The Effect of Context on Practice
[Book Review]
Susan D. Carle

Available at: https://works.bepress.com/susan_carle/27/
In *Divorce Lawyers At Work*, Lynn Mather, Craig McEwen and Richard Maiman offer an outstanding contribution to our understanding of the effects of context on lawyers' practice. Their project offers what so many legal works do not—empirical investigation to test many hotly contested questions about the realities of contemporary lawyers' lives in the law in the United States. The authors' study is of 163 lawyers practicing divorce law in New Hampshire and Maine. Of these, five lawyers receive more extensive examination and description throughout the book. While the examination of these lawyers' practice lives is so rich with themes that it proved difficult to choose a narrowing focus for this Review, I have chosen three spe-

† Professor of Law, American University Washington College of Law.


2. *Id.* at vii.

3. *Id.* at 17.
cific themes for closer examination that are of particular relevance to current debates about the legal profession. First, are lawyers zealous client advocates? Are they "client-centered," in the terms of that phrase as used in the clinical legal education movement?4 Second, does gender make a difference to law practice? Do women lawyers tend to have different practice styles? Are they more nurturing and compassionate? Are they motivated differently from men and do they perceive the rewards and frustrations of their practices differently? Third and finally, how much does context count? Are there systematic correlations in variables such as size of practice, nature of clientele, gender of clients, gender of lawyers, and differences in lawyers' practice approaches and styles? If so, what accounts for these observed variations and what are their consequences? Do such differences belie conceptions of the American bar as a unitary one, in which all practitioners should be subject to the same regulations? Mather, McEwen and Maiman's book looks at all of these questions, and many more, with a fresh, open perspective, sensitive to nuances and sympathetic to their subjects, but capable of synthesis, detached observation, and critique as well.

I. ARE SMALL-TOWN DIVORCE LAWYERS CLIENT-CENTERED?

There are several genres of legal ethics literature examining how closely allied to a client's goals and wishes a lawyer should be. One is the traditional lawyer-as-zealous advocate literature, which urges lawyers to engage in vigorous client advocacy to the fullest extent permitted by law.5 Another is the literature developing an ethics of client-centered lawyering, which clinical law professors have largely generated. This literature tends to focus on lawyering for poor people and to advocate an ethics of lawyering that focuses on working collaboratively with the client to


achieve the experience with the law that the client desires. A third is what I will call the lawyers' discretionary judgment literature, which William Simon and others pioneered. That literature questions whether lawyers can—and even if they could, should—defer to their clients' judgment and wishes as completely as the lawyers-as-zealous-partisans suggests.

What Mather, McEwen and Maiman offer through their detailed empirical research is a fascinating examination of what one sector of the American bar, defined on grounds of region (New England) and practice specialty (divorce law), actually does. Are these lawyers zealous partisans for their clients? Are they client-centered counselors? The authors' answer is, not surprisingly but very interestingly nonetheless, both yes and no.

The authors use excerpts of lawyer interviews to document how lawyers think about the degree of zealous advocacy they owe their clients. At bottom, most lawyers in the sample appear to regard themselves as having a duty to protect their clients' interests, but a duty tempered by at least three countervailing considerations. One is what the lawyers perceive as their clients' long-term interests, as opposed to how clients might define their short-term interests while in the midst of a heated and emotional divorce situation. Thus, one lawyer reports about clients who are behaving in an overly vindictive manner:

---


I'll try to talk to them and get them to see it. Make them laugh at it, make them understand that they're just trying to kill the other party. I tell them they're paying me two dollars a minute. "You go and have a fight, nobody can win. This is ridiculous."9

Or, on the flip side, with clients who are too despondent and simply want to walk away:

I try to make them . . . realize that they will go through a series of emotions as the case ages and that what they're telling me at this moment is not what they'll be feeling two months down the road.10

A second consideration balances the client's interests against the legal practice community's norms regarding "reasonableness." Through repeated interactions, lawyers develop common expectations, which serve to regularize behavior so that lawyers can better predict and manage their cases.11 Lawyers are advocates for their clients within this scope of reasonableness, but resist client requests that go beyond this realm. As the authors explain:

In sum, many attorneys who regularly practice divorce law share common conceptions of reasonable conduct. The portrait of the reasonable divorce lawyer shows a tough-minded advocate committed to settlement as the best resolution in divorce (but willing to go to trial if necessary), knowledgeable about the law and likely legal outcomes, objective and independent in judgment, and willing to guide the client to a fair outcome. Collegiality does not get in the way of advancing the client's interests, but neither does thoughtless advocacy undermine the working relationships necessary within the community. Judgment and balance prevail in this view of the consummate, reasonable professional.12

They further explain that the reasonable lawyer "rejects the 'hired gun' role and instead guides the client firmly to want or at least to accept the kinds of outcomes that are likely."13

10. Id. at 102.
11. Id. at 48.
12. Id. at 51.
13. Id. at 50.
In this respect, lawyers in this sector of practice appear to provide a strong mediating function as much as partisan advocacy function. The lawyers the authors interview tend to define advocacy in ways that "incorporated fairness to both parties." They see themselves as engaged in something more akin to problem solving than adversarial negotiation.

This observation invokes the debate about an alternative vision of law practice, which famous lawyer later turned U.S. Supreme Court Justice Louis Brandeis reputedly developed, under which the lawyer serves as the "lawyer for the situation," working on a resolution fair to all affected parties, rather than as a zealous advocate of her clients' interests over all others. Mather et al.'s findings suggest that, in certain practice contexts at least, contemporary lawyers do, to a significant extent, serve this function of brokering fairness rather than fighting for the last advantage for their clients.

These findings in turn raise questions for further research. What are the factors necessary to allow lawyers to operate with an eye toward the overall fairness of a situation? Two obvious factors would appear to be the relative balance of power between lawyer and client and the relationship between the supply and demand for legal services. Another would appear to be the traditional expectations of the lawyer's role in the setting in which the lawyer is practicing. If we wanted to promote this vision of lawyers' role as being to broker fairness within collectively developed norms of reasonableness, what conditions would have to obtain? Is the approach Mather et al. document a historical relic of small-town, old-fashioned law practice, or

14. Id. at 114.
15. Id. at 118 (citing Carrie Menkel-Meadow, Toward Another View of Legal Negotiation: The Structure of Problem Solving, 31 UCLA L. REV. 754 (1984)); see also id. at 110 ("The right answer from the bar association stand is probably to get as much as I can for my client, but . . . what I do [is seek] a reasonable settlement, I guess, fair to both parties.").
could it be revived as a more dominant conception of lawyers’ appropriate role in other practice contexts as well? All of these questions are, of course, well beyond the scope of the authors’ book, which purports only to present their findings with respect to the one region and practice sector they study. But the very success of the authors’ approach, stemming from its focused attention to detail and context, suggests the need for a great deal more empirically tested, context sensitive attention to these questions.

