The Conservative Disposition and the Precautionary Principle


Stephen P. Turner

To be conservative . . . is to prefer the familiar to the unknown, to prefer the tried to the untried, fact to mystery, the actual to the possible, the limited to the unbounded, the near to the distant, the sufficient to the superabundant, the convenient to the perfect, present laughter to utopian bliss.

[The disposition] asserts itself characteristically when there is much to be lost, and it will be strongest when this is combined with evident risk of loss.¹

[T]he precautionary principle requires us to assign the burden of proof to those who want to introduce a new technology, particularly in cases where there is little or no established need or benefit and where the hazards are serious and irreversible. It is up to the perpetrators to prove that the technology is safe 'beyond reasonable doubt'. We cannot expect the precautionary principle by itself to tell us what to do about GM crops or any other new technology. Like a jury, we have to weigh up the evidence, and like a jury we have to come to a decision.²

The precautionary principle is a poorly defined idea, but it is generally understood to mean that innovations should be given special scrutiny with respect to risk, and to reject changes that involve not merely risks, which can be calculated, but uncertainties, which cannot. The formulation quoted above tries to specify this further, and whether and how it can be made more


precise is a constant issue in the large literature on the subject. The principle of giving special scrutiny to innovation is not, as its critics have tirelessly pointed out, a principle at all, but something else. To use Oakeshott’s term, it is a disposition. It is canonized in many legal and treaty contexts, and held to mean either that in the face of any sort of uncertainty about risks of bad consequences (for example, for the environment, but not limited to this sphere) of innovations, we should prevent their implementation until the uncertainties can be resolved. In some forms this becomes a legal demand that the ‘burden of proof’ in the resolution of uncertainties is the responsibility of the innovator. In its more extreme forms, the standard for asserting that there are uncertainties is itself not susceptible of definition in terms of ‘scientific evidence’ to the effect that there is a possible risk. To accept the standard of scientific evidence of possible risk is already, on this view, insufficiently precautionary or pro-active in the face of possible risk.

My focus in this essay is not with the details of the debate over the ‘principle’, or with the question of whether it is coherent. I will note only that the criticisms for the most part also apply to Oakeshott’s account of the conservative disposition. My concern, however, is with the political meaning of the principle.

The similarities between Oakeshott’s account of the conservative disposition and the precautionary principle are obvious but perhaps superficial. What I will argue is that the similarities are deep, and that the problem of the risks of change, the problem of knowledge about risks, and the attitude one takes toward those risks, especially the question of the appropriate intellectual tools for talking about these risks, is fundamental to Oakeshott’s account of the conservative disposition.

This in turn points to some conclusions about the political meaning of some of the
prominent events of the political present, particularly the problem of the present meaning of the division between Left and Right. The rise of the precautionary principle is itself a sign of the changed meaning of the division: the principle is embraced both by such figures of the European ‘Right’ as Jacques Chirac and by the extreme Left. Moreover, I will suggest that much of what passes for Left politics and ‘resistance’ in the sense of Foucault is more closely connected to the Conservative disposition than might be supposed.

The European side of the European-American divide is also connected to the principle. The precautionary principle has been adopted by the European Community; cost benefit analysis has been enshrined in law by the U. S. Congress. The adoptions are sometimes held to reflect the fundamental difference between American and European values, a difference famously articulated by Habermas and Derrida in the wake of 9/11.\(^3\) They are, however, differences closely connected to not only with the values listed by Habermas and Derrida but also with European social attitudes. The French, for example, are said by survey researchers to be especially fearful about the future. Thus the academic puzzle of the present meaning of a fifty year old text is not entirely academic.

**Left, Right and Risk**

If a discussion of the differences between the United States and Europe had been conducted before 1848, it would unhesitatingly have associated the preferences pointed to by the precautionary principle as evidence of aristocratic reaction, and understood European conservatism as its expression. It is one of the many ironies of present political discourse that the obsessive concern with the preservation of privilege is today a preoccupation of the Left.

The dramatic events of early 2006, in which French workers and students forced the French government to back down on a revision of labor law designed to facilitate the employment of young people, illustrates both this irony and the puzzle about present political dispositions that it reveals. In the European edition of Jon Stewart’s *Daily Show* during the demonstrations against this revision, he addressed this irony by noting the incongruity of professed anarchists demonstrating for greater government regulation, in this case of employment.

