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**CAN A LIBERAL TAKE HIS OWN SIDE IN AN ARGUMENT? THE
CASE FOR JOHN RAWLS'S IDEA OF POLITICAL LIBERALISM**

RONALD C. DEN OTTER*

Critics of liberal theory have long insisted that liberal democracies cannot inspire the kind of patriotism that motivates citizens to make sacrifices for the polity.¹ As Alasdair MacIntyre once put it, being asked to die for the modern liberal state “is like being asked to die for the telephone company.”² This critique of liberal citizenship, which is closely aligned with the civic republican tradition, is based on the belief that good citizenship requires deeply shared values or a common definition of the human good life.³ One of the

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1. See, e.g., Michael J. Sandel, *The Procedural Republic and the Unencumbered Self*, 12 POL. THEORY 81 (1984); MICHAEL J. SANDEL, DEMOCRACY'S DISCONTENT: AMERICA IN SEARCH OF A PUBLIC PHILOSOPHY 3–24 (1996); Charles Taylor, *Liberal Politics and the Public Sphere*, in PHILOSOPHICAL ARGUMENTS 257, 276 (1995); Gertrude Himmelfarb, *The Illusions of Cosmopolitanism*, in MARTHA C. NUSSBAUM, FOR LOVE OF COUNTRY: DEBATING THE LIMITS OF PATRIOTISM 77 (Joshua Cohen ed., 1996). See also LIBERALISM AND ITS CRITICS (Michael J. Sandel ed., 1984) (Generally, this critique tends to assume that patriotism must be based on so-called “givens” of human life: ancestors, family, religion, history, culture, tradition, and nationality.). As such, its political implications tend to be conservative. From the other end of the spectrum, postmodernists take liberal values to task for being incapable of accommodating morally important differences. See, e.g., Iris Marion Young, *Survey Article: Rawls's Political Liberalism*, 3 J. POL. PHIL. 181, 181–90 (1995).

2. Alasdair MacIntyre, *A Partial Response to my Critics*, in AFTER MACINTYRE: CRITICAL PERSPECTIVES ON THE WORK OF ALASDAIR MACINTYRE 283, 303 (John Horton & Susan Mendus eds., 1994).

3. For a discussion of the different types of communitarians, see John R. Wallach, *Liberals, Communitarians, and the Tasks of Political Theory*, 15 POL. THEORY 581, 591–92 (1987). For a discussion of the different versions of communitarianism, see Allen E. Buchanan, *Assessing the Communitarian Critique of Liberalism*, 99 ETHICS 852 (1989). On the civic republican revival in legal scholarship, see Frank Michelman, *Law's Republic*, 97 YALE L.J. 1493 (1988); Cass R. Sunstein, *Beyond the Republican Revival*, 97 YALE L.J. 1539 (1988); MARK TUSHNET, RED, WHITE, AND BLUE: A CRITICAL ANALYSIS OF CONSTITUTIONAL LAW (1988). On the similarities and differences between communitarians and civic republicans, see Nomi Maya Stolzenberg, “*He Drew a Circle that Shut Me Out*”: Assimilation, Indoctrination, and the Paradox of a Liberal Education, 106 HARV. L. REV. 581 (1993). Although the most famous contemporary expositions

primary functions of a substantive moral consensus in these neorepublican accounts is to generate the right kind of moral motivation on the part of citizens, thereby enabling them to fulfill their civic responsibilities.⁴ The thin values of minimalist liberalism, these critics warn, cannot hold a society together over time.⁵ This “nonviability” objection lies at the heart of neorepublican critiques of liberalism.⁶

One might expect liberals to try to parry these charges by arguing that widespread commitment to liberal values such as constitutionalism, limited government, due process of law, individual rights, freedom of conscience, and tolerance could sustain the common sentiments that would underwrite the practice of good citizenship in a liberal democracy. This response would appear to allow liberals to claim that their own substantive values could be equally effective in cultivating the requisite patriotic sensibilities.⁷ The kind of civic virtue that a liberal society requires, then, even in the absence of a shared understanding of the good, would not need to be too far removed from a deeper moral consensus that could serve as the basis of social unity. In addition, by relying on such substantive values, liberals could answer the allegation that their commitment to individual freedom or autonomy leads to an “anything goes” kind of moral relativism that encourages people to not believe in anything very deeply.⁸

in political theory of civic republicanism are historiographical, the author is interested exclusively in its normative political implications for a modern liberal democracy such as our own. For this reason, this Article focuses on Charles Taylor’s version of civic republicanism.

4. In this paper, I subsume communitarian and civic republican concerns about the quality of citizenship in liberal democracies under the term “neorepublican.” There are important differences, of course, between various forms of communitarianism and various forms of civic republicanism. What they have in common, though, is a belief that liberal societies do a very poor job of inculcating civic virtue in their citizens.

5. The term “minimalist liberalism” is found in SANDEL, *supra* note 1, at 18.

6. Charles Taylor coined the “nonviability” objection. CHARLES TAYLOR, *Cross-Purposes: The Liberal-Communitarian Debate*, in PHILOSOPHICAL ARGUMENTS 181, 194 (1995). John Rawls has been one of its favorite targets. His critics contend that his theory of justice is too far removed from a shared social understanding of the good, rendering his well-ordered society inherently unstable.

7. See, e.g., WILLIAM A. GALSTON, LIBERAL PURPOSES: GOODS, VIRTUES, AND DIVERSITY IN THE LIBERAL STATE 165–237 (1991).

8. This Article does not take a position on whether autonomy, negative freedom, tolerance, or value pluralism, or a combination of them, defines the moral core of liberalism. Over time, there have been many different self-described liberals who have had many different value commitments. For example, Isaiah Berlin believed that liberalism was compatible with value pluralism and thought that a strong commitment to negative liberty followed from its existence. Isaiah Berlin, *Two Concepts of Liberty*, in LIBERTY 166 (Henry Hardy ed., 1969). More recently, John Gray has contended that value pluralism and negative liberty do not fit together. JOHN GRAY, ENLIGHTENMENT’S WAKE: POLITICS AND CULTURE AT THE CLOSE OF THE MODERN AGE (1995). In response, William Galston has argued that value pluralism, as distinguished from value relativism, most accurately describes our moral universe and that “liberal democracy is the

A thicker conception of good liberal citizenship, however, would seem to run afoul of the moral pluralism that characterizes contemporary liberal democracies.⁹ After all, to be a liberal is to believe that competent adults can be left alone to form, revise, and pursue their own conceptions of the good.¹⁰ In principle, this commitment to the separation of human flourishing from political morality means that liberal states should not take sides in public debates over competing reasonable conceptions of the good.¹¹ That the moral motives that make the exercise of good citizenship possible would have to be predicated on deep and inevitably controversial beliefs about the proper place of civic virtue in a good human life would appear to be a decisive reason against trying to put a more civic republican conception of citizenship into practice. Neorepublicans are right to insist that the state cannot be indifferent to how children are prepared for their future roles as citizens.¹² However, the development of the right civic attitudes should not come at the excessive cost of denying the equal right of all citizens to formulate their life plans, including those who do not value political participation or patriotic self-sacrifice.

This Article explains how political liberalism, as distinguished from comprehensive forms of liberalism,¹³ reduces the tension between the need for

most nearly successful effort to cope decently with the vicissitudes of political life.” William A. Galston, *Value Pluralism and Liberal Political Theory*, 93 AM. POL. SCI. REV. 769, 769 (1999). These goods are plural because they “cannot be reduced to a common measure of value.” *Id.* at 769–78. Nor can these goods “be fully rank-ordered” in the sense that interpersonal comparisons are possible. *Id.* See also, WILLIAM A. GALSTON, LIBERAL PLURALISM: THE IMPLICATIONS OF VALUE PLURALISM FOR POLITICAL THEORY AND PRACTICE (2002). On the problem of value incommensurability, see GERALD F. GAUS, CONTEMPORARY THEORIES OF LIBERALISM 31–41 (2003).

9. More than fifteen years ago, Don Herzog raised similar concerns about the extent to which more historical understandings of civic republicanism, such as those of J.G.A. Pocock and Quentin Skinner, could be a real option for us today as an alternative to liberalism. Don Herzog, *Some Questions for Republicans*, 14 POL. THEORY 473 (1986).

10. Although the definition of a liberal can be contested, Will Kymlicka has argued that individual human rights approaches, such as freedom of speech, of association, and of conscience, do not adequately protect national and ethnic minority cultures. Therefore, traditional liberal human rights principles must be supplemented by a theory of group-differentiated rights for such cultures to prevent forced assimilation. WILL KYMLICKA, MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS 3–6 (1995).

11. A conception of the good is “reasonable” when it does not harm others or does not unfairly infringe upon their equally important right to pursue their respective ways of life. The concept of “neutrality” is relatively new to the liberal tradition. JEREMY WALDRON, LIBERAL RIGHTS: COLLECTED PAPERS 1981-1991 (1993). On the idea of liberal neutrality toward reasonable conceptions of the good, see BRUCE A. ACKERMAN, SOCIAL JUSTICE IN THE LIBERAL STATE 11 (1980); RONALD DWORKIN, A MATTER OF PRINCIPLE 127 (1985).

12. Cf. Charles Taylor, *Why Democracy Needs Patriotism*, in FOR LOVE OF COUNTRY: DEBATING THE LIMITS OF PATRIOTISM, *supra* note 1, at 120.

13. As opposed to political liberalism, comprehensive or ethical liberalism is based on a conception of the good premised on autonomy, individuality, or negative freedom.

minimal civic virtue and the existence of reasonable moral pluralism in modern liberal democracies.¹⁴ This Article also challenges the neorepublican thesis that a common conception of the good based on patriotism must support the practice of good citizenship and offers an alternative, derived from John Rawls's idea of public reason, that attempts to accommodate the moral, religious, and cultural beliefs of reasonable but nonliberal citizens.¹⁵ At the

14. *But see* Amy Gutmann, *Civic Education and Social Diversity*, 105 ETHICS 557 (1995); Eamonn Callan, *Political Liberalism and Political Education*, 58 REV. POLITICS 5 (1996).

15. For Rawls's original theory of public reason, see JOHN RAWLS, POLITICAL LIBERALISM 212–54 (1993) [hereinafter, RAWLS, POLITICAL LIBERALISM]. For his more recent views on public reason, see JOHN RAWLS, JUSTICE AS FAIRNESS: A RESTATEMENT 89–94 (Erin Kelly ed., 2001); John Rawls, *The Idea of Public Reason Revisited*, in THE LAW OF PEOPLES 131 (1999). See generally Kent Greenawalt, *On Public Reason*, 69 CHI.-KENT L. REV. 669 (1994); Lawrence B. Solum, *Constructing an Ideal of Public Reason*, 30 SAN DIEGO L. REV. 729 (1993); Bruce W. Brower, *The Limits of Public Reason*, 91 J. PHIL. 5 (1994). As Samuel Freeman puts it, “[p]ublic reason is defined against a background of democratic institutions. It presumes that citizens take democratic institutions seriously and are committed to maintaining them.” Samuel Freeman, *Deliberative Democracy: A Sympathetic Comment*, 29 PHIL. & PUB. AFF. 371, 398 (2000). For Rawls, public reason is supposed to map the kinds of reasons and arguments that publicly justify votes on fundamental political questions. Voting is not a private act because it is an indirect exercise of coercive political power and thus ought to be actually justified or, at least in principle, be justifiable to all reasonable persons. To produce legitimate collective decisions, citizens must refrain from voting according to reasons that are nonpublic, that is, those that are insufficiently impartial. Above all, the ideal voter must avoid basing her vote on mere preferences. Voting on such a basis might be morally acceptable if the outcome did not affect the lives of others. Whether one has a preference for chocolate over vanilla ice cream, for example, would seem to be a matter of personal taste that could be left solely to the individual. On the other hand, some preferences, such as racial bigotry and misogyny, should not be counted at all in determining the legitimate grounds of public law. When decisions affect others and have the force of law, mere preferences are not the proper basis for political choice because as the moral basis of law, they must also be supported by reasons that can be justified to others. Similarly, one of the primary functions of judicial review is to modify or reject these preferences so that ordinary democratic politics does not produce morally objectionable results.

This is also the normative impetus behind theories of deliberative democracy that aspire to justify political decisions publicly to respect the freedom and equality of all of the members of the political community. Voting appropriately, then, requires self-restraint on the part of citizens who must guard against relying upon reasons that are too partial to win the assent of others. The kinds of reasons that citizens typically offer their fellow citizens are likely to be too partial in the sense of being either too self-interested or too sectarian. Under conditions of moral pluralism, to legitimate collective decisions on fundamental political questions is to speak the same normative language, to find mutually acceptable reasons, and to converge on a range of similar solutions. People remain Catholics, Jews, Muslims, Buddhists, and atheists in their private lives, but when they enter the public realm as citizens, they must be willing to treat others fairly. Otherwise, their collective decisions will not be legitimate in the sense that dissenters have been given sufficient reasons to comply with them. At minimum, political legitimacy means justified coercion. In fact, the refusal of dissenters to acknowledge the authority of regulatory political principles would seem to be warranted when these principles are not supported by reasons that are widely acceptable under conditions of moral pluralism. Their legitimacy might be successfully

very least, to be a good citizen in a liberal democracy is to have civic competence, that is, to have a set of deliberative, casuistic skills that enables a person to offer her fellow citizens mutually acceptable reasons in the process of legitimating collective decisions.¹⁶ This conception of citizenship calls for a civic attitude that acknowledges the inevitability of reasonable disagreement about the good in a free society and an ideal of civic virtue that is grounded in a moral commitment to respect the freedom and equality of everyone.¹⁷

That does not mean, though, that all forms of religious, moral, and cultural pluralism should be accommodated or even tolerated. The indiscriminate postmodernist embrace of difference overlooks practices that are deeply inequalitarian and, thus, are incompatible with the promotion of civic attitudes

challenged on the grounds that their underlying justification is too controversial or too uncertain to secure either the actual or the hypothetical consent of all reasonable citizens.

Public reason is primarily about the legitimate grounds of coercion in a society such as our own. Because those who do not obey public laws can be legitimately coerced, these laws must be justified from as many moral, religious, and cultural standpoints as possible. The concern is that unreasonably forcing people to conform to other people's judgments about how to live is deeply wrong and may even destabilize existing political arrangements. What would constitute sufficient justification under conditions of moral pluralism, however, is far from obvious, especially in hard cases. When the legitimacy of regulatory political principles is at issue, the problem with allowing citizens to introduce any argument whatsoever into public deliberation is that a morally diverse audience is unlikely to have much in common at deeper theoretical levels. The purpose of public deliberation in the public sphere on constitutional essentials and matters of basic justice, for Rawls, is to render them legitimate from all reasonable comprehensive standpoints. Such deliberation is not likely to serve its designated purpose when citizens appeal to their deeper convictions. Their insistence that the truth of their deeper convictions can serve as the proper basis of the exercise of state coercion cannot lead to public justification under conditions of moral pluralism and, thus, cannot generate political legitimacy.

The fact that one sincerely believes that homosexuality is immoral, for instance, would not be a sufficiently compelling reason to justify the prohibition of same-sex marriages or to criminalize gay and lesbian relationships. For Rawls, voting on the basis of such a nonpublic reason would not satisfy the criterion of reciprocity implicit in public reason. A citizen who does not vote according to public reason displays a deeply wrong willingness to coerce her fellow citizens on the basis of nonpublic reasons. In effect, such a vote denies dissenters their right to live in a way that is morally permissible even if it may not be morally right, virtuous, or rational. Rawlsian citizenship is predicated upon the belief that public reason demands nothing less than strict self-restraint on the part of the members of the political community when their votes (or those of their elected representatives) may coerce others. When they vote appropriately, citizens establish reciprocal limits on external ends that they and their fellow citizens may permissibly seek. These are the only means through which the freedom and equality of all reasonable citizens can be adequately respected. To practice public reason is to tolerate religious, moral, and cultural difference as much as possible. On the difficulty of tolerance, see T.M. Scanlon, *The Difficulty of Tolerance*, in *TOLERATION: AN ELUSIVE VIRTUE* 226 (David Heyd ed., 1996).

