

1976

Knowledge and Politics, and Law in Modern Society- By Roberto Mangabeira Unger

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Recommended Citation

James M. O'Fallon, *Knowledge and Politics, and Law in Modern Society- By Roberto Mangabeira Unger*, 11 U. Rich. L. Rev. 229 (1976).
Available at: <http://scholarship.richmond.edu/lawreview/vol11/iss1/14>

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BOOK REVIEWS

KNOWLEDGE AND POLITICS. By Roberto Mangabeira Unger. New York: The Free Press. 1975. Pp. ix, 336. \$12.95.

LAW IN MODERN SOCIETY. By Roberto Mangabeira Unger. New York: The Free Press. 1976. Pp. 309. \$12.95.

*Reviewed by James M. O'Fallon**

Professor Unger has given us two striking books, which present an unusual problem for the reviewer. The great run of books, as the great run of thought, falls into established conventions. They are concerned with elucidating aspects of the convention of which they partake, or challenging competing conventions. Reviewer and reader will usually be aware of the general outlines of the convention, leaving the reviewer with the relatively simple tasks of placing the work within the appropriate convention, and making such critical remarks as appear warranted.

Knowledge and Politics is a departure. Its purpose is "total criticism" of a vision of the world which established its hegemony over Western thought in the seventeenth century, and which, though never fully articulated, still holds sway. Unger came to this task from an effort to resolve some familiar problems of jurisprudence. He "discovered that the solutions generally offered to each of the problems fall into a small number of types, none adequate by itself, yet none capable of reconciliation with its contenders. . . . [I]t became clear that the problems of legal theory, the immediate subject of my interest, are not only connected with each other, but are also strikingly analogous to the basic issues in many other social disciplines. . . . [I]t seemed that the views that give rise to these problems and the theories used to deal with them are aspects of a single mode of thought."¹

The premises of the vision of the world against which Unger's critique is leveled are gathered under the rubric of liberalism; but there is no comfort or escape for the new conservatism in this classification. In Unger's view, theories as disparate on the surface as Marxism and Benthamite utilitarianism share roots in the deep structure of liberal metaphysics.

The liberal doctrine, in Unger's usage, is not a viewpoint to which anyone consciously adheres. Indeed, the continuing vitality of the doctrine can

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1. R. UNGER, KNOWLEDGE AND POLITICS 3 (1975).

be traced to the fact that no one claims the whole. Each branch of modern social science refuses to accept those aspects of the doctrine which bear directly on its subject matter, while continuing in unsuspecting reliance on those aspects which fall within the domain of other disciplines. Thus, each social science offers a partial criticism while the whole carries on, scarred but triumphant.

Central to the critical argument of *Knowledge and Politics* is the concept of antinomy—"a contradiction among conclusions derived from the same or from equally plausible premises."²

On its surface, this would appear to make the argument vulnerable, for if the relationship among the principles which are identified as central to the liberal doctrine is not of a formal logical nature, criticism based on contradiction loses much of its force. However, Unger is confronted with a methodological dilemma. The language which he must use is itself invested with meaning drawn from its use in the doctrine which he seeks to criticize. For criticism to succeed, it must infuse old language with new meaning. One might proceed by force, in effect stipulating the fact of the relationships which one claims, and then dazzling the reader with the insights which the stipulated structure yields. Unger eschews such a method because, "we easily delude ourselves into thinking we are masters of a method that is in fact still little more than a mystery."³ Instead, he chooses to borrow "the chaste and powerful weapons of logical analysis"⁴ while "work[ing] toward a situation in which the critique of liberalism will itself forge a method of interpretation more adequate than logical analysis, a result only to be achieved fully through the construction of a nonliberal system of thought."⁵ Thus, the risk of inappropriateness is taken in exchange for the benefit of discipline.

The only safe and fair way to report on an argument as complex and unconventional as Unger's is to so reduce the account that it cannot be substituted for the original. If such an account fails to reproduce the force of the original, it has the virtue of preserving it from immediate victimization by third-hand coffeehouse chatter.