One might add to this the irony that the suspicion of and hostility to expert knowledge, such as the expert knowledge of the French bureaucracy that led to the employment proposal but especially the expert knowledge that has repeatedly minimized the risk associated with genetic modification of food, is today a staple of left wing thinking. Ségolène Royal, a leader of the French socialists, was quoted as characterizing the demonstrations as a manifestation of the expertise of the people. This is a not a novel idea: it is also a staple of the political writing and indeed academic writing on such topics as genetically modified foods, which also pits the beliefs of the people against science.

To get a sense of the difference from Oakeshott’s time, consider the position of John Desmond Bernal, Communist, Soviet admirer, and the leading left wing scientist of the generation of the 30s and 40s, who is cited by Oakeshott. A new biography of Bernal was recently published to the nostalgic applause of old Reds like Eric Hobsbawm. The nostalgia passed over a crucial change in the Left. Hobsbawm did not note Bernal’s now politically incorrect identification of Communism with expert rule. Nor did he note that in Bernal’s main

---

work, *The Social Functions of Science*, he had praised, as an exemplary case of the application of scientific knowledge to the betterment of mankind, a plan under the Stalinist regime to produce climatic change in the northern hemisphere that would make Russian soil open to agriculture far into the north. Thus the leading Communists of the thirties were *for* climate change; the present day left treats it as the greatest of terrors and definitive evidence of the perfidy and unsustainability of *capitalism*.

In Bernal’s time the Left excoriated capitalism for its inability to take advantage of the power of science and technology. Today it excoriates it for doing precisely this. This a reversal that signifies a fundamental transformation. And the celebration of the defeat of the expertise of the experts by the ‘expertise of the people’ by the French Left shows that this difference is no blip on the radar.

In what follows I will consider this puzzling set of changes and similarities in terms of Oakeshott’s own words, and suggest that they reveal new aspects of both the precautionary principle and the conservative disposition as Oakeshott describes it. Begin with the term ‘principle’ itself. Although Oakeshott starts his essay with a denial that the attempt to articulate conservatism as a set of principles is doomed to failure, he self-consciously selects the notion of ‘disposition’ to capture something he takes to be more fundamental than principles. The brunt of the discussion of the conservative disposition involves the problem of knowledge. The conservative will, he says “look twice” at the claims made on behalf of an innovation before accepting them, even when one is satisfied that the benefits of an innovation outweigh its costs.

[T]here will be other considerations to be taken into the account. Innovating is always an

---

equivocal enterprise, in which gain and loss (even excluding the loss of familiarity) are so closely interwoven that it is exceedingly difficult to forecast the final upshot: there is no such thing as an unqualified improvement . . . the role of what is entailed can neither be foreseen nor circumscribed. Thus whenever there is innovation there is the certainty that the change will be greater than intended, that there will be loss as well as gain, and that the gain will not be equally distributed among the people affected; that there is the chance that the benefits derived will be greater than those which were designed; and there is the risk that they will be off-set by changes for the worse. (RP, 171-2)

Thus the innovations to be preferred, for Oakeshott, are those which minimize the likelihood of loss, meaning those designed to restore an equilibrium, or that grow organically, are limited rather than large and indefinite, and that the occasion is important: the most favorable being one in which the change is most likely to be limited and “least likely to be corrupted by undesired and unmanageable consequences” (RP, 172).

The similarity between this appeal to the organic and the restoration of equilibrium and the sense of the phrase “serious and irreversible” in the version of the precautionary principle quoted above is close enough to repay our interest. Oakeshott in this passage and elsewhere in this paper is concerned with the epistemic issues that arise in connection with innovation and their value. He commends suspicion about the value of innovations on the grounds that our knowledge with respect to the likelihood of loss is greater than that of gain, that “a known good is not so lightly to be surrendered for an unknown better,” and suggests that consequently the
burden of proof should be higher for the innovator. As he puts it, “innovation entails certain loss and possible gain, therefore, the onus of proof, to show that the proposed change may be expected to be on the whole beneficial, rests with the would-be innovator” (RP, 172). The term ‘whole’ is relevant: the fact that changes ramify in their consequences means that it is difficult or impossible to calculate the potential effects of change. In short, we decide in the face of contingency, causal complexity, and unknowability, and when there is equilibrium to be lost.