The authors also agree with the findings of other important empirical scholars of divorce practice, such as Austin Sarat and William Felstiner and others, who have found that the role of divorce lawyers is to dampen legal conflict rather than engage in a full-blown adversarial process. Here again the authors’ findings belie assumptions that the presence of lawyers leads to increased adversarialness and litigiousness. In the right conditions, lawyers may serve the opposite ends of conciliation and resolution. Adopting a sympathetic but detached perspective towards their clients, lawyers invoke their authority as experts in predicting the functioning of the legal system to reconcile their clients’ wishes and expectations with the outcomes likely to result from the operation of the legal system.

The authors describe the sometimes heavy-handed ways in which lawyers bring their clients to accept these probable outcomes. One lawyer reports, for example:

It is not unusual in a particular case for me to mention ... if the client’s being particularly unreasonable... I might make a statement to the effect, “If those are your expectations or if that’s what you want me to do, I just cannot represent you. Because either I will not do that or I’m not going to achieve those results,


20. Id.
nobody can achieve those results"... I threaten more often than I do anything.  

Another lawyer explains

A lot of [unreasonable client demands] I find [are] easy to deal with by just delaying things, by letting things calm down.  

Some readers might wonder if such practices verge on inappropriate manipulation of clients. But the authors reach no such explicit conclusion, instead letting their findings and the words of their interviewees speak for themselves. What some might see as a manipulation, others, especially those in the practice context itself, see as an entirely necessary process of reconciling clients' expectations with norms of reasonableness.

Mather et al. further document the way in which such norms of reasonableness relate to professional civility. At least in this sector of the American legal profession, the professional etiquette many commentators have bemoaned the passage of still prevails. Reasonable practitioners "demonstrate honesty, integrity, and openness in their relationships with other lawyers."  

To say that lawyers treat each other with professional courtesy and respect is not, of course, to say that there are not mechanisms at work to penalize deviations from norms of reasonableness. The authors describe an informal process of norms enforcement. Lawyers who do not conform to the norm of reasonableness in the demands they make on behalf of their clients face collegial disapproval. They are assigned nicknames by their colleagues "that reflect a lack  

21. Id. at 104; see also id. at 106 ("Client self-determination was given less deference... if it appeared to conflict with lawyers' public reputation among their peers and in court. More lawyers said they would withdraw from a case in which the client was making unreasonable and excessive demands... [based on] the reaction the lawyer would receive from peers in the legal community.").  

22. Id. at 102. Lawyers also use delay strategies to force clients to pay their bills. See id. at 145 (quoting lawyer's report that he might postpone a final hearing until after the client paid her legal bill).  

23. Id. at 50.
of judgment and balance,” such as “‘Rambo,’ ‘hired gun,’
‘gunslinger,’ ‘loose cannon,’ ‘jerk’” and worse.24

The authors sensitively document other aspects of the
underside of divorce law practice in New England as well. They capture the conflict and guilt lawyers sometimes face in making triage decisions25 about how much service to pro-
vide to whom, especially with lower-income clients.26 One
lawyer who makes his living serving low-income clients has
“developed strategies to deliver competent service at low
cost,” but feels torn between “recognizing what he has
accomplished and what he cannot do given the circum-
stances of his practice.”27 Lawyers spend far fewer hours on
the cases of working-class clients than those of upper-
middle-class clients.28

Most interesting in this vein is a finding that somewhat
contradicts what one might expect: The authors report that
the lawyers in their study tend to rely more on their client’s
active involvement in negotiations in cases involving low-
income clients than in cases for high-income ones.29 Active
client involvement serves as a way of saving lawyer time.
For higher-income clients, lawyers are more likely to
discourage client involvement—perhaps because more sub-
stantial assets are at stake and lawyers perceive the applic-
cable law to be more complex, leading them to feel that the
application of their professional expertise is more essen-
tial.30 On the other hand, as one would expect, middle- and

24. Id. at 51.

25. For an extremely thoughtful article examining the ethics and necessity
of lawyers’ triage decisions with lower-income clients, see Paul R. Tremblay,
Acting “A Very Moral Type of God”: Triage Among Poor Clients, 67 FORDHAM L.
REV. 2475 (1999).

26. Hearteningly, the authors report that virtually all of the divorce lawyers
they studied provide services to some needy clients who cannot pay full fees. Id.
at 138. Unlike pro bono services large firms provide, however, this service
occurs without formal referrals and is largely invisible to clients or the public.
Id. This finding appears particularly relevant to the contemporary debate about
the extent of, and ways to increase, pro bono services for those lacking adequate
legal representation today.

27. DIVORCE LAWYERS AT WORK, supra note 1, at 29.

28. Id. at 140.

29. Id. at 77-78.

30. Id.
upper-middle-class divorce clients are the most insistent that they remain actively involved in the decision making aspects of their cases, perhaps because they have stronger expectations than do lower-income clients that they should retain control of decisions affecting their lives.\textsuperscript{31}

In sum, at least in this sector of the bar where client power is not overwhelming, lawyers appear to practice much like Simon's discretionary ethical model suggests they do and should.\textsuperscript{32} Lawyers are not single-minded client advocates, but instead temper their representations with their own understandings of reasonableness, based on their participation in a longstanding professional community of shared norms.

Also interesting in the authors' study is their further findings that relative degrees of client-centeredness relate in complex and sometimes counterintuitive ways to the changing gender dynamics in the divorce practice contexts the authors studied. I turn to these findings in the Section below.

