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978-0-521-09923-3 - Neutrality and Impartiality: The University and Political
Commitment

Andrew Graham, Leszek Kolakowski, Louis Marin, Alan Montefiore, Charles Taylor, C. L.
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Excerpt

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PART I

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1 Preliminaries

Those who hold to a liberal view of the university would all agree on insisting on the crucial importance of the distinction between the academic and the political; those who reject the liberal view hold on the contrary that it is a distinction without any tenably honest or serious difference. Liberals believe in detachment, disinterestedness, impartiality, open-mindedness, objectivity and political independence and neutrality. Their most serious opponents do not merely reject these values; they regard them rather as constituting a characteristically self-interested illusion.

As a first statement of the position this is, of course, highly oversimplified; but so too are the terms in which many of those involved in conflicts over the desirability or undesirability, possibility or impossibility, of a liberal university, are accustomed to fight out their theoretical and practical disagreements. Over-simplified and hence also both confused and confusing. This is why it seems important to make some explicit attempt to clarify the conditions of meaningful employment of these and related terms. In making this attempt, however, I should make it clear that I am not primarily interested in the niceties (or the lack of them) of ordinary language. As far as ordinary English is concerned at any rate, it seems in fact to be used in this area with considerable imprecision and apparently easy interchange; and the same is doubtless true for other languages. Naturally, it is preferable not to stray too far from commonly acceptable usage; but what is important is to see what distinctions can be made, and which are most worth making, without worrying beyond reasonable limits over the exact stylistic felicity of assigning any particular term to any particular concept.

Before embarking on this discussion there is one important disclaimer to be made. I have already used the word 'liberal' and it recurs often in what follows. Nevertheless, I do not propose to attempt any serious analysis either of the history or of the current uses of this term, but rather to continue to use it in what I should have under pressure to admit may be little more than a general gestulatory way. My gestures may be understood in the light of that vague pattern of associations between the concepts of a liberal society and a liberal education and those of the values already mentioned, of a readiness to give free expression and unprejudiced consideration to every point of view, of tolerance of disagreement, of the absence of hidden bias, political or other, and so on. Most of these latter concepts will come under explicit discussion. But to my use of the term 'liberal' itself there is no deep theoretical significance to be attached; and if I place it in certain contexts in inverted

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commas, it is not – of course – to indicate any attitude of contempt for the notion, but simply as a reminder of the fact that while it may stand for an essentially contestable concept, I make in these discussions no attempt either to define or to contest it.

In using it in this rather relaxed way, however, it is as well to be quite explicitly aware that ‘liberal’ is also very much a fighting word and, what is more, one which may be uttered either with pride or with scorn. (One may compare, for example, the salute ‘He is a man of great learning and truly liberal cast of mind’ with the dismissal ‘He may know a great deal, but he remains just another “wishy washy” liberal’.) One of the sources of pride has been the view that there is no line of distinction to be drawn between a ‘liberal’ education and a rational education as such – all other forms of so-called education being no more than so many varieties of indoctrination. One of the grounds of scorn has been the appeal sometimes made to ‘liberal’ values apparently simply in order to avoid practical action against even the worst features of an inequitable *status quo*. This is not the stage at which to enter into arguments about whether either of these points of view is in general justified. It is anyhow natural that those who interpret their experience of established liberal authority in this latter way should take a preoccupation with such alleged values as objectivity and impartiality as anything but objective and impartial. And so I must at least make it clear that I cannot start by making or by repudiating in advance any claim for the objectivity or the impartiality of my own discussion of these concepts. It would in any case be foolish to do so before having settled on some reasonably firm suggestion as to how the terms should best be understood.

2 Neutrality, indifference and detachment

First, however, we may turn to some considerations concerning the concept of neutrality and certain of its closer conceptual relations. Here what I take to be the central point may be made at the outset in the form of a straight, simple assertion: to be neutral is always to be neutral as between two or more actual or possible policies or parties. There may be some sense in taking as a limiting case neutrality towards some one party or policy other than oneself or one’s own policy, (where the actual or possible conflict in question would simply be one between oneself and the other party). But there can be no sense in any suggestion of total or absolute neutrality, if that is to be understood as meaning a neutrality with respect to every possible policy or to each and any option that might ever be exercised by

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anyone else whomsoever. Questions of neutrality arise in reference to situations of actual or possible conflict between parties or policies; one cannot be neutral if there is, so to speak, nothing to be neutral between.

This first assertion I take to be pretty well self-evident. My second suggestion is less so: to be neutral in any conflict is to do one's best to help or to hinder the various parties concerned in an equal degree.¹

It follows from this that one can only be neutral in a given situation in so far as one is in a position to exercise some sort of influence on it and has some effective choice as to whether to exercise that influence or not. Neutrality thus interpreted is, we may say, both an intentional and a causal concept in the sense that it relates to the directed, or at any rate to the directable, causal impacts that one agent may or may not have on the policies of another. This dual status will be of great importance in subsequent analysis.

