

*IDENTITY: THE DEMAND FOR DIGNITY AND THE POLITICS OF RESENTMENT*, FRANCIS FUKUYAMA (FARRAR, STRAUSS AND GIROUX 2018), 218 PAGES

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Political scientist Francis Fukuyama wrote *Identity: The Demand for Dignity and the Politics of Resentment*, in part, as an explanation of the polarized political climate and populist surge on the right that gave rise to the election of Donald J. Trump in the United States' 2016 presidential election. Its publication has been received with much criticism and controversy, especially from the left.

The work's import to the discipline of legal writing is not immediately evident. However, two aspects of the work may have particular interest to a legal writing professor. First, at least some of the criticism aimed at the work may be explained by Fukuyama's writing style itself, specifically a style that does not properly account for the needs of the audience, a foundational concept in legal writing. Second, to the extent the work theorizes on identity formation and the import of identity, there is room for scholarly exploration about how those theories may relate to the law school setting, where many students experience identity change and development. This review will first summarize the main points of the work and then expound on its specific interest to legal writing professors.

Fukuyama's controversial main thesis is threefold. First, the current polarized political climate is the result of the rise of "identity politics," the roots of which can be traced back through ancient history.<sup>1</sup> Second, this state of affairs is deeply problematic. In fact, "the rise of identity politics in modern liberal democracies is one of the chief threats that they face."<sup>2</sup> Finally, the remedy for the problem is policies centered on a more "universal understanding[] of human dignity."<sup>3</sup>

The first ten chapters of *Identity* advance the first prong of Fukuyama's thesis and conclude with a definition of modern identity politics.<sup>4</sup> The beginning point is an exploration of the concept of

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<sup>1</sup> FRANCIS FUKUYAMA, *IDENTITY: THE DEMAND FOR DIGNITY AND THE POLITICS OF RESENTMENT* xiii–xv (Farrar, Strauss & Giroux 2018).

<sup>2</sup> *Id.* at xvi.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 3–104.

identity itself, starting with Plato's discussion in *The Republic* about *thymos*—"the part of the soul that craves recognition of dignity."<sup>5</sup> Fukuyama traces this concept historically up through modern times to arrive at the first point of his thesis: modern identity politics is a state of affairs in which people define their own identity through membership in a group that is a sub-set of their national community, and people seek dignity—*thymos*—through public recognition for their sub-group.<sup>6</sup> Fukuyama explains that in the United States, this has led to the current left/right spectrum focused primarily not on economic issues, as was the case in twentieth-century politics, but on identity:

The left has focused less on broad economic equality and more on promoting the interests of a wide variety of groups perceived as being marginalized—blacks, immigrants, women, Hispanics, the LGBT community, refugees, and the like. The right, meanwhile, is redefining itself as patriots who seek to protect traditional national identity, an identity that is often explicitly connected to race, ethnicity, or religion.<sup>7</sup>

This situation, Fukuyama posits, leads to what may be termed "politics of resentment" in which "a political leader has mobilized followers around the perception that the group's dignity has been affronted, disparaged, or otherwise disregarded."<sup>8</sup> Donald Trump's "make America great again" slogan and demonization of immigrants is an example of this kind of politics of resentment.

In the next part of *Identity* Fukuyama focuses on the second prong of his thesis: modern identity politics is problematic to the point of being a threat to democratic institutions.<sup>9</sup> He does this by both delineating several fundamental problems created by modern identity politics, and outlining why, instead, a national is critical to democratic institutions.<sup>10</sup>

The problems include, first, identity politics becoming a "cheap substitute for serious thinking about how to reverse socioeconomic inequality" as it is easier to deliver some formalized recognition of dignity for a group than it is to mobilize the political structure for true

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<sup>5</sup> *Id.* at xiii.

<sup>6</sup> *Id.* at 106–109.

<sup>7</sup> *Id.* at 6–7.

<sup>8</sup> *Id.* at 7.

