enlarged and therefore be different. In this respect the green democratic state may be understood as a postcapitalist state. In the next chapters I explore what institutional reflexivity might entail in terms of a postliberal ecological understanding of democracy.

Of course, the capacity to pursue ecological modernization varies from state to state. Whether as strategic environmental policy or as the basis for far-reaching societal transformation, ecological modernization is a luxury that only a few privileged Western states are currently in a position to pursue in any systematic way. This is not an acceptable situation in the long run, and it can only be defensible in the short run if those states that currently pursue ecological modernization deploy their “green wealth” to further environmental and social justice goals that may not be so easily harmonized with national economic pressures. There should be positive spin-offs for global society to the extent that the privileged green states are able develop greater institutional reflexivity of a kind that is more sensitive to global environmental protection and global environmental justice. We would also expect such states to be in the best (relative) position to act as good international citizens, whether unilaterally (by offering more reflexive environmental and economic policy discourses and more ecologically reflexive domestic institutions for emulation by other states) or multilaterally (in setting the pace in difficult multilateral environmental negotiations).

## 4

### The Limits of the Liberal Democratic State

#### 4.1 The Liberal Democratic State: Not Reflexive Enough?

The modest greening of multilateralism and capitalism are the products of policy learning on the part of states as well as nonstate actors. However, more reflexive learning requires a free and critical communicative context in which wealth and risk production and distribution decisions take place. This chapter asks whether the liberal democratic state—heralded by some as the best and final form of government in modern times⁴—has the reflexive learning capacity to usher in stronger forms of ecological modernization and more environmentally just forms of risk assessment.

It may be argued that the liberal democratic state already possesses the requisite adaptive learning capacity to tackle ecological problems—a claim that finds empirical support in the relatively superior environmental record of liberal democratic states when compared to single-party communist states, particularly in the decades preceding the fall of the iron curtain. The reason for this is that liberal democratic states have provided far more scope than totalitarian states for the public exposure of ecological problems and the political mobilization of environmental concerns, ranging from mass protests, to citizens’ initiatives, to the formation of environmental organizations and green political parties. Such environmental activism on the part of citizens and nongovernment organizations has enabled the generation of ecological information and critical publicity that has, in turn, helped prompt environmental technological innovations, improve the responsiveness of the liberal democratic state, and improve environmental outcomes.⁵
My concern in this chapter is not to deny that the liberal democratic state is reflexive but rather to ask whether it is reflexive enough in moving toward more ecologically sustainable societies. In this respect the superiority of liberal democratic states over totalitarian ones ought not to serve as an ecological vindication of liberal democracy or of capitalism. This chapter seeks to build upon a growing body of work by green political theorists that challenges the capacity of the liberal democratic state to resolve, as distinct from manage, ecological problems. In so doing, this chapter confronts the third major green hesitation toward the project of building greener democratic states.

There are two, analytically distinct, dimensions of this green critique of the liberal democratic state, although in practice they often converge. The first dimension concerns the state form through which liberal democratic ideals have been institutionalized. While eco-anarchists have historically led this charge against the liberal democratic state, they find support from poststructuralists concerned with the exercise of biopower and from critical green theorists who are troubled by the ascendency of the administrative state, or what Douglas Torgerson has called “the administrative mind,” over civil society. Together, these critical green voices have variously maintained that all states, whether liberal or non-liberal, are in certain respects inherently unreflexive structures of governance precisely because they are coercive, highly centralized, and bureaucratic centers of power with a set of security, disciplinary, surveillances, and administrative imperatives that are fundamentally at odds with the green vision of participatory democracy and the ideal of the green public sphere. According to Torgerson, the green public sphere is ideally a decentered arena of debate, taking its place among a plurality of public spheres, where there is no group controlling or providing authoritative direction from any centre and no central agent of change.

Later, in chapter 6, I will strongly endorse this ideal of the green public sphere. In this chapter I seek to defend the state (in the form of a green democratic state) not simply as a necessary evil but rather as a crucial mechanism for facilitating democratic negotiations in the public sphere, and for steering society along more ecologically sustainable lines.

The second dimension of the green critique of the liberal democratic state relates to the liberal character of the liberal democratic state, which is shown to thwart the development of a genuinely public morality and associated notions of collective interests. This is the main argument I seek to develop in this chapter. There is now an extensive and growing body of green political scholarship that argues that liberal democracy is not especially conducive to protecting long-range, public environmental interests (e.g., biodiversity and ecosystem integrity). This green critique also enlists and builds upon the longstanding critique of liberal democracy waged by social democrats, democratic socialists, and feminists to the effect that the class and gender inequalities generated by capitalism systematically undermine the conditions for the full enjoyment by all citizens of the political equality promised by the liberal democratic state. Thus the green critique adds further weight to the argument that the promise of liberal democracy is a false promise; while proclaiming to be universal, liberal democracy can be shown to be exclusionary in a variety of ways. Green political theory’s unique addition to this longstanding critique is to draw out the links between democracy and environmental justice and to extend our understanding of the category of subjects excluded from any meaningful representation or participation in the liberal state, even though they may be harmed by decisions and actions made in the name of the state. In drawing on and developing the existing green critiques of liberal democracy, the last section of this chapter underscores the immanent character of the ecological critique of liberal democracy, and how this might lead to a reinterpretation of the meaning of self-rule in an ecological context.

