Principles and Prudence:

Reconciling Liberalism and

Communitarianism

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INTRODUCTION

It has become evident that, rather than being entirely at odds, liberals and communitarians share many goals. For all their criticisms of the individualism of liberal polities, most communitarians are firm supporters of civil liberties.[1] And, for all their warnings about the dangers of citizen involvement and communal sentiments in politics, many, if not most, liberals would welcome a revival of civic virtue and a renewed sense of common purpose in America.[2] But while a modicum of peace has come to the liberal—

In a previous work, "How Much of Communitarianism is Left (and Right)?" in Peter Augustine Lawler and Dale McConkey, eds. *Community and Political Thought Today* (Praeger, 1998), I sketched what I think is a plausible, and politically attractive program for liberal communitarians. That program aims not only at reconciling liberalism and communitarianism but also at overcoming some of the glaring divisions between left and right in American today. "How Much of Communitarianism is Left (and Right)?" dealt with practical problems as well as theoretical issues. This paper attempts to answer some of the more abstract questions about rights, freedom, and community left unaddressed in that earlier paper. A longer version of "How Much of Communitarianism is Left (and Right)?" can be found at www.stier.net.

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[1] See, for example, Michael Sandel, *Democracy's Discontent* (Harvard University Press, 1996). Though Sandel now prefers the term civic republican to communitarian, I do not see any dramatic change in his views that accompanies this change in terminology.

[2] Even Steven Holmes, with all his animadversions against the communitarian (and other) critics of liberalism, recognizes that a liberal polity must be concerned with at least some common good. See, *The Anatomy of Anti-liberalism* (Harvard University Press, 1996). Indeed, he criticizes communitarians for their claim that liberalism is not so concerned.

Charles Taylor has pointed out in "Cross-purposes: The Liberal-Communitarian Debate" in *Philosophical Arguments* (Harvard University Press, 1997) that the question of whether the liberal tradition justifies political action to support a vision of the common good is doubly loaded. There is, on the one hand, what Taylor calls the ontological issue, that is, the question of whether there are any common goods that are more than the sum of the individual good of all citizens. Such goods—let us call them communal goods—are more than what political economists call public goods. A public good, such as police protection, is an individual good shared by a number of people. It is a good that individuals could theoretically provide for themselves—some of us do have private police forces—but that, as a practical matter, is most efficiently provided by government action. A genuine communal good, such as a sense of patriotism, requires some common activity or experience. Anyone who finds communitarian ideas the least be plausible must agree with Taylor that the holistic view is correct. My sense is that among political theorists—leaving aside unreconstructed proponents of the rational choice model—the holist view is largely accepted. As Taylor points out, however, the dominant ontological strand in the liberal tradition is an atomism that that does not recognized genuinely communal goods. Steven Holmes may be right to say that Locke, Bentham, the Mills and other atomistic liberals do recognize such goods. They do so, however, in violation of their own ontological commitments.

As Taylor suggests, one's position on the ontological issue does not determine one's position on what he calls the advocacy issue. Here is the continuing nub of controversy between liberals and communitarians. Again, there have been—and on my view should again be—liberals who welcome government action to encourage certain kinds of communal action and civic spirit. But there is no doubt that the dominant form of liberalism today, what we might call deontological or procedural liberalism either denies the legitimacy of such action or has to contort itself into an almost unrecognizable form in order to grant its legitimacy. The first approach is taken by John Rawls, *A Theory of Justice* (Harvard University Press, 1971), pp. 282ff. For the second, see Ronald Dworkin, "Can a Liberal State Support Art? in *A Matter of Principle*, (Harvard University Press, 1985). In that piece, Dworkin claims that a liberal state can support art in order to "protect the structure of our intellectual culture" by which he means, to

communitarian debate, important questions, of both a theoretical and practical nature, remain about how to reconcile liberal and communitarian ideals. At the center of these debates are the questions of freedom and communal action. Liberals have always insisted on the priority of civil liberty. Yet communitarians worry that freedom can undermine the sense of common identity and the fundamental moral precepts that make for a virtuous citizenry. Communitarians have always insisted on the legitimacy of governmental action that serves a common good that is more than the concatenation of individual goods. Yet liberals have, in recent years, worried that such actions contravene the principle that the liberal state should be neutral between different conceptions of the good. Liberal and communitarian ways of thought, then, pull in different directions. The aim of this paper is to suggest some ways to reconcile these two perspectives on contemporary politics.