Unger identifies a set of principles which underlies liberal thought concerning the nature of man, society and the world. From these principles he derives the antinomies which subvert the liberal conceptions of knowledge, personality and society. Each of these antinomies is an instantiation.

2. *Id.* at 13.

3. *Id.* at 15.

4. *Id.*

5. *Id.*

of a general form which results from a faulty conception of the relationship of universals (theory, reason, rules) to particulars (facts, desires, values).

Having established the outline of liberal doctrine in the theoretical ether, Unger brings it to earth in the forms of life with which it is associated: the liberal and welfare-corporate states. The latter is seen as a transformation of the former, which transformation is forced by experience with the contradictions of liberal thought as realized through modes of social organization. The developing consciousness of the welfare-corporate state points the way towards new conceptions of the self and group life which, set against liberal theory, completes the first stage of the critical task. The second stage, bringing these new conceptions to life in forms of social organization, is not for theory, but for politics.

Law in Modern Society builds on the general theoretical groundwork of *Knowledge and Politics*. Unger is concerned with the failure of the classical social theorists, represented by such figures as Weber, Marx and Durkheim, to construct a theory adequate for the major questions posed by social life: the problem of method or explanation—how to represent social facts in thought or language; the problem of social order—what holds society together; the problem of modernity—what distinguishes modern society from all other societies, and what is the relationship between its self-image and its reality. He finds at the heart of the present crisis of social theory the absence of an adequate conception of human nature. Classical political philosophy was tied to a conception of a unitary human nature which was unchanging, standing outside of history. Social theory in its revolt against the classics has frequently disregarded, if not explicitly abandoned, the notion of a unitary human nature in its quest for an historical understanding of social consciousness and culture.

In *Knowledge and Politics* Unger postulates a conception of human nature which attempts to preserve both the ancient insight of a unitary human nature and the modern understanding that human nature changes in history. There is an unchanging element of human nature, consisting in the universal problem of establishing relationships between the self, others and the non-human world. Yet there is also an element of change; consciousness provides the means for reinterpreting and transforming the experience of humanity.

In the central chapters of *Law in Modern Society* Unger tests his model of a more fruitful social theory through examination of law's place in society. His project is to identify the circumstances under which the varieties of law (custom, bureaucratic regulation, legal order) come into existence, and to examine the implications for the rule of law of certain transformations in modern society. His conception of human nature provides justifi-

cation for a broadranging comparison of cultural responses to the problem of order, in addition to supporting his hopeful conclusion that a perceived retreat from the rule of law is progressive rather than regressive.

Broad metaphysical statements of systems of thought have not been among the notable products of American intellectual life. Indeed, the brand of legal realism which has dominated much of American jurisprudential thought for the past half-century has among its basic tenets rejection of the conception of law as a system of autonomous principles. It may not be too far off to locate the primary cause of this rejection of systematic thinking in a generally held idea that what little was wrong with the American way of doing things could be rectified by tinkering—after all, it was in the first instance a product of pragmatic experimentation rather than systematic development.

Nonetheless, as Unger shows, system has crept in, however unsuspected or unwelcome, through the premises which underlie our institutions. While it may have been a virtue in the early days of our institutions to avoid explicit systemization because of the dogmatism which often accompanies it, those days have passed. The time of an America rich in resources and labor poor, in which opportunity was so prevalent as to make equal opportunity a sensible comprehension of the concept of equality, have gone the way of the woolly mammoth. So too, the age of a classless, casteless America.

Such changes have led to cracks in the foundations of institutions based on premises no longer defensible. We need thoroughgoing rethinking of our premises. Intellectuals are responding with systems, such as John Rawls' *A Theory of Justice* and Robert Nozick's *Anarchy, State and Utopia*. Whether or not the proposed systems are sound, their presentation frequently provides important insight into the organization of society which they seek to reform or replace. Unger's books are an exciting, innovative contribution to this literature, sure to be the source of much heated discussion and, I think, some light.