These two dimensions of the green critique of the liberal democratic state, which focus on the respective democratic deficits of liberal democracy, and of the state form through which it is expressed, might be understood as mapping onto the informal boundary between the demand side and supply side (or democratic will formation and democratic will execution) of the ecological challenge from the point of view of the state. The boundary is an artificial one, not least because functionaries working within the administrative apparatus of the state are often routinely involved in both making and interpreting policies and legal rules. However, the boundary does help to elucidate what Martin Jänische has described as “a steady deterioration of the control ratio between politics and the machinery of government.”6 That is, there is a growing
disjunction between those who make decisions, those who are politically responsible for them, and those who are affected by them. The influence of the democratically elected legislature over the state administration must pass through what he calls “the needle eye of ministerial responsibility.” 9 Extending this critique of accountability, Ulrich Beck has attacked the state based administrative and legal system as a site of “organised irresponsibility” when it comes to managing ecological risks and harms. 8 Indeed, one of the core points of the more general green critique of the administrative state is that it makes something of a mockery of the liberal democratic ideal of public accountability. I therefore begin with the green critique of the supply side of the liberal democratic state, before moving on to consider the demand side.

4.2 The Ecological Critique of the Administrative State

The ecological critique of the administrative state takes seriously the proposition (explored in chapter 2) that the state, whether liberal or non-liberal, may not be the type of entity that is capable of systematically prioritizing the achievement of sustainability. This claim resonates with the realist view of the state system, which maintains that the anarchic structure of the state system makes questions of security, economic growth, and the competitive struggle of “staying afloat in a hostile world” the overriding preoccupation of states, with the consequences that environmental protection will forever remain peripheral (unless directly related to traditional questions of national security). In this section I focus on the domestic dimensions of this argument, which are directed to the unique modality of the organized and coercive political power of the state, and the distinctive capacities and motivations of state elites and managers (rather than the clash of social forces within civil society and/or the broader processes of societal modernization).

The idea that there may be state limits to democracy, and therefore to sustainability, is one that finds some support among non-Marxist theorists of the state who have focused on what they see as the essential, constitutive features of the modern state. According to the “organizational realist” approach of Theda Skocpol, states have their own unique organizational interests that cannot be simply explained in terms of social struggles in society, the capitalist mode of production, or capitalist society. Whatever else states may be or do, they are necessarily always “actual organizations controlling (or attempting to control) territories and people.” 9 Accordingly she suggests that any theory of the state must be open to the possibility of the autonomous state as a source of power that is independent from society or capitalism. For Skocpol, this power resides in the tasks that are uniquely performed by states: resource extraction (i.e., taxation), administration and coercive control. 10 Resource extraction and maintenance of administrative capacity are required for internal order and security as well as external security and competition with other states.

Although Skocpol does not address green concerns, a similar organizational realist perspective is discernible in eco-anarchist perspectives on the state as well as green critiques of the administrative state. Following Skocpol, these green critics take seriously the fact that states are organizations that control (or attempt to control) territories and people. Alan Carter has argued that it was the failure of Marxist revolutionaries to recognize the autonomy of the state that led to totalitarian socialist states in Russia, China, and many developing countries. 11 According to Carter’s state-primary theory, the nature of the relations of production that prevail in a particular society—as well as ecological problems—can be explained primarily in terms of state interests (particularly military interests), and not the interests of capitalist classes. 12

In maintaining and developing their coercive powers, states have—over the centuries—sought ways of extending their revenue base, enlarging their sphere of influence within civil society and expanding and rationalizing their administrative apparatus. The result has been the development of a centralized and hierarchical system of depersonalized and increasingly specialized bureaucratic power. In response to these broad historical developments, eco-anarchists and other critics of centralized state power have maintained that the “pseudorepresentative” administrative state, with its promotion of inegalitarian economic relations and “nonconvivial technologies,” produces an environmentally hazardous dynamic. 13

Green poststructuralists have likewise sought to deconstruct the disciplinary effects of biopower and green governmentality, while green critics
of technocracy have lamented the cult of the expert, the so-called the-scientization of politics, and the concomitant disenfranchisement of the lay public and vernacular knowledge in affairs of state administration. The bureaucratic rationality of the administrative state is seen as too rigid, hierarchical, and limited to deal with the variability, nonreducability, and complexity of ecological problems. Bureaucratic rationality responds to complex problems by breaking them down, compartmentalizing them, and assigning them to different agencies that respond to a hierarchical chain of command. This often leads to the routine displacement of problems across bureaucratic system boundaries. Once we add to these developments the more recent revolution in public sector management, we have good reasons to concur with Paul Hirst that the traditional liberal architecture has increasingly “become a gross misdescription of the structure of modern societies.”

The tenous link between popular political participation and control and technocratic state administration has also been a major theme in the work of Ulrich Beck. Indeed, Beck (like Martin Jänicke) argues that politicians and state functionaries act in ways that seek to mask problems rather than solve them. Ecological problems persist because they are generated by the same economic, scientific, and political institutions that are called upon to solve them. While the state cannot but acknowledge the ecological crisis, it nonetheless continues to function as if it were not present by denying, downplaying, and naturalizing ecological problems and declining to connect such problems with the basic structure and dynamics of economic and bureaucratic rationality. According to Beck, this organized irresponsibility can sometimes take on a Kafkaesque form. The state seeks to manufacture security by providing social insurance systems—health services, unemployment benefits, pensions, and workers compensation—but it can provide no protection against major hazards that can pierce the thin veneer of normality and expose the inadequacies of the welfare state. As Beck puts it: “What good is a legal system which prosecutes technically manageable small risks, but legalises large scale hazards on the strength of its authority, foisting them on everyone, including even those multitudes who still resist them?”

It might be tempting to conclude from this general critique that states are part of the problem rather than the solution to ecological degrada-

tion. With its roots in the peace and antinuclear movements, the green movement has long been critical of the coercive modality of state power—including the state-military-industrial complex—and might therefore be understandably sceptical toward the very possibility of reforming or transforming states into more democratic and ecologically responsive structures of government. The notion that the state might come to represent an ecological savior and trustee appears both fanciful and dangerous rather than empowering.