The natural antagonist to this kind of thinking in Oakeshott’s middle years was planning, but by 1956 the star of planning had faded. The antagonist of the precautionary principle today is the Anglo-American model of philosophizing about justice pioneered by John Rawls and dependent on a kind of cost-benefit accounting. For the conventional Anglo-American cost-benefit philosopher of justice, uncertainties and risks are simply variables to be encompassed in the model, and the standard of right action is the standard of action done by an observer who calculates the quantitative values of risks and uncertainties of changes, and also the social consequences, notably for equality. The egalitarian consequences are typically understood to be the central fact to be managed, and managing the consequences through a pro-active policy of redistribution and increase of resources is taken to be the standard for evaluating policy. This kind of philosophy is antithetical to Oakeshott’s.

One way into an understanding of the conflict here is through an equivocation in the Anglo-American model of decision-theoretic political thinking. On the one hand, the model seeks to be empirically realistic. Ordinarily its exponents assume the possibility of constructing good models of the consequences of policy decisions, typically on the model of econometrics, in which outcomes can be evaluated against one another both with respect to the quantitative values of various consequences and in terms of the probabilities associated with the predictions. On the
other hand, the model seeks to be a normative ideal toward which one should strive and in terms of which we should evaluate actual policies, and when challenged as unrealistic it’s defenders tend to retreat into this ‘normative’ meaning.

The difference between the two ways of thinking about these models becomes evident in the face of uncertainties about the models themselves, which can be wrong. They may include the wrong variables, fail to model the underlying causal relations correctly, fail to apply in new circumstances in which different variables emerge as causally relevant, or simply abstract incorrectly, for example by assuming linearity, the normalcy of the population distribution, or the representativeness of the time-slice from which the data on which the model’s estimates are based is derived. From the ‘empirical’ point of view, the models are merely representations of some sort of underlying reality that is not known, and may differ from the model. From the ‘normative’ standard point of view, these empirical considerations are irrelevant by definition: the right policy is one that an ideal observer would select. We can then use this standard to ‘normatively’ judge the actual selection of empirical models as well as outcomes.6

The normative standard of the ideal observer, indeed the presumption that something akin to omniscience about consequences is part of an appropriate normative standard, is what sets the precautionary principle against this standard Anglo-American style of reasoning and against the model of cost benefit analysis of risks known as risk analysis. The precautionary principle is designed to place a special burden of proof on change, especially the introduction of new technology, on the grounds that the cost-benefit model fails to deal successfully with uncertainties whose scope and character is unknown and unknowable. The similarity to

---

Oakeshott with respect to the problem of knowledge of consequences needs no additional comment. Both are centrally concerned with what Donald Rumsfeld called the unknown unknowns.

The problem of unknown unknowns gives rise to what the Anglo-American model treats as a fatal flaw. The trap that the precautionary principle falls into, from the point of view of the critics, is that even claims about uncertainty or unknown unknowns require evidence that provides some certainty, and consequently the attempt to avoid the calculus of risk either fails or falls into incoherence. The incoherence results from the fact that one cannot be averse to risk or uncertainty as such, because any strategy to reduce risk, such as a novel policy on evaluating risk, produces its own risks. Even the precautionary principle itself, if it is understood as a method of reducing risk by increasing the burden of proof on innovators is a novel policy with its own risks. At best one may balance uncertainties and risks. Thus the precautionary principle is not an alternative, but just another policy that needs to be judged by the standards of rationality of the Anglo-American model.

One is either compelled to calculate by balancing risks against one another, in the manner of risk analysis, or one must supply content to the principle by selecting certain kinds of risks as acceptable. The first alternative collapses into the Anglo-American model; the second alternative collapses into the first if one chooses the content on the basis of some principle of selection which is itself related to risks and benefits which balances different kinds of risks and benefits against one another. To treat the selection of content as something that cannot be done as a matter of principle, a third option, is, by the lights of the model, arbitrary, and if so the

---

precautionary principle is not a principle. These considerations mean, in short, that there is no separate principle of ‘precaution’. At best it is a procedural idea about burdens of proof, to be assessed as such. But as a procedural idea it begs the question of how decisions are to be made using the procedure. To put it in terms of the quotation above, suppose that a ‘jury’ decides based on the evidence: how is it supposed to decide other than in terms of risks, benefits, and the calculation of the epistemic weight to be given uncertainties, which is to say the Anglo-American model itself?