16. See, e.g., AMY GUTMANN, *DEMOCRATIC EDUCATION* (1987).

17. On the idea of reasonable moral disagreement and its connection to political liberalism, see Charles Larmore, *Pluralism and Reasonable Disagreement*, *SOC. PHIL. & POL'Y*, Winter 1994, at 61.

that would help to create a more just, more democratic society in which each person has a roughly equal share of personal freedom and political influence.¹⁸ Similarly, excessively strong versions of religious pluralism should not be celebrated when they prevent children from internalizing norms of public reason that are supposed to guide their civic behavior in the future. Once we reject extremes that either take difference too seriously or not seriously enough, we must determine how a society of free and equal citizens can prepare its children for citizenship without seriously compromising reasonable moral pluralism.¹⁹ The central premise of this Article is that a trade-off between these two equally important considerations cannot be avoided and that there are better and worse ways of striking a balance between them.²⁰

As a number of critics have noted, Rawlsian citizenship, which requires a commitment to political autonomy, may be at odds with conceptions of the good that value other goods above autonomy or do not value autonomy at all.²¹ It is unrealistic, they maintain, to believe that the practice of public reason will leave everything intact in the background culture.²² For this reason, as much as possible, civic education must be approached in a way that incorporates an idea of reasonableness that is largely independent of controversial ethical ideals of Lockean freedom, Kantian autonomy, and Millian individuality.²³ This Article contends that being reasonable, for political purposes, does not require a commitment to deep ethical (personal) autonomy and puts forth a model of civic education that relies on a much weaker conception of autonomy

18. See generally SUSAN MOLLER OKIN, IS MULTICULTURALISM BAD FOR WOMEN? (Joshua Cohen et al. eds., 1999); BRIAN BARRY, CULTURE AND EQUALITY: AN EGALITARIAN CRITIQUE OF MULTICULTURALISM (2001).

19. EAMONN CALLAN, CREATING CITIZENS: POLITICAL EDUCATION AND LIBERAL DEMOCRACY 12 (1997).

20. Put differently, without argument, this Article assumes that liberals often find themselves in the awkward position of (1) figuring out the limits of tolerance when religious, moral, or cultural practices threaten liberal values and (2) what tolerance on the part of citizens and neutrality on the part of the state might mean in particular cases, especially those in which nonliberal minority groups request exemptions from generally applicable laws or special treatment to preserve their traditional way of life. Under conditions of this kind of pluralism, the right liberal response to any particular case ought to take into account both the rights of individuals in nonliberal groups to be left alone, at least to some degree, and the interest of the liberal state in ensuring that the values of individual freedom and tolerance will be reproduced over time. That is, liberals must take their own side in an argument when the future of liberal citizenship is at stake. The difficult political problem, then, is to know when the state should enact legislation against nonliberal practices that are likely to undermine the moral psychology of ordinary citizens that makes good liberal citizenship possible.

21. RAWLS, POLITICAL LIBERALISM, *supra* note 15, at 77–81.

22. Callan, *supra* note 14, at 12–17.

23. “Reasonableness” is the actual practice of public reason both in public deliberation and in voting decisions on fundamental political questions.

that is less likely to threaten nonliberal ways of life.²⁴ This Article also challenges the mistaken belief that normative political theory has little to contribute to real political problems.²⁵ Indeed, this Article will show why normative political theory is indispensable in helping us to determine where lines should be drawn in legal controversies that involve requests by minority groups for cultural or religious accommodation.²⁶

This Article will be divided into the following sections: Part I will outline Charles Taylor's civic republican critique of procedural liberalism to explain why he believes that civic virtue must be predicated on a particular, widely shared conception of participatory self-rule. Part II shows why comprehensive forms of liberalism do not adequately accommodate moral pluralism due to their preoccupation with advancing autonomy, individuality, or self-expression as a liberal conception of the good. Part III spells out the merits of John Rawls's idea of political liberalism under conditions of moral pluralism, why his notion of reasonableness can be sufficiently separated from deeper ideals of ethical autonomy to appeal to a wider audience, and why this kind of reasonableness is the right kind of civic attitude for those who must live together in a liberal democracy. It then offers a brief account of liberal democratic civic education, derived from this sort of reasonableness, and makes the case that this kind of civic education should be morally acceptable to all reasonable people.

24. The idea of "political" autonomy is that citizens are to be autonomous only in their role as citizens. On the idea of "political" liberalism, see Charles Larmore, *Political Liberalism*, 18 POL. THEORY 339 (1990); Bruce Ackerman, *Political Liberalisms*, 91 J. PHIL. 364 (1994). For an argument that the appeal of political liberalism derives from its commitment to tolerating "diverse ways of life and schemes of value," see Samuel Scheffler, *The Appeal of Political Liberalism*, 105 ETHICS 4 (1994). For a fairly recent example of comprehensive liberalism, see generally JOSEPH RAZ, *THE MORALITY OF FREEDOM* (1986). On the contrast between political and comprehensive liberalism, see Gutmann, *supra* note 14, at 557–60; Stephen Macedo, *Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls*, 105 ETHICS 468, 473–82 (1995).

25. See, e.g., RICHARD A. POSNER, *THE PROBLEMATICS OF MORAL AND LEGAL THEORY* (1999).

26. Within the context of public education, for example, to what extent, if any, may parents have religiously objectionable material excluded from the curriculum? Or may they have their children excused when such material is presented? Shelley Burt, *Religious Parents, Secular Schools: A Liberal Defense of an Illiberal Education*, 56 REV. POL. 51, 52 (1994). For a liberal argument about the proper place of paternalism in the education of children, see Amy Gutmann, *Children, Paternalism, and Education: A Liberal Argument*, 9 PHIL. & PUB. AFF. 338 (1980).

I. THE CIVIC REPUBLICAN CHALLENGE

A. *Charles Taylor's Neorepublican Thesis*

Most neorepublicans have not been particularly forthcoming about their visions of the good society beyond vague, nostalgic appeals to community, tradition, and the social nature of human beings.²⁷ Instead, they have devoted their time to singling out the apparent flaws of liberal theory and practice without offering a viable alternative of their own that would suit modern conditions.²⁸ By contrast, Charles Taylor's political theory endeavors to say something constructive about the proper place of civic virtue and civic participation in a liberal democracy.²⁹

His willingness to put forth more than a mere critique of contemporary liberal practice forces us to think more carefully about the kinds of reasons and sentiments that enable ordinary people to think of themselves as members of the same political community and to care about the public good. Indeed, insofar as we have to choose between an ideal of citizenship that is more or less oriented toward civic virtue, the value of Taylor's scholarly contribution is beyond dispute.

In "Cross-Purposes: The Liberal-Communitarian Debate,"³⁰ Taylor contends that many liberals overlook the importance of articulating a sociologically and psychologically realistic account of the social unity that makes the survival of liberal democracies possible. For him, the language of civic republicanism and its ideal of participatory self-rule better address the possible sources of moral motivation that underwrite the practice of good citizenship, once enlightened self-interest and commitment to universal principle have been ruled out.³¹ Taylor points out that while taking an ontological position (a descriptive theoretical explanation of social life) is not the equivalent of advocating anything, ontology limits normative possibilities.³² Any political theory worthy of our consideration must make realistic assumptions about the kinds of beliefs and sentiments that motivate real people to act morally. Liberals, he insists, must face this issue openly

27. See Stephen Holmes, *The Permanent Structure of Antiliberal Thought*, in *LIBERALISM AND THE MORAL LIFE* 227 (Nancy L. Rosenblum ed., 1989).

28. See, e.g., MICHAEL J. SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* (1982); ALASDAIR MACINTYRE, *AFTER VIRTUE* (1981); MARY ANN GLENDON, *RIGHTS TALK: THE IMPOVERISHMENT OF POLITICAL DISCOURSE* (1991).

29. RUTH ABBEY, *CHARLES TAYLOR* 107, 124, 158 (2000). In particular, Abbey cites Taylor's endorsement of positive freedom and his attempt to salvage it from the totalitarian connotation that Isaiah Berlin had imputed to it. His attacks on atomism, negative liberty, liberal neutrality, and an instrumental view of politics also have a familiar communitarian tone.

30. TAYLOR, *supra* note 6, at 181–203.

31. *Id.*

32. *Id.* at 183.

because if human existence is irreducibly social, then the real political choice is not as open-ended as they imagine it to be. The table below depicts the relationship that Taylor envisions between ontology and advocacy (normative positions that have political objectives):³³

Ontology		
	Atomism	Holism
Individualistic	Robert Nozick Milton Friedman	Wilhelm von Humboldt (Taylor himself)
Advocacy	Collectivist	B.F. Skinner Marx

According to Taylor, these theoretical differences have important political ramifications because where one falls on this table determines the kind of political arrangements that the person favors.³⁴ After ruling out atomistic (excessively individualistic) ontology and its corresponding advocacy positions as implausible, he claims that we must decide within the holistic ontological squares between a more procedural conception of liberal democracy based on a shared ethic of right (as in the United States) and a more participatory model based on self-rule (as in his native Canada).³⁵

His challenge to the viability of liberal “procedural” principles of justice boils down to his belief that such principles have an inadequate ontological grounding.³⁶ Real people cannot strongly identify with the right because it is too procedural or too formal to tap their moral imaginations and to inspire patriotic self-sacrifice when necessary. The civic republican thesis is still relevant because civic virtue is not a mere “convergent” good—i.e. a public good like national defense or clean air that only can be secured collectively—but rather is a genuine “common” good.³⁷ A common good, Taylor explains, involves dialogical intimacy that aspires to a holistic attitude of “for-us.”³⁸ The idea is that the value of such a good cannot be broken down into the sum

33. *See id.* at 185.
 34. *Id.* at 182.
 35. TAYLOR, *supra* note 6, at 200–01.
 36. *Id.* at 187.
 37. *Id.* at 190–91.
 38. *Id.* at 190.

of its parts. Rather, people must experience it together to appreciate its true meaning. For example, people who attend a sporting event are likely to have a much different experience than those who watch the same event on television because of the interplay among the emotional reactions of those in attendance.³⁹

For Taylor, patriotism is a common good that makes participatory self-rule possible.⁴⁰ To be patriotic in the right way is to identify with the fate of our fellow citizens. As he puts it, we cannot be expected to “defend[] the liberty of just anyone.”⁴¹ Because procedural liberals fail to appreciate the implications of the tautology that our values are *our* values, their typical assumptions about what moves human beings to act morally in political life are deeply flawed. A society that endorses the priority of the right pushes the common good of patriotism out the back door.⁴² Neither enlightened self-interest nor a shared understanding of the right can generate effective moral motivation on the part of most citizens.⁴³ For this reason, a democratic society that lacks a widespread commitment to participatory self-rule is more at risk of bursting apart at the seams.⁴⁴

B. *The Right and the Good*

It is easy to overstate the potential instability of Western liberal democracies, the dangers of depleted social capital, and the extent to which low voter turnouts are a serious sign of civic decline.⁴⁵ Indeed, it is likely that Taylor is more concerned about the moral quality of politics in contemporary liberal democracies that aspire to be free in the sense that citizens rule themselves. One of the problems with a shared conception of the good, based on participatory self-rule, is that it is not clear why Taylor believes that a shared conception of right necessarily rules out the sharing of justice or other principles of political morality as such a common good. In other words, why do citizens have to endorse some version of civic republicanism when they could just as easily share the value commitments of procedural liberalism? Nor is it clear how his neorepublicanism can be squared with the moral pluralism that exists in modern liberal democracies. After all, a conception of right, provided that it has historical antecedents in the particular political society that it is supposed to govern, may be able to hold that society together

39. *See id.* at 191.

40. *Cf.* ABBEY, *supra* note 29, at 40.

41. *See* TAYLOR, *supra* note 6, at 187–88; SANDEL, *supra* note 28, at 64–65, 168–73.

42. *See* TAYLOR, *supra* note 6, at 194.

43. *Id.* at 196–97.

44. *Id.* at 199.

45. *See, e.g.*, ROBERT PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000).

over time by providing the same kind of patriotic identification that Taylor believes to be indispensable to the long-term health of any polity.⁴⁶

Unfortunately, the phrase “the priority of the right over the good” has generated considerable confusion.⁴⁷ This phrase should not be interpreted as an ontological claim or as a kind of perfectionism.⁴⁸ The priority of the right describes the role that principles of right or justice ought to play in regulating the collective decision making of human beings that inhabit the same social space. As Kant wrote:

One can think of the relation of end to duty in two ways: one can begin with the end and seek out the *maxim* of actions in conformity with duty or, on the other hand, one can begin with the maxim of actions in conformity with duty and seek out the end that is also a duty. — The *doctrine of right* takes the first way. What end anyone wants to set for his action is left to his free choice. The maxim of his action, however, is determined *a priori*, namely, that the freedom of the agent could coexist with the freedom of every other in accordance with a universal law.⁴⁹

The “doctrine of right” concerns the external relations among independent wills that may conflict with one another.⁵⁰ In the public realm, principles of right must override contrary aspirations and desires of citizens even when those aspirations and desires are intense.⁵¹ As such, the priority of right restricts the kinds of considerations that can count as legitimate reasons for actions that affect others.⁵² It is “a court of appeal [that exists] above the ideological and sectarian fray” and aims to settle disputes fairly.⁵³ A legitimate reason is one that fully respects the equal right of each person to form, revise,

46. For example, most Americans strongly identify with the rights of free speech, free exercise of religion, and due process that are specified in the United States Constitution. To be an American is to see these constitutional values as our values and to assign them considerable weight in our collective decisions even though we might disagree about how they ought to be specified or balanced against each other in particular cases. At the same time, the American political tradition is an eclectic mix of a number of different, and at times conflicting, political ideals. See ROGERS M. SMITH, *CIVIC IDEALS: CONFLICTING VISIONS OF CITIZENSHIP IN U.S. HISTORY* (1997).

47. See generally Richard J. Arneson, *The Priority of the Right Over the Good Rides Again*, 108 *ETHICS* 169 (1997).

48. For examples of the misinterpretation, see Michael J. Sandel, *Justice and the Good*, in *LIBERALISM AND ITS CRITICS* 159 (Michael J. Sandel, ed., 1984); Roberto Alejandro, *Rawls’s Communitarianism*, 23 *CANADIAN J. PHIL.* 75, 78–79 (1993).

49. IMMANUEL KANT, *The Doctrine of Virtue*, in *THE METAPHYSICS OF MORALS* 147 (Mary Gregor trans., 1996).

50. See *id.* at 23–24.

51. Samuel Freeman, *Utilitarianism, Deontology, and the Priority of Right*, 23 *PHIL. & PUB. AFF.* 313, 336–37 (1994).

52. *Id.* at 337–38.