<sup>9</sup> *Id.* at 105–139.

<sup>10</sup> *Id.*

socioeconomic change on a larger scale.<sup>11</sup> Second, the focus on ever more narrowly defined marginalized groups can divert attention from “older and larger groups whose serious problems are ignored,”<sup>12</sup> leading to resentment and backlash by those older groups. The anti-immigrant sentiments of large portions of the white working class in the United States may be viewed in these terms.

Third, identity politics may threaten free speech if part of demanding dignity is to limit what may acceptably be said about the group by those outside the group. While recognizing that some speech is deplorable and should be disparaged, Fukuyama argues the greater threat than the speech itself is the stifling of speech that in turn can stop the “kind of discourse needed to sustain a democracy” in which reasoned deliberation may force one to question and ultimately abandon one opinion for another.<sup>13</sup>

Last, Fukuyama explains that the final problem with identity politics as currently practiced on the left, where identity and the demand for dignity coheres marginalized groups, is that it has stimulated the rise of identity politics on the right, where traditionally non-marginalized groups have adopted the vocabulary of left identity politics and applied it to non-marginalized groups.<sup>14</sup> The most dangerous example of this trend has been the movement of white nationalism from a fringe movement toward the mainstream on the American right.

Fukuyama posits that rather than the seat of identity and dignity being tied only to one’s sub-group, instead it is critical for the health of democratic institutions that there also be a shared sense of dignity tied to a national identity, a “larger and more integrative national identit[y] that takes account of the de facto diversity” in a society such as the United States.<sup>15</sup> While acknowledging that national identity has been associated in twentieth century history with a “narrow, ethnically based, intolerant, aggressive and deeply illiberal” form of thought, he is careful to delineate this form of national identity from the kind he is promoting, one “built around liberal and democratic political values, and the common experiences that provide the connective tissue around which diverse communities can thrive.”<sup>16</sup>

According to Fukuyama, such a national identity is critical to democratic institutions for several reasons, including (1) physical

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<sup>11</sup> *Id.* at 115.

<sup>12</sup> *Id.* at 116.

<sup>13</sup> *Id.* at 116–117.

<sup>14</sup> *Id.* at 117–119.

<sup>15</sup> *Id.* at 123.

<sup>16</sup> *Id.* at 128.

security, as an extreme absence of national identity can lead to civil war; (2) the creation and maintenance of non-corrupt government systems in which politicians place the general public interest above narrower interests; and (3) the creation and sustaining of economic development, in which people who take pride in their country will work on its behalf and which creates a radius of national trust that facilitates economic exchange.<sup>17</sup> Fukuyama also offers a fourth, overarching reason for national identity: “to make possible liberal democracy itself.”<sup>18</sup> He explains that

Democracies need their own culture to function. They do not produce automatic agreement; indeed, they are necessarily pluralistic collections of diverse interest, opinions, and values that have to be reconciled peacefully.... Citizens often have to accept outcomes that do not like or prefer, in the interest of a common good; a culture of tolerance and mutual sympathy must override partisan passions.... democracies will not survive if citizens are not in some measure irrationally attached to the ideas of constitutional government and human equality through feelings of pride and patriotism.<sup>19</sup>

Having delineated why identity politics is dangerous to democratic institutions and why a national identity is crucial, the final two chapters of Fukuyama’s book are dedicated to describing the contours of such a national identity and the policies necessary to create and sustain it.<sup>20</sup> A key to this part of his thesis is that multiculturalism, while important and beneficial, cannot be the sole basis of the necessary shared national identity.<sup>21</sup> He explains this is like saying “our identity is to have no identity.”<sup>22</sup> Rather, our shared national identity must be universal and creedal in nature.<sup>23</sup> Fukuyama explains that unlike other countries in which national identity has traditionally been tied to race, ethnicity, or religion, American identity has long been creedal in nature, “based on a belief in the common political principles of constitutionalism, the rule of law, democratic accountability, and the principle that ‘all men are created

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<sup>17</sup> *Id.* at 128–130.

