Political Liberalism and the Search for

Moral Consensus

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I. Introduction

Political liberalism breaks with many of the tenets of older forms of liberalism. Yet the political liberalism of Rawls, Moon, and other contemporary political theorists shares one of the preoccupations of these other doctrines: It seeks a moral basis for liberal regimes in a consensus on certain liberal principles of politics.[1] The argument of this paper is that no such consensus is necessary or desirable in a liberal political community.

In the first two sections of this paper, I examine the distinctive features of political liberalism. I show how political liberals attempt to bracket the sources of political division in a pluralistic community in an effort to find liberal principles of politics that all could reasonably accept, albeit on possibly different grounds. Then, after a brief remark in section three about the difficulties of attaining consensus in liberal polities, the next four sections of the paper consider and criticize four sources of the liberal search for moral consensus. First, I consider the claim that political stability is impossible without some moral consensus. I show, however, that liberal political communities have long survived without any such moral consensus. Second, I examine the assertion that moral reasoning is impossible without some moral consensus. Rawls has argued that political liberals should seek an overlapping consensus on political principles that can, in turn, serve as the basis for public reason. I argue, however, that all public reasoning needs is an overlapping series of agreements, not to a single set of principles but to an overlapping series of principles, precepts, and policies. This double overlapping consensus, I suggest, allows for not just reasoned agreement but reasoned disagreements of the kind likely to encourage both political engagement and political stability. Third, I consider the notion that, as a moral matter, a political community should be constituted by an agreement on certain moral essentials. On this view, to be a moral community, a political community must find and act on principles that that are or could be acceptable to everyone. I argue, however, that this claim rests on philosophical presupposition that are not only dubious but explicitly rejected by political liberals such as Rawls and Moon. Fourth, I consider the claim that respect for others and for reason in politics itself requires us to search for a moral consensus. Against this claim, I argue that we can only act rationally in politics, and with respect for others, by following the moral principles we deem to be rational by our own lights. There is no standpoint above the many political views in a liberal community by which we can rationally and fairly evaluate them. Finally, in the last section of the paper I show that the search for moral consensus is not only unnecessary but potentially dangerous for liberal political communities.

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[1] As I will suggest below, that preoccupation is less prevalent in the work of, say, Locke, than in later liberal political theorists. But it can be found, in a much more moderate form, there as well. In this paper I focus on the differences between the aspirations of political liberals and previous liberals. In an unpublished companion piece to this paper, "Three Ends and a Beginning: Theory, Ideology, History and Politics" I discuss the sources of the search for something like moral consensus in earlier liberal thought. That paper can be found at my website, www.stier.net.

II. Political Liberalism

Political liberalism is a new liberal political philosophy that has gradually come into focus in recent years. A notable version of political liberalism has been formulated by John Rawls, who in his last work argued that the two principles of justice as fairness should be understood in terms of this new view of the role and place of political philosophy in political life. As we shall see, political liberalism is a conception of political philosophy very different from the one(s) implicit in *A Theory of Justice*. While Rawls may have been the first to formulate the idea of political liberalism, other political philosophers have pointed in much the same direction. In particular, J. Donald Moon and Stephen Macedo have presented philosophies of liberalism that could be considered to be variants of political liberalism, although only Moon actually describes his work in these terms.[2]

Political liberalism begins by focusing on what it takes to be the fundamental feature of political life in liberal political communities: moral pluralism. Most liberal political communities contain within themselves adherents of a great variety of political, moral, and religious traditions. There are liberals of all kinds, who take different stands on the issues of civil liberty, distributive justice, and democracy and who uphold different philosophies of liberalism. There are the adherents of a great variety of religious traditions, most of whom accept some, but not all, liberal ideas. And there are also radical critics of liberalism—such as religious traditionalists, communitarians, feminists, and environmentalists, who find themselves both critical of the kind of community liberalism has created and yet supportive of many liberal claims.

Political liberals hold that we cannot expect that those who follow these many traditions of thought will reach any fundamental moral or religious agreement. This, however, does not lead political liberals to conclude that we should be moral skeptics or historicists. Indeed, we shall see that political liberalism makes most sense if we are at least open to the possibility of a rationalist form of moral reasoning. Thus many political liberals do not deny that reasoning about political and moral matters—concerning both the right and the good—is possible. Nor do they deny that there are better or worse answers to our political, moral, or even religious questions. But political liberals hold that, no matter how powerful reason is, moral pluralism is not likely to be overcome. There are three plausible reasons for thinking that this is the case.

First, as Isaiah Berlin has long argued, good arguments can be given for holding political and moral views that are nonetheless in conflict with one another. It may be, for example, that there is more than kind of good life open to human beings.[3] Different people—or even one and the same person—could live a fulfilled life by pursuing very different goals. And yet these different lives might still be radically incompatible with one another. Similarly, it might be that compelling arguments can be made to show that human beings have certain rights. And yet these rights may well come into conflict with one another. The vexed issue of abortion might be one example of such a conflict of rights.

A second possible source of moral pluralism is the complexity of our political and social lives. This complexity may make it virtually impossible for us to attain any sort of convergence in

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[2] John Rawls, *Political Liberalism*; J. Donald Moon, *Constructing Community: Moral Pluralism and Tragic Conflicts*; Stephen Macedo, *Liberal Virtues*.

[3] See Isaiah Berlin, *The Hedgehog and the Fox*, "Historical Inevitability" and "The Originality of Machiavelli" among other essays. For other accounts of moral pluralism see Joseph Raz, *The Morality of Freedom* and Moon, *Constructing Community*. .

political and moral thought. For example, people committed to civil liberty and consent to government might come to hold very different views of what form of government ought to be adopted. Their judgments about this issue would presumably reflect different estimates of human nature or of the human situation in general. Or it might reflect different views of the political situation of their own polity and society: of the most pressing political and social problems that must be dealt with; or of the likely threats to their rights; or of the factors that might undermine the stability of their political community; or of the likely patterns of coalition formation among different interests groups; and so on. There might well be a right and wrong answer to the fundamental political question of what form of government should be adopted in this political community. And there will certainly be better and worse answers. But it still might be extremely difficult to determine what is the best answer. For the answer to this questions will rest on complicated and debatable empirical matters. And, even though it is possible to collect a great deal of evidence that has implications for this matter, there is no assurance that the evidence will all point in one direction. Moreover there is good reason to think that the evidence will be incomplete. And so might the various theoretical arguments that can be brought to bear on this issue. Given how incomplete our debates are likely to be, different groups of people will, reasonably enough, take a different stand on this, or other questions. Thus even if we have some confidence that there is a right or wrong answer to some pressing political question, we may have no confidence that we know the right answer with any degree of certainty.

A third source of moral pluralism is different claims to revealed knowledge of God's commandments to us. There is no reason to think—and much reason to doubt—that rational adjudication of claims to revealed knowledge is possible. Reason cannot easily dispute revelation. And, yet reason cannot easily accept the claims of revelation. And then there is the further problem: God, it seems, has revealed himself at least one too many times. Sorting out the various claims to revealed knowledge is a task that takes us beyond this life. People may have good reasons to accept what they take to be the revealed truths of their religion. Yet they cannot hope to persuade everyone else of their views.

So, for one or more of these reasons, the political situation in which we find ourselves, is one of moral pluralism. Political liberalism is a philosophy of liberalism that aims to deal with the difficulties of moral pluralism while, in so far as possible, enabling us to live our collective life in as rational a manner as possible.[4] That is, it presupposes that we are committed to living together rationally and yet that we find ourselves very much divided. We are presumably not divided about everything. We would all like to live in a stable and peaceful political order. But we disagree about much else. And thus political liberalism asks how politics should be conducted by people who are committed to reaching political decisions by means of reasoned debate and discussion even though they disagree about many fundamental matters of political and moral philosophy. Political liberalism hopes to discover the principles—or the institutions, practices, and policies—we should all support in order to create a stable political order that brings us, in so far as possible, those political ends we seek. And it hopes to insure that these principles or institutions, practices and policies will be, in so far as possible, fair to all.

While political liberalism looks at the task of political philosophy in a new way, it is reminiscent of older forms of liberalism. As Rawls has pointed out, liberalism arose out of the desire to meliorate the severe religious conflicts of the 16th and 17th centuries. Having recognized that

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[4] This is a central theme of Moon, *Constructing Community.*

religious unity was no longer possible, the early liberals came to believe that civic peace could only be sustained by religious liberty. And they became convinced that civic peace was fundamentally more important to most people than the particular tenets of their own sectarian faith. Thus they sought a basis for political and moral agreement in the relatively few, but important, goals that were broadly shared in the political community. That, in a nutshell, is the approach of political liberalism.