53. Macedo, *supra* note 24, at 481.

and pursue her own life plans.⁵⁴ The claims that citizens put forth to pursue ends transgressing these limits, as Rawls puts it, have no weight.⁵⁵ Within the constraints of right, then, citizens are left free to form, revise, and pursue their own ends. The priority of the right also acknowledges the epistemic difficulty of qualitatively or quantitatively comparing the worth of different human life plans and rejects the political necessity of making these kinds of distinctions.⁵⁶ Politically, what matters is not the content of a given life plan per se but whether its pursuit is unreasonable in the sense that it harms others or impermissibly interferes with their life plans.⁵⁷

By contrast, the “doctrine of virtue” concerns the ends that ought to be adopted—those that cannot be subject to legislation in civil society because they are internal to the agent.⁵⁸ On this deeply Kantian view, virtue is the ability to resist the pull of one’s inclinations and to act on reasons based on universal duties to other rational agents.⁵⁹ We express our true nature—what is best about us as human beings—in rising above particular attachments and transitory concerns.⁶⁰ To confuse the doctrine of right with the doctrine of virtue is to mistakenly conclude that the right is just another conception of the good. The point is that principles of right are regulatory. They are not pursued like other ends but rather are designed to constrain the choices and actions of citizens in the public sphere to ensure that everyone is treated with equal concern and respect.⁶¹

C. *Liberal Community*

Following Hegel, Taylor thinks of the right as a conception of the good that is too formal and too procedural to sustain the social bonds that hold a

54. Freeman, *supra* note 51, at 338.

55. RAWLS, *POLITICAL LIBERALISM*, *supra* note 15, at 209.

56. JOHN RAWLS, *The Right and the Good Contrasted*, in *LIBERALISM AND ITS CRITICS* 37, 49–51 (Michael J. Sandel ed., 1984).

57. *Id.* at 49.

58. Kevin E. Dodson, *Autonomy and Authority in Kant’s Rechtslehre*, 25 *POL. THEORY* 93, 98 (1997).

59. See KANT, *supra* note 49, at 145.

60. See THOMAS E. HILL JR., *THE IMPORTANCE OF AUTONOMY AND SELF-RESPECT* 46 (1991). When Rawls states in *POLITICAL LIBERALISM* that a Kantian comprehensive doctrine cannot serve as the basis of political morality, he is referring to Kant’s idea of virtue, that is, the ability to resist our inclinations and to act on maxims that pass the Categorical Imperative test. See RAWLS, *POLITICAL LIBERALISM*, *supra* note 15, at 99–101.

61. As Amartya Sen points out, the vast majority of modern theories of social or political morality make equality of consideration a requirement because these normative theories have to be justified to others. AMARTYA SEN, *INEQUALITY REEXAMINED* 17 (1992).

political society together over time.⁶² It follows, then, that liberalism predicated on the priority of the right is incompatible with a stronger sense of community.⁶³ The first part of this charge is true only inasmuch as liberalism is hostile to communities that do not respect the freedom and equality of all of their members. Even the most tolerant liberal cannot tolerate all ways of life, especially those that are intolerant and prone to violence. There is no reason to grant communitarians or neorepublicans the privilege of defining “community,” as if by definition liberalism were too individualistic to leave room for a vibrant civil society, voluntary associations, and family life. It should go without saying that liberals very much value the freedom of association that takes place in the background culture. The real issue is not whether community matters, but how it matters and, more importantly, how community ought to be defined in the first place. To appeal to traditional understandings of community is to beg the question.⁶⁴

We must ascertain on normative grounds, then, the kind of community that is most appropriate for a society like our own that must make room for the well-being of individuals and their voluntary associations. This means that we must strike an appropriate balance between the legitimate rights of the individual citizen, including dissenters, and those of others who live in the same political community. This also means that we must try to find reasons that go beyond uncritical appeals to tradition or to nostalgic notions of solidarity that gloss over the well-known pathologies of communities. After all, individuals, as opposed to communities, are the objects of moral concern. A thoughtful response to this question about the character of a community that treats the life plans of all citizens as equally as possible requires a theory of justice that can arguably mediate, if not resolve, inevitable political disagreements about how moderately scarce resources, rights, duties, and the benefits and burdens of social cooperation should be allocated.⁶⁵ A neorepublican theory of justice must not theorize away the existence of moral pluralism or circumstances of justice.⁶⁶ Appeals to “community” and “virtue”

62. See generally TAYLOR, *supra* note 6, at 181–203. See also JOHN RAWLS, LECTURES ON THE HISTORY OF MORAL PHILOSOPHY 349–71 (Barbara Herman ed., 2000) (discussing Hegel’s idea of the relationship between ethical life and liberalism).

63. See TAYLOR, *supra* note 6, at 181–203. But see Ronald Dworkin, *Liberal Community*, 77 CAL. L. REV. 479 (1989).

64. Taylor does not beg the question but rather puts forth a conception of community that is based on his more communitarian or neorepublican idea of liberalism and relies upon a strong conception of civic virtue. See TAYLOR, *supra* note 6, at 181–203.

65. JOHN RAWLS, A THEORY OF JUSTICE 126–27 (1971).

66. For Rawls, “circumstances of justice” include (1) limited benevolence or altruism on the part of real human beings, (2) moderately scarce material resources, and (3) disagreement about the good. *Id.*

ring hollow when they deny the very existence of moral disagreement and political conflicts that typically arise from it in liberal democracies.

D. Neorepublican Skepticism

Taylor's neorepublican critique of so-called procedural liberalism relies too much on the Hegelian claim that apparently abstract, universal principles divorced from the good cannot be the basis of political morality. Although this skeptical worry about the "pure" part of pure practical reason is hardly new, it still strikes a chord because no political theory can afford to make implausible assumptions about the sorts of reasons and sentiments that can motivate real people to act appropriately in their role as citizens. This skepticism about the capacity of the right to replace the good as the basis of social unity is premised on the belief that liberal principles derived from the right cannot engage the will of ordinary human beings. In turn, this belief rests on two claims: (1) that the moral vocabulary of the right does not capture real people's moral self-understandings and that (2) commitment to the right is rarely exhibited in real moral behavior and, therefore, lacks an empirical foundation. While people may profess a commitment to fairness, tolerance, or other universal principles, what they really care about is their personal relationships. Real people are loyal to those whom they know and trust because they feel emotionally close to them. When asked for a reason for helping someone, they are likely to answer that this person is "my" friend, "my" boss, "my" classmate, or "my" neighbor. The abstract liberal principles that emerge from the right cannot capture the importance of the partial reasons that real people usually act from. Liberal principles are the motivational equivalents of scarce human motives such as altruism and love because in cases of conflict they will always be trumped by more personal commitments. As a result, neorepublicans are deeply pessimistic about the prospects of survival for liberal societies that overlook the personal ties that motivate moral behavior on the part of real human beings.

For these reasons, they believe, thin liberal principles are bound to be motivationally deficient. Only the concrete, particular values that emerge from a widely accepted understanding of the good can supply the content necessary to compel real people to act morally in political life. Because good citizenship turns on effective moral motivation, citizens in liberal societies will never exhibit the kind of civic virtues that are found in more morally homogeneous communitarian societies. At best, a liberal society is held together by fragile civic commitments that are based on narrow self-interest or on vague moral abstractions. This claim about poor citizenship in liberal societies depends upon a belief that citizenship cannot be thought of as a part-time commitment that only applies when one enters public life. Most people will not take their civic responsibilities seriously because they will not see anything wrong with not actively participating in public life or not making sacrifices for the common good. Or, more simply, they will not care enough to do so. They will

not view their community as *their* community but rather will view it, in Taylor's terms, as a convergent good that need not be enjoyed together. Human beings are not the sorts of creatures who can do without thick civic bonds that emerge from a common definition of the good based on patriotism. Because real people are only moved to act based on this kind of identification, the range of moral motives cannot be expanded in the way in which procedural liberals hope it can be.

Liberals fail to recognize the need for principles that are more in tune with the ways in which real people characterize their moral experiences. Instead, they are preoccupied with positing universal principles that should be aspired to without critically assessing their assumption that human moral psychology is sufficiently malleable to make their ideals of civic behavior realistic possibilities. Their fascination with what can be blinds them to the fact that real people need to share deep beliefs about collective ends to allow them to have a sense of community. Liberals mistakenly believe that ordinary people need to share very little of substance before they can identify with their fellow citizens, and they fail to see that moral pluralism is likely to undermine the only possible common bond that a human society could have. A perfectly neorepublican society would have to be more or less morally homogeneous because its citizens would openly acknowledge the need to share something less superficial than a mere commitment to fairness, tolerance, the rule of law, or individual rights.⁶⁷ In addition, the public-private distinction, which has been so central to liberal thought over time, would have to be much less sharply pronounced. In this way, neorepublicans hope to show that real people's moral convictions cannot differ markedly without turning their society into a mere association of self-interested individuals or self-interested groups. Alternatively, a common conception of the good based on civic virtue acknowledges the deep psychological need for the members of a human community to share an identity based on seeing their republic as a common enterprise.

E. Rebuttal

In human history, there has been no shortage of those who have appealed to the distinctness of their cultures, religions, traditions, and nationalities for a number of different political purposes, many of which have turned out to be morally unacceptable, if not evil. That should give us reason to pause. By contrast, it is hard to imagine a genocide or unjust war caused by appeals to human dignity. Another difficulty is that Taylor makes no effort to explain how a shared social understanding of the good of participatory self-rule is compatible with the equal right of each citizen to form, revise, and pursue her

67. Cf. SUSAN MOLLER OKIN, *JUSTICE, GENDER, AND THE FAMILY* 42 (1989) (arguing that the implications of most communitarian arguments are reactionary and inegalitarian).

own reasonable conception of the good. After all, it is not so clear how civic republicanism and liberalism can be brought together when many liberals insist that citizens should be left free not to participate in politics if they choose not to do so. It is far from obvious, furthermore, that liberal principles are motivationally inadequate simply due to their distance from the good. In fact, the opposite would seem to be true: under conditions of moral pluralism, moral reasons that are appropriate for political life must be removed, as far as possible, from the sectarian struggles that have divided citizens over time. Taylor relies too heavily on a sharp distinction between procedure and substance that has little basis in theory or in practice.

He also fails to explain why moral consensus must occur at a deeper level and why political reasons must reflect a conviction about the human good to be motivationally effective. Similarly, it is not clear why he doubts that citizens can internalize so-called abstract liberal values, making them their own, when such values, like civic republican values, have their roots in our particular political heritage. As we know, many people have died for such “abstract” ideals as freedom, democracy, and country. American history alone is replete with examples. The vast majority of Americans believe that the Constitution protects political dissent; the right to be free from racial, ethnic, gender, and religious discrimination; the right to be protected from physical abuse by the police; and the right to have access to courts.⁶⁸

It is not self-evident, then, why a historically grounded widespread commitment to the liberal values of our political heritage cannot provide the moral motives that political liberals such as Rawls are looking for despite their distance from the content of individual life plans. The essential neorepublican insight that moral and political principles must address a particular audience to motivate appropriate civic behavior is true. But for his critique of moral motivation in liberal societies to be decisive, Taylor would have to be able to show that a shared social understanding of the good is the only possible source of effective moral motivation. The relevant comparison is not between a liberal account of the sources of moral motivation in a pluralistic society and the neorepublican account of these sources in an ideal, morally homogeneous society. The relevant comparison must be made against the pluralistic society that we actually have. Neorepublican accounts such as Taylor’s leave us to wonder how the diversity of religious, philosophical, and moral doctrines could be reduced, in the name of greater social unity, short of draconian measures.

This asymmetry between liberal and neorepublican arrangements reveals a serious flaw in Taylor’s thinking about the most appropriate moral basis for political life. While neorepublicans assume that what is good for an individual

68. CASS R. SUNSTEIN, *ONE CASE AT A TIME: JUDICIAL MINIMALISM ON THE SUPREME COURT* x–xi (1999).

is good for the community as a whole, the kind of vision that inspires an individual in her personal projects significantly differs from that of principles of right that regulate the political relations of a morally pluralistic community. The question of the nature of the good life is not the equivalent of asking what regulatory principles offer the best means of resolving political conflicts as fairly as possible. This line of response directly undercuts Taylor's assumption that the sort of quasi-religious, moral orientation that is supposed to guide an individual's life choices can be easily translated into a political morality that could settle moral disagreements in the public realm. The kinds of reasons that underlie personal choices about what ends to pursue differ in kind from the sorts of reasons that can be used to justify the exercise of political power in the name of social justice or political legitimacy. At minimum, neorepublicans need to argue for the appropriateness of this parallel rather than assuming that the two classes of reasons are comparable.

II. THE TROUBLE WITH COMPREHENSIVE LIBERALISMS

A. *Liberalism and Personal Autonomy*

As we might have expected, many liberals responded to the neorepublican critique by showing that liberalism has an adequate account of the kinds of goods—community, patriotism, civic friendship, solidarity—that their critics alleged were conspicuously absent among the traditional concerns of liberal thinkers.⁶⁹ A liberal conception of the good based on autonomy or individuality, furthermore, is normatively superior to neorepublican alternatives. As Brian Barry remarked,

Liberalism rests on a vision of life: a Faustian vision. It exalts self-expression, self-mastery . . . the active pursuit of knowledge and the clash of ideas; the acceptance of personal responsibility for the decisions that shape one's life. For those who cannot take the freedom it provides alcohol, tranquilizers, wrestling on the television, astrology, psychoanalysis, and so on, endlessly, but it cannot by its nature provide certain kinds of psychological security.⁷⁰

69. Brian Barry, Joseph Raz, Amy Gutmann, and Will Kymlicka best exemplify the kind of liberalism that is explicitly perfectionist. In spite of his ostensible multicultural sensibility, Will Kymlicka puts forth two distinctly liberal preconditions for living a good life: (1) autonomy and (2) freedom to reflect on and question one's beliefs. WILL KYMLICKA, *LIBERALISM, COMMUNITY, AND CULTURE* 12–13 (1989). He writes that “amongst the people who are leading their lives from the inside are people who have been brainwashed into accepting certain ends as their own, and who are discouraged from trying any other ways of life, through the systematic control of socialization, of the press, and of artistic expression. And this is unacceptable to the liberal.” *Id.* at 18–19.

70. BRIAN BARRY, *THE LIBERAL THEORY OF JUSTICE* 127 (1973).

On its face, showing that liberal principles are not empty would seem to take a lot of the sting out of neorepublican charges that liberal principles cannot engage the moral psychology of real human agents.⁷¹ This response would appear to allow liberals to take their own side in an argument while remaining as neutral as possible toward competing conceptions of the good life.⁷² After all, people who do not share deeper normative beliefs about the good are still left free to pursue nonliberal life plans within a liberal framework as long as these plans are the products of choice or critical reflection.⁷³ Under a liberal scheme, people are given considerable latitude to determine what makes their lives meaningful even if they make these determinations in accordance with their religious beliefs or cultural traditions. It would seem, then, that the apparent incommensurability between the deeper normative commitments of liberalism to a particular vision of the good and nonliberal ways of life is less serious than it initially appeared to be. The people who pose the most serious threat to the stability of a liberal state can become good citizens provided that they can be persuaded that a liberal conception of human flourishing leaves sufficient room for their own moral, religious, or cultural self-understandings.⁷⁴

Compared with civic republican alternatives, there is something to be said in defense of a more comprehensive liberalism and its capacity to accommodate a wider range of conceptions of the good.⁷⁵ The problem with

71. By adopting this strategy, however, liberals have allowed the communitarians to narrow the discourse, focusing it on the nature of the human good and on the type of moral vocabulary that most accurately captures real people's moral self-understandings. This turn of events played into the communitarians' hands by permitting them to avoid the question of how they would approach the problem of developing suitable political principles for a morally pluralistic society. To date, the communitarians have been reticent about how they would use the power of the state to create a more morally homogeneous society or to promote a more active, participatory ideal of citizenship.

72. On the idea of liberal neutrality, see generally Will Kymlicka, *Liberal Individualism and Liberal Neutrality*, 99 ETHICS 883 (1989).