As we shall see, a good part of the difficulty in reconciling liberalism and communitarianism arises from uncertainty about the fundamental aims of both liberalism and communitarianism. What, for liberalism, is the basis of our right to civil liberty? Is civil liberty merely a means to our ends? Or does it reflect some deeper respect for our capacity for reason? And, where do communitarianism seek a revival of civic virtue and communal spirit. Are they seeking a strong sense of national community? Or are they primarily concerned with reviving what we might call strong communities at the local level? Does communitarianism seek to support any or all conceptions of civic virtue and the common good? Or is there some basis by which communitarians can say that certain forms of community are good and others bad? We shall see that the basis for a reconciliation of liberalism and communitarianism I propose requires us to answer these, and related, questions.

Rather than start with abstruse theoretical conflicts between liberalism and communitarianism, the first two parts of this paper address the most pressing practical problem, the proper extent of civil liberty and communal action. In part one I set the stage by giving an overview of the features of liberalism and communitarianism that lead to division on this issue. Then, in part two, I take a liberal tack and argue that we need an abstract principle, that I call the principles of civic freedom, to define the proper balance between freedom and community. These principles defend the broadest possible freedom while legitimating government action in support of the broadest possible notion of the common good.

While my proposal cuts the knot of conflict between liberalism and communitarianism, it needs some defense. I argue that the principles of civic freedom rest on the notion that human beings have the capacity, in both our political and individual lives, to pursue a reasoned account of human nature, the human good, and our own good here and now. This defense of the principle of freedom begins with a typically liberal move, in which we abstract from the aims and concerns of people living in a particular political community. But, rather than limit government action only to those goods that can be discerned from the lofty heights of theoretical abstraction, I call for political communities to debate and then act upon whatever conception they deem plausible.

It is certainly evident that the reconciliation between liberalism and communitarianism I propose is likely to offend both parties. So, in parts three and four of the paper, I defend my proposal against communitarian and liberal argument respectively. I also, tentatively address some concerns raised by some defenders of multiculturalism. There I try to show that my proposal draws upon the best in both

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broaden the range of opportunities for thought and expression available to us. He write, "We can, however, insist—how can we deny this?—that it is better for people to have complexity and depth in the forms of life open to them…" I would not deny this claim. But surely it can be denied. Rousseau did so in his *Discourse on the Sciences and the Arts*. More than one fundamentalist preacher has as well as have some proponents of the small is beautiful thesis. While we may not take advantage of broader opportunities for thought and expression, the mere existence of such opportunities creates one kind of political community rather than another. And whether we are better off with such a political community is a question that raises the deepest questions concerning the nature of a good form of political and social life. Thus Dworkin's claim can not be considered to be is neutral between different conceptions of the good. Indeed, a very similar argument has been made by Joseph Raz in *The Morality of Freedom* (Clarendon Press, 1986). Yet for Raz that argument is central to his avowedly non-neutral, perfectionist defense of liberalism.

traditions, while resolving problems not only between but within them. But principles cannot resolve all of the tensions that necessarily arise in any political community that is concerned with both liberty and the common good. A good polity cannot be defined by principle alone, as liberals sometimes have it, but requires the kind of prudence or practical wisdom that communitarians should wish to defend. This means, of course, that communitarians cannot blindly defend any form of life in which human beings are dedicated to the common good. They must, instead, be willing to defend certain conceptions of the good and the virtues over others.

Finally, if my proposal is to be accepted, the possibility of reasoning about the human good must be acknowledged. While it would take me far beyond the scope of this paper to defend this possibility, in part five, I give a sketch of an account the self or the soul that supports the view of principles and prudence I wish to defend in this paper.

I. LIBERALS VS. COMMUNITARIANS

The Liberal Argument

Central to much contemporary liberal thought is the idea that a liberal state must be neutral between competing conceptions of the human good. That the liberal state must be neutral in this way is a late twentieth century principle that, however, derives from long established liberal ideas.