**II. DOES GENDER MAKE A DIFFERENCE IN LAW PRACTICE?**

One of the most interesting debates among scholars of the legal profession that the authors investigate empirically concerns the contentious issue of whether gender makes a difference in law practice. Some feminist scholars suggest that female lawyers might have or develop a different practice ethic, or different practice style, than male lawyers.\textsuperscript{33}

\begin{itemize}
\item \textsuperscript{31} Id.
\item \textsuperscript{32} See supra text accompanying notes 7 and 8.
\item \textsuperscript{33} In the words of one participant in this debate, explaining the "difference" perspective:
\begin{quote}
Drawing on the work of the affiliational or relational feminist theorists, like [Carol] Gilligan . . . and others, I speculated that women who reasoned with ethics of care and concern, as well as justice, and who took account of relationships and context rather than searching for abstract principles to solve legal problems might structure the legal system and legal practice in different ways.
\end{quote}
\end{itemize}

Other feminists argue that claims that women hold or will develop a different lawyering ethic or style from men expose women to negative stereotyping. Much of this debate has taken place on the level of theory, but there have been a number of important empirical investigations as well, which seem to have reached contradictory results. The authors' investigation adds new data and interpretations.

In a nutshell, the authors conclude that gender makes a statistically significant difference with respect to certain aspects of practice styles and orientations. But the authors find that gender makes such a difference in ways that are not exactly what might be predicted based on the theoretical debate alone. One such result is that in some respects women practitioners tend to be seen as more "Rambo like" than "old school" male practitioners. As one woman practitioner explained:

The older lawyers... did not take divorces as their "bread and butter" and it was never seen as a field with any prestige or any substance or any money or anything that they would want to have anything to do with. They did it because they had to. They are real


In a similar vein, constitutional scholar Suzanna Sherry argued that women tend to exhibit a uniquely "feminine jurisprudence," characterized by a greater concern with connection and context, and that this different style of reasoning can be detected in the opinions of Justice Sandra Day O'Connor. See Suzanna Sherry, Civic Virtue and the Feminine Voice in Constitutional Adjudication, 72 VA. L. REV. 543, 615 (1986) (arguing that "recognition of Justice O'Connor's unique perspective, and the unique perspective of women in general, might aid us in ameliorating the distortions of an overly individualist liberal paradigm").

34. See, e.g., Margaret Radin, Reply: Please Be Careful With Cultural Feminism, 45 STAN. L. REV. 1567 (1993) (discussing stereotypes associated with femininity); Joan Williams, Deconstructing Gender, 87 MICH. L. REV. 797 (1989) (arguing against embrace of "stereotypes" about how women's personalities differ from men's on grounds that these marginalize women).

hard to deal with because they think that I am a Rambo because I think that there are lots of things that need to be dealt with in a divorce.36

Or, as a long-time, male general practitioner put it, viewing the situation from the other side of the generational divide:

[T]he new yuppie female lawyer... They [sic] put out a file for a simple divorce case—you wind up with a file that looks [two inches thick]... And their demands are outrageous and unreasonable and an abomination. They start off by sending you a statement of how they think the case should be settled, and you hardly get through it without throwing up. It's so unfair... Maybe that's a broad statement but some of the more aggressive ones that I have dealt with I would say they have been women. I think that they have manifested less willingness to try to resolve this thing and to try to work out the differences and reach a settlement.37

So much for claims that women lawyers can be predicted to be softer, less aggressive, or more conciliatory than men!

On the other side of the gender chasm, female lawyers who specialize in divorce tend to believe that male general practitioners treat divorce cases with insufficient seriousness. One explains:

I find that, oftentimes, men attorneys are very willing to reach a compromise that in business would be fine... In business, with $15 a week—give me a break. Nobody's going to fight over that. But in a divorce situation, I think it makes a huge difference in their lives.38

The authors examine these findings still further to explore the intricate relationship among gender, good-old-boy-ism, and collegiality. One of the reasons women lawyers are perceived—and perceive themselves—as more "Rambo like" is their tendency to introduce more formal legal mechanisms that protect their clients in the divorce process. In both states the authors study, women claim to

36. Divorce Lawyers at Work, supra note 1, at 23.
37. Id. at 55.
38. Id. at 55-56.
personally introduce interrogatories into divorce practice as part of their commitment to taking divorce proceedings more seriously. As one woman lawyer explains:

I have an obligation to the client not to accept the fact that just because someone tells me they have a pension worth $20,000 [that they do]. If that means interrogatories or subpoenas, then that's what it means. . . . I see a lot of bad lawyering that's based on "Oh, let's be buddies." I'm not a member of the clique.

In other words, according to the authors' informants, there is currently a trend toward more formality and adversarialness in divorce cases in the communities under study. This is a trend that divorce specialists—who tend more frequently to be women—introduced. In turn, the trend toward increasing formality and adversarialness contravenes the collegial, reasonable, problem-solving orientation, based on consensually shared norms of a professional practice community, that traditionally typified this area of practice, as I discussed in Part I above.

Put otherwise, the introduction of outsiders—here women divorce specialists—appears related, in complex ways, to the erosion of the underpinnings for professional collegiality. A professional community of general practitioners traditionally enjoyed a shared practice orientation that provided cohesion and a common code of etiquette to community members. But the introduction of outsiders with different underlying normative assumptions about divorce law challenged the harmony and comfort of traditional practitioners' shared understandings. Here is a classic example of the operation of the law of unintended consequences: Along with a change many would value as positive—namely, the introduction of more women attorneys—came differences in normative orientations that appear to have led to consequences many of the same observers of the legal profession would see as negative—less trust, more adversarialness, and less collegiality among members of the bar.

The authors further note that women lawyers are more likely to represent women clients. This observation raises still another set of questions. One wonders: How much of

39. Id. at 126.
40. Id.
collegiality rests on good-old-boy-ism, or not rocking the boat? How much of the collegiality of traditional divorce practice in New England towns rested on clients—especially the less powerful in the process, namely, women—not receiving all that they were legally due? Is it harder to be collegial when one is representing the underdog? If there is a tradeoff between professional collegiality and fierce advocacy of those who are otherwise likely to be disserved by the legal system, which value is more important—loyalty to one's client or to one's peers?

Some of the authors' other findings on the question of the influence of gender on practice are more consistent with the traditional wisdom about how women's socialization may affect their practice styles. The authors find, for example, a statistically significant difference between the importance that men and women lawyers place on sensitive listening to their clients. When the authors score their interviewees along two axes of legal-craft-oriented, client-adjustment-oriented, or a combination of the two, men are more likely than women to be legal-craft-oriented and women are more likely than men to express a primary or partial orientation toward client-adjustment. The authors note the similarities between these two axes and the ethic of care versus ethic of rights debate Carol Gilligan's work began.