73. The natural instinct to keep autonomy (or some conception of negative freedom) at the center of liberalism, but also to be tolerant of nonliberal ways of life drives Will Kymlicka's liberal theory of minority rights. KYMLICKA, *supra* note 10, at 6.

74. But see Will Kymlicka, *Two Models of Pluralism and Tolerance*, in TOLERATION: AN ELUSIVE VIRTUE, *supra* note 15, at 81, 93.

75. Although from 1963 to 1990, the U.S. Supreme Court granted a number of exceptions to accommodate the practices of religious minorities, those who hold unorthodox religious beliefs always stand on precarious ground. For example, in *Sherbert v. Verner*, 374 U.S. 398, 403 (1963), the Court ruled that any federal or state law that substantially burdened religious practices, regardless of the state's intention or the scope of the law, would be presumptively unconstitutional. This presumption could be overcome if the state could prove that: (1) the government had a particularly important interest and (2) that granting such an exception would substantially hinder the fulfillment of that interest. See *id.* In *Employment Div. v. Smith*, 494 U.S. 872 (1990), however, the Court dramatically cut back the "grant an exception when feasible"

this kind of approach to the problem of moral pluralism, though, is that it still favors the kinds of lives that are autonomously chosen over ones that cannot be justified in terms of the overriding value of choice, introspection, and contemplation in human life. In other words, it still is too likely to be too sectarian to secure the moral support of all reasonable persons.⁷⁶ This may mean that the political effects of a public culture based on a liberal conception of the good would not be sufficiently neutral because those who have nonliberal life plans are only accorded civic respect insofar as their respective life plans do not conflict with the liberal commitment to autonomy, individuality, and self-expression. This solution seems to be dismissive of the way in which those who have nonliberal convictions understand the value of their own lives. The reasons that various members of religious minorities in the United States often put forth as an explanation for why they want to limit their children's exposure to secular values in public school, for example, often have to do with the fact that they do not value autonomy, critical reflection, and individuality at all.⁷⁷

Their values, of course, may be wrong, but that is largely beside the point. For the sake of political legitimacy under conditions of moral pluralism, liberals should not use the state to advance autonomy as a conception of the good.⁷⁸ The reason for preferring some sort of political liberalism as the basis

approach by requiring not only a disparate impact on religious minorities but also a finding of intentional discrimination. Today, the Court's decision in the infamous peyote case has greatly reduced the likelihood that a litigant who challenges a federal or state law on free exercise grounds will prevail short of a showing of intentional discrimination. The rights of free speech, free exercise of religion, and free assembly, furthermore, have not always protected minority groups from the will of the majority. *See, e.g., Reynolds v. United States*, 98 U.S. 145, 165–66 (1878) (upholding the constitutionality of a federal law that prohibited polygamy in federal territories); *Braunfeld v. Brown*, 366 U.S. 599, 605–06 (1961) (upholding the application of a state Sunday closing law to orthodox Jewish merchants); *Bob Jones Univ. v. United States*, 461 U.S. 574, 603–04 (1983) (upholding the IRS's denial of tax-exempt status to the university because of its whites-only admission policy); *Lyng v. Northwest Indian Cemetery Protective Ass'n.*, 485 U.S. 439, 453 (1988) (holding that the federal government could construct a road through federal land even though the construction would destroy certain Native Americans' traditional rituals). Granting exemptions in cases of religion, moreover, may run afoul of the Establishment Clause. A classic example of this problem is when the state decides to grant a tax exemption to a religious organization to further the free exercise rights of its members, this direct subsidy to religion may be seen as violating the constitutionally required separation of church and state.

76. This Article leaves open the empirical questions of the degree to which Christian Fundamentalists, given their sincere religious convictions, are potentially reasonable. Even among such persons, we should expect to find a range of different personalities and corresponding civic attitudes. *But see generally* BRUCE B. LAWRENCE, *DEFENDERS OF GOD: THE FUNDAMENTALIST REVOLT AGAINST THE MODERN AGE* (1989).

77. *See, e.g., Mozert v. Hawkins County Bd. of Educ.*, 827 F.2d 1058 (6th Cir. 1987).

78. Perfectionist liberals come in many shapes and forms. For example, William Galston argues for the value of a "full theory of the good latent in liberal practice." William Galston,

of political morality is not only that comprehensive liberalisms, which rely upon controversial liberal conceptions of the good, are more likely to precipitate political conflict among reasonable citizens. Respect for reasonable moral pluralism also requires a political morality that does not employ a strong conception of autonomy so that all reasonable citizens can endorse the same political morality for minimally moral reasons.⁷⁹ For public reason to regulate public deliberation and voting decisions on fundamental political questions, the vast majority of citizens must be motivated to apply its norms without having to sacrifice their deeper moral or religious convictions. This may mean that liberals may have to tolerate ways of life that they find to be deeply misguided. Today, religious, moral, and cultural differences about how human beings ought to live extend far beyond the relatively narrow sectarian differences that existed in Locke's or even in Mill's time. A version of liberalism that takes the breadth and depth of this kind of moral pluralism seriously is the most promising candidate as a theory of political morality because it has the best chance of being accepted by a diverse audience for the right reasons and thus legitimating collective decisions.

The allegiance of those who have reasonable but nonliberal conceptions of the good cannot be taken for granted.⁸⁰ We ought to assume that a fair number of citizens in liberal societies may not readily accept the role that public reason is supposed to play in political life unless they have good reasons to believe that its norms will not unduly compromise their ways of life. After all, it is highly unlikely that even political liberalism would have non-neutral effects.⁸¹ As William Galston notes, "a liberal society cannot be equally hospitable to all conceptions of the good . . ."⁸² As such, we should not be overly optimistic about the ease of justifying norms of public reason, which appear to be closely linked to liberal ideas of human flourishing, to those who adhere to nonliberal doctrines.

On the other hand, we should not assume that different beliefs about the good will make it impossible for citizens to be motivated to honor public

Defending Liberalism, 76 AM. POL. SCI. REV. 621, 627 (1982). Stephen Macedo believes that "[l]iberal justice and rights . . . partly determine the ends, goals, and visions of the good life that liberal citizens pursue." STEPHEN MACEDO, LIBERAL VIRTUES: CITIZENSHIP, VIRTUE, AND COMMUNITY IN LIBERAL CONSTITUTIONALISM 5 (1990).

79. Cf. GERALD DWORKIN, THE THEORY AND PRACTICE OF AUTONOMY 9 (1988) (arguing that autonomy need not be an all-or-nothing affair).

80. As Stuart Hampshire writes:

It is not only possible but, on present evidence, probable that most conceptions of the good, and most ways of life, which are typical of commercial, liberal, industrialized societies will often seem altogether hateful to substantial minorities within these societies, and even more hateful to most of the populations within traditional societies elsewhere.

STUART HAMPSHIRE, JUSTICE IS CONFLICT 24–25 (2000).

81. See, e.g., Macedo, *supra* note 24, at 483.

82. William A. Galston, *Pluralism and Social Unity*, 99 ETHICS 711, 718 (1989).

reason as the fairest means of making collective decisions that would bind everyone. Those who are skeptical move too quickly from the brute fact of disagreement about the good life in liberal societies to the conclusion that it will be equally difficult, if not impossible, to find common principles of regulatory political morality.⁸³ This inference is not warranted because we have not yet carefully surveyed the range of arguments that might be employed to justify such a morality to those who are not already liberal. Nor does political liberalism necessarily exclude religious people from the public sphere.⁸⁴ Such liberalism is the right solution to this problem of political legitimacy under conditions of moral pluralism because it avoids the two errors that liberals are most inclined to commit: to base their political morality on a controversial, overly sectarian liberal conception of the good that only appeals to citizens who are already converted, or to tolerate too much moral difference in a misguided effort to be completely neutral toward competing conceptions of the good life.⁸⁵ Any plausible theory of political legitimacy must navigate between these two extremes to encourage the vast majority of citizens to support liberal institutions for the right reasons.⁸⁶

B. *The Advantages of Political Liberalism*

Strangely, despite the obvious appeal of a theory of legitimacy that aims at securing as wide a consensus as possible on the basis of minimally moral reasons, many liberal thinkers have not been eager to embrace political liberalism in any shape or form.⁸⁷ Part of the explanation for their reluctance originates in the legitimate worry that the normative content of liberal theories of justice will be severely compromised if these theories have to be tailored to the moral beliefs of nearly everyone. Political liberalism, they fear, would tolerate too much injustice.⁸⁸ Others are convinced that the alleged difference between comprehensive and political liberalism is a distinction without a difference. As Stephen Macedo observes, “[i]t is tempting to say that the only

83. See, e.g., JEREMY WALDRON, *LAW AND DISAGREEMENT* 159–61 (1999); Jeremy Waldron, *Deliberation, Disagreement, and Voting*, in *DELIBERATIVE DEMOCRACY AND HUMAN RIGHTS* 210 (Harold Hongju Koh & Ronald C. Slye eds., 1999).

84. But see generally STEPHEN L. CARTER, *THE CULTURE OF DISBELIEF: HOW AMERICAN LAW AND POLITICS TRIVIALIZE RELIGIOUS DEVOTION* (1993).

85. Without argument, this Article assumes that (1) there is no such thing as “perfect” fairness or “perfect” neutrality, (2) some balances are fairer than others are and therefore, would be approved of by most reasonable people, (3) the effects of important political decisions are bound to be non-neutral and impose disparate burdens on some people and groups, and (4) that romanticizing diversity is not only too easy, theoretically, but also that it can be politically irresponsible in the sense that it can lead to undemocratic and unjust outcomes.

86. See Macedo, *supra* note 24, at 476.

87. See, e.g., Brian Barry, *John Rawls and the Search for Stability*, 105 *ETHICS* 874 (1995).

88. See, e.g., Joshua Cohen, *Moral Pluralism and Political Consensus*, in *THE IDEA OF DEMOCRACY* 270 (David Copp et al. eds., 1993).

real difference between political and comprehensive liberalisms is that proponents of the latter are simply more candid in admitting that liberal institutions foster an ideal of life as a whole and that 'civil' toleration inevitably promotes 'religious' toleration."⁸⁹

At the same time, if liberals refuse to broaden the basis of support for their political morality, they remain vulnerable to the charge that their reasons are too sectarian to win the assent of all reasonable persons.⁹⁰ This is not only a concern about securing actual consent. In addition, it is far from obvious that reasonable, informed citizens ought to endorse political arrangements that would unfairly threaten their nonliberal ways of life. One of the main purposes of a theory of political liberalism is to show how people, who disagree about their highest ideals of human flourishing, still might be able to agree on the same answers to fundamental political questions for similar reasons, thereby legitimating what otherwise would be unjustified coercion. As contrasted with his original theory of justice, Rawls's political conception of justice reflects a sustained effort to reach those who are reasonable but who have nonliberal life plans. What moved Rawls to write the essays that followed *A Theory of Justice* was his realization that many of these citizens might be reasonable in the sense that they would be willing to offer their fellow citizens fair terms of social cooperation. In this respect, his initial account of political legitimacy was defective insofar as reasonable citizens who adhere to nonliberal comprehensive doctrines could not support the same principles of justice for the right reasons.

It would be natural, then, to expect commentators to address his new characterization of the most appropriate sources of moral motivation in *Political Liberalism* and its connection to his concern with stability.⁹¹ For the most part, though, this has not happened despite the fact that Rawls explicitly links stability to "sufficient motivation of the appropriate kind."⁹² This oversight is even more surprising in light of Rawls's well-known dissatisfaction with his original account of the stability of his well-ordered

89. Macedo, *supra* note 24, at 476. See also Harry Brighouse, *Is There Any Such Thing as Political Liberalism?*, 75 PAC. PHIL. Q. 318 (1994).

90. In other words, under conditions of moral pluralism, to legitimate regulatory principles of justice and the particular decisions that fall under them, liberals must put aside their sincere convictions about truth and human perfection. The point is not to renounce what they believe to be true, but to recognize the virtual impossibility of publicly justifying any single account of the whole truth because of the inherent limits of reason. On the idea of "reasonable" pluralism, see Cohen, *supra* note 88.

91. Samuel Freeman notes that "very little of significance has been written on Rawls's argument for stability in Part III of *A Theory of Justice*, and virtually nothing has been written on the central feature of that argument on 'the congruence of the right and the good.'" Samuel Freeman, *Political Liberalism and the Possibility of a Just Democratic Constitution*, 69 CHL.-KENT L. REV. 619, 623 (1994).

92. RAWLS, *POLITICAL LIBERALISM*, *supra* note 15, at 142-43.

society in the third part of *A Theory of Justice*.⁹³ One of the central aims of “*Political Liberalism* is to restate the idea of justice as fairness without reliance on a controversial comprehensive doctrine” as the exclusive source of the moral reasons that underwrite the practice of good citizenship.⁹⁴

Initially, Rawls had thought that citizens could support justice as fairness for deeper liberal reasons, narrowing the motivational distance between a citizen’s conception of the good and her support for the two principles of justice.⁹⁵ Reasons for being just could be incorporated into each citizen’s conception of the good, Rawls thought, to generate the moral motivation in political life that would stabilize his well-ordered society.⁹⁶ At the end of *A Theory of Justice*, he argued that a Kantian interpretation of justice as fairness could serve as the means of motivating citizens to support the two principles. A commitment to them would be based on a Kantian conception of the good life in which a person expresses her true nature as a free and equal being by exercising the capacity for justice.⁹⁷ Justice was slated to serve as the final shared end of his well-ordered society and the collective activity of justice was to be the “preeminent form of human flourishing.”⁹⁸ Rawls expected “congruence” between each citizen’s life plan and her respective sense of justice.⁹⁹ The basic thought behind congruence is that it is rational to be reasonable for its own sake because justice is an intrinsic good.¹⁰⁰ A sense of justice must be sufficiently strong to override temptations to free ride and the

93. Richard Arneson identifies three principal changes in Rawls’s writings after the publication of *A Theory of Justice*: “the Kantian conception of persons” (explaining that the parties in the original position are now identified as giving priority to their Kantian interest in the development and exercise of their moral powers of rational autonomy and fair dealing), “hedged bets on universalism” (explaining that the validity of Rawlsian principles is presented as relative to modern democratic societies), and “pluralism and the overlapping consensus imperative” (articulating shared moral convictions about what constitutes the fair treatment of citizens, providing a morally acceptable basis for political life despite conditions of moral pluralism). Richard J. Arneson, *Introduction*, 99 *ETHICS* 695, 696–97 (1989).

94. Lawrence B. Solum, *Situating Political Liberalism*, 69 *CHI.-KENT L. REV.* 549, 555 (1994).

95. By “comprehensive,” Rawls means systematic views, either secular or religious, which include “conceptions of what is of value in human life, as well as ideals of personal virtue and character, that are to inform much of our nonpolitical conduct A doctrine is fully comprehensive when it covers all recognized values and virtues within one rather precisely articulated scheme of thought” RAWLS, *POLITICAL LIBERALISM*, *supra* note 15, at 175.

96. *Id.* at 142–43.

97. RAWLS, *supra* note 65, at 572.

98. *Id.* at 526, 529.

99. *Id.* at 567. For a more detailed account of the congruence problem, see Samuel Freeman, *Congruence and the Good of Justice*, in *THE CAMBRIDGE COMPANION TO RAWLS* 277 (Samuel Freeman ed., 2003).

100. Freeman, *supra* note 51, at 346.

desire to act justly must not conflict with permissible life plans.¹⁰¹ Without congruence, real people would not be motivated to take up the impartial standpoint of justice and act appropriately toward their fellow citizens. These remarks indicate that Rawls must have seen a Kantian interpretation of moral motivation as a precondition of the stability of his well-ordered society.