The same difficulties would arise for a principle or policy of ‘conservatism’. As Cass Sunstein points out, even continuing to do the same thing involves risks, sometimes very large risks. So if the principle is understood as a principle of risk avoidance, it could only be stated coherently without a concealed and arbitrary preference for that which is already done. Alternatively, if it simply is a preference for that which is already done, it has no meaning apart from the specific content that is given by the phrase ‘that is already done’, and it is useless in the face of the inevitable decisions that must be made in order to continue to do one thing, such as enjoy bird watching, without ceasing to do some other thing, such as polluting the air that the birds breathe.

With this argument we have the germ of a genuine philosophical problem. Do the apparent alternatives to the ‘normative’ sense of the Anglo-American philosophical model of decision-making, on examination, collapse into this model? Or does the alternative rest on assumptions that are problematic, i.e. for which there are good alternatives? Does the consideration of content provide such an alternative; that is to say, are there non-arbitrary substantive commitments that would lead to the rejection of the model? And how might these commitments relate to what Oakeshott called the “conservative disposition”?
Oakeshott was aware of the problem of content. Dropping the term ‘principle’ and inserting the term ‘disposition’ avoids this problem. As he puts it, it can be applied to anything except the love of fashion, “that is, wanton delight in change for its own sake” (RP, 178). The person disposed to precaution, or alternatively to conservatism, would attempt to or be disposed to preserve both, but the disposition would make no pretense of deciding between the two.

Oakeshott was also well aware that the preference for the familiar required appropriate occasions of application, as he put it. This reasoning is central to his argument in this essay, which was concerned with the following apparent anomaly: the preference for a certain kind of politics which he considered to be an appropriate application of the conservative disposition for the occasion of politics as practiced and perhaps practiced to an unusual extent by people who were in other realms “adventurous” (RP, 178). What he had in mind was the fact that defense of the rule of law and of the political conception of the state as an umpire was particularly characteristic of those capitalists and commercial innovators who were engaged in the business that Schumpeter described as creative destruction. He was also well aware that it could be shared by the adherents of ‘alternative life styles’, as the 60s expression had it, such as the Bohemianism that he himself practiced.

The conservative disposition then, like the precautionary principle, is a creature of its occasions of application rather than the kind of overarching moral conception that the technical philosophy of justice purports to be. It can be applied to anything. But the term ‘occasion’ itself, and the qualification ‘important’ attached to it, are pregnant with implication. One implication might be this: Oakeshott had a concealed idea about content that needs to be uncovered and examined. But there are other possibilities, including the possibility that considerations that follow from the epistemic issues surrounding risk themselves dictate
something about content. In any case, there is the charge of arbitrariness to consider. Even if Oakeshott acknowledged, as he did, that the occasions for the application of the disposition are arbitrary in the sense that they do not follow from a principle, they are not necessarily arbitrary as a matter of practical fact. The precautionary principle itself has a similar structure. The version quoted above provides content to the principle by singling out two types of changes to be avoided — those that promise little and those which have irreversible consequences and uncertainty. But this does not follow from the notion of precaution itself, and thus seems arbitrary, especially to the adherents of the Anglo-American model, such as Sunstein.

The Problem of Content

When Oakeshott speaks of the conservative disposition as a preference for the familiar and for the enjoyment of present things, he is implicitly speaking the language that has been such a focus of writing on the problem of risks, from the writings of Mary Douglas and Aaron Wildavsky onward. When he says “the man of conservative temperament . . . is not in love with what is dangerous and difficult; he is unadventurous; he has no impulse to sail uncharted waters,” he does this explicitly (RP, 172-3). The writings of Douglas and Wildavsky have also been implicitly opposed to the cost-benefit model of thinking about risks, but in their case by pointing out the cultural specificity of attitudes about risk and consequently their irreducibility to some sort of general calculus of risks.