It is obvious that a whole range of further problems will arise from this first way of delineating the concept of neutrality, including many of those associated with that of intentions. But these complexities may be held aside for the moment. It is at least evident that neutrality, so defined, has to be distinct both from (what may reasonably be called) indifference and detachment. To be indifferent in any situation, or when faced with a choice of any sort, is to have no personal preferences one way or the other. Detachment may be regarded as the setting aside of whatever personal preferences one may happen to have; it is compatible with indifference, but does not presuppose it. To illustrate these distinctions by way of just one example: faced with appeals for help from two conflicting political parties I may decide to remain *neutral* between them, that is to say to do my best to provide them with help or hindrance in equal degree. This is quite compatible with my retaining a strong personal preference in favour of one side rather than the other; that is, I may be in no way *indifferent* to the outcome of the conflict. In making up my mind to remain neutral, however, I may have considered the matter in an entirely *detached* spirit, by reference, for instance, to my legal or other institutional responsibilities and abstracting wholly from my own personal preferences.

The concept of neutrality is also to be distinguished from that of disinterestedness. There are two main ways in which this concept

¹ In the limiting case mentioned above, this may be construed as doing one's best neither to help nor to hinder the other party or policy in question in any special way: that is, to act exactly as one would anyhow have acted had the party or policy never existed. Clearly, this possibility only arises as a genuine option when the party or policy in question stands in no particular relationship of opposition or support to any antecedently or independently conceived policies of one's own.

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may be taken. According to the first, to be disinterested in any given situation is simply to have no interests of one's own at stake; or at any rate no interests of which one is aware. According to the second, one may use the term to refer to the attitude of a man who, although he did have interests at stake, succeeded in setting them aside from the considerations which he allowed to weigh with him in coming to his decision or in determining his attitude. If one prefers to take the term in the first way only, one might, by way of conceptual compensation, extend the meaning of 'detachment' to cover the setting aside of considerations of interest as well as the setting aside of personal preference. This suggestion in fact raises further problems of considerable importance and complexity concerning the relations between the concepts of interest and preference; we shall have to return to them in a later section (see p. 30 below). For the moment, however, we may return to a more direct consideration of the concept of neutrality itself.

My approach to a definition of 'neutrality' has been in terms of an agent's doing his best to help or to hinder to an equal degree all the parties concerned in any situation of competition or conflict. A main reason for seeking a definition of this form, rather than one in terms of avoiding giving any help or hindrance at all to any of the parties involved, is that it is a necessary condition for the concept of neutrality to have any genuine application that it should be open to the potential neutral to choose whether or not to exercise an influence on the situation of conflict. This means that there must be some sort of causal or otherwise practical relationship existing between him and at least some of the parties to the conflict in question. But if this is the case, it is hard to see on what principles one could establish a base line to serve as a starting point from which potential neutrals might choose to provide no help or hindrance to anyone involved in the conflict; since, from whatever standpoint one might assess his actions as providing neither help nor hindrance to any of those involved, there must always be some other standpoint from which it may be complained that differential help or hindrance is in effect being provided from behind the base line. For at the very least, and even if he does nothing else, the potential neutral may always be seen as helping one side to the extent of not providing the help that he *could* have been affording to the other in virtue of his definitionally necessary causal involvement in the situation.

On the other hand, the reference to equal (rather than to no) help or hindrance to all the parties concerned runs into certain *prima facie* difficulties of its own. These can best be illustrated in terms of a situation where the parties to the conflict are of evidently unequal strength. To take an example which has no political significance in

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itself, but which brings out the point very well: two children may each appeal to their father to intervene with his support in some dispute between them. Their father may know that if he simply ‘refuses to intervene’, the older one, stronger and more resourceful, is bound to come out on top. If he actively intervenes with equal help or hindrance to both of them, the result will necessarily be the same. If he wants to make sure that they both have roughly equal chances of success (that is, if he wants to render the outcome of their conflict as nearly unpredictable as possible), then he has, in practical terms, to help one of them more than the other. In other words, the decision to remain neutral, according to the terms of our present definition, would amount to a decision to allow the naturally stronger child to prevail. But this may look like a very odd form of neutrality to the weaker child.