At the outset of *Political Liberalism*, however, we learn that a conception of justice must be compatible with the fact of reasonable moral pluralism to be stable over time.¹⁰² Rawls now makes it clear that he had underestimated the extent to which any comprehensive doctrine or conception of the good could serve as the primary source of moral motives in a morally diverse society. The most sensible interpretation of his shift to a political conception of justice is that he feared that citizens with different conceptions of the good would not be moved to support the two principles of justice for sufficiently moral reasons. His concern with the stability of his well-ordered society reflects his worry that real people who do not share the same conception of the good life would not be willing to endorse the same principles of justice, rendering them less motivationally adequate than he had previously supposed.¹⁰³ His new account of how real citizens could share a political conception of justice that they are sufficiently motivated to honor requires a more historical account of liberal democratic citizenship.¹⁰⁴ His attempt to ground this conception in something less controversial reflects his desire to convince citizens to be willing to let the balance of public reasons override their deeper religious or secular beliefs in cases of conflict. The viability of his political conception of justice now depends upon his devising political arrangements that foster widespread allegiance to the two principles of justice without relying upon moral motives that derive from a shared conception of the good.¹⁰⁵

101. RAWLS, *supra* note 65, at 497, 569.

102. RAWLS, *POLITICAL LIBERALISM*, *supra* note 15, at xviii–xix.

103. The new Rawls does not reject the very concept of autonomy. Rather, his political liberalism restricts its scope to the political realm—i.e., when a person thinks of himself or herself as a citizen—and thus, renders it less controversial than it otherwise would be. That way, a liberal society would not impermissibly force nonliberal communities to bring up “rational choosers” in the name of the value of personal autonomy. At the same time, political autonomy acknowledges the basic right of each person to form, revise, and pursue his or her conception of the good even when that conception is nonliberal. See Will Kymlicka, *Two Models of Pluralism and Tolerance*, in *TOLERATION: AN ELUSIVE VIRTUE*, *supra* note 15, at 81, 90.

104. For an argument that Rawls’s new conception of justice is not political because it oscillates between its metaphysical and political interpretations, see Patrick Neal, *Justice as Fairness: Political or Metaphysical?*, 18 *POL. THEORY* 24 (1990).

105. Of course, citizens may endorse Rawls’s principles of justice from their respective reasonable comprehensive doctrines. However, the author does not think that Rawls is worried about people who are already fully reasonable. Rather, the idea is that this kind of justification targets those who have somewhat reasonable yet nonliberal beliefs about the good life—i.e., those whose moral motivation to support his well-ordered society is not guaranteed.

Rawls's divorcing his account of moral motivation as far as possible from any underlying comprehensive doctrine is driven by the difficulty of trying to close the motivational distance between the two moral powers (a capacity to form, revise, and pursue a conception of the good and a capacity for a sense of justice) with any kind of appeal to deeper comprehensive religious or moral doctrines. As he came to realize, many citizens would not see the collective activity of justice as the highest form of human flourishing. Because moral motives cannot be based directly on comprehensive beliefs in a morally pluralistic society, the effective desire to act justly must be removed, as far as possible, from all conceptions of the good.

Part of his solution to this problem of moral motivation on the part of reasonable citizens under conditions of moral pluralism in *Political Liberalism* is still recognizably Kantian: A sense of justice is not in itself a recommended way of life but instead is a moral commitment that constrains the choice of individual ends in the first place. Rawlsian liberalism is a theory of justice and political legitimacy. It is not meant to articulate the nature of a good life or to be extended beyond the basic social, political, and economic institutions.¹⁰⁶ Unlike Kant, Rawls does not assert that universally binding moral principles must be grounded in pure practical reason independent of all contingent features of human nature. In Rawls's political scheme, nothing is implied about what makes an act morally praiseworthy. As Kant might have said, this would confuse the doctrine of right with the doctrine of virtue. Within the constraints of the right, citizens are free to pursue the ends that they see as worthwhile for their own reasons. A sense of justice and its accompanying moral motivation, then, must be viewed without perfectionist biases.¹⁰⁷ While a citizen who chooses to be a just person accepts the above constraints, that person need not base her life plan on the good of justice. As it turns out in *Political Liberalism*, Rawls no longer thinks that the fit between the two moral powers has to be as tight as before. The Kantian interpretation of moral motivation presented at the end of *A Theory of Justice*, which lays out the deeper moral reasons for the good of justice, is no longer appropriate because the source of moral motivation in political life cannot depend so heavily upon any controversial comprehensive doctrine.

It is a very unsatisfactory response to the existence of moral pluralism to deny its existence, dismiss its relevance, or fail to appreciate how people who hold nonliberal beliefs understand themselves.¹⁰⁸ Any serious attempt to

106. RAWLS, POLITICAL LIBERALISM, *supra* note 15, at 257–88.

107. This does not mean that consequences do not matter or that all considerations of value must be subordinated to principles of right. See Barbara Herman, *Leaving Deontology Behind*, in THE PRACTICE OF MORAL JUDGMENT 208, 210 (1993).

108. The existence of moral pluralism about the good should not be confused with the question of whether all of those views are equally valid or rationally defensible. From the point of view of moral motivation, the potential political problem is that real people are emotionally

justify liberal political morality to those who are not already converted must acknowledge the legitimate concern that a political morality that relies upon a distinctly liberal conception of the good may be unacceptable from a variety of potentially reasonable, yet nonliberal, moral or religious perspectives. As Rawls came to realize, comprehensive liberal ideals are controversial and make it virtually impossible to establish legitimate grounds of coercion in a morally pluralistic society. A liberal society should not predicate political authority, then, on the alleged superiority of a life based on Lockean freedom, Kantian autonomy, or Millian individuality. To accept the burdens of judgment is to acknowledge the inherent limits of human reason and to recognize that other citizens adhere to beliefs that differ from our own yet still may be reasonable for political purposes.¹⁰⁹

III. CIVIC EDUCATION UNDER CONDITIONS OF MORAL PLURALISM

A. *Civic Education and Public Reason*

Just as no conception of political morality will please everyone, no conception of civic education will please everyone. Nevertheless, this Article claims that a conception of citizenship premised on Rawlsian public reason is more likely than those of comprehensive liberalisms to be acceptable to the vast majority of reasonable persons. Any conception of civic education, which would be appropriate for a morally pluralistic society such as our own, would have to strike a more appropriate balance between tolerance for different ways of life and cultivation of the skills and virtues that make good citizenship possible in a liberal democracy. To agree that the practice of liberal democratic citizenship necessitates a distinct conception of civic competence leaves a lot of space for deliberation about the most appropriate means and the precise ends of liberal democratic civic education. That does not mean that liberals should eschew teaching children the value of rationally assessing evidence on the grounds that all methods of acquiring truth are equally reliable. After all, even highly religious people want their choices to cohere with their preferences. Invariably, as a byproduct of their civic education, children would learn that rational evaluation is more reliable than irrational alternatives for realizing their conceptions of the good.

The principal problem is that liberals find themselves in an awkward, if not untenable, position. On the one hand, they must respect or at least tolerate the different types of reasonable conceptions of the good that exist in their society. That conclusion seems to follow from liberal neutrality. On the other hand, they are also committed to promoting an ideal of citizenship that enables

wedded to their respective ways of life and will continue to hold their views even when they cannot withstand rigorous critique.

109. RAWLS, *POLITICAL LIBERALISM*, *supra* note 15, at 54–58.

people to respect the freedom and equality of their fellow citizens. As a result, even among liberals themselves, the content of civic education is bound to be somewhat controversial.¹¹⁰ Unless one is convinced by Lockean arguments that the personal freedom of parents entails an absolute parental right to pass on their way of life to their children,¹¹¹ the state must exercise some kind of educational authority over children in the interest of their future citizenship. A society that seeks to create reasonable citizens cannot simply defer uncritically to the wishes of parents.

It would seem to be obvious that, to function well, democracies must rely on the moral character of their citizens. The right habits, attitudes, and principles—at least those that encourage toleration of dissent, respect for different ways of life, and critical thinking about authority—are easier to instill in children than in adults. For the sake of civic education, governments are more justified in treating children paternalistically in the sense of restricting their freedom before their deliberative capacities have fully matured. Somewhat paradoxically, in some instances, children ought to be treated paternalistically to enable their rational capacities to develop.¹¹² Although many institutions are educative, public schools must play a central role in the inculcation of reasonableness in children.¹¹³ Both Amy Gutmann and Stephen Macedo argue that civic education refers to the teaching of a specific curriculum that promotes liberal virtues.¹¹⁴ The purpose of civic education is to foster the skills and virtues that enable future citizens to propose fair terms of cooperation with others, to settle differences in mutually acceptable ways, to participate in collective decision making, and to abide by agreed terms of social cooperation provided that others reciprocate.

1. Teaching Children to be Reasonable

The above sort of civic education, like any other conception, is bound to be value-laden.¹¹⁵ As such, one cannot simply object to an educational proposal on the grounds that it teaches values as if any conception of civic education could be completely morally neutral. Rather, one must put forth a substantive independent argument that makes the case for promoting some values at the expense of others. Reasonableness is a complex psychological disposition that involves both intellectual and moral virtues that can be acquired over time.

110. Harry Brighouse, *Civic Education and Liberal Legitimacy*, 108 *ETHICS* 719, 719 (1998).

111. *See, e.g.*, MILTON FRIEDMAN, *CAPITALISM AND FREEDOM* 85–107 (1962).

112. *See* Barbara Herman, *Making Room for Character*, in *ARISTOTLE, KANT, AND THE STOICS: RETHINKING HAPPINESS AND DUTY* 36 (Stephen Engstrom & Jennifer Whiting eds., 1996).

113. The evidence is mixed on whether public schools today are effective in teaching autonomy. *See* GUTMANN, *supra* note 16, at 62.

114. *See, e.g.*, Gutmann, *supra* note 14; Macedo, *supra* note 24.

115. ALLAN BLOOM, *THE CLOSING OF THE AMERICAN MIND* 26 (1987).

For Rawls, to be reasonable is to be committed to the criterion of reciprocity in collective decision making in the sense that the reasons offered in support of a particular political proposal are as fair as possible and likely to be acceptable to all reasonable people. Under conditions of moral pluralism, one of the purposes of appealing to public reasons, as opposed to other sources of morality, is that such reasons are more likely to legitimate controversial decisions and thus, to encourage compliance.¹¹⁶ After all, political liberalism is resigned to accepting the inevitability of reasonable disagreement about the good in free societies.¹¹⁷ Similarly, it is also resigned to accepting the existence of hard cases that divide the political community.¹¹⁸ The task of rational justification is considerably more complicated than it would be in a more morally homogeneous society because what counts as a good argument, or even what counts as a good reason, may be reasonably contested.¹¹⁹ In the most controversial cases, no interpretation of public reason is likely to fit the facts perfectly.¹²⁰ Even under the best of epistemic conditions, then, some of the most important decisions of public morality may be open to dispute because they have not been settled to the satisfaction of every reasonable member of the political community.¹²¹ This may mean that we may have to settle for “good enough” political legitimacy.¹²²

The comprehensive doctrine that one adheres to, of course, may entail a partial or full resolution of a fundamental political question. For example, a hedonistic utilitarian may favor a right to privacy on the grounds that the balance of pain and pleasure supports such a right in most cases. Or a Catholic

116. “Conditions of reasonable moral pluralism” refers to intractable disagreement over the nature of the good life for human beings. As John Rawls puts it, “A modern democratic society is characterized not simply by a pluralism of comprehensive religious, philosophical, and moral doctrines but by a pluralism of incompatible yet reasonable comprehensive doctrines.” RAWLS, *POLITICAL LIBERALISM*, *supra* note 15, at xvi. For an excellent overview of arguments concerning moral reasons to obey the law, see KENT GREENAWALT, *CONFLICTS OF LAW AND MORALITY* 47–203 (1987).

117. See Larmore, *supra* note 17, at 61, 63, 74, 79.

118. Cf. MARY MIDGLEY, *WICKEDNESS: A PHILOSOPHICAL ESSAY* 45 (1984) (noting that each new approach of evil brings new difficulties and problems).

119. Cf. RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY*, at xiv (1977) (recognizing that claims of right cannot always be demonstrated to be true or false).

120. Cf. Ken Kress, *The Interpretive Turn*, 97 *ETHICS* 834, 845 (1987) (discussing Dworkin’s views on the requirement of the fit); RONALD DWORKIN, *A MATTER OF PRINCIPLE* 143 (1985) (noting that one justification is better than another if it is superior as a matter of political or moral theory).

121. Cf. CHARLES R. BEITZ, *POLITICAL EQUALITY: AN ESSAY IN DEMOCRATIC THEORY* 7–8 (1989) (“There is no unequivocal conception of power—and so, no unambiguous principle of equal power—that can plausibly be taken as a basis for resolving dispute in all of these areas.”).

122. The author borrows this term from Seyla Benhabib, *The Democratic Movement and the Problem of Difference*, in *DEMOCRACY AND DIFFERENCE: CONTESTING THE BOUNDARIES OF THE POLITICAL* 8, 9 (Seyla Benhabib ed., 1996).

might support such a right for theistic or metaphysical reasons. To be reasonable is to accept that some other reasons are at least reasonable enough, politically speaking, even if they may not be the best reasons according to one's own conception of the good. The point is that the reasonable citizen refrains from judging others' conceptions of the good on the merits provided that these conceptions are reasonable for the limited purpose of making political legitimacy under conditions of moral pluralism possible. The reasonable citizen may have to defer to the reasonable views of others that she would reject for her own moral or religious reasons if she were not acting as a citizen who has a special duty to provide them with reasons that they could accept. As such, mutual tolerance on the basis of an acknowledgement of reasonable disagreement can serve as a moral motive for all reasonable citizens, even when most of them disagree about the highest matters of moral importance. Moreover, this motive can be strengthened over time through its exercise.¹²³

At the same time, this dual identity may be difficult for some citizens. As one critic has observed, such acceptance of moral and religious difference is incompatible with the current teachings of the Roman Catholic Church.¹²⁴ In addition, certain kinds of fundamentalism, due to their dogmatism and literal reading of Scripture, are at odds with any requirement that counsels believers to eschew the whole truth in political argumentation. In fact, more generally, highly religious people are likely to fear that their faith and that of their children is likely to be corrupted by the forces of a secular culture. But those limiting cases do not mean that such a demand for reasonableness in political life could not be met by a wide variety of people who have been able to reconcile their faith with democratic ideals.¹²⁵ Highly religious people may favor a more conspicuous role for religion in public life but that does not necessarily mean that they would prefer some sort of theocracy. Future citizens must learn to think critically about their own deeper convictions, to appreciate the wide range of reasonable disagreement that characterizes their society, and to understand the difference between what is reasonable—i.e., what can be publicly justified to a morally diverse audience—and what may be right or true. A shared recognition of the inherent limits of the capacity of human reason to evaluate different reasonable conceptions of the good on their merits makes it possible for such citizens to observe the criterion of reciprocity that lies at the center of public reason.

123. See Callan, *supra* note 14, at 28.

124. Leif Wenar, *Political Liberalism: An Internal Critique*, 106 *ETHICS* 32, 44–45 (1995).

125. For instance, many American Catholics do not accept official church teachings on divorce, abortion, and birth control.