From the very start, the liberal tradition has defended civil liberty by denying the possibility of reasoning about the human good. Against priests and philosophers, liberals argued that we have no knowledge of the summum bonum. For we can not be wrong about what brings us happiness. The good, for most liberals, is the satisfaction of whatever wants we happen to have. And, given the evident diversity of human desires, it is plain that there is no good life, no life to which human beings would aspire, if only they understood their own nature or had been brought up properly. Precisely because there is no possibility of reasoning about the human good, there is no justification for government interference with our freedom to do as we please, provided we respect the freedom of others. Governments have no grounds for telling us what to do if they can claim no special knowledge of how we should seek happiness. Government neutrality about the good, then, is the very basis of the philosophical defense of freedom offered by liberals.

Neutrality about the good is, for liberals, also central to their strategy for preserving internal peace. Liberals hold that we can reduce political and social conflict if we place certain matters beyond the bounds of political decisionmaking. Extreme and dangerous political conflict, the kind that leads to civil wars, results when governments prevent some citizens from pursuing ends of fundamental importance to them. When governments respect our rights, though, people are free to make decisions for themselves about these matters. Thus conflict about divisive issues is prevented. This strategy of avoidance is one the prime ways in which liberals hope to keep the peace. Of course, some people may be frustrated because they cannot attain their own ends by using the power of the state to restrict what other people say and do. The liberal expectation, however, is that people would rather have their own freedom protected than interfere with the freedom of others, if only because they recognize that an illiberal regime might at some point turn against them.

Neutrality, then, supports our liberty and limits political and social conflict. To be neutral to different conceptions of the good, however, a liberal state must do more than allow us the liberty to pursue our own view of the good. If we are to avoid conflicts over the good, government must refrain form using its powers to tax, subsidize, and regulate our activities in order to help people pursue one view of the human good rather than another.

Finally, not only do liberal seek a government that is neutral about the good, the justification of liberalism typically rests on the neutrality of liberal political and moral principles with regard to the human good. Both utilitarian and deontological liberals have tried to show that liberal moral principles would be accepted by all men and women who are capable of impartial reason (or by hypothetical men or women designed to be capable of only impartial reason). Since no reason can be given for favoring one conception of the human good over another, only moral principles which are neutral with regard to the good could be accepted by everyone.

The Communitarian Argument

I suggested at the outset of this paper that many communitarians are as committed to civil liberty as liberals. Some are not, however. And, even those who are find the neutrality of liberalism seriously problematic. Let me briefly explain why.

Communitarianism aims at a polity in which the common good takes center stage in the lives of individuals. Communitarians think that men and women should recognize and seek to attain the common good along with their own individual good. But, even more, communitarians hope to transcend the distinction between individual and common good. For they would like us to find our own individual good in communal pursuits, those in which our own happiness comes from taking part in some common activity or experience. The golden age for communitarians is that, perhaps mythical, time when men and women sought their happiness mainly in church services and barn raisings, in civic parades and the music hall and, especially, in election rallies and town meetings. Communitarians long for the days when we walked to work, to shop, and to pray all the while passing neighbors sitting on their front stoop or porch. They decry television and CDs for their privatizing effect and worry about the consequences of a life that takes us by car from a detached suburban house to a tall office building to a shopping mall and then back home again.

In order to be committed to the common good, communitarians, claim, citizens must be knowledgeable about it. Citizens cannot serve the common good if they have no idea where the common good lies. And, perhaps more importantly, even committed citizens will be unwilling to sacrifice for the common good unless they trust that others will do the same.

How can we bring about commitment to and knowledge of the common good? For communitarians, the answer is that a shared communal life can only be sustained under contemporary conditions by a vast expansion in political activity among the people as a whole. We will not give the same attention to common affairs that we give our own if the common good is not a central part of our lives. But that is not enough to sustain commitment to and knowledge about common affairs. Perhaps it was enough in the ancient polis when political and military matters weighed so heavily on the lives of citizens. And perhaps it was enough in medieval times, when people did not have or expect much control over their own lives. But liberalism has created a form of life in which men and women expect to exercise some control over how they live. Moreover, to a large extent this expectation is met. We shape our lives by making important choices about which individual goods to pursue and how to pursue them. If we do not have a similar capacity to shape our common life, we are less likely to identify common goods as our own. And we will have every incentive to focus our attention on our own individual affairs, where our choices can make a difference. That will be true even if common affairs involve goods that are, at the moment, very important to us.