III. Political Philosophy on the Second Story

We typically assume that a political philosophy makes fundamental claims about what our aims and goals should be in our public lives—and, on some views, in our private lives as well. These claims, we suppose, must ultimately rest on a view of the good and / or the right. To say that we ought to pursue certain aims or goals is generally taken to mean that doing so is necessary to attain a good life or to meet our obligations to others.

In the last ten or so years of his life, John Rawls rejected this understanding of political philosophy. Rawls drew a distinction between what he calls a comprehensive political and moral philosophy and a strictly political philosophy. A strictly political philosophy of liberalism, Rawls held, aims to provide a justification for the institutions, practices and policies of liberal democracy. This political philosophy may well include a model of human nature and human ends and purposes which, in turn, is used to justify certain political principles. But, it does not purport to offer a complete or fundamental account of the good and the right, as is typically found in comprehensive moral theories. Indeed a political theory of liberalism is meant to be independent of any particular comprehensive political and moral theories. Thus whatever view of human nature or the human situation it contains is meant to serve the purposes of a political theory of liberalism and that alone. It is thus likely to provide a partial and incomplete account of human nature and the human good as a whole.

If our political philosophy is independent of any comprehensive view, why should we or anyone else accept its claims? Rawls answered that a political philosophy of liberalism can be acceptable, in perhaps different ways, to the wide range of reasonable comprehensive political and moral theories found in the liberal democracies. I will call a theory of politics that, in this way, stands above and is supported by a variety of ground floor comprehensive political and moral philosophies a "second story" political theory.

Given his new account of a strictly political theory, Rawls no longer claimed that justice as fairness should be understood as (part of) a comprehensive political and moral theory. Rather it is a political theory that stands above all comprehensive political and moral theories that is, a second theory. A second story political theory is not wholly independent of the ground floor theories, however. Rawls's hope was that the adherents of each of the different comprehensive secular and religious moral theories found in a pluralistic political community will support justice as fairness. Jews, Catholics and Protestants will have their own view of justice as will Platonists, Aristotelians, Lockeans, neo-Kantians and utilitarians. However, supporters of each of these comprehensive political and moral theory might, for one or more of three different reasons, come to the conclusion that a particular political theory of justice, such as justice as fairness, is an acceptable theory of justice for a liberal democracy.

First, a second story political theory might find some independent, though, different kinds of support from adherents of many of the ground floor theories. Deontological liberal generalists might, for example, think that the two principles of justice articulate the political theory that can be derived

from their own ground floor theory. Or Catholic social democrats might, for somewhat different reasons, believe that the two principles of justice give a plausible, if abstract, characterization of their own view of (at least some) requirements of justice in the contemporary liberal democracies.

Second, while the adherents of some comprehensive moral theories might deny that any second story theory elucidates the fundamental principles of justice, they could still believe it serves as a plausible summary of what justice requires here and now. Thus utilitarians might argue that a polity and society guided by Rawls's two principles of justice would, in so far as possible, maximize the average utility.[5]

The third path from a comprehensive political and moral theory to a second story political theory such as justice as fairness is the most original and interesting. On this view, those who hold ground floor political and moral theories might accept a second story political philosophy because they think it is an appropriate theory for a pluralistic political community. The comprehensive political and moral theories of these supporters of justice of fairness tells them that some agreement on principles of justice must be found if their own political community is to be stable and just. For stability and justice is, on this view, impossible if the members of the community are not in some agreement about the fundamental principles of justice. The proponents of these comprehensive political and moral theories do not just seek the kind of stability that rests on a temporary compromise or on a balance of power or on sheer exhaustion. Rather, they would like political and social stability to be based on a publicly affirmed and widely supported view of justice that is fair to all the members of the political community. Moreover, they would like political and moral debate to be a matter of reasonable discussion rather than confusion (or sophistry). They want people with very different assumptions and starting points to be able to rationally debate with one another. And this, they believe, is impossible without some publicly affirmed set of political ideas. A publicly affirmed view of justice is difficult to achieve, however. For it is likely that no consensus can be reached on any of the comprehensive views of the good and the right found in a pluralistic political community. That is not to say that none of these ground floor theories are correct. It is to say, however, that in a free and pluralistic political community, people will differ about the good and the right. Even if we believe in the possibility of rational political and moral debate, we no longer can accept the liberal rationalist claim that reason can give absolutely definitive and final answers to most questions. The preponderance of evidence and argument might lead most of us to accept one view or another. But it will not be irrational to think that further investigation might lead us to another conclusion. Moreover, it might be that the political and moral world is intrinsically disharmonious. For, as I suggested above, there may be more than one conception of how to live that would bring human beings fulfillment. And yet these different conceptions might conflict with one another.

Under these circumstances, what should people of good will do? Rawls's answer was that we should partly bracket our own view of the good and the right. We should ask what second story principles of justice it would be reasonable for us all to accept given that we cannot reach agreement on the ground floor. The way to discover what it would be reasonable for us to accept is to ask what would be acceptable to people who know they have some comprehensive moral view but are willing to put it aside in order to reach agreement with others who, not unreasonably, hold a different such view. This procedure, of course, is a reformulation of Rawls' notion of agreeing on principles of justice in the original position. On his new understanding of the original position, an agreement

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[5] This example is modified from one presented by Rawls. *Political Liberalism*, pp. 169ff.

reached by the participants there would, Rawls claimed, tell us what principles of justice reasonable people in our own polity and society should accept if they are committed to living with others under a publicly affirmed conception of justice.

Rawls's political liberalism has been very influential. But there are other approaches to political liberalism as well. J. Donald Moon follows Rawls's second story approach, but only up to a point. Like Rawls, Moon hopes that members of a liberal, pluralist political community will find some basis of agreement that stands above their own comprehensive political, moral and religious views. But Moon does not expect that everyone will agree to the kinds of formal and neutral political principles Rawls defended. Instead, he calls for men and women who wish to live together in a reasonable way to accept what he calls a liberal strategy for creating community. Doing so, Moon argues, will lead them to agree to protect agency rights to basic liberties and the means to make use of them. And it will lead them to support representative democratic political institutions. The will also agree to take part in generalized political discourse, in which everyone puts aside their particular moral views in the hopes of finding support for institutions, practices, and policies that can gain support from the entire community. Like Rawls, Moon looks forward to the creation of a moral consensus in a liberal political community. But unlike Rawls, Moon does not think that this consensus will be on any particular principles of justice. Rather, it will be an agreement that is both broader and narrower at the same time. In a well ordered liberal polity, there will be broad agreement on the ideals of agency rights and representative democracy and a willingness to engage in generalized discourse. And there will also be a series of agreements on the institutions, practices, and policies that can best realize both the general goal of creating a rational and moral liberal political community and the more particular goals of the people in any one time or place. But there will undoubtedly be areas of controversy as well. And there will always be the possibility of reopening any question concerning institutions, practices, and policies in response to protest, complaints, or worries about whether the ideals of political liberalism are being met.

IV. Why Moral Consensus is Impossible

In the rest of this paper, I want to show that a moral consensus of the kind political liberals hope to create is neither necessary nor desirable in a liberal political community. In making these arguments, I will presuppose another conclusion, that such a moral consensus is impossible. Some of my reasons for thinking that moral consensus is impossible will emerge in what follows. To get off to a good start, however, let me briefly summarize a series of arguments that have been made, by myself and others, to the effect that no consensus on a set of liberal political principles is likely, either now or in the future. At the center of all three arguments is the claim that any liberal government will, implicitly or explicitly, favor certain conceptions of the human good over others. To use the common term of art, government neutrality about the good is impossible. Yet questions of the human good, among other matters, are at the center of many of our political and moral disputes. The pluralism that characterizes liberal regimes is, more than anything else, a pluralism about what kind of life is likely to be satisfying, fulfilling or flourishing. Thus, if moral consensus requires agreement about the goods served by government—or about some neutral conception fair to every difference of opinion about the good—then these three arguments show that it is impossible to attain.

First: The long debate about Rawls' *Theory of Justice* has revealed that it is impossible to formulate liberal ideals of equality without reference to some controversial conception of the good.