2. Reasonableness

As Samuel Freeman puts it, “Reasonableness involves a readiness to politically address others of different persuasions in terms of public reasons.”¹²⁶ As such, reasonableness is the primary civic virtue of citizens who are committed to public reason. Rawls specifies five attributes of reasonable persons:

1. They (a) have the two moral powers (the capacities for a sense of justice and for a rationally defensible conception of the good); (b) possess the intellectual powers of judgment, thought, and inference; (c) have a determinate conception of the good based on some comprehensive view(s); and (d) can be normal, fully cooperating members of a well-ordered society.¹²⁷
2. They are willing to propose and abide by fair principles of social cooperation provided that others will do likewise.¹²⁸
3. They recognize the burdens of judgment.¹²⁹
4. They have “a reasonable moral psychology.”¹³⁰
5. They recognize the “five essential elements of a conception of objectivity.”¹³¹

These five features define a “reasonable” person. The reasonable citizen must regard her fellow citizens as agents who have their own life plans and respect their right to make their own decisions about their own lives according to their own best judgments. To act reasonably in political life is to regulate one’s conduct on the basis of the moral importance of these life plans from the standpoint of the person that adheres to them.

Leif Wenar argues that even though most religions reject the burdens of judgment, “rejecting the burdens of judgment need not be incompatible with supporting liberal toleration.”¹³² He claims that many adherents of comprehensive doctrines, who do not accept the burdens of judgment as an explanation for the existence of reasonable moral pluralism, nonetheless enthusiastically support liberty of thought and freedom of conscience.¹³³ He then concludes that acceptance of the burdens of judgment is unnecessary and

126. Samuel Freeman, *Deliberative Democracy: A Sympathetic Comment*, 29 PHIL. & PUB. AFF. 371, 401 (2000).

127. RAWLS, POLITICAL LIBERALISM, *supra* note 15, at 15–35, 81.

128. *Id.* at 48–54, 81.

129. *Id.* at 54–58, 81.

130. *Id.* at 81–86.

131. *Id.* at 110–12.

132. Wenar, *supra* note 124, at 46.

133. *Id.* at 42.

counterproductive insofar as religious people who have alternative (religious) grounds for toleration cannot be reasonable under Rawls's overly restrictive definition of the term.¹³⁴ Obviously, if citizens could be reasonable without meeting all of the above conditions, then Rawlsian citizenship would be easier to realize in practice. The point is that Rawls is not trying to reach citizens who are already fully reasonable or those who are unreasonable and unwilling to change their views. There is no reason to preach to the converted or to make extraordinary efforts to reach the unreachable. His concern is about the allegiance of those who are on the border of being unreasonable given their nonliberal beliefs about the good. Because of their numbers, their allegiance is vital if the well-ordered society is going to be stable for the right reasons.

Doctrinally, Wenar may be right. Catholics and other religious believers should not be asked to sacrifice the fundamental tenets of their faith to be good citizens. On the other hand, it is not surprising that people who have reasonable comprehensive doctrines turn out to be reasonable irrespective of their particular religious convictions. This mind-set is more a matter of having a reasonable moral psychology than of adhering to a reasonable comprehensive doctrine. Indeed, that people have a reasonable disposition may predispose them toward embracing a reasonable conception of the good, that is, a conception that respects the freedom and equality of others. Fortunately, the vast majority of citizens do not have comprehensive doctrines that are entirely coherent. Those who are not fanatics are likely to have a large number of different moral commitments that cannot be reduced to a single comprehensive doctrine. In addition, they are likely to have a basic impulse to treat others fairly provided that they are treated fairly in return. Nor are their interpretations of their respective comprehensive doctrines always likely to converge, especially in hard cases. In hard cases, the application of a legal rule is bound to turn, to some degree, on the interpretation of the principles and policies that are not explicitly contained in the rule itself.¹³⁵ As an example, constitutional interpretation often requires the judge to bridge the gap between highly abstract constitutional language and the actual particulars of the case.¹³⁶

134. *Id.* at 43.

135. See generally RONALD DWORKIN, *FREEDOM'S LAW: THE MORAL READING OF THE AMERICAN CONSTITUTION* 2–30 (1996); Benjamin Gregg, *Using Rules in an Indeterminate World: Overcoming the Limitations of Jurisprudence*, 27 *POL. THEORY* 357, 358 (1999). A hard case is a case where the application of the relevant principle(s) leads to two equally plausible answers. A very hard case is a case “in which the legal principles that would otherwise prove dispositive are thought to be either inconsistent or unjust.” David A. Reidy, Book Review, 112 *ETHICS* 180, 180 (2001). Also, a hard case raises highly controversial legal issues that divide reasonable people with legal training. David O. Brink, *Legal Theory, Legal Interpretation, and Judicial Review*, 17 *PHIL. & PUB. AFF.* 105, 105–06 (1988).

136. See DWORKIN, *supra* note 119, at 136.

This partially explains why two people of the same religious faith may find themselves at opposite ends of the political spectrum. They may adhere to the same or similar values but disagree on the political implications of these values. Or conceptually, they may simply have different understandings of the higher-level principles themselves. For these reasons, it would be more fruitful to think of the consensus on political morality that Rawls hopes for as a consensus of citizens based on common-sense understandings of fairness and reciprocity. After all, people, not doctrines, must act.¹³⁷ Moreover, it is not as if liberals invented the ideas of reasonableness, reciprocity, and social justice.¹³⁸ The best way to answer concerns about the apparent motivational limitations of real human beings is to focus on the moral psychology of the citizens who are capable of acting from a wide range of moral reasons, many of which may have mundane origins.

3. Accommodating Nonliberal Conceptions of the Good

The most serious difficulty with a liberal democratic civic education is that values taught exclusively for the purpose of good citizenship are bound to spill over into the private sphere.¹³⁹ A child who is taught to reflect critically in her role as citizen is also highly likely to reflect critically on her life choices in her role as a private individual. A civic education that produces future citizens who respect the freedom and equality of their fellow citizens also should inflict minimal damage on reasonable pluralism. Even when there is no possibility of non-neutral effects,¹⁴⁰ a liberal society should aspire to as much neutrality as possible. An important part of this last task involves addressing the problem of “foreign policy”¹⁴¹ in the sense of dealing with those who hold reasonable but nonliberal conceptions of the good and addressing their concerns with good-faith efforts. While we cannot expect the tension between personal morality and the obligations of liberal democratic citizenship to disappear anytime soon, a conception of civic education that is morally acceptable under conditions of moral pluralism must try to balance these two equally important considerations.

The next question, then, is why would any citizen, especially a person whose conception of the good conflicts to some degree with her civic duties, accept public reason as a political morality, thereby subordinating her deeper

137. See Scheffler, *supra* note 24, at 11.

138. Cf. Alan Gewirth, *Is Cultural Pluralism Relevant to Moral Knowledge?*, SOC. PHIL. & POL'Y, Winter 1994, at 22, 34 (explaining that human rights are not exclusively a Western conception).

139. For an account of the “spill over” thesis, see Gutmann, *supra* note 14, at 571–72.

140. RAWLS, POLITICAL LIBERALISM, *supra* note 15, at 193.

141. See Larry Alexander, *Liberalism, Religion, and the Unity of Epistemology*, 30 SAN DIEGO L. REV. 763, 763–64 (1993) (discussing the effect of nonliberal views and their proponents on liberalism).

religious or philosophical views to its norms when acting in the role of citizen? What kinds of reasons could a political liberal give to a person who is potentially reasonable but who has a nonliberal way of life to convince her of the primacy of the civic virtue of reasonableness? Surely, such a person is more likely to feel “motivational strain” under a political scheme based upon public reason than a citizen who has a more liberal conception of the good.¹⁴² The first answer is that the desire to honor public reason is hardly a full-time commitment.¹⁴³ As Bruce Ackerman writes, liberal citizenship should be a “loose-fitting garment that many can wear without grave discomfort as they enter the public forum.”¹⁴⁴ That is one of its primary strengths. The second answer is that all persons, as rational agents, will want the freedom to pursue their conceptions of the good free from unreasonable interference by the state or by others. This means that they ought to support individual rights that make such a pursuit possible even when their conceptions of the good turn out to be more communitarian and less individualistic. The modest demands of public reason turn out to be advantageous in that they can motivate citizens to live up to their civic responsibilities while retaining their nonliberal conceptions of the good. In theory, this is all the moral motivation that is necessary to secure political stability for the right reasons. The desire to be a good citizen in a liberal democracy governed by public reason, of course, can be a central component of this person’s conception of the good life. In fact, we should expect, or at least hope, that many citizens in the well-ordered society will aspire to treating their fellow citizens fairly. Nothing rules out the possibility of having more support for public reason from underlying reasonable comprehensive doctrines.

The challenge lies in determining to what degree a commitment to public reason has to be congruent with different comprehensive doctrines to be motivationally effective. How much tension between public reason and a particular conception of the good is too much tension? There is no reason to assume that a basic commitment to reasonableness has to be grounded in deep philosophical or religious stories about the good life when ordinary citizens can act from a variety of moral reasons that have many different possible sources. This does not mean that any reason counts as a good reason when citizens apply norms of public reason to real cases. The point is not to defer uncritically to whatever reasons nonliberal citizens happen to have. The capacity to be reasonable must be detached from deeper beliefs, as far as

142. Rawls refers to this motivational strain as “strains of commitment.” JOHN RAWLS, *JUSTICE AS FAIRNESS: A RESTATEMENT* 103 (Erin Kelly ed., 2001).

143. If the two standpoints—of justice and of the individual good—were in tension regularly and that person were not receptive to resolving the conflict by appeal to the balance of political reasons, such a person would be unreasonable.

144. Ackerman, *supra* note 24, at 386.

possible, to secure fair terms of social cooperation under condition of moral pluralism. The best hope for political legitimacy involves trying to determine whether the kinds of moral reasons that motivate citizens with moral differences can be equally strong or, more basically, strong enough even when they are not directly derived from deeper conceptions of the good. This distinction must be drawn if public reason is to have any chance of being endorsed from the wide range of existing reasonable religious and moral perspectives that exist in a morally pluralistic society.

There is nothing particularly mysterious about the kind of moral motivation that emerges from a commitment to being reasonable in political life. People often obey the law because they believe that it is proper to do so and largely base their evaluations of political and judicial institutions on the degree to which they have been treated with respect.¹⁴⁵ According to studies of procedural justice, citizens react favorably to whether police officers and judges make their decisions fairly.¹⁴⁶ People may also believe that a particular decision is wrong yet continue to support it when they respect the impartiality and competence of the institution.¹⁴⁷ Similarly, “tenants, consumers, and welfare recipients often regard the way in which they are treated by governmental institutions at least as importantly as the extent to which they achieve their substantive goals.”¹⁴⁸ Other empirical studies on jury trials indicate that people tend to judge their experience from a procedural standpoint independent of the actual outcome.¹⁴⁹ These studies suggest that the desire to treat others fairly need not be based on a conception of the good or on a deeper moral reality because people can and do act for reasons that have everyday origins.¹⁵⁰

B. *Objections*

A number of critics of liberal civic education doubt that it can be neutral in the sense of preserving nonliberal beliefs in the background culture. For instance, Shelley Burt argues that liberals must go to great lengths to accommodate parents with religious objections to the public-school

145. TOM R. TYLER, *WHY PEOPLE OBEY THE LAW* 178 (1990).

146. *See generally* E. ALLAN LIND & TOM R. TYLER, *THE SOCIAL PSYCHOLOGY OF PROCEDURAL JUSTICE* (1988).

147. Walter F. Murphy & Joseph Tanenhaus, *Public Opinion and the United States Supreme Court*, in *FRONTIERS IN JUDICIAL RESEARCH* 273, 275 (Joel B. Grossman & Joseph Tanenhaus eds., 1969).

148. Richard B. Saphire, *Specifying Due Process Values: Toward a More Responsive Approach to Procedural Protection*, 127 U. PA. L. REV. 111, 124–25 n.59 (1978).

149. *See generally* E. Allan Lind et al., *Procedure and Outcome Effects on Reactions to Adjudicated Resolution of Conflicts of Interest*, 39 J. PERSONALITY & SOC. PSYCHOL. 643 (1980).

150. *See* S.A. Lloyd, *Relativizing Rawls*, 69 CHI-KENT L. REV. 709, 720–21 (1994) (arguing that there is a distinction between reasons for acting and reasons for believing).

curriculum.¹⁵¹ As she points out, highly religious parents have two primary concerns: (1) They seek to protect their children from an “aggressively materialistic culture” and (2) They want their children to be able to resist the temptation to sin.¹⁵² If she is right, then religious parents are not opposed to the teaching of reasonableness per se as long as reasonableness does not dispose their children to value worldly goods or to engage in immoral behavior.

That is good news. For the sake of argument, however, let us assume that this claim about what deeply religious parents want is suspect. In *Mozert v. Hawkins Board of Education*,¹⁵³ Christian Fundamentalist parents challenged the requirement of the local school board that their children read from textbooks that exposed them to a number of different ways of life, as opposed to pressuring them into affirming particular secular beliefs.¹⁵⁴ This legal claim, based on the Free Exercise Clause of the First Amendment, was unique in that the plaintiffs claimed that they had a constitutional right to protect their children from mere exposure to different ideas.¹⁵⁵ In effect, they asked the court to tolerate their particular religious beliefs by eliminating examples of tolerance from the school curriculum for their children alone. The parents’ claim was predicated on the belief that mere exposure to ideas violated their free exercise of religion and their rights to control the upbringing of their children.¹⁵⁶ This exposure was not the equivalent of forcing a Jehovah’s Witness school child to salute the American flag during the pledge of allegiance¹⁵⁷ because the children in *Mozert* were not being compelled to perform an act that violated their conscience.¹⁵⁸ As such, *Mozert* did not neatly fit into extant Free Exercise Clause case law. Mere exposure to particular ideas, like mere exposure to children and teachers who may not share their religious beliefs, seems to be a far cry from the kind of unjustified coercion that the religion clauses of the First Amendment were designed to address.¹⁵⁹

151. See Burt, *supra* note 26.

152. *Id.* at 63.

153. 827 F.2d 1058 (6th Cir. 1987).

154. *Id.* at 1060–61.

155. *Id.* The U.S. Constitution requires states to permit private alternatives to public schools. See *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534–35 (1925). Still, states may regulate private schools. *Id.* at 534.

156. These are two distinct claims, based on the Free Exercise Clause and on a substantive reading of the Due Process Clause, respectively. *Mozert*, 827 F.2d at 1061–63.

157. See *W. Va. State Bd. Of Educ. v. Barnette*, 319 U.S. 624 (1943) (invalidating the statute on free speech grounds).

158. *Mozert*, 827 F.2d at 1066.

159. *Id.*

C. *Rebuttal*

The goal of civic education in public reason is to specify a civic minimum that is as tolerant as possible of nonliberal ways of life without compromising the behavioral predispositions and the deliberative, casuistic skills that make good citizenship possible in modern liberal democracies.¹⁶⁰ Civic minimalists contend that parental authority over public schools may only be limited by what is essential to future liberal democratic citizenship.¹⁶¹ The real issue, then, is to define these essentials and to determine their actual implications. The desire of parents to pass on their way of life to their children must be limited by the fact that their children are future citizens. Children must learn to treat their fellow citizens as political equals who have a right to form, revise, and pursue their respective conceptions of the good. That is non-negotiable. Agreeing to disagree about reasonable conceptions of the good is a step toward this legitimate end. Just as parents may not impede the normal physical, emotional, and intellectual development of their children, parents do not have the right to impede the acquisition of civic competence in public reason.

D. *A Weaker Conception of Autonomy*

In short, parental rights end where the capacity for political autonomy begins. Here, it is important to recognize that there is a crucial difference between personal autonomy as constitutive of the good life as opposed to the kind of political autonomy that underlies reasonableness as a civic attitude.¹⁶² Indeed, the existence of a significant gap between political autonomy and deeper, personal autonomy is basic to political liberalism.¹⁶³ The very plausibility of a more political kind of liberalism would seem to turn on the extent to which a citizen with a non-liberal conception of the good—i.e., one who did not make room for the value of critical reflection—nevertheless could be reasonable for limited political purposes.