Yet such an anti-statist posture cannot withstand critical scrutiny from a critical ecological perspective. The problem seems to be that while states have been associated with violence, insecurity, bureaucratic domination, injustice, and ecological degradation, there is no reason to assume that any alternatives we might imagine or develop will necessarily be free of, or less burdened by, such problems. As Hedley Bull warns, violence, insecurity, injustice, and ecological degradation pre-date the state system, and we cannot rule out the possibility that they are likely to survive the demise of the state system, regardless of what new political structures may arise. Now it could be plausibly argued that these problems might be lessened under a more democratic and possibly decentralized global political architecture (as bioregionalists and other green decentralists have argued). However, there is no basis upon which to assume that they will be lessened any more than under a more deeply democratized state system. Given the seriousness and urgency of many ecological problems (e.g., global warming), building on the state governance structures that already exist seems to be a more fruitful path to take than any attempt to move beyond or around states in the quest for environmental sustainability. Moreover, as a matter of principle, it can be argued that environmental benefits are public goods that ought best be managed by democratically organized public power, and not by private power. Such an approach is consistent with critical theory’s concern to work creatively with current historical practices and associated understandings rather than fashion utopias that have no purchase on such practices and understandings. In short, there is more mileage to be gained by enlisting and creatively developing the existing norms, rules, and practices of state governance in ways that make state power more democratically and ecologically accountable than designing a new
architecture of global governance de novo (a daunting and despairing proposition).

Skeptics should take heart from the fact that the organized coercive power of democratic states is not a totally untamed power, insofar as such power must be exercised according to the rule of law and principles of democratic oversight. This is not to deny that state power can sometimes be seriously abused (e.g., by the police or national intelligence agencies). Rather, it is merely to argue that such powers are not unlimited and beyond democratic control and redress. The focus of critical ecological attention should therefore be on how effective this control and redress has been, and how it might be strengthened.

The same argument may be extended to the bureaucratic arm of the state. In liberal democratic states, with the gradual enlargement, specialization, and depersonalization of state administrative power have also come legal norms and procedures that limit such power according to the principle of democratic accountability. As Gianfranco Poggi has observed, at the same time as the political power of the state has become more extensive in terms of its subject matter and reach, so too have claims for public participation in the exercise of this power widened. This is also to acknowledge the considerable scope for further, more deep-seated democratic oversight. Indeed, it is possible to point to a raft of new ecological discursive designs that have already emerged as partial antidotes to the technocratic dimensions of the administrative state, such as community right-to-know legislation, community environmental monitoring and reporting, third-party litigation rights, environmental and technology impact assessment, statutory policy advisory committees, citizens’ juries, consensus conferences, and public environmental inquiries. Each of these initiatives may be understood as attempts to confront both public and private power with its consequences, to widen the range of voices and perspectives in state administration, to expose or prevent problem displacement, and/or to ensure that the sites of economic, social, and political power that create and/or are responsible for ecological risks are made answerable to all those who may suffer the consequences. This is precisely where an ongoing green critical focus on the state can remain productive.

Insofar as any agency of the state (military, police, or environmental protection agencies) is no longer properly accountable to citizens (whether directly and/or via the executive or the parliament), then the democratic state is failing its citizens. Seen in this light, the green critique of the administrative state should be understood not as a critique of the state per se but rather a critique of illegitimate power. It is a power that is no longer properly accountable to citizens according to the ideals of liberal democracy. The ultimate challenge for critical political ecologists should not be simply to bring liberal democratic practice into alignment with liberal democratic ideals (although this would be a good start) but to outline a distinctively green set of regulative ideals, and a green democratic constitutional state that is less exclusionary and more public spirited than the liberal democratic state. The concern should not be the mere fact that states exercise power but rather how this power can be made more accountable and hence more legitimate.

4.3 The Ecological Critique of Liberal Democracy

Against the background of the foregoing arguments, the outstanding problem is that liberal democracy is not accountable enough from the perspective of those suffering or concerned about present or future ecological harm. Now some liberals might respond by saying that these worries are misconceived, since the problem is not liberal democracy but rather simply competing human preferences. That is, if, after engaging in lawful means of persuasion and utilizing all available conventional liberal civil and political rights (e.g., holding public meetings, demonstrating, campaigning, bringing legal actions, standing for political office as a green candidate, and voting) an effective majority for wide-ranging sustainability policies cannot be mustered by environmentalists at crucial decision making moments (e.g., general elections, policy making, and law making), then environmental advocates and green parties must simply learn to live with this outcome. Indeed, liberals generally insist that the liberal democratic state cannot, and ought not, guarantee for everyone a good (green) life simply because not everyone shares green values nor interprets or ranks them in the same way. Any attempt to guarantee an
ecologically sustainable society would thus be but the latest road to serfdom. Given the fact of competing human preferences, we can only secure sustainability by becoming illiberal, by sacrificing liberalism's openness to individual moral pluralism at the altar of the one true (green) path.

These are now familiar arguments that seek to expose what is believed by liberals to be a failure on the part of radical environmentalists and greens to acknowledge the brute fact of moral pluralism—a problem that is addressed shortly. However, for the moment, what is striking about this standard liberal democratic response is that it insulates liberal democracy itself from any critical ecological scrutiny. Indeed, despite forty years of mounting environmental degradation and persistent public concern and protest, there seems to be a remarkable reluctance among liberal political theorists to reflect critically upon the ideals of liberalism or of liberal democracy in the light of the ecological challenge. The question as to whether and/or how far liberalism itself might need to be refashioned to accommodate ecological concerns is a question that has rarely received any lengthy and systematic (as distinct from ad hoc) debate among liberal political theorists, with the exception of a small band of full-blooded libertarians who are committed to “free market environmentalism.”