A citizenry committed to, knowledgeable about, and active in pursuit of the common good would be very different from the kind of citizenry typically found in the liberal democracies. Indeed, from the usual liberal point of view, with its fear of political conflict, such a citizenry might not be such a good

idea. Why, then, do communitarians call for such a radical transformation in the nature of our political community? While there are a number of reasons communitarians offer in response to this question, I will only rehears one here, one that focuses on the importance of communitarianism for the preservation of liberalism.

Communitarians suggest that liberal democracy cannot ultimately survive with an overly individualistic and privatized citizenry. Any political regime, they point out, makes demands on citizens, if only to pay taxes and fight in wars. Liberal democrats do hope that, when all the world is liberal, war will be a thing of the past. But there is no reason to expect that this condition will be reached any time soon. Nor there is good reason to think that the tax burden of liberal democracy will stop growing soon. Indeed, economic growth, industrialization and geographic, social, and marital mobility have dramatically increased the need for the public provision of goods and services of all kinds.[3]

Active and expansive government, then, is widely demanded in liberal democratic regimes. But the citizens of these political communities tend to be focused on the pursuit of individual goods to the exclusion of communal goods and are increasingly cut off from the opportunity for meaningful participation in common affairs. The consequence is that citizens become ever less knowledgeable about the realities and complexities of political and social life. It is easier to criticize, complain, and have unrealistic expectations when we don't know what we are talking about. So citizens who are not knowledgeable about their common life are likely to lose their willingness to pay for the public services they demand or to accept the restrictions on their lives necessary to create the kind of public and social life they insist on. As Toqueville taught us, the existence of a large bureaucratic state, even one that provides many goods and services, will exacerbate rather than reduce this sense of isolation. For all the goods and services it provides, such a state cannot but be unhelpful or intrusive at times. And it cannot flexibly respond to the ends of individual people or groups. Such a state will thus engender, not the loyalty of citizens, but the endless complaints and carping of clients who are isolated from one another.

As their frustration grows and understanding declines, citizens may become ever more susceptible to the simplistic, not to say demagogic, solutions offered by politicians. Of course, once in power those politicians will usually retreat from their more absurd promises. And that leads to ever more cynicism. Or, perhaps even worse, politicians will keep their simplistic promises, such as promises to cut taxes even in the face of persistent and growing budget deficits or a long term deficit in the social security system.

Communitarians argue that withdrawal from and cynicism about public life can take on a dispiriting life of its own. But the decline of public life ultimately effects private life as well. Human beings who do not share in a common life with their fellow citizens and come to resent the demands of government will eventually see themselves as isolated individuals who have to struggle by themselves to make their way in life. Such a self-image is, however, corrosive of even the minimal morality of liberalism. For without a sense of attachment and loyalty to fellow citizens and a strong moral—and perhaps also religious—education, the competitive nature of modern life is likely to undermine our respect for the rights of others. Isolation and withdrawal undermines the opportunities for the agents of moral and religious education to influence people. And it destroys the political and social circumstances that gives such education a strong hold on our character.

Thus the thick moralities of religious and ethnic groups are thinned out. Instead of teaching people to live a certain kind of life rooted in a religious or ethnic tradition, moral education comes to be merely an education in the importance of not treading on the rights of others. Only this morality is

[3] What Michael Walzer calls the four mobilities in "The Communitarian Critique of Liberalism" in Amitai Etzioni, ed. *New Communitarian Thinking* (University Press of Virginia, 1995).

suitable for people who have only the most tentative ties to other people, let alone to an on-going common life and tradition.

It is important for people to learn the minimal morality of liberalism. The trouble, however, is that the morality of liberalism is too thin to give people a sense of what is important in life and how to live within the bounds of liberal morality. What comes to replace the variety of thick moralities is the pursuit of the only goods generally admired in a liberal regime, the instrumental goods of money, recognition and power. However, the pursuit of these goods only exacerbates the already competitive character of liberal polities and societies. And then isolated and withdrawn individuals, who find themselves in a competitive and threatening environment, are likely to see liberal morality as a barrier to their well being. They will be tempted to go beyond the bounds of liberal morality. Again, a vicious cycle is likely to result. As more and more people begin to cut moral corners, those who still live according to liberal morality will begin to see themselves as suckers. And thus the tug of conscience will become ever weaker. The moral decline of private life, however, will have public repercussions, in the rise of crime and the consequent fear of public spaces.