Much of what Douglas and Wildavsky call ‘cultural’ about risk is easily understood in terms of Oakeshott’s language of familiarity. The risk of dying in an automobile accident, for example, is impossibly greater than the risk of suffering ill effects from nuclear power or genetically modified food. What makes these into public obsessions and automobile accidents into the subject of fatalistic acceptance is the fact of familiarity. We accept those risks with
which we are familiar with stoicism and even indifference. We have become used to them. And this makes them risks that we are comfortable with.

The precautionary principal and the conservative disposition alike are unconcerned about these risks. When Oakeshott speaks of danger, it is understood within the compass of our scheme of familiarity rather than in the absolute sense envisioned by the cost-benefit model of risk analysis. Critics of risk analysis on the Left have often championed the specific risk aversions of ‘the people’ as deserving of special consideration regardless of how rational it is from the point of view of cost-benefit risk analysis. Sometimes there is an attempt to have it both ways, to treat the ‘irrational’ risk perception of the people as representing their values, and then devising expert policies to correspond with these values.

The liberal critics of this kind of thinking, such as Sunstein himself, take a different view. The law (which he is a professor of), he argues, is there not to merely reflect irrational prejudices but to improve on them and correct them as well as reconcile them. And the role of the law in reconciling them is especially important in these cases because popular preferences with respect to risks are characteristically disordered, meaning that they are not transitive. One focus of this literature has been on the valuation of human life, and it is a commonplace that the implicit values attached to human life in compensation for accidents or in the creation of safety measures do not yield consistent values. Consistency of some kind is essential to a rational policy and this is precisely what popular attitudes to risk fail to produce. It is arguments like this that enable one to see the importance of Oakeshott’s emphasis on the issue of appropriate occasions for the application of the conservative disposition.

Where Oakeshott differs from the rationalized model is in rejecting the very idea of the possibility of a comprehensive overview of the consequences of innovation. Neither politics nor
life can be, for Oakeshott, reduced to a plan, which could then be rationalized and executed to bring about predetermined goals. To be sure, on some occasions it is possible to make and execute plans successfully. But in the larger frameworks of politics and life itself, it is not. The reasons for this are partly epistemic. Our knowledge of the world and especially of the world of consequence of change is extremely limited. There are two primary reasons for this. The first is the predominant fact of contingency of circumstances. Life and political life include much that is incalculable. We simply do not know what might happen that will change the circumstances under which we act. But there is another. We have limited knowledge of the consequences of our actions. As Machiavelli said, one change is a tooting stone for another, by which he meant that changes create the conditions for other changes. Oakeshott made the same point, but emphasized the incalculability of the results of changes and their ramifying character.

The effect of this is to introduce an epistemic bias against change. Change in general involves the unknown; it is an adventure, meaning it is action with danger. With the familiar, the dangers are for the most part known. So even for Oakeshott, a preference for the present and familiar and for the enjoyment of the present is connected with our sense that the promises of the future are almost always partly false, in the sense that the results are not as advertised, and they contain incalculable dangers as well as, incalculable opportunities of an unfamiliar kind. The language of risk and danger is Oakeshott’s (e.g., RP, 172-3, and passim); indeed, this text is full of variations on this language, and it is central to his main problem in the text, to account for the anomaly that the conservative disposition in politics occurs side by side with, and in the same persons as, the ‘adventurous’ disposition characteristic of capitalistic entrepreneurialism.

This anomaly is what leads Oakeshott to ask when the disposition to be conservative is appropriately applied. Human nature, he says, is not very informative here, for it is “no steadier
than anything else in our acquaintance” (*RP*, 174). But it does lead him to some general considerations; namely that activities which are not instrumental but are enjoyed in themselves, such as friendship are an especially appropriate thing to be conservatively disposed toward (*RP*, 177), and that familiarity of the kind we have with tools which typically do not change rapidly, also bound up with our personal skills in using them, fits with and provides an appropriate occasion for the application of the conservative disposition.