The most significant exception to this claim is Marcel Wissenburg’s systematic exploration of the relationship between liberalism and environmentalism in Green Liberalism: The Free and the Green Society. Wissenburg seeks to discover to what extent political liberalism (variously understood as liberal justice or the liberal democratic framework), and philosophical liberalism (its theoretical foundation), can accommodate environmental issues and concerns. Green ideas that can be shown to be incompatible with liberalism are thus discarded. Not surprisingly, Wissenburg concludes that liberal democracy is incompatible with any legal restrictions that seek to alter or dictate people's preferences, whether they are preferences to procreate, drive expensive cars, or otherwise consume. While he concedes that a global Manhattan may not be desirable, he concludes that it is always preferable to an ecologically sustainable society that restricts individual freedoms. At best, the liberal democratic state can facilitate the free flow of information to help citizens exercise informed choice (e.g., by ecolabeling), and it can encourage ecological modernization, of the weak variety, subject only to his innovative restraint principle (discussed below). But liberal democracy cannot control the macro parameters of demand/consumption or population—controls that are basic to any notion of ecological sustainability by ecological economists and radical greens.

Now it is true that unlike liberals, green theorists are more prepared to countenance restrictions on a range of freedoms that are taken for granted, particularly those freedoms relating to investment, production, consumption, mobility, and the use of property. Indeed, green theorists generally maintain that if we are to move toward an ecologically sustainable society and world order, then macro-limits (set by the local community, the state and international community) on economic freedoms are essential. Ecological economists, in particular, have singled out the state as playing a crucial and much more active role in disciplining and channeling market transactions in ways that produce environmentally and socially beneficial outcomes. This is necessary because it would otherwise be more rational for economic actors to privatize gains and socialize costs. From a critical political ecology perspective, however, it is more rational to cultivate ecological citizenship and enable public deliberation over matters of common concern, and if necessary, impose legal restrictions and sanctions to protect public goods by laying down sustainability parameters to ensure that economic activity does not encroach upon ecosystem integrity or biodiversity.

While green political theorists acknowledge the proactive role that green consumers might play in encouraging the greening of investment and production patterns, the important task of laying down sustainability parameters is one that should primarily belong to people acting publicly and democratically as citizens, rather than as consumers. Green consumerism has certainly emerged as an important facet of ecological citizenship, and it has challenged traditional boundaries between the public and the private. However, it cannot substitute for critical dialogue in public fora. That is also why green political theorists are generally skeptical of new ecoliberal ideas such as “free market environmentalism” that assert that the solution to the tragedy of the commons is the privatization of the commons. Any management regime that seeks to relinquish public control of environmental quality can no longer provide
any security against private interests prevailing over the public interest in environmental protection.\(^{28}\)

Now, in turning the critical spotlight on liberals, critical political ecology does not thereby seek to become illiberal in the sense of pushing for the implementation of the one true green path (as suggested by Wissenburg). Sustainability is an uncertain quest that must be embarked upon in an open-minded, practical, and experimental fashion with the realization that our understanding of ecosystems is not only inadequate but may never be adequate.\(^{29}\) Nor should critical political ecologists seek to usurp the role of political communities in determining the meaning of, and path toward, sustainability. However, critical political ecologists are concerned to criticize the social and communicative context in which individual and social preferences are formed and exercised. This is not to deny political pluralism but rather to radicalize it.\(^{30}\) Such radicalization entails exploring the conditions for the flourishing of more plural possibilities, that is, a widening of horizons and options of choice and the creation of more inclusive forms of deliberation. For example, political and economic actors' preferences ought to be challenged in those circumstances when they can be shown to undermine public environmental goods such as the waterways, oceans, atmosphere, and biodiversity, or otherwise restrict the ability of others to exercise their autonomy (e.g., when the health, amenity, or sense of local place of individuals and communities are harmed by the economic choices of agents in other locales, who do not have to live with the consequences of their decisions).

The radicalization of political pluralism also entails questioning the liberal distinctions between public and private, justice and the good—distinctions that emerged in a history of political struggles and power compromises that are now inscribed (and somewhat ossified) in the liberal democratic state.\(^{31}\) Whereas liberal democratic theory enables the "privatization of good" (to borrow Alasdair MacIntyre's formulation),\(^{41}\) green democratic theory seeks the politicization of the private good as well as the repoliticization of the public good. As Val Plumwood argues, while liberal democracy permits a certain degree of political democracy, it severely restricts citizen participation in precisely those areas that really count in terms of generating ecological problems, such as decisions about consumption, investment, production, and technology.\(^{33}\) Yet Wissenburg's green liberalism argues that the liberal democratic state ought to avoid regulating these matters because they ought to be left to private enterprise or otherwise be resolved by the exercise of private preferences. These liberal categories also structure the identification, evaluation, and management of ecological risks, including the cultural presumptions and modes of knowing that are brought to bear on risk management. The critical ecological project should be to challenge these liberal "relations of definition" (to adopt Beck's terminology) along with the culture of wardship and the processes of unfair ecological victimization that they have created. As I argue in chapter 5, this includes reframing the burden and standard of proof, the processes and procedures of risk assessment, and the kinds of knowledge that are relevant to risk assessment.

The problem with Wissenburg's liberal democratic response to ecological problems, then, is that it is far too complacent. It is complacent because it assumes that social structures play no significant role in constituting the individual interests, identities, and preferences of social agents. Rather, all citizens/consumers are considered equally free and unencumbered agents and therefore equally capable of making independent choices, all individuals are fully formed prior to making choices, and all such choices should be accepted at face value. Liberal theorists typically make the rational choice assumption that political preferences are preformed and given prior to economic exchange or political negotiation. They therefore enter the political picture as exogenous variables, and the goal of political actors is to get what they can from the political system via conflict and compromise. The function of liberal democratic politics is to mediate and contain the struggle among self-interested players to pursue their private interests.