So long as things go well, the isolated and withdrawn clients of a liberal democratic will be relatively satisfied. But, when things go badly, a liberal state will not have the good will of loyal citizens to fall back upon. And things are likely to go badly at times, as politicians respond to the misguided demands of citizens, demands that the more unscrupulous politicians have encouraged. Of course, unless things get very bad, liberal democracy is likely to survive. A individualistic citizenry is not good revolutionary material. But there are no guarantees that things cannot get very bad. And then the likelihood of radical and illiberal changes will increase.

So one reason communitarians recommend a reinvigoration of civic virtue is that they fear that, without it, the ends of liberalism cannot be attained at best and, at worst, liberalism will collapse. For communitarians, liberal democracy has been living off the moral capital of pre-liberal times.[4]

Communitarianism Where?

I have, as is typically done, presented the communitarian argument at a very high level of generality. This is the best way, in the first instance, to grasp the central themes of communitarianism. But argument at this level begs two of the most central issues for communitarianism.[5]

The first issue is what we might call the locus of community. Communitarians have been noticeably vague about exactly where they hope to find what I will call a strong community. Are we talking about small communities of hundreds and thousands? Or are we talking about a community that encompasses the country as a whole. Communitarians often seem to want both at once. For two reasons, however, I do not think this is possible.

First, the political and social life of our country is already too divided. There are two many different visions of what a good community would look like, in addition to all our dreams of escaping from community entirely. Even if we could agree that the central political and moral task is to encourage

[4] I should emphasize that the claim that liberalism cannot survive without some communitarian adjustments is only one argument for communitarianism. I rehearse it here because it is the most widely know. I myself am attracted to what I think are deeper arguments for communitarianism. These claims—some of which are implicit in the argument found in the text—hold that a more communitarian polity is more likely to enable men and women to lead fulfilling lives.

[5] The argument of this section and the next one summarizes claims I made at much greater length in "How Much of Communitarianism is Left (and Right)?"

virtue among our citizens—a very tall order—we would never come to any agreement about which virtues we should all accept. Aristotelians will press for magnanimity while Christians recoil in horror. Leftists will encourage compassion while rightists tout self-reliance. Critics of the sixties will insist on moderation while their opponents will cherish moments of abandon.

Second, we have seen that civic virtue only is found among citizens who are committed, knowledgeable, trusting, and active. But, in a community that is both diverse and continental in scale, continual political activity is likely to demand too much, trust in others will be hard to sustain, knowledge will be limited, and thus commitment will be intermittent.

So, if we want a revival of civic action in America, it will have to begin at the local level in neighborhoods and community centers, in labor unions and on the shop floor, at the church and synagogue, in the schools and playgrounds, at the workplace and in voluntary associations of all sorts. It is in these setting that men and women can best learn the virtues and come to recognize the importance of their common life. And, it is in the local strong community that we will find relief from the tensions between people that are ineluctably created in a commercial society. While communitarians will hope that these various locales can be the site for strong communities, these communities will, at the same time, be partial in nature for most of us. Some of us will live within the compass of a single, inclusive strong community. But under the conditions of modern life, most of us, if we are lucky, will find ourselves taking part in more than one strong community. Thus we will, in part, be torn between them.

If the communitarian hopes for local communities are ever realized we can, I think, expect changes in our politics as a whole. It is conceivable that citizens who have been raised in strong, if partial, communities will be more inclined to take part in politics in the state and federal governments as members of these large communities rather than as just petitioners for benefits or litigants. Political activity, trust and knowledge might very well carry over from narrower to broader settings. We can also hope that moral motivations and civic virtue, the training in the virtues that a strong local community makes possible will also carry over to life beyond the local setting. Knowing that they are not alone but stand with one or more local communities, and more deeply cognizant of the problems that face our country as a whole, men and women might take part in large forms of politics with renewed confidence in themselves and each other. Thus, they might be more accepting of the demands of politics. And they might be more willing to engage in a search for a genuine common good at higher levels of government. But, at the same time, they certainly will be concerned with giving their own local communities the kind of support and autonomy that will allow them to pursue their own, distinctive vision of the good.