160. *But see* Sheldon S. Wolin, *The Liberal/Democratic Divide: On Rawls's Political Liberalism*, 24 POL. THEORY 97, 102 (1996) (book review) (claiming that public reason is a hegemonic, oppressive mode of discourse).

161. GUTMANN, *supra* note 16, at 293.

162. Although there are a number of different conceptions of autonomy, all of them emphasize the indispensability of the agent's making informed choices on the basis of good reasons. *See, e.g.*, George Sher, *Liberal Neutrality and the Value of Autonomy*, SOC. PHIL. & POL'Y, Winter 1995, at 136, 139. Joseph Raz believes that autonomy is a life of uncoerced choices that requires (1) adequate mental abilities to form sufficiently complex intentions and (2) an adequate range of options to choose from. RAZ, *supra* note 24, at 371–75.

163. JOHN TOMASI, LIBERALISM BEYOND JUSTICE: CITIZENS, SOCIETY, AND THE BOUNDARIES OF POLITICAL THEORY 25 (2001).

To complicate matters, the exact meaning of autonomy is contested.¹⁶⁴ Robert Nozick's definition of personal autonomy is nearly synonymous with that of an examined life:

The understanding gained in examining a life itself comes to permeate that life and direct its course. To live an examined life is to make a self-portrait. Staring out at us from his later self-portraits, Rembrandt is not simply someone who looks like that but one who also sees and knows himself *as* that, with the courage this requires. We see him knowing himself. And he unflinchingly looks out at us too who are seeing him look so unflinchingly at himself, and that look of his not only shows himself to us so knowing, it patiently waits for us too to become with equal honesty knowing of ourselves.

....

The activities of a life are infused by examination, not just affected by it, and their character is different when permeated by the results of concentrated reflection.

....

I do not say with Socrates that the unexamined life is not worth living—that is unnecessarily harsh. However, when we guide our lives by our own pondered thoughts, it then is *our* life that we are living, not someone else's. In this sense, the unexamined life is not lived as fully.¹⁶⁵

Gerald Dworkin describes personal autonomy as “a second-order capacity of persons to reflect critically upon their first-order preferences, desires, wishes, and so forth and the capacity to accept or attempt to change these in light of higher-order preferences and values.”¹⁶⁶ Thomas Hill adds, “[an autonomous] person ideally [is not] moved by blind adherence to tradition or authority, by outside threats or bribes, by unreflective impulse, or unquestioned habits of thought.”¹⁶⁷ For Thomas Hurka, “To be autonomous . . . is to direct oneself where different directions are possible.”¹⁶⁸

Naturally, many liberals would prefer a society in which most citizens were disposed to critical reflection, to disavow superstitions, to make their own choices, and to accept responsibility for the consequences of their personal decisions. For most of them, though, that preference is not the equivalent of supporting a state that is designed to foster a radical sense of autonomy or even

164. See THOMAS E. HILL, JR., *AUTONOMY AND SELF-RESPECT* 44 (1991); GERALD DWORKIN, *THE THEORY AND PRACTICE OF AUTONOMY* 5, 6 (1988).

165. ROBERT NOZICK, *THE EXAMINED LIFE: PHILOSOPHICAL MEDITATIONS* 12–15 (1989).

166. DWORKIN, *supra* note 164, at 20.

167. HILL, *supra* note 164, at 45.

168. Thomas Hurka, *Why Value Autonomy?*, 13 *SOC. THEORY & PRAC.* 361, 361 (1987).

a strong sense of personal autonomy in its citizens.¹⁶⁹ As Brian Barry notes, “In a liberal society, people who do not wish to devote themselves to Socratic questioning are perfectly free not to do so.”¹⁷⁰ The equal freedom for each citizen that political liberalism promotes, which is independent of the content of each person’s reasonable conception of the good, means that citizens can have whatever beliefs they please and also the freedom to associate with whomever they please. Those beliefs only must be reasonable in the sense of respecting the freedom and equality of their fellow citizens when collective decisions are to be made.

Nor does autonomy have to be over-intellectualized.¹⁷¹ A person can be autonomous in the weaker sense even when she has not given deep thought to a particular decision or to her way of life. After all, most, if not all, of us are fundamentalists in that we harbor at least some unreflective commitments.¹⁷² Autonomy admits of degrees inasmuch as human lives are more or less autonomous depending upon the amount of critical reflection that typically goes into the individual decision-making process over an extended period.¹⁷³ Surely, a minimally autonomous life need not consist in only deeply autonomous decisions. This also does not mean that an over-examined life is necessarily better than a life that is the product of less critical reflection. A weaker conception of autonomy—i.e., one that does not define autonomy in Socratic terms—is the best means of answering the concern that Rawls’s political conception of the person has smuggled in an ethically controversial conception of personal autonomy.¹⁷⁴ In addition, a number of commentators have insisted that liberalism does not require the teaching of autonomy.¹⁷⁵ For these reasons, autonomy need not be a way of life.

Others have claimed that the very notion of a purely “political” liberalism is incoherent. Eamonn Callan insists that the distinction that Rawls draws between his political liberalism and comprehensive liberalism is illusory.¹⁷⁶ That “political” liberalism requires a deeper conception of autonomy compromises its political nature and thus, causes it to collapse into a

169. For an example of radical autonomy, see ROBERT PAUL WOLFF, *IN DEFENSE OF ANARCHISM* (1970).

170. BARRY, *supra* note 18, at 121.

171. RAZ, *supra* note 24, at 371.

172. See Joe Coleman, *Civic Pedagogies and Liberal-Democratic Curricula*, 108 *ETHICS* 746, 760 (1998).

173. RAZ, *supra* note 24, at 373.

174. Similarly, David Johnston argues that the virtue of justice is independent of autonomy. DAVID JOHNSTON, *THE IDEA OF A LIBERAL THEORY: A CRITIQUE AND RECONSTRUCTION* 72–75 (1994).

175. See, e.g., LOREN E. LOMANSKY, *PERSONS, RIGHTS, AND THE MORAL COMMUNITY* (1987); GALSTON, *supra* note 7; William A. Galston, *Two Concepts of Liberalism*, 105 *ETHICS* 516 (1995).

176. Callan, *supra* note 14, at 5.

comprehensive liberalism.¹⁷⁷ To avoid the charge that political autonomy is disguised personal or ethical autonomy, actions must speak louder than words. That is, political liberals must tolerate life plans that do not value autonomy, critical reflection, or individual expression. That there is bound to be extensive overlap between the skills of democratic citizenship and autonomy and individuality as conceptions of the good should mean that the state must have very strong reasons to compel people to act on beliefs that they do not hold.

There are limits, of course, to liberal neutrality. Obviously, liberal theories do not demand wholesale toleration of the intolerant.¹⁷⁸ Indeed, excluding libertarians, no liberal would maintain that the state could not enact anti-discrimination laws. The liberal refusal to use the power of the state to impose a more liberal conception of the good should not be construed as tacit moral approval of these ways of life or as revealing skepticism about the possibility of making such evaluations rationally.¹⁷⁹ The best explanation for the liberal attitude toward nonliberal beliefs lies in the strong reluctance on the part of liberals to use legislation to accomplish what they cannot bring about through a rational exchange of ideas. For a liberal, it is terribly wrong to impose an idea upon another human being even when that person is living a life that leaves a lot to be desired by liberal standards of human flourishing. It is a tragedy when coercion is the only option. After all, there would be something deeply unsettling about a political philosophy that above all valued the importance of people making their lives their own and at the same time had no qualms about using the coercive power of the state to force people to do what is purportedly in their best interests.

Surely, the civic capacities involved in the practice of public reason help us to live autonomously. As Amy Gutmann puts it, “The skills of political reflection cannot be neatly differentiated from the skills of evaluating one’s own way of life.”¹⁸⁰ We can be taught methods for evaluating the truth or falsehood of various claims about the world and learn about the reliability of statistical evidence. We can avoid being manipulated by developing the ability to investigate truth claims about the world on our own. The acquisition of deliberative, casuistic skills is bound to provide children with more opportunities to be autonomous than they would have had otherwise in the absence of a civic education that put all educational authority in the hands of their parents. This does not necessarily mean, though, that they will reject the faith or way of life of their parents. Commitments initially generated by non-

177. *Id.* at 22.

178. *But see* Stolzenberg, *supra* note 3.

179. Roberto Unger mistakenly believes that liberal neutrality is based on the skeptical belief that there is no rational way of determining when one kind of life is better than another kind of life. ROBERTO MANGABEIRA UNGER, *KNOWLEDGE AND POLITICS* 76–77 (1975).

180. Gutmann, *supra* note 14, at 578.

autonomous mechanisms become autonomous when the agent reflects upon them with some degree of critical attention or accepts them “from the inside.”¹⁸¹ A person can always subject the beliefs that were formed in her childhood to critical scrutiny by comparing them with other possibilities, even possibilities limited to particular interpretations of particular religious, moral, or cultural traditions. If these beliefs survive, then they are now held autonomously.¹⁸²

There are two obvious objections to this weaker conception of autonomy: (1) it unfairly demotes unchosen commitments; (2) it is unlikely to satisfy those who maintain that a more perfectionist kind of autonomy lies at the core of the human good. This first objection is not decisive because it trades on an ambiguity in the meaning of “unchosen.” Without question, we do not choose our natural assets and we often find ourselves in circumstances that limit the range of viable options available to us. We are not radically free in the sense of being able to recreate ourselves anew as existentialists might have us to believe. At the same time, in a minimal sense, our conscious decisions are a product of some degree of choice even when we make these decisions for bad reasons. As an example, a person who is pressured by her family and friends to marry within her racial or ethnic group and does so has made a choice, even if she would have made a different decision under different conditions.

From the standpoint of political liberalism, whether a person lives well does not turn on whether she has deeply reflected upon her most important commitments in a Socratic manner. Political liberalism is agnostic on these types of deeply personal, politically irrelevant questions. These choices are her own even when they are based on reasons that we do not understand or do not find to be persuasive. Without a doubt, rational reflection is an important good; it can help us to detect inconsistencies in our thinking and to determine whether we have adopted the most appropriate means to our ends. As such, minimal rational scrutiny is indispensable to living well as a human being. At the same time, that does not mean that citizens must reflect very thoroughly on their deepest beliefs and commitments to live well. If that were the standard, very few of us would ever approximate any kind of autonomous life.

When we separate autonomy as constitutive of a good human life from the sort of minimal political autonomy that would enable reasonable citizens to apply norms of public reason in political life, we can see that most people are more or less autonomous or at least have the potential to be so.¹⁸³ That is all

181. On the idea of living a life “from the inside,” see WILL KYMLICKA, *LIBERALISM, COMMUNITY, AND CULTURE* 12 (1989); KYMLICKA, *supra* note 10, at 80–84.

182. *Cf.* Sher, *supra* note 162, at 151.

183. For an argument that Catholics should endorse a Rawlsian political conception of justice, see Leslie Griffin, *Good Catholics Should Be Rawlsian Liberals*, 5 *S. CAL. INTERDISC. L.J.* 297 (1997).

that we need, politically speaking, and is consistent with the assumption of political liberalism that a shared social understanding of the good will never come about on its own.¹⁸⁴ In this respect, political liberalism is more hospitable to moral pluralism than comprehensive liberalism is.¹⁸⁵

E. Mitigating the Effects of a Civic Education in Public Reason

Therefore, the right kind of civic education is central to ensuring that citizens will be able to meet the demands of public reason in political life.¹⁸⁶ Indeed, the state must actively educate children to ensure that they acquire the basic civic skills that will help them to become politically literate and responsible.¹⁸⁷ Ultimately, the aim of any liberal democratic model of civic education should be to strike a fair balance between the parental interest of passing on cultural or religious beliefs to children and the interest of a liberal democratic state in ensuring that its future citizens reach a minimal level of civic competence.¹⁸⁸ As we have seen, political liberals must advance a particular vision of citizenship while trying to remain as agnostic as possible toward reasonable comprehensive beliefs in the background culture. At minimum, that is what liberal neutrality requires. At the same time, they ought to be equally committed to corrective measures to offset the effects of civic education in public reason on the private identities of nonliberal children, thereby reducing the burden on parents who have nonliberal conceptions of the good.¹⁸⁹

There are three primary ways of accomplishing this objective. First, different methods of pedagogy may lessen the impact of liberal civic education on nonliberal beliefs and reduce the necessity of forcing the children of

184. It is not clear in Rawls's account in *POLITICAL LIBERALISM* whether this is an epistemological or empirical thesis about how much convergence we can expect under current social and political conditions. Rawls also comments that the general idea of political liberalism, which is relatively new, can also be found in the work of contemporary liberal thinkers like Charles Larmore, Judith Shklar, Bruce Ackerman, and Joshua Cohen. RAWLS, *POLITICAL LIBERALISM*, *supra* note 15, at 214 n.3, 231 n.12, 233 n.17, 238 n.25, 239 n.27.

185. See TOMASI, *supra* note 163, at 127.

186. On the relationship between civic education and liberal legitimacy, see Brighouse, *supra* note 110.

187. GUTMANN, *supra* note 16.

188. This Article takes for granted the assumption that there is no value-free or perfect political answer that would satisfy everyone. As such, the real question is what values are being taught. In addition, the most reasonable solution to the problem of civic education will involve a trade-off of values or interests that is acceptable to as many reasonable persons as possible.

189. *But see* Stephen V. Monsma & J. Christopher Soper, *Conclusion: The Implications of Equal Treatment*, in *EQUAL TREATMENT OF RELIGION IN A PLURALISTIC SOCIETY* 200, 205 (Stephen V. Monsma & J. Christopher Soper eds., 1998) (discussing the potentially prohibitive costs of legal exemptions for more than two thousand identifiable religious worldviews).

religious fundamentalists, for example, to read objectionable texts.¹⁹⁰ Second, children who have nonliberal conceptions of the good should be allowed to explain their deeper beliefs to their classmates. Third, as Macedo puts forth, a second stage of public justification that would consider requests for accommodation and exemptions on a case-by-case basis would ease the fear of those who believe that the very existence of a liberal polity threatens their way of life.¹⁹¹ A more balanced approach to civic education would enable nonliberal citizens to “negotiate the interface of their public and nonpublic identities as they go about building their social worlds.”¹⁹² This is not as broad as Galston’s principle of maximum feasible accommodation of diversity but it leaves sufficient room for reasonable attempts to ensure that the minimal requirements of civic education are met.¹⁹³

The next question, then, is whether we can cultivate a commitment to public reason without undercutting the equally important commitment to accommodating reasonable moral pluralism about conceptions of the good.¹⁹⁴ After all, significant differences between secularists and traditional religionists still exist.¹⁹⁵ To accommodate or not to accommodate is not the only question.¹⁹⁶ In addition, we must figure out how we can avoid deferring to parental judgment on every single question while permitting parents to retain some educational authority over their children. Liberals do not have to fall into the trap of either accommodating all sorts of religious or cultural beliefs or becoming moral authoritarians. After all, the case against unrestricted parental deference is fairly straightforward: (1) Parents do not own their children as if they were personal property but rather are entrusted with the fiduciary responsibility of guiding their moral development and ensuring that they acquire the minimal skills that would enable them to function as normal adults;

190. For a detailed account of the “pedagogical” approach, see Coleman, *supra* note 172.

191. Macedo, *supra* note 24, at 483–84.

192. TOMASI, *supra* note 163, at 125.

193. When members of a political community exercise coercive power over one another, it matters whether they respect the freedom and equality of others and can act reasonably toward them. Like the Amish, those who do not want to be full members of the liberal state should not be forced to accept its benefits and burdens. Those who are not members of the political community are free to reject liberal-democratic values. On the idea of partial citizenship, see JEFF SPINNER, *THE BOUNDARIES OF CITIZENSHIP: RACE, ETHNICITY, AND NATIONALITY IN THE LIBERAL STATE* 95–99 (1994).