He combined these thoughts in his discussion of conservatism in politics, a discussion that anticipates the themes of *On Human Conduct*. The key precondition for the application of the conservative disposition in politics is “observation of our current manner of living” and the satisfactions it provides “combined with,” as he puts it, “the belief (which from our point of view need be regarded as no more than a hypothesis) that governing is a specific and limited activity, namely the provision and custody of general rules of conduct” (*RP*, 184). This gets us what might be called conservative liberalism. What we conserve are general rules of conduct, which are tool-like and familiar, and which also happen to be the ones that permit us to enjoy the activities we have come to enjoy. This notion of politics allows for a great deal of tolerance toward our special and distinctive enjoyments. The contrast he provides is to a politics of dreams, in which, inevitably, *my* dreams, *my* imagined future enjoyments, must be imposed on *you* by the state for me to get them at all (*RP*, 186).

**The Conservative Disposition and the Left**

The precautionary principle, and even the resistance to changes in the welfare state which have become characteristic of, not only French but European politics more generally in recent years, more strongly resembles Oakeshott’s formulation of the conservative disposition than the politics

---

of rational dreams. For the European Left, any alteration in the arrangement of the welfare state, its benefits, its actual practices, is experienced not as opportunity or even as opportunity mixed with risk, but as loss of the familiar. And these societies are increasingly present oriented and concerned with the enjoyment of the present, which is more and more understood as the best of all possible worlds. The European Left has no grand project. It is committed instead to resistance, resistance to what it characterizes as neo-liberalism and the savage inequalities of feral capitalism, and, on a practical and less rhetorical level to the specific rights that are enjoyed by citizens of a pervasive welfare state.

It is they rather than the expert neo-liberal transformers with whom they are in combat who fit Oakeshott’s characterization of people who have learned from experience what the good life is and seek first and foremost to enjoy it. Put differently, the European welfare state is today a political tradition. It is no longer merely a program of redistribution, but a form of life that is distinctive, much admired by outsiders, and which has proven to be difficult to emulate, perhaps even more difficult to emulate than liberal democracy itself. Weber famously said that although the rights of man were a rationalist fantasy, we could nevertheless not imagine life without them. Something similar may be said for the European welfare state for those for whom it is the ‘familiar’ mode of life.

What would Oakeshott have said to this? Perhaps he would simply have accepted it. As I have suggested, the point of his essay was to explain the anomaly that conservatism about political life co-existed with ‘adventurousness’ in economic life, and with a society that was not static. The present European welfare state attempts to eliminate the adventurousness in economic life, in some respects at least, and is thus in an important sense more fully conservative than its more adventurous alternatives. And although it is hardly the kind of question that one
can settle empirically or by adding conceptual distinctions, it does seem plausible, especially in view of the considerations I have been alluding to here, of familiarity, security, and the enjoyment of the present, that these welfare states provide something beyond the material and beyond the legal security of rights to care. Perhaps the security of the welfare state produces some additional unanticipated and difficult to describe human qualities or qualities of joined existence analogous to, or perhaps even a form of, the kinds of relationships of friendship and the like. Or perhaps these states simply show that security itself, once experienced, is impossible to imagine giving up. The fact that French twenty-somethings who move to London to work and are grateful for the opportunity still oppose the idea of dismantling the guarantees that govern French jobs suggests that this is so. In any case, these arrangements have by now become part of these societies in an organic way.

If we put together Oakeshott’s acknowledgement of the ideological moment, the partly organic and partly planned character of the modern European welfare state, and the unanticipated present pleasures that might be thought to arise from it, which arise organically, it does seem that this is an appropriate occasion for the application of the conservative disposition. Here there is something to be conserved, something unacknowledged by cost-benefit liberalism. Oakeshott’s defense of economic liberalism and economic and political liberalism as forms of life is a nonexclusive form of argument; that is to say, it is able to justify other potentially very different forms of life in addition to the particular forms that Oakeshott concentrates on in this essay. If there is a place for the adventurous in Oakeshott’s depiction of market capitalism, there is a place elsewhere for the unadventurous, and satisfactions of security and social equality.

