implications both for the theoretical understanding of liberalism and for practical reforms of American law, implications that were sometimes seized upon by political activists whose political preferences were fairly distant from Smith's own.

The full flowering of that historical research came some time later (and well after a successful tenure decision at Yale). *Civic Ideals* was a scholarly blockbuster. In that book, Smith (1997a) launched into a deep dive into the history of the American law of citizenship from the colonial era through the Progressive Era. The book provided both the mature theoretical statement of the "conflicting visions of citizenship" and "multiple traditions" that Smith believed could be found in American political thought and the extensive empirical documentation of how citizenship law had developed and how those legal developments were tied to broader intellectual and political forces at play in American society. Among the book's many accolades was its listing as a finalist for the Pulitzer Prize in History.

Civic Ideals argued forcefully that Americans had often adopted a restrictionist rather than expansionist approach to citizenship. Disfavored groups were routinely excluded from citizenship entirely or offered only an abridged version. Those repeated efforts at restricting access to citizenship often reflected the fact that "American civic identity . . . did not feature either individual rights or membership in a republic." Americans regularly conceived of what it meant to be an American in other terms. To be an American did not rest on the acceptance of certain ideals or the shouldering of certain duties. To be an American was rather routinely defined in terms of inegalitarian, ascriptive features of birth. Citizenship laws were to be constructed to mirror the ways in which nature itself had "assigned people to places in hereditary hierarchical orders" (3). The American civic identity was frequently defined more by ethnonationalism than by an American Creed.

Civic Ideals is in some ways a deeply pessimistic, and prophetic, book. For some critics, it was not pessimistic enough. On the one hand,

Smith elevated arguments about ascriptive identities into full-blown political ideologies that were part and parcel of the American political tradition. They could not simply be dismissed as atavistic vestiges or moments in which Americans failed to live up to their own ideals. On the other hand, he sought to salvage analytically distinct ideological traditions of liberalism and republicanism that stood separate from those inegalitarian forces. Some thought that this did not do enough to recognize the ways in which liberalism was complicit with racism and the like; to call the evil that men do illiberal is to sanitize liberalism.

Civic Ideals concluded with the Progressive Era and the rise of the "new American empire," which left several decades of American history unexamined, including the more optimistic moment associated with the modern civil rights movement. That leaves open the potential for a sequel of sorts, *Civic Horizons*, which would examine how the multiple conflicting visions of American citizenship continued to play out across the twentieth and into the twenty-first century. More narrowly, the 2018 Castle Lectures at Yale University will result in a book on the exclusionary populist moment currently being experienced in Europe and the United States and the possibilities for a more inclusionary vision of civic identity that could succeed it.

POLITICAL SCIENCE, IDEAS, AND THE NEW INSTITUTIONALISM

One strand of Smith's scholarship has been concerned with the nature of scholarship itself. A few years after Smith began his career at Yale, he was joined there by Stephen Skowronek and Yale became a hotbed of work in the emerging field of American political development (APD). In a widely cited article in the *American Political Science Review*, Smith (1988) helped give shape to debates within the field of APD broadly and built bridges between APD and the field of public law. The once prominent strand of historical studies of the politics of American law and courts within the discipline of political science had been sharply reduced with the behavioral turn in the discipline. Smith's article laid down a prominent marker for more developmentally minded studies of law and courts that could explore both historical periods and contemporary politics. It carved out a space that was soon occupied by his own students (e.g., Graber 1991) and those of others (e.g., Gillman 1993) and which became an energetic part of the subfield studying law and courts.