Right from the start, Rawls' theory was attacked because the primary goods that are the basis of reasoning in the original position are controversial, both for what they include and what they leave out. Even more, the variety of primary goods and Rawls' claim that the "social bases of self-respect" can be included in the primary goods, creates a difficult problem in weighing or indexing the these goods.[6]

Second: Even if it were possible to bracket divergent moral views and base political decisions on a least common denominator conception of the good, doing so does not make for a government that is fair to all moral ideals. For the institutions of liberalism themselves have differential consequences for those who accept one or another conception of the good, let alone one or another conception of the right or of what God demands of us. Communitarians, religious traditionalists, environmentalists and feminists all have complained, for example, about the impact of institutions commonly found in liberal regimes, such as large corporations and advertising, on our ability to attain certain common goods. The supporters of most these movements accept the basic framework of liberalism. But they call on liberal governments to correct or offset the ill effects of liberal institutions and practices. To do so, it is necessary for governments to enact public policies that, for example, support feminist views of the family or communitarian notions of civic virtue. Yet, polices of this sort are surely going to be controversial.[7]

Third: Debates about common goods are central to the real world of liberal democracy. It is possible to bracket divergent conceptions of the good only in theory. In practice, every liberal regime does, and will continue to make decisions that have implications for the good. So long as liberal regimes offer public schools or require children to be educated; have marriage and divorce laws; regulate working conditions; control pollution; preserve natural environments; provide or subsidize transportation and communication infrastructures; encourage economic development of different kinds; subsidize or provide child or elder care; preserve historic sites; and do a million other similar things, issues about the common good will arise in our daily politics. Many of those issues are and will continue to be the subject of moral debate.[8]

It is the last two problems, I think, that are the deepest and most revealing. For, it is simply impossible to escape from the politics of the good. Liberal regimes have responded to the demands of its citizens to provide a wide range of common goods. Yet these good remain controversial. If all we demanded from government was the protection of our liberty and some provisions for social welfare, then the political liberal insistence on a least common denominator or neutral or consensual state—three terms I will use interchangeably—would almost be acceptable.[9] But questions of distributive justice do not exhaust our political concerns. That is not all that our politics is about.

If, as I have suggested, moral consensus is impossible, then it seems pointless to try to construct theories of liberalism that presuppose such consensus. So, why should we do so? And, even more importantly, dramatically, why should we try to reform our politics to meet the demands

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[6] See Schwartz, "Moral Neutrality and Primary Goods"; Barry, *The Liberal Theory of Justice;* and Wolf, *Understanding Rawls*, among many other works. Rawls's (inadequate) reply is in "Fairness to Goodness."

[7] I defend this claim in "Public Goods and Political Liberalism" and in a book manuscript I am currently completing, *The Trouble with Liberalism.*

[8] I have argued for this case at length in *Public Goods and Political Liberalism.*

[9] In using these terms, I mean to talk about a liberal regime that protects our rights, may engage in some redistribution of income, regulates the economy so as to encourage growth without inflation, but does not provide any further common goods. I definitely do not mean a minimal or libertarian state, in which the sole task is the protection of our rights.

of these theories?

V. Moral Consensus and Stability

The first idea that motivates political liberals to seek moral consensus is the notion that political stability is difficult to sustain if there is no publicly agreed conception of political right.[10] This prudential argument for relying on a thin rather than a thick conception of the good in politics cannot be easily dismissed. This argument is essentially the liberal realist argument that Judith Shklar not long ago rehabilitated under the name the liberalism of fear: extensive government action leads to heightened political conflict which, in turn leads to instability and, ultimately, civil war.[11] This claim is not entirely wrong. A government that acts, for example, on the basis of a highly controversial conception of the good, against the will of an active majority, about issues that are extremely sensitive or important to people *is* likely to risk instability, if not civil war. But it is one thing for government officials to be prudent when acting on a controversial conception of the good. It is another thing to eschew such action entirely. For the record is quite clear: liberal democratic governments have long survived and prospered even though few of them have adopted the scruples defended by political liberals like Rawls or realist liberals like Shklar.[12] Even if political and social stability requires a consensus on some political ideas, it certainly does not require the kind of moral consensus that Rawls, or even Moon, seeks. So long as civil liberty is preserved, most human beings seem quite happy to live with governments that do things with which they disagree. That is, after all, the most common state of the democratic citizen. If there is a rough agreement about the constitution under which they live, a liberal polity will not suffer much by instability. Moreover, agreement on basic civil liberties and a constitution does not require theoretical agreement of any kind, either about a core conception of the good or about principles of political right. It is worth taking a moment to explain why this is so.

Political liberals hold that political stability requires some agreement on a political theory or, at the very least, on the central ideas that are to govern our political life. As we have seen, Rawls has captured this idea with the notion of an overlapping consensus.[13] The kind of overlapping consensus political liberals seek is one in which different people adopt the same political and moral principles of right, albeit for different philosophical, religious, or moral reasons. But no such overlapping consensus has or is ever likely to arise. What really obtains in the liberal democracies is what I call a double overlapping consensus. We do not agree on a certain core conception of the good which structures our political life. Nor do we all agree upon principles of right that provide the framework for our politics. We are pluralists through and through. But we do have a very large area of agreement, not just on an overlapping set of principles and goods, but also an overlapping sets of precepts, policies, proposals, laws, regulations and so forth. None of these notions, however, can

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[10] Rawls, *Political Liberalism*, Preface, lecture IV. Note, however, that while insuring the stability of a liberal regime was one of the problems that motivated Rawls to recast his theory, as political liberalism developed Rawls downplayed this concern. He now emphasizes a different point: the aim of political liberalism is to help us create a morally legitimate government in the circumstances of moral pluralism. Thus he points out that political liberalism seeks a moral consensus among the citizens not a modus vivendi between them. Still, stability remains a concern of political liberals and deserves attention here.

[11] Judith Shklar, *Ordinary Vices*.

[12] Robert Mundt and I showed in "Are Democracies Stable? Compared to What?" that, contrary to the usual concerns about the stability of liberal regimes, liberal democracies are substantially more stable than authoritarian regimes.

[13] Rawls, *Political Liberalism*.

command the assent of everyone. There are some principles and goods, or policies and precepts, that receive support from almost everyone. Many others receive the support of large numbers of people even though smaller numbers cavil at them. Yet liberal governments act on political and moral ideas far beyond those relatively few ones that receive support from an overwhelming majority. And, of course, even where there is broad agreement on principles or goods or on policies and precepts, there are subtle and not-so-subtle disagreements about how they are to be interpreted and prioritized. Liberal governments take stands on these issues, too. And they also act on ideas about the good and the right or in favor of interests that are supported only by minorities, both large and small.[14] Moreover, stability is maintained even when there are serious disputes about, say, some important questions of civil liberty, such as abortion, and even when there are differences about such basic questions of sovereignty, as in the struggle over Quebec in Canada today.

The real world of liberal democratic politics, then, is constituted by an extraordinary range of parties, movements, tendencies, groups, and sects. Political stability is maintained not by agreement on any one set of ideals but, rather, by two things: a double overlapping consensus of the kind I have described and a recognition on the part of all that prudence and moderation in pursuit of their preferred political aims is necessary to preserve civic peace. This prudence and moderation has a number of sources. One is the necessities of politics in pluralistic liberal regimes. In those polities and societies, interest groups that represent only a minority of citizens must join with other such groups to form the coalitions that can elect governments and enact legislation. And these groups know that, at any one time, they may find themselves in the majority or minority. In such circumstances, prudence and moderation are the mother's milk of politics. Prudence and moderation are also important to the various groups because they know that these virtues are necessary to keep civic peace.[15] That last point is vitally important. For it is the lesson of the liberalism of fear. There are no worse circumstances in which to live than those that accompany civil war. The liberalism of fear teaches us to temper our political ambitions and moderate our political claims so as to preserve peace—while also working to remove other sources of cruelty and inhumanity as well. Sometimes, it will be necessary for government to go beyond the consensual state to attack those sources of human distress.

Thus prudence and moderation are extremely important. But they need not and cannot be replaced by a principled defense of the least common denominator state. Here, as elsewhere, political theory can best serve us not by telling us what lines we should not cross but, rather, by teaching us

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[14] This is the conclusion of every one who thinks of American government as primarily pluralist in nature. A good early statement that "minorities rules" is Robert Dahl, *A Preface to Democratic Theory*.

[15] There are a host of interesting, empirical questions that are suggested by the analysis I have presented here. First, the existence of a double overlapping consensus is not an all or nothing phenomena. The extent of agreement can vary as can the object of agreement. How much agreement is necessary for stability? And over what? Is it more important for there to be agreement about fundamental philosophical and theological matters? Or does agreement about political principles of the good and the right help more? Or perhaps it is actually agreement about policies, precepts, or cases that makes for political stability? Another issue arises because I have suggested two bases for political stability: double overlapping consensus and prudence and moderation. One could imagine that these two factors might vary independently of one another.

It is difficult to know how to evaluate these questions. But I am inclined to think that stability is more likely to come about when there is overlapping consensus about practical rather than theoretical matters and, particularly, when there is a practical agreement to certain principles of civil liberty and tolerance for those different from ourselves. After all, in many ways we disagree about theoretical matters much more than Protestants and Catholics did in the 17th century. But we have important areas of overlapping consensus on practical matters and take our theoretical differences less seriously.

what dangers we should try to avoid. Political theory should teach us about the dangers that can accompany a government that aims at more than the core goods all of us seek. At the same time, it should lead us to recognize that a more than least common denominator government is necessary to save us from the worst ills that can befall us.