One way of reacting to this point might be to argue that the option of neutrality is open only where there is no clear basis for distinguishing between the initial balances of strength and weakness of the various parties to the conflict. But does one then judge that the availability of a neutral option depends on the actual balances of strength and weakness of the conflicting parties? Or on the estimate that the potential neutral may make of the relevant balances? Or on the estimate that it would be reasonable for him to make given the information at his reasonable disposal?² In practice, it may be argued, in situations of serious academic or political conflict the initial balances of strength and weakness are probably very rarely to be seen as evidently equal. This may in part be due to the fact that there is here a disturbing unclarity in the very notion of ‘an initially equal balance’. But there also seems to be something unsatisfactory in an account of neutrality which relates it directly to an initial balance, where ‘initial’ must seemingly turn out to refer either to the moment at which the potential neutral first considers the problem, or to that at which it might reasonably be thought that he should first have considered it, or to the moment at which he judges the conflict itself to have arisen, or to that at which he might reasonably have judged it to have arisen . . . or to some other moment of similarly complicated subjective order.

In the face of all this, might one not do better to argue to the paradoxical conclusion that not only are there situations in which no option of neutrality exists, but that the concept of neutrality actually turns out never to have any coherent application at all? But this too seems unsatisfactory. Indeed, we know very well that, provided the terms of what is to be counted as help are specified closely

² Such a reference to reasonableness would, of course, raise its own further characteristic set of problems.

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enough, it is possible to lay down fairly firm conditions for various forms of legal or 'technical' neutrality; and why, it is natural to ask, should such conditions not serve as bases for wider and less technical accounts?

This suggests another way of trying to deal with the problem: namely to accept the different apparent paradox that the adoption of a neutral attitude might very well work in favour of one party to a conflict or to the detriment of another; and that the fact that such probabilities might be known to the potential neutral need not exclude the possibility of his actually taking up a neutral attitude.³

Whatever the solution to this problem turns out to be, further crucial distinctions must now be made; for the knowledge that whatever he does, including taking up a 'subjectively neutral' attitude, is likely to work in favour of some one or other of the parties to the conflict, *will* sometimes mean that there is no neutral option available. We shall return to this point later on. For the moment, we may simply accept as a consequence of our partial definitions the possibility that a man may adopt an attitude of neutrality, knowing very well that in so doing he is likely to favour the chances of one side against another, so long as the fact that this is likely to be so derives solely from such aspects of the positions, expectations or manoeuvres of one or both of the conflicting parties as are independent of the potential neutral's own original position or actions – he could not, obviously, take up an attitude of neutrality *in order to* favour one side rather than the other (except, perhaps, when certain technical and strictly delimited forms of neutrality are in question). This last stipulation admittedly brings elements of evaluation (of what may relevantly constitute 'independence') quite openly into the structuring of the concept of neutrality; but this is perhaps a source of realism and of strength rather than of weakness.

I turn meanwhile to another problem: how should one distinguish and understand the distinctions between the assessment of specific actions as neutral or un-neutral, the assessment in this light of general policies and the assessment of roles or positions within a complex of social relationships? An illustration of the importance of getting these distinctions straight may be given by the case of a referee in a game. Many of the particular actions and decisions of such an official are bound to give direct help or hindrance to one side or the other; moreover, the referee who blows his whistle and points to the penalty spot knows perfectly well which side he is helping. But it would seem absurd to suggest that even in games there could in principle be no such thing as a neutral referee.

³ Whether or not his own interests are also involved is of itself of no direct relevance: neutrality does not have to be disinterested.

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As far as formally constituted games are concerned, the problem, however tricky in detail, seems essentially to be one of careful formulation. A neutral referee will, roughly speaking, be one who works with the clear and well trained intention of helping or hindering either side in completely equal measure *with respect to his application of the rules of the game*, whatever the nature of the performance that either side may produce in the course of it. His intention has to be well trained as well as clear in the sense that, beyond a certain point of incompetence, mere subjective intention will fail to guarantee neutrality. It is a matter of complete indifference to him *qua* referee whether it is one side or the other that has incurred a penalty. It is true that in imposing a penalty he is hindering the offending side and helping its opponents, but he would have behaved in exactly the same way had their positions been reversed. There is nothing in his role which could lead him to aim at helping one side rather than the other; his relations to them are defined in terms of the complex game situation within which they are competing and within that framework he stands in precisely the same relations to each of the competing sides. Since his individual actions as a referee all spring from his role within the total game situation, their neutrality has to be assessed in the light of his overall role and of his attitude towards it rather than in that of the particular and contingent help that they bring to one side or the other in the course of the game. An un-neutral referee, on the contrary, would be one whose actions were calculated to help one side at the expense of the other (apart, perhaps, from the special and controversial case of outstanding and culpable, if yet uncalculating, incompetence); and the very nature of the example makes it clear that no such calculation could be based on mere concern for a strict application of the rules of the game. In practice it may often be difficult, if not impossible, to decide whether a given referee is acting neutrally in the required sense or not. Nevertheless, however difficult it may be to judge particular cases and particular referees, the general basis of the distinction between a neutral and an un-neutral referee would seem reasonably secure.