In contrast, critical political ecology rests on a relational ontology of the self that recognizes the constitutive effects of social structures—understood in both cultural and material terms. This is not to deny creative agency on the part of individuals. Rather, it is to insist that such agency is always framed by social structures, including established social norms, roles, and identities that fashion the horizons of individual choice. Such an understanding directs attention to the communicative contexts in which environmental policies are formed, whether they are constrained or unconstrained. And it is here that green democratic
Theorists have argued that policy making in liberal democracies reveals a systematic bias against the protection of public environmental interests and in favor of certain private interests. In other words, the liberal democratic state (and the liberal culture that it both reflects and shapes) is not impartial in the way it prioritizes certain freedoms over others. The upshot is that the liberal democratic state can only guarantee formal rather than substantive freedom for all to determine their own conception of the good.

Environmental protection largely depends on public interest advocacy that is concerned to defend long-term generalizable interests rather than short-term particular interests. Ideally this requires social deliberation and decision making about public goods and interests, rather than political bargaining among self-interested actors in defense of private goods and interests. Critical deliberation is more likely to drive decision making toward the protection of public interests compared to what Charles Lindblom has called “partisan mutual adjustment.”

The fact that a good deal of policy making in liberal democracies takes the form of partisan mutual adjustment is one good reason why liberal democracies have been unable to deliver more systematic environmental protection. In particular, interest group bargaining is unable to deal with large-scale nonreducible ecological problem, since it tends toward the disaggregation of ecological problems into terms of the particular interests of affected parties. And in the policy bargaining process, it is always difficult to allocate losses, even when the net benefit to society is positive.

Moreover, in the political bargaining over who gets what, when, and how in liberal democracies, political actors who are better resourced, better informed, and strategically located vis-à-vis the centers of policy making invariably have a distinct advantage over socially and economically marginalized groups and classes in the lobbying and bargaining stakes. This advantage is typically reinforced by the cumulative consequences of previous political and social struggles, which disappear into the naturalized background features of the cultural and political landscape to produce the “mobilization of bias.”

Whereas public deliberation draws out public arguments that must be able to withstand critical questioning from many different vantage points, partisan mutual adjustment narrows the bargaining agenda and favors the more powerful players in the bargaining process. The diffuse notion of the public interest is always at a disadvantage when dealing with a small number of well-organized interest groups with a direct material or financial stake in policy outcomes. Although many new social movements have challenged the rational actor assumptions on which Mancur Olsen’s analysis of the logic of collective action is based, the members of new social movements typically represent only a small percentage of the population at any given time. Whereas Olsen would have us believe that the lack of involvement of many citizens in public interest advocacy stems from a rational calculation of the benefits of free riding, there are other, equally plausible explanations such as time and/or income poverty, educational disadvantage, lack of information, and social deprivation, leading to a general disillusionment with the political system as a whole.

Yet there is a more troubling problem at work here in the way in which the political subject is constructed in the processes of political negotiation in liberal democracies. The political struggle in liberal democracies is played out in ways that assume that all political players—from industry associations to public interest advocates—are seeking to advance their own sectional vested interests or private preferences. The political struggle for the limited public favors provided by the state is one that tends to mimic the competitive economic struggle in the marketplace, where it is patently irrational not to behave in self-seeking ways. While ideally public interest advocates may prefer to be engaged in communicative action, they often resort to strategic action in order to win concessions or otherwise make minor advances to further their agenda. Some new social movements take the next step by refusing to play by established protocols and adopting instead disruptive tactics in the public sphere in protest against the distorted communicative context of policy making.

For its part, the liberal democratic state merely offers processes and procedures that seek to channel, mediate, and balance such competing interests (which are made fungible by the assumptions of the rational actor model). Liberal pluralism—in its blindness to gross disparities in social power and communicative competence—asks that all players be equally tolerant of one another and prepared to compromise and live with the outcomes that are negotiated and mediated through the policy-making
and law-making procedures of the state. Liberal democracies are thus defended as providing a fair means of reconciling competing preferences, as if all preference holders are equally well placed to articulate and assert those preferences. Under these circumstances it is a necessary and desirable part of the bargaining process that environmental concerns are regularly traded off against competing interests. Whereas fundamental liberal freedoms (including freedom of contract) are expressed in the idiom of rights and are entrenched in the formal and informal constitutional structures of the liberal democratic state and therefore able to trump competing welfare considerations, environmental concerns are ranked differently. That is, they are considered matters of "the good life" and therefore a matter of competing individual preferences. Unlike liberal civil and political freedoms, environmental considerations are considered nonfundamental and therefore negotiable. This liberal expectation of trade-off and balance tends toward a "short termism" in environmental policy making that is exacerbated by the limited time horizons of political parties and political leaders, who operate within the temporal frame of electoral cycles rather than long-range ecological horizons.

Indeed, the utilitarian framework of cost–benefit analysis was inscribed into many of the major innovations in environmental law and administration that took place in the 1970s in most Western countries, notably in environmental, social, and technology impact assessments. However, this framework merely serves to furnish "advice" to decision makers rather than any mandatory directives to the legislature or executive. Moreover the growth of environmental legislation must be understood against an historical background of respect for property rights. This is reflected in the general reluctance by legislatures and courts to impose any restrictions on property rights in the absence of clear proof of harm to others, and the fear of having to pay compensation whenever private property is acquired or "taken" for public purposes. In Anglo-American liberal democracies any harm flowing from the use of property rights has traditionally been regulated by the common law, such as the law of contract and particularly the law of torts, which have placed the onus on those suffering ecological harm or contractual damage to prove damage, causation, and dereliction of legal duty. Of course, the spectacular growth of environmental legislation is testimony to the limitations of this traditional method of regulating environmental problems, and property owners face a steadily growing range of legislative qualifications and restrictions to the way they manage and employ their property. For example, the emergence of rules of strict liability in relation to serious risks absolves plaintiffs of the obligation to show negligence (as distinct from causation). Environmental impact assessment procedures are another case in point insofar as they require developers of large-scale projects to show that proposed developments will cause no or negligible harm to the environment. However, many ecological problems arise from the cumulative effect of small-scale activities that undergo no such assessment. While it is possible to track an emerging countervailing discourse of individual or collective environmental rights and entitlements that have increasingly served to qualify property rights, we have yet to see any wide-ranging ecological reconstruction of property rights at the level of principle. Nonetheless, as Gary Varner has argued, the trajectory of development of environmental regulation is such that the day may come when we "treat land as a public resource owned in common and held by individuals only in a stewardship (or trust) capacity."