VI. Moral Consensus and Moral Reasoning

A second reason given by political liberals for seeking moral consensus is that agreement about certain matters is necessary if rational political disagreement and debate is to be possible. This argument, on first look, seems to take political discussion and argument seriously. But the initial impression is mistaken. Political liberals seek consensus because they believe that reasoned dispute about political matters is impossible if there are no agreed principles of justice or no common views of the good by which to evaluate them. But that is to say that there are stark limits to the power of reason in political and moral matters. Rawls, and, to a lesser extent Moon, presuppose that we need something like an agreed framework within which all public political reasoning can take place. And they hold that, where there is no such framework—where people disagree about basic ideals and goals—political reasoning is impotent. Political liberalism assumes, however, that pluralism about comprehensive political and moral ideals is a fact of our political lives. Thus, for political liberals, reason will have nothing to say about most of the important matters on which we have political or moral convictions.

The last thing we need in political and moral thought is to start talking again about frameworks, perspectives, or paradigms in political, moral, and religious thought. Different comprehensive views may look at the world differently. But they are not locked away by themselves. They are not utterly incommensurable. It is surely true that rational debate will be difficult if not impossible when there is nothing about which we agree. But, as my discussion of double overlapping consensus suggests, there are many forms of agreement besides agreement about first principles. People with political views that differ in many ways can agree in their evaluation of certain specific political institutions, practices, or policies. Or they might find that they share certain broadly defined human ends. Or consensus could exist about certain middle level principles—e.g., no taxation without representation—that different people support for very different reasons. It hardly matters where agreement is found. If it can be found anywhere, then people can talk and argue with one another. They can challenge the adequacy or consistency of some of the matters upon which they differ in terms of other beliefs they hold in common. The ultimate result might not be—indeed it is unlikely to be—a shared reflective equilibrium on all matters. But, by means of this rough and ready political discussion, we can find new bases of agreement with our opponents on practical matters. And where we cannot reach agreement, we can learn to live with our differences. We can adopt the institutions and practices—pluralism, federalism, decentralization, and so forth—that allow different groups of people to pursue their own ends and goals. And we can find reasonable compromises with one another when these devices are to no avail.

VII. Moral Consensus and Political Legitimacy I: Consent

The third idea that leads political liberals to seek moral consensus is the notion that morality itself demands that a political community be constituted by an agreement on certain essentials ideals. To be legitimate a political community, on this view, must be a moral community. And, to be a moral community, it must find and act on principles that that are or could be acceptable to everyone.

The distant source of this notion of a moral community is the Lockean idea of consent to government. Locke's moralization of the Hobbesian notion of consent is meant, together with the law of nature, to provide a standard of political and moral legitimacy. This modern, liberal notion of political and moral legitimacy has no real parallel in pre-modern political thought. Plato and Aristotle distinguished between governments that serve the governed and those that serve the governors. This, for Aristotle, is the source of distinction between monarchy and tyranny or between aristocracy and oligarchy. But Locke's new distinction between rightful, or as I shall say legitimate government, and tyranny is very different and, indeed, it is meant to have primacy over the older set of categories.

For Locke, the legitimate title to govern must be based upon the consent of the people who, Locke plausibly claims, would never consent to a government that had the power to invade their rights to life, liberty, and property. A government retains its right to rule so long as its form is not changed from that which originally received the consent of the people and so long as it does not threaten our natural rights. Whether a government is good or bad, whether it serves the common good or not, is an entirely different matter. Government does have a responsibility to serve the common good—although we shall see that, from a liberal perspective, the common good is understood in a way that is very different from that found in ancient thought. But, however we define it, mistakes in serving the common good do not undermine the legitimacy of government. Nor does a government that serves its own interest lose legitimacy, so long as its form remains unchanged and the rights of the people continue unchallenged. Similarly, we can argue about what form of government is most likely to serve the common good. But that is a very different question from what government is legitimate. An oligarchy may, in our judgment, be a bad form of government. Yet, if it wins the consent of the people it is morally legitimate.

Locke's new distinction between rightful and tyrannical government is meant to provide a clear standard by which to determine the legitimacy of a particular government, one that entirely undercuts the old way of thinking. The old distinction between governments that serve their own interest and those that serve the common good is problematic for a number of reasons. First, it does not make the protection of our rights a central test of government legitimacy. Second, the old distinction rests on disputable and, for Locke, essentially irresolvable issues. Even the ancient theorists recognized that there is no bright line to distinguish between government that serves the common good and government that do not. That makes life difficult enough as it can lead, on different occasions, to both unnecessary turmoil and wrong-headed acquiescence to bad government. Turmoil arises when, out of a public spirit or self-interest, men seek to overturn governments that are doing about as well as they can. Acquiescence to bad governments occurs when men do not see that they government under which they suffer can and should be replaced.

These problems are bad enough. Yet Locke's argument goes even deeper. On his view, disputes about whether a government serves the common good or its own interest is likely to be endemic, both in theory and practice. The problem is not just in determining when government serves the common good but where the common good lies. And, about this, there can be no firm answer. Locke, like most liberals prior to T. H. Green and John Stuart Mill, is a moral skeptic when it comes to the human good. On the subjectivist view of human ends invented by Descartes and Hobbes, and accepted by Locke and most liberals since, human happiness, is the satisfaction of our wants, whatever they happen to be. Subjectivists insist that not only do we all have different wants but that we each knew our own wants through some kind of infallible, introspective knowledge. As a result, reasoning about the human good is, strictly speaking, impossible. And so is reasoning about

the common good. We can each put forward our own ideas of the common good, based upon our view of our own good. But, while we can aggregate the views of the goods we seek as individuals, or talk about the means to whatever ends we have, we cannot sincerely discuss or debate common final ends, that is, the ends we seek for their own sake. So disputes about the common good, as Plato or Aristotle understood the term, simply cannot be settled. That is why Locke redefines the common good. For him, the common good is the protection of our rights and the pursuit of the instrumental ends we more or less all share, such as security from foreign invasion and economic well being.

The Lockean test for government legitimacy, then, is meant to insure both that government protects our rights and that we do not get caught up in useless and potentially divisive squabbles about the proper ends of government. Governments that meet the dual tests of having the consent of the people and of protecting their rights are legitimate no matter what else they do or do not do.

Not long after Locke's death, some liberal—and not quite so liberal—thinkers drew further conclusions from Locke's basic approach. If there is no possibility of reasoning about the human good, then it would seem that any government action in support of a controversial conception of the human good would be open to question. For when the government acts on such a conception, it substitutes its view of our good for our own view. But, for moral skeptics about the good, nothing can justify such a substitution. Moreover, when government taxes or regulates us—and, even more, when it limits our freedom—it makes it more difficult for us to pursue our own conception of the good. The ancients could justify such a policy by arguing that it serves the human good, whether we recognize this or not. But there can be no such justification along Lockean or subjectivist lines. Government action on the basis of a controversial conception of the common good cannot but seem to be tyrannical to those who disapprove of it.

Broadly speaking, there are two possible responses to this difficulty. One, suggested by Rousseau, is to take every step possible, through both liberal means like education and illiberal means like censorship, to insure that there is a broad consensus about the good. Only if there is such a broad consensus can extensive government be justified. And, only an extensive government, upon which everyone depends, can sustain such a consensus.

The second alternative is to dramatically reduce the role of government to the protection of our rights; the provision of those instrumental goods we all seek, such as safety from domestic and foreign enemies and economic growth; and, where our theory of political right justifies it, the redistribution of income from rich to poor. This path, which is suggested by one reading of Locke, and which appears in many different forms in the history of liberal thought, has entirely dominated deontological liberal theory since the publication of *A Theory of Justice*.[16] [17] It takes Locke's argument much farther than he was willing to go. Locke seems open to a greater variety of efforts to sustain the common good. And he also seems willing to consider a variety of views about the extent to which government may legitimately redistribute income. Locke is willing to leave decisions about these matters open to political debate and determination. He, unlike Rawls, does not insist that

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[16] This is the conception of the role of government found in that Rawls's magisterial work. As I have argued elsewhere, Rawls's is very dubious about the notion of government provision of common goods beyond the merely instrumental good. His defense of the Wicksell unanimity criterion as a means of determining which public goods should be provided testifies to his reluctance to see government take a stand on any controversial matters concerning the good. See my *Public Goods and Political Liberalism*.

[17] Obviously utilitarian liberals would have a different view of these matters. In a longer work I would say something about their place in these disputes.

political theory can tell us exactly what to do in all cases, even in principle.[18]

The dominant liberal argument thus provides a more stringent notion of government legitimacy than that left us by Locke. That conception of legitimacy provides a powerful defense of what I have called consensus or least common denominator government. In such a community, the proper ends of government are defined by principles acceptable to all and government never does that which can only be justified by some controversial conception of the good. This line of thought gives political liberals reason to seek some moral consensus both when they think it is available, as Rawls does, and even when they think it is will never be fully secure, as Moon does.