Some additional key points about the relationships between gender and law practice also emerge from the authors' discussion. First, the authors explain the statistically significant differences explained by gender in their study not by reference to essentialist arguments—i.e., not by claiming that these differences are based in women's inherent nature or personalities—but rather by reference to the material realities of the practice contexts in which women tend to be concentrated. The authors stress that two

41. Id. at 82.
42. See id. at 165 (explaining this scoring system).
43. Id. at 169.
44. Id. at 169-70 (citing CAROL GILLIGAN, IN A DIFFERENT VOICE (1982)).
45. For a critique of essentialism in the context of feminist legal theory, see Angela P. Harris, Race and Essentialism in Feminist Legal Theory, 42 STAN. L. REV. 581 (1990).
factors are important and related: gender and degree of specialization in family law.\textsuperscript{46} Newer lawyers, who are more likely to be female, also tend to be more specialized in family law. This correlation is the result of the changing organization of the profession at a macro level. The different practice styles of family law specialists in comparison to general practitioners in turn become intertwined with perceptions of gender differences.\textsuperscript{47}

Another factor that accounts for the observed statistical differences between male and female practitioners involves some women lawyers' self-conscious creation of an alternative vision of practice. These practitioners view themselves as a practice community in which views of how divorce work should be carried out are shared and distinguished from what is viewed as the traditional (male) way of handling divorce. Not all women held this perspective, of course, but for those who did, there was a clear sense that they were doing something different, trying to carve out a niche for themselves in providing a new and distinct kind of professional service in divorce. And this shared perspective helped to establish and sustain a community of practice among women divorce attorneys that reinforced that view.\textsuperscript{48}

In other words, the creation of a distinct community of practice and the holding of alternative practice norms reinforce each other in a two-way feedback loop.

Another factor the authors note, drawing from David Wilkins's important work on the ethical self-perceptions of black attorneys,\textsuperscript{49} involved client expectations. Just as Wilkins notes that black lawyers cannot escape the fact that their clients and other lawyers always see them as black, "[c]lients of female lawyers may expect them to listen more to their troubles and to be more nurturing."\textsuperscript{50}

\textsuperscript{46} \textit{DIVORCE LAWYERS AT WORK}, \textit{supra} note 1, at 14.
\textsuperscript{47} \textit{Id.} at 55.
\textsuperscript{48} \textit{Id.} at 82.
\textsuperscript{50} \textit{DIVORCE LAWYERS AT WORK}, \textit{supra} note 1, at 83.
In sum, the authors' main message with respect to their empirical investigation of the difference gender makes in practice approaches is that this factor has everything to do with context, in complex and subtle ways. Gender matters, but not necessarily in the ways we might predict. Instead, careful attention is required to the situation presented in localized practice communities with particular historical traditions, socially received normative orientations, and economic and demographic forces at work. Generalization is no substitute for empirical investigation.

III. CONTEXT IN SHAPING LAWYERS' ETHICAL ORIENTATIONS

The final theme in the authors' work I will explore here concerns the debate about the role of context in the shaping of lawyers' ethical orientations to practice. If it persuades on no other count, the Mather et al. study stands as a compelling work promoting a shift in orientation away from prescribing or focusing on universal practice norms and toward a more complex, subtle, and context-specific understanding of how lawyers' ethics are formed and implemented. The authors show how, in their terminology, it is in multiple communities of practice—defined on the basis of client bases, geographical location, gender, economics, broad demographics, and degrees of specialization—that lawyers create, transmit and enforce their ethical self-conceptions. It is therefore in local practice communities, the authors suggest, that collegial control is strongest. Efforts to improve the ethical regulation of lawyers' conduct should focus on the informal mechanisms that operate in localized practice contexts, rather than continuing in the one-size-fits-all model that has traditionally typified legal ethics regulation efforts. This is a point many leading ethics scholars have been making for some time now.

51. Id.
52. Id.
53. See, e.g., MODEL RULES OF PROF'L CONDUCT (2004) (ABA publication suggesting rules for legal ethics regulation to be adopted by state supreme courts and applied to all lawyers practicing in the jurisdiction).
54. An eloquent example of this literature is Robert W. Gordon, A New Role For Lawyers?: The Corporate Counselor After Enron, 35 CONN. L. REV. 1185 (2003) (arguing for the separation of corporate lawyers' ethical responsibilities
What Mather et al. do in their important book is provide empirical fodder for the advocates of context-specific ethics regulation. They succeed superbly in advancing this cause.

in the context of corporate counseling as opposed to adversarial litigation and proposing new ethical standards for corporate counseling). Two classics that in many ways triggered the outpouring of calls for context-sensitive regulation include David B. Wilkins, Who Should Regulate Lawyers?, 105 HArv. L. REV. 799 (1992) and David B. Wilkins, Making Context Count: Regulating Lawyers After Kaye, Scholer, 66 S. CAL. L. REV. 1145 (1993). Note that all of these articles appeared in the wake of massive corporate scandals blamed in significant part on the lack of adequately tailored ethical standards for lawyers representing powerful corporate clients in the context of regulatory compliance counseling.
Waiting for a Savior of the Markets


JEAN-MARC GOLLIER†

INTRODUCTION

The City of Gold depicted by David Westbrook appears in between an unprecedented wave of discontent and confusion about the role and place of capitalism and market mechanisms in our society. Do free markets—in the long run—provide adequate solutions to societal problems, or are capitalism and laissez-faire nourishing the roots of future social apocalypses, in the absence of a tempering force against the inextinguishable thirst for power and enrichment of those who dominate the markets?

Does government or legislative action distort the fragile equilibrium of nature (market activity1) or, to the contrary, does such action improve the efficiency of market activity, which is not seen as a natural activity but as a human, all too human, construction? Does the market impose its rules, as God does, or are market rules agreed upon by market participants?

David Westbrook’s essays offer a philosophical—or subtle—answer to these questions, even though he argues “that the age of the philosophes is past, and no longer avail-

† Former Assistant Professor, Université Libre de Bruxelles (ULB), Belgium; Former Corporate Lawyer; Legal Expert, Brussels. This text is a personal contribution of the author. The opinions expressed herein do not commit the institution by which the author of the review is employed.

1. Taking for granted that market activity is part of the human nature, and is not a construction of men of any polity.
able." His approach is postmodern—or ironic—even though he maintains that his book "eschews standard postmodern approaches." He tries to offer his readers a picture of our present polity, the way we now live, without enclosing it in any ideological scheme. This is done through the surprising—and at first sight naïve—designation of our globalized society as the "City of Gold."