The example of a game may provide some helpful lessons for other more complex cases; but for the moment I shall make just two further points about it:

(a) A referee may know in advance of some particular game that one of the contestants is a much stronger competitor than the other. It might even be that unless something extraordinary happened, the result would be a foregone conclusion. But the known unequal strength of two competitors clearly does nothing to alter the role of the referee nor his relations, through the rules of the game, to those

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competing; and since the neutrality of his actions derives from the neutrality of his role, it raises no special problem for their neutrality either.

(b) The role of a referee is closely bound up with the way in which a game is both constituted and governed by its rules. But games and referees are not the only activities, institutions or officials to have their nature determined by rather closely defined rules. It is interesting to try to see how far the position of a judge in relation to those who appear in the courts before him can be assessed in analogous terms. It is a familiar claim of liberal political and legal theorists that in a well run society the judiciary will be neutral *vis-à-vis* all of its members, just as it is a familiar protest of many left-wing thinkers that there can be no such thing as overall judicial neutrality. Obviously it may be important to distinguish between the neutrality of the judiciary as such and the practical neutrality of judge X or Y when faced with offenders of one class or another; or between the neutrality of the judiciary acting within the framework of the law and that of the law or of the legislators (though this latter distinction may sometimes be hard to maintain). One must also distinguish between the problem of neutrality that confronts a given man, who has to decide whether to continue as a judge within what he regards as an unacceptable legal system, and that of the judge struggling actually to administer laws of which he disapproves, but which he feels that he should nevertheless try to administer in strictly neutral fashion. There will be times, too, when the judge may himself in effect be called upon to share in the making of the very law that he has to administer. How, one will have to ask, is one to understand his role as defined by law and in relation to society in general? How far is it analogous to that of the referee in relation to the game and to the rules? Here, as so often, we can expect no socially invariant answer.

Many of these problems may perhaps be expressed in their most general form by asking a version of the well known philosophical riddle 'When is a game no longer a game?' At this stage, however, I propose to turn back to the claim, bound to be made by any classical liberal, that there would be something wrong with a definition which could have the effect of refusing the status of neutral to someone *simply* because, whichever way he acted in a given situation, the foreseen or foreseeable consequences of his actions must, independently of his own motives or intentions, have an influence on the balance of power within some given conflict.

The point can be illustrated by a by no means implausible example. A doctor, whose total personal commitment is to the healing purpose of his profession, may through the force of unwanted

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circumstances find himself responsible for the care of patients whose fate is of great political importance. There were, for example, German doctors who found themselves in this sort of situation with key Nazi officials as their patients. The doctor may know that if he restores his patient to his full normal activity he will return to play a central role in, say, the organisation of concentration camp industries; conversely, if his patient dies or remains an invalid, this will be a serious setback to their organisation. It would be absurd, so runs the liberal objection, to accuse the doctor of being non-neutral on the side of the Nazis simply because he treated his Nazi patients as any dedicated doctor would treat any patient whatsoever. In a way the peculiar and even dramatic nature of this particular example serves to bring out the point more clearly; for if it would be absurd even in these circumstances to accuse the doctor of partisanship, how much more absurd to raise such accusations in the hundred and one more humdrum situations in which doctors have to care for people whose health may be known to be of some importance to some relatively workaday political party or cause.

I do not think that this example presents a knock-down objection; but nor do I think that there is a knock-down answer to it. Its discussion, however, cannot be straightforward for there are a number of complex factors involved. The first of these concerns the problem of how to relate the different descriptions under which one and the same action may apparently be identified – if, indeed, it is not already misleading to suggest that different action descriptions may refer to one and the same action in advance of any clear indication of how to determine criteria of identity for the one or the other. What, for example, was the doctor actually doing in our example? Was he simply treating his patient or was he restoring a Gestapo leader to full activity? Or was he doing both of these things at the same time? Do these questions pose issues of substantial importance or simply a series of tiresome philosophical riddles?

To this last question the answer is ‘both’; but that the nature of their entanglement is such that though one has to start by trying to answer the riddles, to do so effectively is so far to do nothing more directly substantial than to avoid falling into distracting confusion. However, on these points we may avoid further immediate discussion by accepting the terminology and distinctions proposed by A. J. P. Kenny in his article on ‘Intention and Purpose in Law’, which do at any rate provide us with a clear framework for discussion:

I have in the past distinguished between *performances*, the bringing about of states of affairs in the world (e.g. killing a man, baking a cake, opening a door), and *activities* which go on for an indefinite time and have no particular terminus (e.g. running, laughing). Substantially the same distinc-