The argument I have sketched does provide a powerful defense of developing a moral consensus to serve as the base of a moral community. But it is not an argument a political liberal can or should make. For, as we saw above (II), political liberalism does not rest on or presuppose any conception of the good, including the skeptical claim that no reasoning about the good (or any other moral matter) is possible. Political liberalism is meant to stand above any philosophical disputes about both the power of human reason to discern the good or about the existence of a human nature thick enough to support one conception of the good over another. Thus political liberalism must be at least open to the possibility of reasoning about the common good. And, if political liberals are open to that possibility, they cannot argue that government is innocent until proven guilty. They cannot claim that government action in the service of a controversial conception of the common good is tyrannical. They cannot insist that only consensus government is legitimate government. For many people in a liberal political community may believe, for good reason—if not for reasons that could convince everyone—that the common good is served by public policies that are justified by a controversial conception of human nature and the human good. And they may even conclude that a failure to provide a common good injures both those who desire it and those who do not. For the latter would, presumably, benefit from a politics that served the common good whether they knew it or not.

Now a political liberal might respond to my argument in the following way: Political liberalism does not rely on any controversial philosophical doctrine such as moral skepticism about the good. Rather, it simply claims that, in the absence of reasons that are convincing to everyone, a liberal government should abstain from action. For political liberalism, governments should not act on controversial conceptions of the good precisely because those views are not accepted by the vast majority of people. No deeper, philosophical view is needed to reach that conclusion.

At first look, this is a compelling response. For, given our liberal inheritance, there does seem to be something problematic about government acting on the basis of political and moral views that are controversial. Or, at least this seems true until we think hard about the situation at hand. The political liberal line of thought might make prefect sense if a consensus government could indeed abstain from acting in support of one or more controversial conceptions of the human good. But, as I suggested above (IV) it cannot do so. Every liberal account of distributive justice presupposes some substantive account of the human good. The institutions and practices of liberal democracy favor some conceptions of the common good over others. And all actually existing liberal governments provide a wide range of controversial common goods.

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[18] Perhaps in not taking the path Rawls and others do, Locke did not see all the implications of his own views. Or perhaps he saw with great clarity that a political theory that tries to answer every question in the abstract will undermine its own credibility and thus not have the force to answer any question. Or, in other words, the best way to defend our rights, especially to liberty, may be to insist that this right must be protected by government while leaving other decisions open to the play of political forces.

In response to the second problem—that liberal democratic institutions and practices favor some conceptions of the good rather than others—a political liberal might say the following: liberal governments might have the effect of favoring certain conceptions of the good rather than others. But, so long as they do not act for the sake of such a conception, they are morally in the clear. Thus one might argue that liberal institutions and practices, such as those that create and sustain our market economy, have a tendency to undermine the civic virtues. But markets are not put in place with that purpose in mind. Rather, their aim is the neutral one of supporting economic growth.

There is much wrong with this claim. First, while a strong economy is an instrumental good, it is not just an instrumental good. It has consequences, both good and bad, for our individual and communal final goods.[19] Given that liberal governments need not pursue each and every instrumental good—other than the protection of our rights—it seems hardly fair to take into account the instrumental consequences of government action but not the more important effects on our final goods. Second, even if liberal governments do not intend to bring about the bad effects created by liberal institutions and practices, those governments can certainly take steps to minimize or eliminate these consequences. It seems grossly unfair to prohibit these responses to the real difficulties of liberal regimes. A political liberal might respond that, to the extent we are liberals, we must agree to live with the consequences of our chosen way of life. But that response is question begging, and not just because we need not live with these consequences. To say that we must live with the consequences of liberalism is to take it for granted that we already have a good reason for accepting political liberalism. That is, it presupposes that we already have a reason to favor a consensual government. But that is exactly what is at issue. Older liberals, who rested their claims on moral skepticism about the good, did have an independent reason for supporting consensual government. Political liberals, however, do not.

In response to the third claim—that liberal governments today act on the basis of controversial conceptions of the good—a political liberal could bite the bullet and say that these practices should stop. Yet why should anyone concerned with finding a way to conduct liberal politics that has broad, overlapping support, take this route? For the public policies political liberalism would call into question, taken together, already are supported by a (double) overlapping consensus. They are, in fact, enormously popular. If you doubt this, just look at the careers of Ronald Reagen and Margaret Thatcher who, despite their political popularity, made only a small dent in the range of products, services, supports, regulations, and taxes instituted or provided by the governments of the United States and the United Kingdom. Many of the public policies provided by liberal governments are controversial. But left-wing liberal politicians (and sometimes their right-wing opponents, too) have found ways to package public policies that generate enormous public support. Not that this support was hard to come by. Most citizens in the liberal democracies prefer inclusive to exclusive political compromises. They are willing to pay for certain common goods they do not desire in order to get government support for the common goods they do desire. The alternative—facing the market without the fully panoply of government programs—is simply too hard to bear.

The existing range of government activity, then, is supported by an overlapping consensus but not the kind of consensus political liberals seek. They would like a consensus on a single second story political theory that stands behind all government action. And they want all government actions to be consensual in the sense that they are all justified by second story principles. But what

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[19] By final goods I mean the goods we seek for their own sake.

we have today is a double overlapping consensus: Different people support different government programs for different reasons. Most people, however, find the full package of programs provided by the liberal state broadly acceptable. This consensus is not exactly a non-moral consensus—although that is typically how we look at the work of the politicians who put it together. It rests on a enormous variety of both moral and strategic decisions. But it is certainly not the moral consensus of political liberalism.

Of course, the double overlapping consensus in contemporary liberal democracies would be an immoral consensus if we had a good reason to think it tyrannical to provide common goods that are based upon controversial conceptions of the good. But remember that the only justification for this claim is moral skepticism about the good. In the absence of such an argument, the fall back position of political liberals really is no more than a brute preference for government based on moral consensus as they understand it. At first, it may look wrong when government acts on controversial conceptions of the good. But it only looks wrong until one recognizes that this is precisely the result of the liberal democratic process in every liberal regime we have ever known.[20] Against the weight of this history, the political liberal demand for consensual government looks like nothing more a puritanical distaste for the realities of liberal political life. It is an irrational tick, the return of the repressed memory of a long dead political theory.

If we give up the political liberal search for consensus, what shall become of the liberal standard for political legitimacy? To give a full answer to this question would take us far afield. The short answer, however, is quite simple: We should return more or less to Locke. A legitimate government is one that has the consent of the people[21] and that protects our rights and has a republican (or representative democratic) form.[22] Such a view of legitimate government serves the same purposes as Locke's criteria for political legitimacy. And, like Locke's view, it leaves much open for decision making by the ongoing political process in each particular political community.

VIII. Moral Consensus and Political Legitimacy II: Respect for Reason and Difference

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[20] Moreover, if political liberalism is to be attractive to those with (fully or partly) non-liberal comprehensive political views, it has to show them how the most important goals of the people who hold these views are met in a liberal democracy. A consensual government is more likely than a non-consensual government (in the sense used in the text) to frustrate adherents to traditional religion or to communitarianism or to feminism or to environmentalism. One cannot say to these people that they should accept political liberalism because that is the only political ideal acceptable to everyone. From their own perspective, the members of these groups would say that everyone ought to accept their ideals and give up liberalism where it conflicts with them. And, once again, one cannot presuppose that a moral consensus is desirable in order to convince people that they should give up their own political and moral beliefs in order to create a moral consensus.

Moreover, if one is concerned with creating some kind of consensus, it may make sense to try to adopt some of the ideals of the non-liberal political movements in a political community. That is not to say that the aims of those who support these movements should always be met. But, where they can be met without violating fundamental liberal aims, and where there is much support for these movements, a liberal regime that provides some public support for the goals of these movements will be stronger rather than weaker. That is to say, a double overlapping consensus is likely to be broader than the single overlapping consensus of the political liberals.

[21] On my view, unlike Locke's, consent essentially consists in a willingness to continue to live our political lives within the institutions and practices of our polity, with the additional proviso that our political community must allow for free discussion and debate. Thus I do not draw a sharp distinction between moral and political sociological concepts of legitimacy. Obviously this raises some difficult questions that I cannot address here.

[22] The last proviso is obviously more than Locke explicitly demands. Given his account of the justification of taxation, it would seem that representative democracy is required in all liberal democratic communities today. In a longer work, however, I would give a stronger and more direct argument for the presupposition to representative democracy.

In addition to arguing that moral consensus is required by the notion of consent to government, political liberals also hold that the search for moral consensus is central to our efforts to live together in a way guided by reason. And this idea is connected with another, that the attainment of moral consensus is necessary if we are to be fair to, or treat with respect, those with whom we disagree.