The circumstances surrounding the writing of the *City of Gold* are comparable to those which surrounded Blaise Pascal at the time he wrote his *Pensées*. The *Pensées* were intended as an apology of Christianity at a time when Christian religion was the object of discontent on the part of practicing Christians and the target of mockery by most enlightened spirits. In order to deliver an effective apology, Pascal had first to clarify as objectively as possible the subject of his apology, namely, human faith.

David Westbrook's essays are rooted in our visible society, a globalized, cosmopolitan, individualistic, consumer society. He brings us back to the level at which politics and economics should remain: they are not ends as such but rather means to help us communicate and help improve (monetary and non-monetary) exchanges amongst us. Are we to find "the meaning of life" in the political arena, or are we to accomplish our highest destiny through economic success? Neither of these proposals is seen as adequate by the author. On the other hand, the efficiency of our political and economic organization is a fact. And that is worth an apology.

The book is divided into four parts. Part one ("Desire's Constitution") describes the City historically (where are its foundations?) and structurally (how does it work?). Part two ("Constitutional Critique") identifies the structural limits of

---


3. Id. at 313 n.22.

4. In contrast to St. Augustine's "City of God," the City of Gold is materialized only by human work and action. Gold—i.e., money—is the blood of our City. In contrast to the City of God, the City of Gold is "essentially base, alienating, and inclined to a certain tyranny. Nonetheless, I maintain that the [City of Gold] may be justified, even, with reservation, admired." Id. at 303. That is what the book tries to demonstrate.

5. Blaise Pascal spent all his life trying to collect his thoughts on this subject. When he died, his apology was far from being complete.
our City and its existential poverty (alienation, inauthenticity, identity based on shopping and imitation). Part three ("Exhausted Philosophies") turns to familiar intellectual approaches to market societies: economics, social justice, and liberalism. These approaches are considered as "exhausted," unable to offer relief. Part four ("Toward a Metropolitan Political Economy") tries to reconcile human yearnings for identity, authenticity and communication within the context of the City: Truth and beauty may be seen at the horizon of our society, provided we agree to limit the scope of politics and economics to what it is good for.

I. HISTORY OF THE CITY

Part one ("Desire’s Constitution") contains the central argument of the apology, which is based on history. The first essay describes the constitutional turning point in the days following the end of World War II ("WWII"). The present times appear to have been born in the bed of the painful abominations of WWII. In the days following the war, the mandarins from all horizons who had participated in the reconstruction of the world were stunned and deeply traumatized by what men had done. World War I ("WWI") had paved the way for WWII. Since then, humanity has been living in a brutalized environment, and the days after have to be lived with the vivid and horrendous memory of those times. After WWI, politics proclaimed "Plus jamais ça!" ("Never again!"), but the Versailles Treaty was a repetition of a revenge dialectics which, inter alia, doomed the Weimar Republic (1919-1933) to failure. After WWII, men like Harry Dexter White, George C. Marshall, Dean Acheson, Jean Monnet, and Robert Schuman, typical occidental mandarins of modern times, contributed to creating an international environment which would be the most

6. Westbrook, supra note 2, at 167.
8. The memory of the acts of men, and we are men, is still alive in our brains, and we have individually and collectively to digest what was done in those times. Therefore, we have to try to understand how men trespassed the limits of humanity in those times. See, e.g., Giorgio Agamben, Homo Sacer: Sovereign Power and Bare Life (Daniel Heller-Roazen trans., Stanford Univ. Press 1998) (1995); Emmanuel Levinas, Reflections on the Philosophy of Hitlerism, 17 Critical Inquiry 63 (Seán Hand trans., 1990) (1994).
improbable place of birth of a new insane wave of violence amongst nations, against men. Their achievement is particularly impressive within Europe, a continent where, for centuries, violence had generated mutual impoverishment of nations. Bretton Woods was the first achievement of this aim on a global level.  

The new international environment was founded on economic integration; "economics came to be seen, not as opposed or ancillary to politics, but as a constitutional mechanism in its own right." It is a constitution based on the substitution of "political enthusiasm by economic engagement . . . ." Surprisingly enough, the most striking examples of economic engagement leading to economic miracle are embodied by the defeated nations of WWII, Japan and Germany, even though, at the turn of the century, the enchantment has somehow vanished.

The constitution of the City of Gold matured during the Cold War (1945-1991). The fall of the Berlin Wall is the symbolic consecration of the success of market capitalism against collectivism. From that period on, the prominent role of market mechanisms in our society was no longer in doubt; it had to be taken for granted, even though it remained problematic.

For continental European thinkers especially, this implies an unprecedented "constitutional turn." The republican values fostered by Montesquieu and Rousseau were to be toned down. Even though those values lay at the foundation of our democratic regimes, they remain thirsty for might and dominion, they embody the risk of further slaughters for the sake of a republic. One has to think beyond the Hobbesian Leviathan to bring an "enduring peace" to the world.

9. The author only mentions the United Nations. This may be explained by the fact that he concentrates his essays on the political acceptance of the prominent role of market mechanisms in our societies. The United Nations is, in this respect, a rather classical answer to diplomatic and moral concerns.

10. WESTBROOK, supra note 2, at 25.

11. Id. at 29.

12. On the strange, ominous silence of German people around the hundreds of thousands of civil casualties as a result of the intense bombing of their cities by the allies, see WIENFRIED G. SEBALD, ON THE NATURAL HISTORY OF DESTRUCTION (Anthea Bell trans., Random House 2003) (1999).
Montesquieu viewed the equilibrium of a polity in the separation of powers. The legislative, the executive, and the judicial branch of a sovereign state should be established as relatively autonomous powers contributing, through the tensions between them, to leave to the citizens an optimal level of freedom. The new order instituted in the City of Gold puts the markets in front of this triad. The markets have to be recognized as a significant component of our polity. The agora is faced with the market place, and is even often replaced by it.

Before criticizing the overwhelming power of markets over our polity, the other essays of the first part describe the matrix of the City of Gold. Money is the principal means of communication in the City: Through price mechanisms, public choices are made. Financial markets add a crucial time dimension to the City: When you buy a financial asset, you pay it according to future earnings. This matrix generates an antithesis of a community. Money is the correlate of private property. The latter is fundamentally the right to exclude others, which leads us to conclude that the

13. Insofar as money also represents an investment, a commitment, it implies a certain degree of faith. This essential fact is mentioned en passant by the author. See WESTBROOK, supra note 2, at 49.