Smith's particular strategy for opening space in the field was to call for bringing ideas back into the study of politics. The state of the field of public law in the 1980s threatened to be sharply divided between the empirically inclined political jurisprudence and the normatively inclined jurisprudence of values, with the two schools of thought having little or nothing to do with one another. Smith (1988, 90) argued that "any revival of these longstanding feuds is pointless and avoidable." What was sometimes known as "historical institutionalism" or the "new institutionalism" suggested a path forward that would "unify many of [the field's] longstanding descriptive and normative concerns." Empirical scholars would be missing important aspects of the politics of law and courts if they did not take into account the ways in which individuals and groups engaged in *meaningful* action, if they did not consider how interest and identity were constituted within politics, if they did not take note of how durable intellectual constructs and ideologies could channel and guide political behavior. Ideas were of interest within politics and the law not only so that they can be measured against normative standards and held up for evaluation and criticism but also so that they can be understood as among the variables affecting political behavior (Smith 1992; Gillman 1999; Novkov 2008). A renewed attention to how ideas interacted with politics held the promise of opening new paths of study not only in the fields of public law and American politics, but also in the study of American political thought as well. The ideas that permeated American political debate, mobilized American political movements, and drove American political behavior were of interest as objects of empirical study and were often more diverse and challenging than the study of American political traditions of statesmanship might suggest (Smith 1993; Smith 2014).

The chance invitation from Ira Katznelson to attend a conference sponsored by the American Academy of the Arts and Sciences on the role of theory in various academic disciplines launched a series of essays on the history of the study of politics. Smith (1997b) highlighted the cycle of scientific advance and civic dissatisfaction in the discipline of political science as scholars struggle between the desire for rigor on the one hand and for relevance on the other. In 2000, he found himself near the center of the short-lived but passionate fracas over the pseudonymous circular email sent by "Mr. Perestroika," which denounced the narrowness of the discipline

of political science and its flagship journal, the *American Political Science Review*. Smith was soon sending missives of his own giving voice to his uneasiness with the direction of the discipline and the professional prioritization of methods and precision over substance and importance.

RACE AND AMERICAN POLITICAL DEVELOPMENT

The first waves in the study of American political development were centrally concerned with problems of economics and class. The challenge for much of that literature was to understand the exceptional way in which the United States responded to the rise of corporate capitalism and developed an administrative and welfare state. By contrast, a substantial fraction of recent work in American political development has been centrally concerned with problems of race. Smith was among a handful of political scientists who played a critical role in refocusing the field. *Civic Ideals* was a watershed contribution in identifying racial conflict as a driving force in legal and political change and near the heart of American political identity and the construction of the American nation-state. In doing so, the book opened lines of communication between political scientists interested in politics and history and those interested in politics and race, perhaps even in a more effective and enduring way than Smith's work had done in connecting the fields of APD and public law.

Shortly after the appearance of *Civic Ideals*, Smith joined Hamilton College's Philip Klinkner to produce a new book on racial civil rights in the United States. *The Unsteady March* provided a sweeping history of civil rights progress from the colonial era to the present (Klinkner with Smith 1999). *Civic Ideals* had argued that there were important and persistent racist traditions in American political thought and practice. *The Unsteady March* examined when the power and influence of such traditions had waned and meaningful progress toward racial equality could be achieved. Historically, they argued, significant steps toward racial equality had been the exception rather than the rule and could only be taken when substantial threats to national security forced American political leaders to try to mobilize the support of African Americans and to build up the American self-image as an inclusive and egalitarian country and domestic political movements were well situated to exploit such opportunities to demand civil rights. Such steps, when

they were taken, tended to be cumulative and provided greater resources and opportunities for putting further pressure on the political system to renounce racist ideologies and embrace more liberal ideologies, but the reality of the American struggle for civil rights had consisted of cycles of progress followed by periods of stagnation and retrenchment.

A subsequent collaboration with Oxford University's Desmond King called for greater attention to the problem of race within the study of American political development. King and Smith (2005) posited that one of the deep structural features of American politics had been two evolving "racial institutional orders." Competing "white supremacist" and "transformative egalitarian" institutional orders had shaped how political authority was distributed and political power was exercised in the United States, and the friction between these two orders contributed to the development of American politics and the construction of the American state. While Barack Obama's ascendance to the White House led some to celebrate the arrival of a post-racial America, King and Smith (2011) sounded a more cautious note, observing that the country had organized itself into two competing racial policy alliances with quite different constituencies, values, and policy proposals. As a consequence, the United States remained highly polarized on questions of race, even if some explicitly racist ideologies and policies had apparently been left in the past, and faced the prospect of more rather than fewer clashes over public policy relating to race. If anything, the argument perhaps underestimated the resilience of some ideological and political strains that might have been thought banished to the history books.