Recall that political liberalism responds to the fact of moral pluralism. It presupposes that there are a variety of reasonable conceptions of morality held by different people in our political community. Given this pluralism, how are we to live together in a way that is rational and moral? How are we to live together in a way that treats everyone fairly and is rationally defensible? Political liberalism holds that, if we are to attain this aim, none of us can insist on our own political, moral, and religious views. To do so is, for political liberalism, to act unreasonably. For we have no rational grounds for insisting that our political community give precedence to our views over those of anyone else. Thus, to be reasonable and to be fair to the divergent views within our community, we must find political principles, or a form of political life, to which we can all agree.

This is, in many ways, an admirable view, one that expresses the concern for fairness and equity that is at the heart of liberalism. But, ultimately, I do not think that it makes sense.

One problem with this idea is that it, too, seems to presuppose the moral skepticism that political liberals are at pains to reject. As we have seen (II), political liberals typically hold that there are a plurality of goods. Political liberals acknowledge that we can, perhaps, find some rational justification for pursuing each of them. Thus, they are at least open to the possibility that reasoning about the good is possible. But political liberals do hold that, there is no way to show the superiority of one comprehensive political, moral, and religious conception over another in a way that will convince everyone.

This point is well taken if it means that there is no knock-down drag out argument for the superiority of one comprehensive view over another. But it is mistaken if it means that we cannot offer reasons for preferring one political, moral, or even religious conception over another. I will agree that our historical experience shows us that there are no overwhelmingly conclusive arguments in political, moral, and religious thought. And our examination of the sources of pluralism (in section II) explains why this is so. But, unless we are prepared to defend a general skepticism about political, moral, and religious thought, we have no ground for saying, in advance of discussion and debate, that there is no possibility of finding good reasons for preferring one comprehensive political and moral view. Good reasons for us need not be—and are not likely to be—ones that are convincing to everyone.

Thus we can have reason to act on one controversial view of the good or the right rather than another, even if there is no widespread agreement about this matter. Yet, if this is so, we are not irrational to seek a government that acts on the conception of the good and the right we deem most plausible. We need not sacrifice our own political and moral ideas to the search from some consensual public morality.

There might, of course, be good prudential reasons for not acting on our political, moral, and religious views. But in the absence of such reasons, I do not see how we can conclude that when we, as members of a political majority, act on our own, controversial view of the good we are being irrational, or disrespectful to the minority. We would certainly be irrational and disrespectful if they did not listen to or silenced the minority. But it is no disrespect to others to disagree with them and

act on our own convictions.

I have, to this point, argued that moral pluralism does not imply moral skepticism. We can be rationally justified in thinking our own view of political and moral matters superior to those of others, even though other people are not irrational in disagreeing with us. And thus we can be rational in acting on our convictions. While I do not want to encourage moral skepticism of any kind, I do want to note that pretty much the same conclusion follows even if one is a moral skeptic. The mere existence of alternatives to my own views does not undermine my own commitments. For, even if we are historicists, and think we have no way of showing why our own moral views are superior to those of anyone else, we still have no reason to give up our own ideals. We can, as Richard Rorty has argued, be ethnocentric and pursue our own ideals, with reason.[23] And, again, we are not being irrational or entirely disrespectful to others when we do so—though we show more respect for the views of others when we engage in discussion and debate with them.

So the pursuit of a rational political life that respects the views of others does not necessarily demand that our political decisions reflect, in so far as possible, some moral consensus that transcends all existing comprehensive views. Indeed, the more we think about it, the more the search for consensus begins to look like what Bernard Williams once called the mid-air position with regard to comprehensive political and moral ideas.[24] Political liberalism looks for a position above all comprehensive political and moral theories from which to treat them all fairly. It looks for a standpoint by which to act rationally, without being committed to any particular comprehensive account of the good and the right. The trouble, however, is that there really is no such position. Political and moral reasoning that considers the widest range of different ideals and aspirations is possible. But it is only possible from within a comprehensive political and moral view that we have good reason to accept. Once we recognize that there are no political principles, institutions, practices, or policies that are neutral between different conceptions of the good, let alone different views of the right or of God, there is no point to the search for moral consensus.

An additional difficulty with the notion that we show our respect for others by reaching for moral consensus is that it undermines our own comprehensive political, moral, and religious ideals. I just suggested that, if we want to act rationally, we cannot help but act in accord with our own view of what is rational. There are no neutral principles of rationality that stand above our substantive views of how the world is and how we should act. Similarly, if we want to treat others well, we ultimately have no choice but to be guided by our own views of what it is to respect others. We cannot respect others in their way. I can, of course, adopt some of the manners and mores of another people when visiting them in their own country or at home. If I have an Aristotelian rather than a Kantian conception of political morality, I can even adopt my own principles to their political and social circumstances. But if their circumstances or ideals differ enough from my own, I cannot, without violating my own liberal moral ideals, adopt their way of looking at things. I cannot, for example, condone the practice of forcing women who have been raped to marry their rapist, no matter what moral justification is offered for this practice in another place and time.[25]

So, from a liberal point of view, we respect those who disagree with us in our own way. In so far as we are liberals, we grant everyone the right to live as they choose, so long as their way does not lead them to trespass on the rights of others. Everyone is free to pursue their own conception of

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[23] Richard Rorty, "Solidarity or Objectivity" and *Contingency, irony, and solidarity*.
[24] Bernard Williams, *Morality*, chapter 1.
[25] I borrow this example from Susan Moller Okin, "Is Multiculturalism Bad for Women"

the good and the right, provided that they accede to the requirements of a liberal political community. Moreover, in a liberal community we grant others the same rights we assert for ourselves, including the right to take part in debates about our common purposes. Everyone can present their own ideas about this or that matter. And they can assert the truth of their comprehensive political, moral or religious conception. And then we allow the legitimate political processes of our political community to come to a decision, without insisting that those decisions must be consensual. We do not demand a least common denominator state, because such a state is no more neutral or fair or rational than any other. We may adopt liberal devices, such as the pluralism for dealing with conflicts between different conceptions of the good. But, where decision have to be made about the welfare of the whole community, liberal governments make them, and then deal with the criticism, and the further debate and discussion, that follows.

IX. The Strange Liberal Search for Moral Consensus

The search for moral consensus is so much a part of contemporary liberal theory that, at first look, the claims I have made here will surely seem strange. I have tried to weaken that response by undermining the arguments made in its behalf. But that, I know is not enough. It is one thing to show that moral consensus is neither likely nor necessary in a stable and flourishing liberal political community. It is another thing to entirely undermine the search for moral consensus. For, even if it is not necessary or likely, what could possibly be wrong with searching for moral consensus? What could be said against the effort of political theorists to delineate moral principles that can be widely accepted in a liberal political community? Even if I am right to say that moral consensus is not likely or necessary, surely one can think of circumstances in which it might be helpful.

The only way to answer this criticism is to look at why the search for consensus is not only unnecessary but deleterious for a liberal political community. And thus I have to give a brief sketch of what liberal political life would look like if we take the pursuit of moral consensus too seriously, as well as what it would look like if we give up the pursuit of consensus. That is the task to which I now turn.[26]

Let me begin by noting that moral consensus has *not* generally been an ideal of political and moral thought. It was not a Greek or Aristotelian ideal. It was, as we have seen, not central to Locke's work. And it most certainly is not an ideal found in *The Federalist Papers*. If we think, for a moment, about why the ideal of moral consensus would be rejected by the authors of these texts, we will learn something about the dangers of political liberalism.

The ancient polis was concerned with maintaining homónoia (solidarity or unanimity) in its citizens. Conflict between the poleis was so constant that political unity was necessary to maintain

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[26] This part of my argument is directed much more against the Rawls' version of political liberalism than against Moon's. As I indicated above (III), Moon does not expect to achieve an overlapping consensus on a set of political principles that can bring most political conflict to an end. He acknowledges that there are no such principles that are neutral to different conceptions of the good. So conflict about the good will continue in any liberal polity. And the agency rights he defends are quite abstract. They must be filled in by consideration of the particular circumstances of any polity and society. Thus, even in a political community that reached some consensus about these principles, we could expect conflict to arise about how to apply them. Moon's political liberalism is, a I have suggested, much more a set of proposals about how we deal with political conflict in liberal regimes then about how to eliminate political conflict from such regimes. So the critical remarks I make about the search for consensus apply to Moon's argument only to the limited extent that he recommends that we liberals try to bracket our different and contentious views of the good when we engage in political discussion and debate.

the civic spirit necessary to the safety of the polis. Some of the poleis, such as Sparta, went very far in their efforts to create homónoia. But even in that polis, citizens assumed that tensions and conflict would always exist and, more importantly, would always be found in political life. That is to say, there was no attempt to remove conflict from political life or have politics stand above the differences within the polis. While there were enormous efforts undertaken to diminish these conflicts, those conflicts that remained were dealt with politically.