He points out that while the traditional fee simple conception of ownership stresses the unilateral freedom of private property holders to use or dispose of their property as they think fit, the legal positivist conception is of property as a bundle of rights and obligations lends itself to a more radical redefinition. The more environmental regulation restricts property rights and adds to the obligations of the property holder, "the more it chips away at the concept of land as private property."

It is against this background that Wissenberg's exploration of the green potential of liberalism offers a significant innovation that strikes at the heart of classical liberalism's defense of property rights and moves toward something like a stewardship ethic. What he calls "the restraint principle" is partly inspired by John Rawls's savings principle (which is designed to ensure a fair allocation of environmental benefits and burdens among coexisting generations, and indirectly, future generations) and effectively articulates a weak version of the Brundtland Report's formulation of sustainable development. This principle is treated as a distributive principle but not as describing a desirable endstate. Rather, it is defended as a side constraint on the distribution of
conditional rights.\textsuperscript{43} (Wissenburg uses the term unconditional rights to refer to basic needs, whereas conditional rights refer to further wants.) In essence, the restraint principle provides that rights to scarce goods ought to be, within the limits of necessity/basic survival, restricted in ways that ensure that such goods are available for further use/distribution. That is, "... no goods shall be destroyed unless unavoidable and unless they are replaced by perfectly identical goods; if that is physically impossible, they should be replaced by equivalent goods resembling the original as closely as possible; and if that is also impossible, a proper compensation should be provided."\textsuperscript{44}

The inverse restraint principle repeats the same formula in relation to the production of pollution (no damaging waste should be produced unless unavoidable, and if unavoidable, nature should be restored and victims compensated).\textsuperscript{45} In short, humans may be free to use but should not abuse or destroy nature, except where the basic survival of existing generations is at stake. This is indeed a radical proposal that explodes the classical Lockean defense of private property rights along with related notions of finders-keepers and absolute proprietorship of land and natural resources. In their stead, we are offered a less arbitrary and fairer set of user or custodianship rights that are deeply qualified by responsibilities to coexisting and, indirectly, future generations. The restraint principle thus extends liberal justice to ensure "that individuals get their fairest possible chance to accomplish their plans of life, whatever their plans may be."\textsuperscript{46} It is meant to ensure the satisfaction of basic needs while facilitating (without guaranteeing) the satisfaction of further wants. Although defended as an alternative to the precautionary principle (which Wissenburg regards as problematic because it assumes agreement on environment values), it nonetheless serves to place the onus of proof on the environmental exploiter, and not the victims, to show that the principle is satisfied.

Wissenburg's restraint principle provides an example of liberal theory catching up with environmental political practice insofar as it offers a way of conceptualizing the rationale of much contemporary environmental legislation enacted by the modern state. That is, the liberal democratic state—through its legislative, administrative, and judicial agencies—has (to borrow Varner's phrase) gradually chipped away at the unilateral freedom of private property holders to use or dispose of their property as they think fit. Indeed, James Meadowcroft has argued that it is now possible to talk about the emergence of an ecological state, which places ecological considerations at the core of its activities.\textsuperscript{47} However, it is arguable that a full-fledged, rather than merely emergent, state of this kind is a postliberal state. Like the welfare state, the ecological state involves an extension of state authority to new areas of social life, provides a response to perceived failures of markets and voluntary action, alters patterns of "normal" economic interaction, represents a continuing adjustment of state activity to new ecological problems, and has complex and contested normative associations.\textsuperscript{48} The outlines of this ecological state have emerged within the shell of the liberal democratic state, although it is more of an international than a national creation, its forms of intervention are different, it remains fragmented, and its future is by no means assured.\textsuperscript{49} Wissenburg's reconceptualization of the rights of property holders provides another way of conceptualizing the developments in environmental law and policy in recent decades, thereby revealing the antiquated character of the classical liberal defence of private property and its associated understanding of autonomy.

Despite these significant conceptual innovations, Wissenburg's restraint principle rejects any notion of the intrinsic values of nature and is grounded in a thoroughly instrumental posture toward the nonhuman world (with the exception of those animals that bear close resemblance to us). In contrast, an ecological state that upholds the precautionary principle is not only able to regulate the use (by preventing the abuse) of nature but also provide a risk-averse decision-making framework that is able to protect nature for its own sake. This feature, combined with the fact that it is already an emergent international norm, makes it a more promising principle to defend from the point of view of critical political ecology. While the restraint principle makes a radical departure from liberal theory in addressing the fundamental question of the ecological conditions for human freedom, it is still understood as simply restraining rather than constituting freedom. Moreover, Wissenburg is careful to emphasize that even the restraint principle cannot provide any ecological guarantees. This is because the satisfaction of even the basic
needs of those currently alive may preclude the possibility of saving natural resources and protecting ecosystem integrity for future generations and also because some people may still value other things over a greener present and future. Nonetheless, it is one of those ironies that the most revolutionary ecological reinterpretation of property rights—one that challenges the basic idea of individual and private ownership and effectively converts property holders into ecological trustees with obligations to both present and future generations—has emerged from liberal theory.