PEOPLEHOOD

A distinct strand of research pulled back from those empirical and historical inquiries that had occupied much of Smith's attention since the 1990s and returned to debates in normative political theory. His empirical work on citizenship and racial orders had demonstrated the importance of matters of identity within American law and politics. The ongoing political challenge in the United States was how to define American civic identity and the terms of inclusion or exclusion from American civic life. This challenge was hardly limited to the American context.

If Smith's early interest in normative political theory had focused on questions of individual liberty, his work on citizenship

had highlighted a quite different dimension of political life, one of group membership. Normative theorists needed to grapple not only with arguments about how much freedom from social control individuals should have but also with arguments about who belonged within a political community and could lay claim to some degree of political voice. A “quite basic dimension of all political activity” was the “making, maintaining, and transforming of senses of political peoplehood” (Smith 2003, 19). To be sure, there were many ways of creating a people and excluding some from its boundary, but Smith called particular attention to the stories that are told and the ideas that are deployed to help bind individuals together into a political unit.

All political scientists should be interested in how political communities are socially constructed, but political theorists have a particular interest in what kinds of stories we should tell to help forge and preserve a political community. If stories of political identity are necessarily bound up with how political power can be exercised, then it matters how they are constructed and deployed. The wrong kind of constitutive stories can help advance deeply unjust political projects. While some might hope to dismiss the need for such emotional bonds of solidarity in a rationally organized political society, Smith thinks stories of peoplehood are inevitable. Theorists should think, therefore, about what kinds of stories are ethically justifiable and what kinds of ecosystem of storytelling a just political order should try to foster. If it is implausible to imagine that we will ever be able to escape the call of patriotism and allegiance, then we should explore how the bonds of group membership can be forged in normatively appealing ways.

The exploration of stories of peoplehood heeds Smith’s own call for empirically grounded normative theorizing and for the importance of the world of ideas to political practice. In this work, he not only appealed to the details of the American experience that he had himself done so much to uncover and reinterpret, but also cast his net to take in the comparative political experience and the myriad ways in which different peoples had constituted and reconstituted themselves over time. Recent essays (Smith 2015) have

continued to examine how politics is constitutive of personal identity and how political activity creates a political community. A particular challenge of the modern era is how to “create and sustain flexible forms of ‘moderate peoplehood’ that renounce claims to unlimited sovereignty and strive to recognize and accommodate as many of the multiple memberships persons have as proves politically feasible” (189). With “globalist” and “nationalist” having emerged as invectives of choice in our current political moment, finding ways to construct a compelling vision of community remains one of the most pressing political tasks before us.

Smith has occupied himself with construction of communities closer to home as well. In two decades at Yale, he had helped build a community of teachers and students interested in politics and history, the politics of race, and empirically-minded political theory. He has now been at the University of Pennsylvania for nearly as long and has been persuaded into taking on administrative roles as department chair, associate dean, and the directorship of a center. His dedication to both undergraduate teaching and graduate mentorship has generated a massive trade deficit that will never be paid down as he has populated the discipline with students working in fields ranging from public law to political theory to American political development to race and gender. He has won teaching awards at both Yale and Penn and for both undergraduate and graduate teaching. He has supervised numerous award winning projects and launched a host of scholarly careers. He has shown us how to engage in lively interdisciplinary conversations and build scholarly communities that ask important questions and support creative work. Across his professional life he has recognized that our differences can make life difficult but they can also make life better and more interesting. He has helped us continue to search for stories that can bind us together in a just and flourishing community. ■

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