Aristotle's political teaching exemplifies this attitude. He shows us that politics does not aim to overcome but to live with conflict. At the center of his critique of the kallipolis of the *Republic* is precisely the notion that moral virtue is made impossible if the distinctions between polis and family and, indeed, between one individual and another, is done away with. For a central task of moral virtue is to deal with the tension between—and within—human beings.

John Locke's political thought certainly allows for greater diversity than was possible in the ancient world. At the same time it tries to ameliorate political conflict by limiting the role of politics and by encouraging people to be "rational and industrious" in the pursuit of economic well being rather than political power. Yet it is one thing to reduce political conflict, another to get rid of it. Locke may have been the grandfather of the liberal search for moral consensus. But he did not, as contemporary liberals do, attempt to eliminate all political conflicts by means of an agreement on moral principles that essentially resolve our conflicts for us. The correct answer to the question, "Is Locke an egalitarian or libertarian?" is surely, "none of the above." For Locke explicitly tells us that a government may, with the consent of the taxpayers, raise and spend money to further the common good. That is to say, he did not precisely define the legitimate or illegitimate purposes of government except by insisting that government protect our basic rights to life and liberty. The right to property—and the right to the means to life, which Locke asserts in the *First Treatise*—is protected not by absolute moral rules that tell liberal governments what to do. Rather, Locke leaves the delineation and protection of this right to legitimate political processes, which are, regulated only by the quasi-democratic requirement of consent to taxation.[27] And that means, of course, that the distribution of property is, for Locke, to be decided in large part by the political means by which men and women put forward and struggle over their very different claims. Nor could Locke seek to eliminate all political conflict. For the essential check on tyranny is a populace that is, at least to some extent, politically engaged and ready to oppose any efforts to trample their rights.

Consider now the *Federalist*. The *Constitution of the United States* is, among other things, a political settlement, meant to delineate certain rights and distribute authority. But it is not meant to settle all the fundamental questions of our political life. Indeed, the kinds of concern the *Constitution* and the *Federalist* papers give to the structure of our political institutions would be unnecessary if the fundamental ends of politics were entirely determined by the *Constitution* itself. Rather, public policy is meant to be determined by political contestation within the framework of the *Constitution*—which, of course, also gives rules for changing that very framework. And, according to the *Federalist*, the diversity of political interests and ideals is itself meant to protect our liberties. We can also see, in other writings of Madison, that it is meant to prevent the enervation of our political, moral, and religious life. For one of Madison's arguments for disestablishment is precisely that it forces clerics to compete for attention and adherence of the people.[28]

That controversy and division is useful is thus a long standing liberal idea. It is expressed

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[27] John Locke, *First Treatise of Civil Government*, §42.
[28] James Madison, *Memorial and Remonstrance*.

most clearly, of course, in Mill's *On Liberty*. It is instructive to compare Mill's welcoming of what we have come to call "differences" with contemporary liberal thought. Mill encouraged strenuous conflict carried on by vigorous characters who, no doubt, were quick to condemn those who disagreed with them. Indeed, he welcomed difference to the point of eccentricity.[29] The task of true liberals, for Mill, was to insist, as forcefully as the contending parties, that strongly held opinions and powerful arguments not lead to efforts by the government to interfere with our liberty. But Mill was afraid neither of conflict over the goals of government nor of governments acting on one or another conception of the common good, so long as there were no infringements on individual liberty. Mill, no less than other liberals, saw that it was important to place some restraints on conflict in order to protect liberty. Yet he was as concerned about the dangers of what Toqueville called soft tyranny, the tyranny of opinion. Protection of civil liberties was a barrier to tyranny. But conflict and contention, new and different ideas vigorously expressed, were, for Mill, the best antidote to soft tyranny.

Our contemporary liberals appear to welcome difference as much as Mill. But appearances are deceiving. Their efforts to rise above the conflicts in our political lives are meant to put our differences to one side. Political liberals, especially, seem to want moral pluralism without tension and conflict. They want us all to be free to follow our own path in life, but not to be free to challenge and disagree with one another. They are nervous liberals, who are distressed by conflict and seek to avoid it as much as possible. That, I suggest is a recipe for disaster.

It is a disaster, first, because, as the examples of previous political thought I have briefly canvassed suggest, the experience of political conflict is central to a good political life.

For Aristotle, training in moral virtue presupposes political conflict. Thus a polity that reached the kind of moral consensus sought by political liberals would not give its citizens the experience they need to deal with their troubles when that consensus eventually broke down.

For Locke, political engagement is necessary if we are to protect ourselves from tyranny. But a world in which politics was guided by a moral consensus would not be a world that engaged citizens at all.

For Madison, political conflict provides the energy that makes our political system go and that stimulates preachers and teachers to seek a following. Moral consensus, however, would undermine our system of separated powers and checks and balances. And it would weaken the efforts of moral and religious leaders to bring people to a new understanding of their ends and obligations.

For Mill, political conflict stimulates individuality and self-understanding. A polity constituted by a moral consensus might then drift off into senescence.

So a world with little political conflict will undermine the virtues we need to deal with conflicts when they arise; the vigilance we need to protect our selves from tyranny large and small; the teaching and preaching that we need to stimulate our best selves; the self-understanding that comes from dealing with differences; and the innovation that is spurred on by tension and disagreement.

The last problem is, perhaps, the worst of all. For a consensual polity would undermine the very activity that Aristotle, Locke, Madison, and Mill all share. The elaboration of a view of justice

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[29] John Stuart Mill, *On Liberty*, chapter 3, para. 13.

that can win support from an overlapping consensus of citizens is not, I suppose, an unworthy task for political theorists. But it is not the highest task. The four theorists I have discussed here—and many others like them—sought above all to deepen our understanding of our political and moral lives and to bring us new pictures of how our lives can best be lived. Locke and Madison were, after all, revolutionaries. Aristotle created a notion of moral virtue that implicitly challenged the reigning ideas of his time and that set the stage for the next thousand years of political and moral thought. Mill, too, called into question the reigning ideas of his time and deeply influenced the best of twentieth century political thought. Political theorists who write with the hope of bringing about a liberal moral consensus will never challenge, stretch, and shape their readers as Aristotle, Locke, Madison and Mill do. Of course, Aristotle, Locke, Madison, and Mill all lived at times that were stressful and uncertain. It is hard to believe that their true descendants could be found in liberal political communities that were shaped by a second story theory of political life.

Political liberals will, no doubt, respond to my complaints about the search for consensus by saying that they welcome conflict and controversy, but not in political life. They will say that we should disagree with one another as vigorously we can in civil society, while seeking consensus in our political life. The trouble with this response, however, is that it misunderstands the centrality of politics, even in a liberal regime.

Disagreement about important matters would, undoubtedly, survive a consensual liberal state. But would controversy and conflict? If government never acts on a controversial conception of the good, or if all our disputes about justice can be settled by reference to an agreed set of principles of justice, would any of us have the political experience that gives rise to moral virtue? Would we know how and when to compromise with others and how and when to stand our ground? Would we be encouraged to watch vigilantly over our political officials?

Imagine a liberal democracy in which there were a single overlapping consensus on a set of liberal political principles. Imagine, too, that the government of that society bracketed all conceptions of the good. What would motivate people to engage in political activity? Some bureaucrats would calculate the index of primary goods. Others would set welfare payments so as to meet the difference principle. Some bureaucrats would regulate levels of pollution. Others would use cost-benefit analysis to plan roads and bridges. Judges would see to it that they were scrupulously fair. Any issue we could fight about would be excluded from political life. There would be vouchers for education instead of public schools, so as to eliminate public debates about what every child should learn. There would, of course, be no subsidies of the arts or sciences. I suppose that there still might be, as Trotsky once predicted would occur after the revolution, disagreements about the architectural style of city hall. But even that could be handled. Architects could be chosen by random. Or perhaps every building would be a pastiche of every style, so as not to offend anyone. (Is this the origins of post-modern architecture?) Or, more simply, city agencies could just rent space in privately owned buildings.

This distopian picture of liberal consensus is, of course, entirely fanciful. I have insisted that we cannot escape from political decisions that reflect a conception of the good. But this sketch of a future under political liberalism does show us just how enervating this doctrine's view of politics is.

Of course, even in the golden age of political liberalism, some people might still try to convert others to their way of thinking in the private sphere. And different views about moral matters might well be expressed in the press. Yet, if these matters are kept out of politics, is it not likely that many citizens of the liberal state will be happy to live privately amongst those with a like

mind?

This tendency to public disengagement would be further strengthened by an important strand of thought in contemporary liberal democracy that has influenced political liberalism. This line of thought teaches us that it is bad form to criticize the choices made by our fellow citizens. In politics, we are told, we must bracket our differences and not push our own—let alone condemn other—conceptions of the good. We must stop being contentious and difficult and find some basis for political and moral agreement. And, most importantly, our polity must not act on the basis of controversial conceptions of the good. (No political liberal has so made the point so far. But it is only a matter of time before someone argues that government action we disagree with threatens our self-esteem.)