<sup>18</sup> *Id.* at 130.

<sup>19</sup> *Id.* at 131.

<sup>20</sup> *Id.* at 140–183

<sup>21</sup> *Id.* at 159.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

equal' (now interpreted to include all women)."<sup>24</sup> He declares that these Enlightenment values are "the only possible basis for unifying a modern liberal democracy that has become de facto multicultural."<sup>25</sup>

However, he goes on to explain that a well-functioning democracy needs more than a passive acceptance of a creed. Rather, the citizenry must embrace and exercise the values embodied by the creed. Fukuyama suggests several policies aimed at creating and sustaining such a citizenry, including policies meant to "assimilate[] immigrants to a country's creedal identity" as well as strengthening current citizens' belief and fervor for American creedal values.<sup>26</sup> Public education features prominently, with the suggestion that both English language instruction and civics curriculum are key to this effort. Perhaps the most radical suggestion is compulsory national service for all citizens as a very tangible reminder that "citizenship requires commitment and sacrifice to maintain."<sup>27</sup> Finally, he holds that to maintain a creedal national identity, newcomers must be "assimilated" into the national culture, and thus levels of immigration are a key consideration.<sup>28</sup>

All three parts of the book's thesis have been the subject of criticism and controversy. Commentators have disagreed with Fukuyama's historical account of the progression of the concept of *thymos* up through modern times, with one commentator calling his definition of *thymos* a "semantic overreach,"<sup>29</sup> and asserting that "*thymos* is too clumsy an instrument to be much help in understanding contemporary politics."<sup>30</sup> The same commentator questions how the concept of *thymos*, as articulated by Fukuyama, explains one identity group's support of another, such as whites supporting the civil rights movement, questioning sarcastically whether this could be called "borrowed *thymos*."<sup>31</sup>

The second and third prongs of Fukuyama's thesis have likewise been the subject of harsh criticism. He has been accused of having "no interest in the solution that liberals typically adopt to accommodate diversity: pluralism and multiculturalism" and of desiring "to iron out

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<sup>24</sup> *Id.* at 158.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 171.

<sup>27</sup> *Id.* at 174.

<sup>28</sup> *Id.*

<sup>29</sup> Louis Menand, *Francis Fukuyama Postpones the End of History*, THE NEW YORKER, August 27, 2018, at 66.

<sup>30</sup> *Id.* at 68.

<sup>31</sup> *Id.*

differences, not protect them.”<sup>32</sup> His insistence on the absolute need for a creedal national identity has been mocked, summed up by one commentator’s sarcasm “[he] also seems to believe that if we don’t find a way to subsume narrow identities into national ones, we’re all going to die.”<sup>33</sup> And his policy suggestions have likewise been controversial. One commentator suggests that contrary to Fukuyama’s thesis, if our education system and other institutions represented a more diverse history, this would do “far more to strengthen a sense of commonality and nationhood than, say, enforced national service.”<sup>34</sup>

While these commentators certainly critique Fukuyama’s substantive thesis, as a writing professor, I wonder whether part of the force behind this criticism is related as well to Fukuyama’s writing style. Fukuyama covers the vast ground of his three-part thesis in just over 180 pages of main text. His style is at once learned—discussing and connecting great thinkers from Plato forward—but also accessible—using short declarative sentences and breaking down complex philosophical theories to understandable points. Most prominently in his style, no word is wasted. Each sentence pushes forward to the next, as each chapter flows seamlessly but inexorably to the next. While efficient and accessible, this style does not leave much if any time to address potential objections to various aspects of the thesis, and this deficit may be particularly unsettling to readers coming from a left perspective. Stylistically the work rolls past rather than engages with adversarial contentions.