But there is another issue that appears to point in a quite different direction. Even if the present day European welfare state, governed by the precautionary principle, eschewing the
adventures of feral capitalism, can be seen to stand on its own as a form of life of its own
satisfactions, the politics of these states are perhaps less amenable to this treatment. Albert Venn
Dicey predicted that twentieth century politics would be a defective form of liberal politics
oscillating between parties of redistribution and parties which would come into power
intermittently when redistribution and taxation had gone so far as to cause difficulties that only
lighter taxation and less redistribution could resolve.⁹ This impoverished kind of politics, as
Dicey imagined it, would be centered entirely on the material and was barely a politics at all.
Whether this is a fair characterization of the political life of these states as they have developed
is an open question that needs to be examined, but it obviously has an element of truth.

Environmental Dystopia

As noted above, Oakeshott distinguished a kind of politics of competing plans in which
individuals aspire to impose their dreams on others through politics. This is not only an echo of
the language of planning, and thus of the battles of the thirties and forties, it is also curiously
similar to the expert-driven politics of the present, though with a peculiar difference. Consider
the politics of global warming, which is of a piece with the politics of genetically modified
foods, with the difference that one appears to be endorsed by a consensus of scientists and the
other rejected. What makes both movements similar to the politics of imposing one’s plans on
others is that although their visions of the future are dystopian rather than utopian, dreams which
are nightmares, they are nevertheless competing visions of the future. Politics thus again
becomes a politics of visions of the future in which various rivals attempt to impose their visions
on the unwilling through state action.

⁹ Albert Venn Dicey, *Law & Public Opinion in England: During the Nineteenth Century*, 2nd ed. (1914; reprint,
This is not a politics that lends itself to the politics of give and take, of compromise, of respect for contingency, and of non-fanaticism, that Oakeshott had in mind when he described the role of the state as an umpire. For the welfare state as such, matters are different. The state can still be understood as an umpire who takes on a task of preserving the balance that allows for the preservation of a form of life. This state can muddle along, make errors, make corrections, adjust to contingencies, and subsist on a politics that acknowledges all these things. The politics of environmental dystopia, like the politics of positive rationalism, is absolutist. Knowledge or rationality are on one side; power, obdurateness, irrationality, and evil are on the other.

I need hardly point out how far this kind of politics is from the politics of epistemic humility practiced by Oakeshott in the face of what he recognized as contingency and the complexity of consequences. The politics of dystopia has no place for contingency or complexity. It is the politics of the overwhelming and overriding emergency. It is the politics in which compromise always leads to catastrophe. And it cannot be denied that there is more than an element of this politics in the street politics and even in the parliamentary and congressional politics of those for whom, as Al Gore’s book title has it, earth is in the balance. And there is more than a whiff of fanaticism in the obdurate unwillingness of at least some in the religious right to take any account of environmental risk. Moreover, this is our politics of the future to an extent that the planners or for that matter the Communists never dreamt.

What has changed, from Oakeshott’s point of view, is the combination of attachments to the salvageable pleasures of this world in the face and fear of its imminent destruction by the practices of the present. The positive program of this politics is sauve qui peut, which is ordinarily the politics of not only reaction but of defensive reaction. Today it is a politics of crisis. The question it raises is whether the crisis is genuine. But if it is genuine, it is a crisis that
threatens all that we value and is thus an occasion for the conservative disposition. But it is also an occasion where political business as usual may simply not be enough. The conservatively disposed necessarily take a different view of future dystopias than of future utopias. Both may be speculative and demand our epistemic humility, but the prospect of calamity is a prospect of the loss of the present pleasures that the conservative values, that is to say something tangible and familiar, as distinct from the prospective and theoretical benefits of utopia. And although the conservatively disposed have a reluctance to part with normalcy, just as there are occasions for the conservative dispositions and there are occasions for dispensing with what is familiar and this may be such an occasion. The conservative disposition, the precautionary principle and the politics of fearfulness have this in common: for each of them the continued enjoyment of the present and the familiar overrides hypothetical benefits in the future.

The application of the precautionary principle and indeed giving any sort of determinant meaning to it has been a problem in European politics and European law. The incoherence that Sunstein attributes to it appears in this context as well. The initial meaning is to establish a bias against risk, to say that the reality of risk is such and the contingencies of introducing new things as such that merely using what is known to balance benefits and costs or risk is not enough. But turning this into a legal doctrine has been problematic. First there is the problem of evidence. Just as there is questionable evidence of benefits, which is in effect what Oakeshott is trading on in this essay, there are also questions of risks. It is not meaningful to place the entire burden of proof on the innovator to assure us that the risks are minimal. To prove that there are no risks, anticipated or unanticipated, would be to ask for proof of a negative. And as Oakeshott was the first to say, this is an area in which contingency and complexity reign.