14. In fact, most of the time, you buy hopes of future earnings on the basis of beliefs that are more or less grounded on a rational analysis of the information gathered. The markets create a collective approximation of values, i.e. a collective set of beliefs. See WESTBROOK, supra note 2, at 71. On the idea that collective beliefs in the market place are conventions, tacit mutual—mimetic—agreements, see ANDRÉ ORLÉAN, LE POUVOIR DE LA FINANCE (1999). Orléan develops a controversial thesis on the mimetic—self-referential—feature of financial markets originally worked out by John Maynard Keynes. See JOHN MAYNARD KEYNES, Book IV: The Inducement to Invest, in THE GENERAL THEORY OF EMPLOYMENT, INTEREST AND MONEY 152-58 (1936).

15. With money, you acquire property. Selling properties gives you access to money.


City’s inhabitants exclude each other. The author agrees with Marx that in modern times, human relations have, to a large extent, turned into property relationships. This evolution makes them lose their sense of connection with one another. One step beyond in the Marxist analysis is to see people as mere commodities. Marx considered—in a rather romantic stance—that such a situation would, through the dialectic process of history, generate upheavals and revolution. This perspective is now largely discredited, refrained, and academically rejected.

In the City, “not sharing is the point of politics[;]” the City “is founded on envy.” Scarcity is created by, and intrinsic to, market societies . . . . The City creates scarcity by making desire, appetites, politically central." A consequence of all this is that “the idea of equality cannot be taken seriously from within the ethos of the City[,]” and that the City is incapable of articulating a public thing, a res publica. The City is an arrangement of competing individualists, a constellation of egos. The City’s inhabitants are neither citizens of a nation, nor citizens of the world. This is the unpleasant conclusion to Part one. On the one hand, the concept of “nation state” is obsolete. On the other hand, our City’s foundations are impoverished.

II. THE INDIVIDUAL IN THE CITY

Part two (“Constitutional Critique”) of the book gathers critical essays on the position of the individual in the City. The City generates alienation. In the absence of community, human interactions are reduced to market relations, without any collective meaning (other than individual or collective enrichment in monetary terms, which is nonsensical per se). The City generates inauthenticity, artificial relations managed by appearances, and fallacies. The

Communism respectively, are striking examples of the contemporaneous engagement of the Catholic Church on social questions, especially the question of the legitimacy of private property. The right to exclude is part and parcel of the concept of private property. How this can be reconciled with the Christian message of charity is another story. See, e.g., Paul Ricoeur, Liebe und Gerechtigkeit/Amour et Justice (1990).

17. Westbrook, supra note 2, at 88.
18. Id. at 89-90.
19. Id. at 89.
inhabitants of the City are mercenaries: they act according to the return offered by their performance in the market. "In elevating monetary relations to constitutional principle . . . the City of Gold has abjured the possibility of a political life in truth." The City of Gold recognizes that most of our references, most of our common understandings are in fact pure conventions, with a significant portion of arbitrariness. The identity in the City is rooted in (1) the experience of being a consumer; and (2) confidence in the (financial) future.

Any meaning as a romantic or existential imperative is absent from the City. The inhabitants of the City of Gold turn to private life as a way to construct meaning. This turn to private life is a form of exile. Exile is structural to the City of Gold, bringing us back to the idea that the City of Gold is the antithesis of any community. In the City of Gold, we live together in exile from one another. Togetherness may be met, but outside the City of Gold.

The conclusion of Part two is that the City is unworthy of allegiance. The City is unworthy to be called home. But it works.

III. INTELLECTUAL APPROACHES OF THE MARKET

Part three ("Exhausted Philosophies") turns back to familiar intellectual approaches of the ideology of the market place: the scientific approach (economics), the social approach (economic justice), and the political approach (market economy seen as the consecration of liberalism).

Economics as a nearly exact science is a recent phenomenon. Adam Smith's *Inquiry into the Nature and Causes of the Wealth of Nations* was a political and philosophical essay by a professor of moral philosophy. It is with economists like David Ricardo and Léon Walras that economic thinking incorporated mathematics to help circumvent complex economic phenomena. With the twentieth century, mathematical models began to invade the debate of ideas. This evolution is in line with the general move-

20. Id. at 143.
21. Id. at 161.
22. Id. at 167.
ment of sciences throughout the nineteenth and twentieth centuries, which, to a large extent, completed the process of disqualifying religious beliefs. This movement was encouraged by the rising faith in the almightiness of science and progress. Truth is not revealed by contemplation or prophetic messages. Truth is to be found by way of purely human investigation under the control of reason. The venerable monks directed by abbots who flourished during the Middle Ages are replaced by civil servants directed by technocrats. Both have this talent to be silent, formally educated, conditioned, and predictable. Their self vanishes beyond the almightiness of the structure they serve. In that sense, there is continuity in the historical process, even though it happens through some bloody hiccups. The mathematization of economics offers the most striking example of an attempt to objectify human action. This appears as a secularized Quest for the Holy Grail, with the Grail being the hypothetical final truth about market mechanisms which are investigated as thoroughly as possible in the psyche of market participants.

Implicitly, this attitude in economics takes for granted that market mechanisms will, at the end of the day, be self-sufficient, that there is nothing outside the markets that can exercise a constructive influence on them, and that markets can be analyzed in isolation from any expression of sentiments, from concerns about environment, inequalities, etc. Anything which exercises an influence on the attitude of market participants may be integrated into economics in the form of transaction costs or externalities. The extraordinary development of behavioral economics demonstrates that the ambition of economics is to capture all the aspects of the agents of the market. Is this ambition not comparable to the "hubris" and immoderation pointed out by Aristotle as being one of the weaknesses of human spirit?

David Westbrook rightly points out that disappointment will come about as a result not only of economists' hubris, but also their inability to see that monetary mechanisms are a kind of language, and that as such, they represent—rather than embody—realities. Westbrook suggests that an alternative economics should give greater

23. See id. at 330-31 n.5 (discussing the econometrical models developed on the basis of ideas conceived by Amos Tversky and Daniel Kahneman).
consideration to the fact that there is a significant "difference between the world as it is traded and the world as it is," suggesting the same distance as between truth and the shadows seen in Plato's cavern. Such an alternative approach of economics is undoubtedly reassuring. It would pay greater attention to the inner limits of markets. It comes close to the idea of humility and modesty needed in any attempt to control human action.