194. This may not necessarily mean erecting a higher or less porous barrier between church and state. See Charles L. Glenn, *What Would Equal Treatment Mean for Public Education?*, in *EQUAL TREATMENT OF RELIGION IN A PLURALISTIC SOCIETY*, *supra* note 189, at 75, 75–100.

195. See JAMES DAVISON HUNTER, *CULTURE WARS: THE STRUGGLE TO DEFINE AMERICA* 45–46 (1991).

196. Cf. TED G. JELEN & CLYDE WILCOX, *PUBLIC ATTITUDES TOWARD CHURCH AND STATE* 57–97 (1995) (arguing that although Americans usually support strict separation of church and state in theory, they often accept state accommodation of religion in particular cases as well).

(2) children are also future citizens who must learn to cooperate with others; (3) to be able to cooperate with others is to be able to resolve conflicts with them fairly; (4) therefore, not all parental choices are morally acceptable because some of these choices do not equip children for the role of citizen that they are expected to play later in life.¹⁹⁷

These kinds of corrective measures will not satisfy everyone, but they should give us some rough ideas about how we might answer the charge that political liberals do indirectly what comprehensive liberals do openly—transform nonliberal conceptions of the good into conceptions that are considerably liberalized.¹⁹⁸ As this Article has tried to show, the practical implications of such an education in public reason need not lead to wholesale assimilation. Reasonable people with nonliberal conceptions of the good have less reason to feel threatened even though such a civic education may make it more difficult for some parents to pass on their way of life to their children. The point of developing a distinctly political conception of liberalism in the first place was to avoid the political implications of justifying liberal political morality on an overly controversial conception of moral personality that could not win the free assent of nearly all reasonable citizens for the right reasons.

IV. CONCLUSION

Although Marxist criticisms of liberal theory and practice no longer have the appeal that they once had, liberalism is still attacked on two main fronts.¹⁹⁹ While neorepublicans have alleged that liberal values are too thin to hold a society together over time and to motivate citizens to act appropriately, postmodernists have taken liberalism to task for being unable to accommodate morally important differences.²⁰⁰ Taken together, these standpoints suggest that liberalism either is morally impoverished or morally oppressive.²⁰¹ Neither predicate, of course, is terribly attractive. This Article has argued that

197. Cf. STEPHEN V. MONSMA & J. CHRISTOPHER SOPER, *THE CHALLENGE OF PLURALISM: CHURCH AND STATE IN FIVE DEMOCRACIES* 23 (1997) (explaining how, historically, the common school was supposed to function as a force of national unity and inculcate habits of good citizenship).

198. TOMASI, *supra* note 163, at 8–9.

199. On the Marxist critique of liberal justice, see Allen W. Wood, *The Marxian Critique of Justice*, 1 *PHIL. & PUB. AFF.* 244 (1972).

200. See, e.g., IRIS MARION YOUNG, *JUSTICE AND THE POLITICS OF DIFFERENCE* 118 (1990) (arguing that “desire for political unity will suppress difference, and tend to exclude some voices and perspectives from the public”). Nietzsche offers an alternative ethic that aspires to be more generous, more creative, and more responsive to human impulses, yearnings, and resentments. BONNIE HONIG, *POLITICAL THEORY AND THE DISPLACEMENT OF POLITICS* 8 (1993).

201. In addition, some feminists have criticized liberalism on the grounds that abstract individual rights and abstract principles of equality mask men’s sexual domination of women. See, e.g., CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 14–15 (1987).

political liberalism strikes an appropriate balance between the equal rights of citizens to practice nonliberal ways of life and the need of the state to produce citizens who are willing to respect the freedom and equality of their fellow citizens.²⁰² Liberals must resist the temptation to promote their particular conception of the good in justifying public reason as a regulatory political morality to others who are potentially reasonable but have nonliberal conceptions of the good.²⁰³

For many liberals, that may be a bitter pill to swallow. That is perhaps why so many of them managed to ignore what Rawls had written after *A Theory of Justice*.²⁰⁴ To claim that politics should not be about the good life, though, is not to claim that such questions about human flourishing are unimportant. Indeed, such questions are so important to so many people. The whole point of trying to prevent religious and moral comprehensive beliefs from becoming the moral basis of public law is that such beliefs are bound to be controversial and therefore, subject to reasonable disagreement. At the same time, the process of reason giving is central to the public justification of the exercise of political power.²⁰⁵ Public reason captures the idea that the members of a morally pluralistic society such as our own must rely upon reasons that will be acceptable to all reasonable persons so that principles of political morality and the collective decisions that fall under them may be publicly justified.²⁰⁶ The practice of public reason raises difficult questions about how we might go about promoting mass deliberation in the sense of

202. Although Rawls's ideal of the citizen is often taken to be liberal, his conception of citizenship is also premised on the importance of ensuring that all citizens participate equally in the process of making mutually binding collective decisions. Amy Gutmann, *Rawls on the Relationship between Liberalism and Democracy*, in *THE CAMBRIDGE COMPANION TO RAWLS*, *supra* note 99, at 168, 196. As such, it is clear that he is defending a democratic liberalism. *See id.*

203. *Cf.* Thomas Nagel, *Moral Conflict and Political Legitimacy*, 16 *PHIL. & PUB. AFF.* 215 (1987) (discussing the clash between impartiality and the viewpoint of the individual).

204. As Burton Dreben has observed, Rawls's second book, *POLITICAL LIBERALISM*, addresses a different question: political legitimacy in the sense that "under what conditions will someone properly accept a law as legitimate, even if he differs with it, even if he thinks it unjust . . ." Burton Dreben, *On Rawls and Political Liberalism*, in *THE CAMBRIDGE COMPANION TO RAWLS*, *supra* note 99, at 316, 316–17.

205. *See* ACKERMAN, *supra* note 11, at 8.

206. *Cf.* BRIAN BARRY, *POLITICAL ARGUMENT: A REISSUE WITH A NEW INTRODUCTION*, at lxxii (1990) (stating that political principles are consistent with reason if they are worthy of the assent of reasonable people); JOSEPH M. BESSETTE, *THE MILD VOICE OF REASON: DELIBERATIVE DEMOCRACY AND AMERICAN NATIONAL GOVERNMENT* 3, 13 (1994) (discussing how the Framers wanted to create a government that would combine deliberation and democracy); KENT GREENAWALT, *LAW AND OBJECTIVITY* 215–16 (1992) (noting that reasoning within the law involves reference to broader sources); CASS R. SUNSTEIN, *THE PARTIAL CONSTITUTION* 24 (1993) (stating that "the principle of impartiality requires government to provide reasons that can be intelligible to different people . . .").

encouraging all citizens to think seriously about constitutional essentials and matters of basic justice.²⁰⁷ It also raises questions about how strong the ideal of public reason should be and who might be excluded if everyone were asked to follow its norms.²⁰⁸

Without question, a civic education in public reason can break down identities and make it more difficult for distinct religious and cultural identities to thrive or even survive.²⁰⁹ Put differently, “spillover effects” are unavoidable.²¹⁰ It stands to reason, then, that it is disingenuous for comprehensive and political liberals alike to pretend that a civic education in public reason would not somehow affect the moral orientations of children who are taught to practice public reason. After all, that is its purpose inasmuch as children are future citizens. Because our history is full of examples of forced assimilation, moreover, most of us naturally tend to be wary of political efforts to assimilate religious and cultural minorities in the name of greater social unity.²¹¹

Yet parental educational authority should be limited by the fact that a child is a future citizen whose votes will affect other people who deserve equal concern and respect.²¹² While teaching children to think critically about their own lives cannot be neatly separated from teaching them to think for themselves about politics, the relative absence of coercion and sincere efforts at accommodation are likely to permit religious and cultural identities to change on their own over time or resist the forces of change as much as possible in the modern world. This Article has tried to explain why a conceptual distinction between comprehensive and political liberalism is politically necessary, even if theoretically, the distinction is very fine. This Article has also tried to explain how a liberal democracy might inculcate a commitment to public reason in its future citizens while accommodating reasonable yet nonliberal conceptions of the good. There will be hard cases at the margins and reasonable people will balance competing considerations

207. Cf. JAMES S. FISHKIN, *THE VOICE OF THE PEOPLE: PUBLIC OPINION AND DEMOCRACY* 43 (1995) (noting that citizens rarely confront the trade-offs among valued goals and alternative ways to achieve those goals).

208. JAMES BOHMAN, *PUBLIC DELIBERATION: PLURALISM, COMPLEXITY, AND DEMOCRACY* 8 (1996).

209. See GALSTON, *supra* note 7, at 296; STEPHEN MACEDO, *DIVERSITY AND DISTRUST: CIVIC EDUCATION IN A MULTICULTURAL DEMOCRACY* 70–72 (2000); TOMASI, *supra* note 147, at 10–12; Gutmann, *supra* note 14, at 559.

210. Gutmann, *supra* note 14, at 576.

211. Others fear that the New Left has, in effect, collaborated with the Right in making “cultural” politics central to public discourse and therefore have left little room for real politics. See, e.g., RICHARD RORTY, *ACHIEVING OUR COUNTRY: LEFTIST THOUGHT IN TWENTIETH-CENTURY AMERICA* 14–15 (1998).

212. GALSTON, *supra* note 7, at 252.

differently and may reach different conclusions.²¹³ That is a fact that we are going to have to live with, but it need not lead us to the radically skeptical conclusion that public justification of law is impossible under conditions of moral pluralism. Whether it is impossible will largely turn on the extent to which ordinary citizens are sincerely motivated to provide their fellow citizens with widely shared reasons. That this task of public reasoning is bound to demand a lot, both cognitively and morally, of ordinary citizens should not detract from its promise of political legitimacy.

In cases where nonliberal religious or cultural values conflict with the fundamental aim of civic education of producing citizens who will respect the freedom and equality of their fellow citizens, liberals can and must take their own side in an argument. That means that liberals must resist the lure of more

213. The range of application of a norm is likely to be underdetermined at times. People who adhere to the same abstract principles may have very different ideas about what those principles require, especially in moderately difficult or hard cases. For instance, most Americans are committed to racial equality in the abstract but they do not have the same beliefs about what sorts of public policies ought to follow from this moral commitment. They disagree over whether affirmative action in higher education furthers such equality and to what extent race should be taken into account in making admissions decisions. In a sense, then, it is not clear exactly what we mean when we claim that, as a society, we believe in racial equality beyond a mere consensus on the words. Likewise, the dissensus that could result from interpretive differences over the meaning of public reason would undermine both its authority and its feasibility as a shared normative political language. Indeed, it is not clear whether the members of the well-ordered society could be said to be operating under public reason at all when they are deeply divided over the kinds of actions that might fall under its norms. To settle their differences through public reason, their interpretations of real fundamental political questions must converge to some degree at a more concrete level as well.

Although there may be no right answer or perfect solution in hard cases, we still can argue with one another that our choice was most appropriate under the circumstances. We do so by offering context-sensitive, public reasons that others may accept as legitimate even when they personally believe that other reasons are more convincing. We can point to the various features of a particular situation that justify a particular decision and explain our reasons for it to others. That is what we ought to do and that is all that we can do. If none of these principles were shared at an abstract level, then there would be no possibility of agreement on how to apply them and therefore, no possibility of consensus on fundamental political questions. Still, the very act of communication implies some basis of common judgment. There must be some agreement on what counts as valid evidence and on what moral considerations are considered to be legitimate to get deliberation off the ground in the first place. This does not mean that any of these considerations are conclusive. Nor does it suggest that actual agreement is assured or that fundamental disagreements will not arise over the application of such principles to real cases.

H.L.A. Hart traces the indeterminacy of legal rules to two additional sources: (1) "our relative ignorance of fact" in that we cannot foresee all of the possible applications of a rule when we formulate it and (2) "our relative indeterminacy of aim" where unforeseen empirical features can change the aim of the applicable rule. H.L.A. HART, *THE CONCEPT OF LAW* 124–36 (2d ed. 1994). For these reasons, legal rules have an "open texture." *Id.*

extreme forms of multiculturalism.²¹⁴ In addition, they must also eschew moral nihilism.²¹⁵ On the other hand, the difficulty with a maximalist liberal civic education that teaches autonomy as the highest good is that it is insufficiently tolerant of reasonable moral pluralism and may drive those with nonliberal conceptions of the good underground or cause parents to remove their children from public schools. This is another way of saying that liberals cannot be too attached to the purity of the concept at the cost of its likely political implications. The act of putting a robust conception of autonomy at the center of the curriculum in public schools is bound to alienate those who value other goods above the ability to reflect deeply on life choices. This does not mean, though, that the state always has to defer to the wishes of parents who seek to prevent their children from being exposed to different ways of life. A civic education that is too minimal, albeit less controversial, is unlikely to create citizens who are capable of meeting the demands of public reason in political life.

Lockean arguments for non-interference make sense in that coercion may not be an effective means of changing people's beliefs and, indeed, may be counterproductive in the long run. At the same time, non-interference puts too much educational authority into the hands of parents who seek to pass their nonliberal ways of life to their children, thereby compromising the ability of their children to acquire the skills, virtues, and attitudes that would enable them to act reasonably toward others later in life. After all, reasonableness imposes heavy intellectual and emotional demands on citizens, and it takes time for children to learn how to develop the diverse set of deliberative skills and civic attitudes that would enable them to put norms of public reason into practice.²¹⁶ The tension between personal morality and liberal democratic citizenship is not going to disappear anytime soon and is more of a psychological burden for some people than for others.²¹⁷ To be a liberal is to be able to live comfortably with this tension and to respect the life choices of

214. Cf. Amy Gutmann, *The Challenge of Multiculturalism in Political Ethics*, 22 PHIL. & PUB. AFF. 171 (1993) (discussing the conflicting standards of justice associated with different cultures).

215. Nihilism is the view "that there are no moral facts, no moral truths, and no moral knowledge." GILBERT HARMAN, *THE NATURE OF MORALITY: AN INTRODUCTION TO ETHICS* 11, 27, 35 (1977).

216. In empirical studies of cognitive development, "reflective judgment" measures the extent to which persons who seek to solve "ill-structured" problems appreciate uncertainty and evaluate evidence in reaching a conclusion that can be defended as reasonable or plausible. PATRICIA M. KING & KAREN STROHM KITCHENER, *DEVELOPING REFLECTIVE JUDGMENT: UNDERSTANDING AND PROMOTING INTELLECTUAL GROWTH AND CRITICAL THINKING IN ADOLESCENTS AND ADULTS*, at xvi (1994).

217. Cf. Bernard Williams, *Toleration: An Impossible Virtue?*, in *TOLERATION: AN ELUSIVE VIRTUE*, *supra* note 15, at 18, 24–25 (discussing the different possible sources of the practice of toleration).

others even when those choices appear to be foolish or morally suspect. To be reasonable, furthermore, is to live a double life as an individual with deep personal convictions and as a citizen who has a civic duty to tolerate the life plans of others who share her social space. For most of us, this double life does not lead to an identity crisis.²¹⁸ That should give us hope.

218. Cf. David Heyd, *Introduction*, in *TOLERATION: AN ELUSIVE VIRTUE*, *supra* note 15, at 3, 12–14 (discussing the “perceptual virtue” of toleration).