It is not logically impossible that a citizenry raised on these ideals might still be contentious in private. However, how likely is this? Already liberal regimes are all too fast becoming places in which we are tolerant of everyone except those who condemn the choices or views of their fellow citizens. But a political community that tries to avoid being judgmental is hardly likely to one in which vigorous and open debate takes place. For the one thing that such a political community will not tolerate in its citizens is precisely the willingness to have and express a strong opinion about how we should live as individuals or the member of a community. So, paradoxically, a polity and society in which people can do precisely what they want to do without fear of public condemnation and controversy, will also one in which there is little or no discussion or argument about private *or* public affairs. Freedom of action will be total, but freedom of speech will be, not legally prohibited, but culturally inhibited. This is soft tyranny, with a vengeance.

If we could contain this approach to political and moral conflict to the sphere of politics, then political liberalism would be more acceptable. But we cannot do so. Politics is still the central arena in which we express our ideals of life. If we are taught it is wrong to raise central questions of the good and the right in political dispute, we will be reluctant to do so elsewhere. Political morality cannot be so easily partitioned from the rest of our lives.

So, a public political culture in which respect for others requires us to put our own views to the side and in which political reasoning must work within the bounds of the accepted moral consensus is bound to stifle conflict, disagreement, and debate in all aspects of life. But that is not the whole problem. A consensus state will also undermine support for public policies that might invigorate our political life and bring us common goods we can get no where else but from the polity.

We can see why this is true if we think for a moment about just how fanciful the consensual state is. A moment ago I described political liberal distopia, in which politics is replaced by, shall we say, the administration of things. If we think about why this regime is impossible, we will see just how much would be lost if we even approached it.

The liberal pursuit of consensus asks people not merely to be tolerant of others, but to take their own political, moral, and religious ideals less seriously. For many of our ideals can only be realized if we work together with others in political life. If you truly believe that men and women should both work and share in the parenting of their children, you will want families to agree with your ideal of family life. If you truly believe that current forms of food packaging contributes greatly to environmental degradation, you will seek to encourage people to recycle and to shop more carefully. If you truly think that jazz is the most creative form of contemporary music, you will want

the political community to subsidize it.

In these, and many other matters, how other people live matters a great deal to us. Many of our goals require a critical mass of people to support them. We need an audience of jazz lovers if we are going to be able to hear concerts. We need many people to demand new packaging in products and to join us in recycling. We need other families to support us in everything from car pools to play dates to taking care of sick children to lobbying schools and businesses to arrange schedules in a way that does not presuppose that someone is always home to take care of the children. We all need support for our ideals when we lose confidence in ourselves and in our commitments to a way of life that is difficult.

Political and other contemporary liberals will respond that we can create a critical mass of people that share our ideals, without involving government. This is partly true. Most of the common goods we seek require us to work with one another outside the aegis of government. But, for many reasons, government action is often necessary. Here are a few:

First, the collective action problem makes many of our goals difficult to achieve. Sometimes the collective action problem is solved by changing incentives for individual actions. We cannot easily decide to start recycling by ourselves. Until a critical mass of recyclables is created by government regulation or subsidy, it is too expensive for people to take our bottles and cans for reuse. In other cases, government solves the collective action problem by acting in our stead, such as when it subsidizes medical and other research.

Second, government action is often needed to combat the effects of the private—and undemocratic—governments of business corporations. For example, flexible work hours remain difficult to achieve without government intervention. When individuals bargain alone, oligarchic businessmen can play one worker off against another. Only the countervailing power of unions—which are supported by government—or government itself can even the playing field.

Third, collective action is often necessary to counteract the effect of market relationships on the education of young people in liberal political communities. Contemporary liberals often point out, rightly, that a market economy tends to create human beings who pursue the external goods of money and power more than the internal goods that can only be found in practices of excellence. For it takes discipline and effort to find happiness in these internal goods. Pop music is easier to appreciate than jazz or classical music. The joys of craftsmanship in designing and building houses take time to learn. It is so much easier to maximize ones profits by building the McMansions that disfigure contemporary suburbia. Government subsidy or sponsorship of higher ways of life cannot, by itself, overcome the effects of the market on our souls. But it is a vital element of any effort to raise the level of culture—in the broadest sense—beyond where the market would leave it.

Fourth, some goods simply require direct government action because they involve regulations of private activity—satisfying urban environments would be impossible without zoning regulations.[30]

Fifth, the expression of some common ideals by political means can give them strength they would not otherwise have. Most of the time, in liberal regimes today, government actions of this type are not terribly controversial because they are the result of an inclusive compromise. Liberal governments honor artists; warn against the dangers of smoking and drunk driving; encourage fire safety, particularly in forests; discourage unsafe sex; and so on. Some of these government

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[30] To anyone who doubts this I say, let them come to Houston.

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policies—and others as well—are controversial. Yet, for good reason, people think they contribute in important ways to the common good.

So, people who take the myriad conceptions of the good and right found within liberal regimes seriously will seek to act on those ideals politically. No doubt, they will sometimes ask governments to do things that liberals should reject, especially things that infringe upon our rights. But there is much governments can do—and, if we are honest about it, currently do—to encourage certain ways of life and discourage others. It is hardly fair to those who take their ideals seriously to tell them to give up any reliance on the government. For, as we have seen, the least common denominator or consensus state is not fair to all views of the good. To demand that everyone accept such a state is not only disingenuous, but it is to ask some people not to take their political, moral, and religious ideals seriously.

Moreover, the consequences of accepting a consensual state could also be disastrous. If some environmentalists are correct, a least common denominator state might ultimately destroy the natural environment and us with it. If some traditionalists or civic republicans are right, a minimal liberalism will not sustain the moral qualities that allow freedom and democracy to survive. If some feminists are right, a least common denominator state will stand in the way of the liberation and happiness of both men and women. Any one who takes these ideas seriously simply cannot believe that the most important aim for liberals is to find some moral consensus. For, from these perspectives what we need much more than consensus is the kind of division and argument that will help us recognize the fundamental interests of all human beings.

Given the importance of the political movements I have mentioned, and the importance of political life generally to our collective well being, we can rest assured that we will never live in the distopia of political liberalism. But that does not entirely vitiate the dangers of political liberalism. The more we take this dubious doctrine seriously, the harder it will be for us to accept the legitimacy of the vigorous kind of politics that could enliven and invigorate our politics.

Of course, if there is division and argument in a liberal political community, some of us—indeed, undoubtedly most of us at least some of the time—will find ourselves outvoted. Political liberals sometimes write as if this is a moral calamity or tragedy.[31] Sometimes, when the voters support what we believe is the wrong position on a matter of great importance, the results will, from our point of view, be calamitous or tragic. And, in some cases, if the moral calamity or tragedy is serious enough, we will have reason to pick up arms and fight for our views. Both prudence and morality tell us to try to avoid such an outcome, for civil war is almost always calamitous and tragic, even where it is necessary and just. But, while some political decisions may be morally wrong, and civil war is always disastrous, the mere fact that our political community has chosen to reject our counsel is, in itself, neither calamitous nor tragic. It is an unavoidable fact of life. There is no escape from the possibility of political conflict and defeat. And thus there is no basis for claiming that our defeat, in itself, renders our political institutions illegitimate, or oppressive, or

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[31] Moon, for example, makes much of the inability to avoid tragic conflicts in liberal political regimes. I think he is right that such tragic conflicts do exist. With some political disputes we are bound to be sharply divided from one another. When we have a fundamental conflict over certain rights or when, through lack of prudence, one side in a dispute about the good gives nothing to the other, tragedy can result. But most of our political conflicts about the good can be made, by artful politicians, a matter of give and take, of the kind of compromise in which no one gains everything and no one loses everything. Everyone will be disturbed by these results. But a responsible and realistic view of politics will accept them as necessary, if only to avoid the greater tragedy that comes when one side wins all.

even questionable. That is not to say that, when we are defeated, we cannot call for political change and renewal. In a liberal democratic regime, we must always have that option. But political reforms have to be justified by an examination of their concrete consequences in a variety of circumstances. That our current political institutions and practices are contrary to our own preferences, however sensible they are, is, by itself, no reason to complain and no argument for change.

Thus it seems to me that the animating spirit of political liberalism should be rejected. Political liberalism is a doctrine for people who seek to avoid political challenge and conflict. It is, in this respect, very different from the doctrine that animated Locke and Mill, the tough-minded view of a world in which strong characters accept and welcome disagreement and debate. That is precisely the kind of liberalism I would welcome. And it is the kind of liberalism that would encourage the most diverse and insightful forms of political theorizing.

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