4.4 An Immanent Ecological Critique of Liberal Dogmas

The foregoing critique of liberal democracy may be understood as an immanent critique waged on two levels. That is, it seeks to expose the gap between regulative ideals and practices while also calling for a reinterpretation of the fundamental ideal of autonomy and showing how this might be practically realized in terms of an ecological rather than liberal normative ideal. The fundamental problem with the liberal ideal of autonomy is that it rests on an incoherent and undesirable ontology—that of social and biological detachment. Given that ontology precedes ethics (i.e., underlying assumptions about being and reality constrain the field of ethical possibilities), it is necessary to question these basic liberal assumptions concerning the self before it is possible to rethink what autonomy might mean in a new ecological age.

The fundamental problem with the liberal ontology of the self is that it reduces both human and the nonhuman others to a set of constraints against which, or as instrumental means through which, individual self-realization is to be achieved. The needs and requirements of others are cast as external to those of the lone, self-contained, rational maximizer who, by virtue of what is seen to be a competitive social environment, necessarily enhances his/her autonomy at the expense of others and the environment. As communitarian critics have pointed out, such an understanding of the autonomous self is based on a denial of any noninstrumental dependency on the social world. Critical political ecologists can enrich this critique by showing how liberalism is also based on a denial of any noninstrumental dependency on ecosystems and the biological world in general. Nowhere is this more graphically illustrated than when the liberal self, as economic actor, utilizes property rights in ways that privatize gains and displaces social and ecological costs on to others. As we have seen, the common law of contract and torts has historically provided only a limited repertoire of remedies for such displacement while the public policy process in liberal democracies generates mostly ad hoc, remedial legislation based on a politics of partisan mutual adjustment and therefore continues to favor private interests over public ones. Although Wissenburg’s restraint principle provides an innovative ecological challenge to the traditional liberal understanding of property rights, it continues to construct the needs and requirements of others (human and nonhuman) as mere side constraints on individual self-realization.

By emphasizing arm’s-length, impersonal contractual obligations over familial, community, and moral bonds, and by seeking to uphold the individual’s capacity and right to choose his or her own idea of the good over and above the idea of social deliberation about the common good, apologists for the liberal democratic state deny the fundamentally social character of individual conceptions of the good. As Charles Taylor has argued, community is a structural precondition for human selfhood and moral agency. Individual conceptions of the good can only be acquired and maintained through membership of a language community and culture in which individuals are located. Critical political ecologists can add that ecosystem integrity is a precondition for individual and collective human well-being (in the longer run), and that it can only be properly maintained over time when the human understanding of community is extended to include ecological communities and nonhuman others. Looking after nature becomes not simply a prudent thing to do but also an expression of ecologically embedded selfhood.

This ontological critique of liberalism also challenges the liberal idea of state neutrality in showing how the liberal state reinforces a particular kind of self, with particular kinds of dispositions. To uphold its ultimate ideal (or what Charles Taylor calls the “hypergood”) of individual autonomy, liberalism needs not only a liberal political system but also a liberal social matrix that recognizes, protects, and rewards the rational, autonomous self in ways that make it “normal.” Thus the liberal
democratic state must actively reproduce the social structures that underpin liberal values.

As Bhikhu Parekh has explained in a different context that is nonetheless opposite here: “Although democracy preceded liberalism in Western history, in the modern age liberalism preceded democracy by nearly two centuries and created a world to which the latter had to adjust.”53 In particular, the development of liberal democracy was made compatible with a rapidly developing capitalist form of industrialism, and it was no coincidence that the struggle for political reform came from the rising bourgeoisie. As Marxist-inspired theorists of the state have long emphasized, the social forces that stood to gain the most from capitalism turned out to be the same social forces that were the key players in the process of democratizing the state. Of course, this privileged access to rule making was not to last, as the labor, women’s, postcolonial, migrant, and green movements have sought to challenge the rights and privileges of capitalist classes. Nonetheless, the owners and controllers of capital have, for the most part, been more successful than any subsequent social movement in forging the basic constitutional structure and rationality of the liberal democratic state. Moreover, by virtue of their wealth and privilege, such classes continue to have a significant influence in the policy-making process, both nationally and transnationally.54

Liberalism not only preceded democracy in the modern age, it also provided its own rationale for the state (to protect the rights of individuals), an account of its formal structure (separation of powers, representative government), an account of the terms on which coercive state power may be exercised (by means of democratic law enacted by the peoples’ representatives), and an account of civil society (made up of autonomous individuals). However, once we historicize the particular liberal form in which modern democracy has developed, it becomes possible to think about democracy and the state taking on other prefixes, such as ecological. This makes it possible to rethink what role states might play and what form they might take in embodying and giving effect to new social purposes and expanded democratic ideals. Such a rethinking need not require any abandonment of the enduring features of the liberal democratic state, such as the protection of civil and political rights that are essential to ecological citizenship, the election of parliamentary representatives, the separation of powers, the idea that state power should not be absolute or arbitrary but rather limited and exercised according to law, and the idea of toleration and respect for moral pluralism. Rather, critical political ecology should primarily take issue with the limited scope and quality of political representation, participation, and dialogue, and the social and economic structures that constrain political decision-making in liberal democracies. The point is to unblock those democratic processes that might subject to critical scrutiny those ideals and practices of autonomy that cannot be generalized for all, including that are not conducive to an ecologically sustainable world. In effect, the quest of critical political ecology may be understood as an attempt to adjust democracy to a world of more complex and intense economic, technological, and ecological interdependence in order to extend the links between environmental protection and social justice. Ecological freedom for all can only be realized under a form of governance that enables and enforces ecological responsibility. Ecological democracy is a postliberal rather than antiliberal democracy.