As do many legal writing professors, I teach my students to think first and foremost about audience, purpose, and tone. Certainly as a political scientist Fukuyama’s main purpose is to cogently explain his theory, and this is aptly accomplished. However, to the extent part of his purpose is to persuade others, particularly those on the left, that his theory is to be believed and his policy suggestions heeded, despite at least seemingly running contrary to strongly held progressive ideals such as the central importance of multiculturalism, his style does not

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<sup>32</sup> *Id.*

<sup>33</sup> Anand Giridharadas, *What is Identity?*, N.Y. TIMES (August 27, 2018), <https://www.nytimes.com/2018/08/27/books/review/francis-fukuyama-identity-kwame-anthony-appiah-the-lies-that-bind.html>.

<sup>34</sup> Tristan Brookes, *Review: Identity Contemporary Politics and the Struggle for Recognition by Francis Fukuyama*, THE POLITICAL QUARTERLY: BLOG (March 6, 2019), <https://politicalquarterly.blog/2019/03/06/review-identity-contemporary-identity-politics-and-the-struggle-for-recognition-by-francis-fukuyama/>.

properly take into account his audience and therefore creates an unpalatable tone, one that is contra purpose to persuasion.

Professor Linda Edwards discusses the idea of “quieting” the reader’s “commentator,” meaning the running commentary in a reader’s mind that “talks back” to the piece of writing as it is read.<sup>35</sup> Fukuyama’s style and resulting tone at points leaves the left-leaning reader’s commentator screaming. For example, as part of a discussion of the rise of the “therapeutic model,” Fukuyama states

In the early twentieth century, social dysfunctions such as delinquency or teen pregnancy were seen as deviant behavior that needed to be dealt with punitively.... But with the rise of therapeutic approaches by midcentury, they were increasingly seen as social pathologies that needed to be treated through counseling and psychiatric intervention.<sup>36</sup>

I found myself, as someone who is progressive leaning, writing in the margin “How can that be bad?”

However, rereading the passage after having made this notation, I realized that Fukuyama is not actually suggesting as a substantive matter that this change is bad, or good, just that it is factually accurate and there are consequences of this development that relate to his main thesis. However, the combination of the almost scientific treatment of an emotionally loaded subject, without pause to acknowledge that emotionality, created a tone of negativity and perhaps even (ironically quite fitting with Fukuyama’s thesis) a tone that may be interpreted as disrespect toward juvenile offenders and pregnant teens. His word choice—social dysfunctions—is another source of this tone. Although there are a few counter examples, this practice of ignoring the left reader’s commentator when discussing emotionally charged content and being less than careful with word choice is the rule rather than the exception. One of the cornerstones of Fukuyama’s policy suggestions—“assimilation” of new immigrants—is a prime example. Reaction to Fukuyama’s tone may explain why a tone of sarcasm pervades much of the left commentary on *Identity*.

*Identity* may be of specific interest to legal educators for another reason as well. Increasingly scholarly work has been dedicated to the particular import both personal and professional identity plays in legal education. Fukuyama’s main thesis, that “assimilation” is a necessary part of national identity formation, begs the question of

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<sup>35</sup> LINDA H. EDWARDS, *LEGAL WRITING: PROCESS, ANALYSIS & ORGANIZATION* 72 (5th ed. 2010).

<sup>36</sup> FUKUYAMA, *supra* note 1, at 101.

how this concept plays out in the microcosm of law school. To what extent are our students asked to “assimilate” to a shared conception of professional identity? Is some amount of assimilation necessary, as Fukuyama points out, or as his detractors have posited, is this thesis faulty? To the extent assimilation is necessary, what impact does this have on our students’ personal identities? In short, this book leaves open room for additional scholarly inquiry into how its themes and conclusions may or may not translate to the legal education setting.

In the end, for all its controversy *Identity* is nonetheless a book that makes one think, even if in disagreement, both broadly about the national and world political climate, and personally, about one’s own conception of identity. For legal educators, it creates an additional layer of thought about how issues of identity affect our students. And for the legal writing professor in particular, it may provide a case study in audience and tone. For all these reasons, *Identity* is well worth one’s time.