The idea of the rule of law itself constrains our application of this principle. For there to
be any semblance of legal certainty, decisions about new technologies, for example, need to be made according to standards known in advance and applied equally to different cases. If legal certainty requires factual determinations to attain a degree of certainty, we cannot demand a blank check. And what the courts have decided is to limit the questions that had to be asked of a new technology under the precautionary principle to a relatively short list of specific risks which could addressed by specific kinds of evidence. Setting the standard of proof for risks higher has the effect of reducing the number of decisions to the effect that there is no evidence of risk. Setting it lower is a kind of poor substitute for the epistemic humility and acknowledgment of contingency that Oakeshott makes part of being conservative. And perhaps it is an unsatisfactory one.

There is a more extreme interpretation, which might go as follows. The environmental crisis is sufficiently severe that liberal politics itself is incapable of dealing with it, of producing willingness to act, or of establishing the kind of clarity about our situation that resolute action demands. Because of this, the thing we need to sacrifice that we are familiar with is liberal politics itself. It must be said that there is in the green movement and even more so in the anti-globalization movement a strong strain of antipathy to politics as usual, not only because politics as usual got us into this mess, but because politics is insufficiently rational. Here the green and anti-globalization movement returns to the politics of rationalism in a way that sacrifices the epistemic humility that Oakeshott’s conservative disposition includes. Here meet the rationalistic liberalism of Rawls or Sunstein, in which uncertainty is merely another variable to be included in one’s rational model of decision making, and the apparently irrational anti-politics of anti-globalization and green activism.

Where they differ is in the weight that they give to uncertainties about the calamities that
will befall us and to the extent to which they believe that these calamities outweigh all other considerations. But they agree in thinking that our response and its ‘rationality’ is the test by which we can judge politics, and thus they agree in their sense that politics is not so much a form of life appropriate to its own contingencies and the contingencies of life, but rather an instrumental activity.

Let me close with what appears to be an enormous irony. The end of utopia, a topic which is much discussed and bemoaned on the Left, has radically altered the way in which we can now think of conservatism. In 1956 Communism was still alive, though fatally wounded, and reform of some radical or significantly different kind was still, though by then barely, a meaningful political agenda. The critiques of planning of the previous decade still were theoretical. The actual experience of the failure of Keynesianism and the kind of socialism represented by pre-Thatcher Labor was still in the future. The equilibrium that was eventually achieved by governments that talked Left and governed Right was also far in the future.

In the intervening fifty years, what it meant to be on the Left changed from hoping for a better world and proposing experiments to get there, meaning the plans which Oakeshott discussed that need to be imposed by the state, to resisting the oppression, exclusion, and the disempowerment of long-suffering groups. Resistance, however, typically has had two sides, sides that were uneasily related to one another. One side is frankly utopian or, worse, merely dystopian, such as the anti-capitalism of the self-proclaimed anarchists who oppose world trade, for example. Their anarchism seems to consist in the fact that although they have no intelligible alternative, they resist anyway. But another side to resistance is conservative.

The conservative side to resistance involves resistance to changes that take away the possibility of the living of lives which people already enjoy, and which they do not wish to trade
away for an abstract promise of a better life, or indeed to trade away at all. This side is local, episodic, untheoretical, and motivated by nothing so much as a desire to live in the present. One of the staple forms of resistance movements globally has been resistance to dam projects by people who are very poor, who are being offered relocation and compensation, but who refuse to give up what is familiar to them. Often this desire involves the preservation of tariffs and special treatment, and is interest motivated. But tangled up with these interests and supplying a powerful motivation is a sense of danger and loss and an unwillingness to accept the promises of the future that can correctly be described in Oakeshott’s terms as dispositionally conservative. They reflect the same preference for the familiar and the understood that Oakeshott and the precautionary principle attempts to articulate. And in doing so, they confound the philosophers who employ the Anglo-American model as much as they do the policy scientists who are attempting to impose ‘rational’ policies meant to better their lot.