There is something outside the market, something that cannot be captured by the market matrix without severely reducing or even destroying it. Feelings, affection, and emotions exist outside the market. They are present in the market as an element which disturbs the rationality of agents. Marketing people try to control consumers' behavior, to organize their attitude towards mass productions. Aesthetics is an attitude in between, which helps to avoid being infuriated by the constant manipulation, through marketing, of our feelings, affection and emotions, with a view to making money. Aesthetics help to keep a distance vis-à-vis oneself and others, to manage our interaction in the City. Aesthetics helps us to tolerate the fact that economics treats people as objects.

David Westbrook considers that the concept of "Economic Justice" is a classification mistake. Is it not in fact a semantic mistake, a *contradictio in terminis*? Economy is the domain of production, circulation, and consumption of goods or services. It has little to do with Justice. Adam Smith noted in his *An Inquiry into the Nature and Causes of the Wealth of Nations* that, as a matter of fact, "it is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages." "[Every individual] intends only his own security; . . . only his own gain, and he is in this . . . led by an invisible hand to promote an end which was no part of his intention. By pursu-

24. *Id.* at 180.
25. Plato located the cavern in the world of Ideas, but that's another story. David Westbrook seems to be anything but an idealist.
ing his own interest he frequently promotes that of society more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the public good." If we accept that analysis, economic behavior is amoral.

Meanwhile, Adam Smith was a professor of Moral Philosophy. His first treaty was The Theory of Moral Sentiments, which occupied almost all his academic life and where sympathy is seen as the mother of all virtues and the possibility for a moral society. The first edition dates from 1759, the sixth edition from 1790. Adam Smith published the first edition of An Inquiry into the Nature and Causes of the Wealth of Nations in 1773 and the third and last edition in 1783. He fundamentally disliked the inner tendency of a purely economic behavior which consists not only in the expression of self-interest, but also in greed and envy. The apparent contradiction of Adam Smith between his economic theory and his moral theory has never conclusively been solved. An Inquiry into the Nature and Causes of the Wealth of Nations concludes that free markets governed by selfishness are fundamentally in the interest of society, though they tend to go from being amoral to being immoral unless a tight rein is kept on the human tendency toward exaggeration, immodesty and greed. The idea that a market place governed by self-love is the most efficient market place is self-evident. But efficiency does not mean justice. Justice is concerned with respect for each other. Efficiency is concerned with the wealth of society. Justice is not an economic reasoning, it is a social reasoning.

The brilliant theory of Justice elaborated by John Rawls offers a good example of the liberal attempt to combine justice and market attitudes. The famous "veil of ignorance" behind which each individual would naturally and rationally choose a just, egalitarian society, remains centered on the individual quest for personal interest maximization. The Rawlsian proposal is impeccably fair, but fundamentally impersonal. In this latter respect, it

27. Id. at 477-78.
meets Milton Friedman's analysis about free and impersonal markets: "The price system is the mechanism that performs this task [i.e., coordinating market activity] without central direction, without requiring people to speak to one another or to like one another."\textsuperscript{29} Liberalism "counsels the thinker to avoid actually thinking through politics."\textsuperscript{30} Liberalism maximizes privacy and institutionalizes a fundamentally atomistic, lonely society. Any communal sense of meaning is dissolved into a downpour of individual rights.\textsuperscript{31} As the author points out, curiously enough, "liberalism currently seems as theoretically bankrupt as it is ideologically successful."\textsuperscript{32} It is another game in the City, a game of fair procedures, but incapable of providing to the City the moral codes without which it could not function.\textsuperscript{33}

This being said, to quote Winston Churchill, "democracy is the worst form of Government except all those other forms that have been tried from time to time."\textsuperscript{34} In the City of Gold, there is in fact a manifest lack of democratic accountability. The Bretton Woods institutions and the European institutions are full of bureaucrats who take part in the City's management decisions. The "European Constitution" is an interesting move on the part of the institution to reintegrate the democratic process. The recent attempt by the World Trade Organization and the International Monetary Fund to better communicate with the public, to be more "transparent," is another turn to democratic processes.

Democracy and market capitalism have some common principles which, to a certain extent, make them complementary.\textsuperscript{35} Both are based on the free expression of opinions or desires. Both are based on competition. It is a fact that the actual result of both processes is, to a large extent, a poor approximation of the ideal markets or the ideal City.

\textsuperscript{29} Milton & Rose Friedman, Free to Choose 13 (1980).
\textsuperscript{30} Westbrook supra note 2, at 219.
\textsuperscript{31} The expression is from the French law professor Jean Carbonnier. See Jean Carbonnier, Droit et passion du droit sous la V\textsuperscript{e} République 121 (1996).
\textsuperscript{32} Westbrook, supra note 2, at 215.
\textsuperscript{33} See id. at 221.
\textsuperscript{34} Id. at 310 n.26 (quoting Winston S. Churchill, Speech at the House of Commons (Nov. 11, 1947)).
\textsuperscript{35} See Jean-Paul Fitoussi, La Démocratie et le Marché 45-70 (2004).
In the political arena, hypocrisy and manipulation have a significant place, not to speak of the inherent arbitrariness of the polls, as the 2000 U.S. presidential elections and the 2002 French presidential elections demonstrated. Comparably, on the market place, imperfections are legion: Information is difficult to capture, parties are unequal, and competition is often a sham. But . . . it works. Markets and democracy are not ends, they are means to such ends as may individually and socially be chosen.

IV. BACK TO HUMANITY

In Part four of his essays ("Toward a Metropolitan Political Economy"), David Westbrook relaxes the assumption that the logic of markets completely determines life in the City, and attempts to discern the possibility of such political thinking amongst the inhabitants of the City as would recognize itself as weak and fragile. He tackles three questions: (1) which truths can we share in the markets; (2) which social order can be instituted in a market society; and (3) are sympathy and imagination possible or are they vain concepts?

The first question initially seems to receive a rather classical answer. There is no absolute truth, especially in the financial world, which perpetually actualizes future opportunities for earnings. Information about these opportunities, which enables one to manage financial risk and to better capture the best investments, is crucial. Publicly


37. See JEAN-PIERRE Dupuy, AVIONS-NOUS OUBLIE LE MAL? PENSER LA POLITIQUE APRES LE 11 SEPTEMBRE 114 n.2 (2002) (citing JOSEPH A. SCHUMPETER, CAPITALISME, SOCIALISME ET DEMOCRATIE (1998)). See also id. at 116-20 (discussing KENNETH J. ARROW, SOCIAL CHOICE AND INDIVIDUAL VALUES (1951) (a classic proof of the inexistence of a perfect election system, a proof which finds its roots in the analysis of the electoral process by the French mathematician and politician Condorcet)).