The foregoing critique of liberalism may be seen as seeking to reinterpret rather than reject the fundamental Enlightenment ideal of autonomy. Liberalism’s otherwise laudable humanist impulse to expand human autonomy comes to grief in the belief that autonomy can only or best be achieved by mastering the natural world through increasingly sophisticated technologies and the application of instrumental reason. Time and time again—from the splitting of the atom to the building of mega-dams—instrumental rationality has served to imperil rather than expand autonomy for large numbers of people and nonhuman species. As Theodor Adorno and Max Horkheimer famously and prophetically put it, “the fully enlightened Earth radiates disaster triumphant.”55

A more ecologically informed dialectic of enlightenment therefore requires an engagement with the mutually interdependent ideals of emancipation and critique, or as Tim Hayward has put it, “the twin ideals of mastery and criticism.”56 Emancipation is crucially dependent on critical questioning (of authority, dogma, superstition, or blind faith). Ironically, however, the way in which the basic liberal principle of autonomy has been idealized as self-mastery has served to imperil the development of critical questioning in modern democracies in the new
ecological age in ways that have ultimately undermined autonomy. It is as if liberalism has lost sight of the co-dependence of autonomy and critique by sheltering certain liberal articles of faith from further critical exposure and transformation.

By framing the problem as one of rescuing and reinterpreting the Enlightenment goals of autonomy and critique, it is possible to identify what might be called a mutually informing set of "liberal dogmas" that have for too long been the subject of unthinking faith rather than critical scrutiny by liberals. The most significant of these dogmas are a muscular individualism and an understanding of the self-interested rational actor as natural and eternal; a dualistic conception of humanity and nature that denies human dependency on the biological world and gives rise to the notion of human exemptionalism from, and instrumentalism and chauvinism toward, the natural world; the sanctity of private property rights; the notion that freedom can only be acquired through material plenitude; and over-confidence in the rational mastery of nature through further scientific and technological progress. It is difficult to see how these dogmas would survive critical scrutiny in a genuinely free communication-community in the present ecological age. Indeed, some of these dogmas have already been the subject of scrutiny from within liberal theory.

However, many contemporary liberal philosophers still seem to forget that their liberal forebears forged their political ideals in a bygone world that knew nothing of the horrors of bioaccumulation, threats of nuclear war, Chernobyl and Bhopal, mad cow disease, and global warming. Moreover liberal values were born in an emerging market society that assumed an expanding resource base and a continually rising stock of wealth. Liberalism, along with its great rival Marxism, fully absorbed the Enlightenment idea of progress, assuming that scientific progress and the technological domination of nature would provide plenty for all. These views might have made sense in the seventeenth and eighteenth centuries, when it seemed more reasonable to suppose that everything about the world was potentially (and soon to be) knowable, available, and rationally controllable. Yet even in John Locke's day, these were somewhat fanciful assumptions, as Locke himself knew. His quaint defense of private property, outlined in the second of his Two Treatises of Government, argued that property rights grew out of individuals mixing their labor with nature—which was worthless until appropriated—as if there were plenty of unappropriated land for everyone and no one around to object. As this was patently not the case in seventeenth-century England, Locke added the rider that there must be "enough and as good" for others. However, he also made it clear that if all the land was appropriated it could nonetheless be bought with money, which was not equally distributed. Locke's defense of private property thus served to legitimate the unequal appropriation of land.

In contemporary times we have seen that weak ecological modernization still succumbs to the alluring momentum of material progress and the belief in the rational, technological mastery of nature in ways that uphold economic freedoms while ruling out more critical deliberation over the ultimate purpose and character of the modernization process. While weak ecological modernization certainly offers some scope for environmental improvement by promoting a more efficient exploitation of nature, it nonetheless reinforces rather than questions the liberal dogmas. That liberal democracies have so far only managed to work toward weak rather than strong ecological modernization may be taken as testimony of the enduring hold of these liberal dogmas, despite the fact that ecological conditions have changed drastically since the early days of the Industrial Revolution. Policy making in liberal democracies routinely insulates from scrutiny the powerful economic and political interests that stand to gain the most from the perpetuation of these liberal dogmas.

The history of modern grassroots environmental activism and the broader green movement has been, among other things, a history of attempts to address the problems of risk generation and risk displacement by seeking to extend and deepen democracy. In the course of pursuing the cause of environmental protection, these ecology and green movements have sought to improve the quality and to free up the flow and availability of information to affected parties, challenge the entrenched power of technocratic and corporate elites, create more transparency in policy making and administration, and encourage more citizen participation in economic and environmental planning and decision making. In so doing, these movements have brought new issues and
concerns to the political agenda, introduced new ways of framing and defining environmental policy problems, and challenged the assumptions and framework of those policy professionals who manage risk assessment. This includes a challenge to the structures of authority that define, assess, and manage risks. In the next chapter I defend a new model of “ecological democracy” that seeks to encompass these concerns by providing a postpositivist, socially and ecologically inclusive model of democratic decision making and risk assessment.

5

From Liberal to Ecological Democracy

5.1 Ecological Democracy: An Ambit Claim

Let us begin with a very simple, but ultimately politically challenging, ambit claim for ecological democracy based on a familiar principle: all those potentially affected by a risk should have some meaningful opportunity to participate or otherwise be represented in the making of the policies or decisions that generate the risk. This formulation is centrally informed by the moral argument that persons and communities should not be subjected to avoidable risk without their free and informed prior consent (I say “avoidable risk” in order to rule out natural environmental disasters involving no or negligible human agency). Now I am not insisting that all those potentially affected by risk must always actually reach a prior consensus about whether or not to proceed with the risk-generating activity, since this is not always practicable (for large populations) or possible (for future generations). Nonetheless, I am suggesting that it is at least intuitively plausible to maintain that if those representatives who do engage in decision making with risk implications for others proceed as if all those affected were present, well informed, and capable of raising objections, then this would encourage an orientation that is both (1) risk averse and (2) concerned to avoid the unfair displacement of risk, thereby addressing what can be identified as the “double challenge” of ecological democracy.

Now, at first, there may appear to be nothing new or ecological about this formulation of democracy, as it resonates with those deliberative and cosmopolitan ideals of democracy that seek to incorporate into risk assessment the entire universe of those potentially affected (notably,