38. This is a typical postmodern stance. See generally GIANNI VATTIMO, LA FINE DE LA MODERNITA: NIHILISMO ED ERMENEUTICA NELLA CULTURA POST-MODERNA (1985) (proposing the concept of "pensiero debole," a process in which the author recognizes from the outset that thinking is fragile, because a thought never captures the whole of the reality—it is always partial, even partisan).
traded companies should inform the general public at the same time as they inform their "friends and families" of events which can influence the stock price of the share; they should not trade on these shares when holding sensitive information which has not yet been disclosed to the public at large. Equality of information, and "fair dealing," are acts of faith supported by securities regulators. As stated by David Westbrook, this act of faith is also an effort of imagination. 39 Left to themselves, financial markets tend to become clubs whose brilliance helps feed them with the money of envious individual investors.

The author considers that the requirement for equality of information, the use of "plain English," and the profusion of information disclosed in prospectuses, create collective fictions or myths of an orderly market. 40 We can be satisfied with that situation, even though it has not allowed us, and never will allow us, to definitively avoid "irrational (financial) exuberance" 41 or "infectious greed." 42 Since the tulip mania in the Netherlands in the seventeenth century, financial exuberance, a typical weakness of market capitalism, has periodically inflamed the spirit and activity of ordinary people, who were suddenly convinced that they had discovered the source of easy and infinite opulence. 43 The tech-mania of the late twentieth century, which suddenly collapsed in March 2000, prospered amongst imaginative depictions of a new economic era. It was only the


40. WESTBROOK, supra note 2, at 240.


latest bubble in our City. If we approach this as an aesthetic—i.e., something which can be admired from some distance and with a certain irony—perhaps we will regain some hope that we have not devised all these market-governing rules in vain. Still, the author irreverently adds that “[f]inancial regulation . . . will continue to produce a wealth of hilarious incongruities,” even though some of those who have burned their wings in these manias have left their souls at the end of the game.46 Political order in a society constructed by markets is destined to resemble a tragicomedy.

In order to be efficient and generate wealth, the comedy—the interplay in market societies—is governed by rules worked out by a regulator, be it the legislator, an independent agency, or a self regulatory organization. The comedy—the markets—is an all too human construction.46 Strangely enough, the rules seem to be part of the scenery; they do not provide rest, they do not provide perfect justice or perfect efficiency. Even the central bank, whose independence vis-à-vis the government is a central piece of our polity, is but a tempering body, not a savior. There is no savior in the City of Gold. We will never get rid of the risk of a systemic failure of financial markets and of a collapse of the world economy.

In the last essay, the author turns to the inevitable moral concerns of the inhabitants of the City. Markets are amoral, as are automobiles, pencils, and violins. They are things, they are means. The inhabitants of the City put these things in motion, and they travel and communicate

44. Westbrook, supra note 2, at 253.

45. In France, Pierre Bérégovoy, who had been Prime Minister and a close friend of President François Mitterrand, committed suicide in 1993 after he was suspected of insider trading and subsequently lost the elections. In the Enron collapse, Vice Chairman Clifford Baxter committed suicide after the Enron house of cards collapsed. The French sociologist Emile Durkheim notices that during a financial crisis, the number of what he terms "anomic suicides" substantially increases. See Emile Durkheim, Suicide: A Study in Sociology 241-76 (John A. Spaulding & George Simpson trans., The Free Press 1951) (1897). David Westbrook suggests in his book that the City of Gold may be anomic—i.e. lawless—lacking in shared social or ethical standards. Westbrook, supra note 2, at 140, 287, 296. See also id. at 100 (where Westbrook suggests, a contrario, that “the fusion of individual anomie into a collective . . . emotional body” may have generated the “Nuremberg rallies” in the Nazi regime). Society presupposes a "nomos," or a set of collective rules and tacit agreements.

46. Id. at 265.
thanks to those things. To use the illuminating words of Hannah Arendt, interest for those things is what keeps men together. “To live together in the world means essentially that a world of things is between those who have it in common, as a table is located between those who sit around it; the world, like every in-between, relates and separates men at the same time.” The public realm, where our interest is situated, “gathers us together and yet prevents our falling over each other, so to speak.”

Far beyond the one-dimensional concept of externalities, markets imply communication among men of something that can work as glue, something which, even temporarily, allows men to keep in touch, to exchange ideas and things. Trust is the glue which makes it possible for men not to live in a completely atomized world, where any contact would only be an attack, a clash. Trust is a sentiment, an attitude which helps us enter a relation with one another without violence, by abandoning something to the other, some grasp on ourselves. The sentiment which allows trust to well up is sympathy, as developed in the last pages of the essay. But the author does not explain what he puts into that concept. As reminded above, sympathy is the central concept of Adam Smith’s The Theory of Moral Sentiments. This takes us back to the origin of our economic philosophy. The author definitely remains on his skeptic stance: “Sympathy is hardly a complete cure for the distance at which we must conduct politics . . . .” Floods of emotions and enthusiastic parades around the flag remain the most dangerous tendency of our societies. The City of Gold should have banished public expression of these sentiments—other than for a commercial purpose, or, better, through aesthetics. Sentiments are part of the private life. Public life, the life in the City, must be kept distant, cold and calculative in order on the one hand to be efficient, and on the other hand to remain peaceful.

48. Id.
49. Westbrook, supra note 2, at 287.
CONCLUSION

The whole book is a powerful demonstration of the limits within which global capitalism may be seen as an effective and efficient way of organizing economic interaction in our cosmopolitan society. A rigorous distance is kept vis-à-vis all ideologies which offer the intellectual comfort of a complete solution for humanity, either through a rational reduction of social mechanisms, or through an emotional rejection of the lightness of being, of the incompleteness of any human construction. The City of Gold is neither the City of God, nor the City of Pigs. There is some hope that our City will survive for a number of generations before it is replaced or abolished. If we accept the limits of the City, we may even work towards justice, solidarity and beauty, provided we do not nurture hopes of making the City itself just, egalitarian, or beautiful (except for the beauty of comedy).