Communitarianism How?

On my view, then, the reinvigoration of civic virtue communitarians seek must come, in the first instance, in local communities. We can then expect that such a revival would go some way to generating the kind of civic life that will preserve and enhance the achievements of liberalism in state and federal politics. The reconstruction of political and social life communitarians call for cannot take place, however, if the state, and political life more generally, remains neutral towards different conceptions of the good. Communitarianism calls, in at least three ways, for a government that is willing to encourage a common life of a particular sort.

First, a communitarian politics requires a civic education. It has, what Michael Sandel calls a "formative ambition."[6] At first sight, this should not be troublesome for liberals. Liberals have always said that the principles of liberal government and, in the US, of our Constitution, should be a central matter of public instruction. Difficulties begin, however, when communitarians claim that civic education should emphasize the importance of civic virtue and the centrality of political life in a good life. This,

[6] Sandel, *Democracy's Discontent*, passim.

already, violates the neutrality liberals demand. Why, they might ask, should one aspect of life be privilege over others?

Liberal neutrality would be violated even more by the claim, which I will endorse below, that there should be public support for education in the variety of thick moralities that are found in the different strong local political communities found in our country as a whole.[7] Such an education could be supported by the broader political community by decentralizing public education or by the institution of a voucher system as means of publicly funding education in strong local communities. The trouble, of course, is that, in either system, public funds would be used for distinctly non-neutral education. And, even worse from the perspective of American constitutionalism, some of these funds might go to support schools sponsored by religious communities. Liberals everywhere are likely to raise a moral objection to this practice.

Second, communitarians call for non-neutral government when they seek a variety of regulations of our political and social life that aim to encourage stronger communal ties and increased participation in our common life. Communitarians have supported a host of such proposals including: new patterns of zoning and land use planning designed to encourage a sense of neighborhood; the reform of divorce laws in order to encourage not freedom of choice but certain kinds of family life over others; restraints on the development of mega-stores in order to support of small shopkeepers; decentralization of power in urban areas from city governments to neighborhood councils; and, among the more radical communitarians, the institution of some form of participatory democracy in the workplace.[8] While some of these proposals could conceivably be justified in neutral terms, by and large they all respond to one or another conception of the good life for human beings.

Third, communitarians have called for various limits on our freedom. Some have, for example, insisted that pornography be banned so as to support the kinds of self-restraint needed in a democratic regime or, more recently, in order to stamp out sexist portrayals of women. Others communitarians have called for or bemoaned the decline of group libel laws. Still other communitarians have argued for restraints on campaign contributions or commercial advertising. Despite favoring regulations this sort, communitarians claim to be supportive of our true civil liberties. But their expressions of support for civil liberties stand along with their efforts to narrow the scope of those liberties in one respect or another.

Communitarians have not only called for narrowing the scope of freedom but have insisted that substantive concerns must shape our debates about our liberties. Rather than defend civil liberties by invoking neutral principles, communitarians argue that we must take into account the contribution of different liberties to our vision of the good for human beings in general or in our own time. Thus, rather than defend the right to engage in homosexual relationships in neutral terms, Michael Sandel would have us emphasize the ways in which homosexual relationships embody the same goods as heterosexual ones.[9]

In each of these three ways, then, communitarians call into question the neutrality of the state demanded by contemporary liberals.

II. RECONCILING LIBERALISM AND COMMUNITARIANISM

I began this paper by suggesting that many contemporary liberals would like to encourage a greater sense of community in the citizens of the liberal democracies. And many communitarians, I

[7] I have made this argument at greater length in "How Much of Communitarianism is Left (and Right)?"
[8] Many of us would like to bring back blue laws, too.
[9] Sandel, *Democracy's Discontent*, pp. 103-108.

claimed, defend civil liberty. Yet, when we take the theoretical claims of liberals and communitarians seriously, it is evident that they pull us in very different directions. If communitarians are right that a non-neutral state is necessary to deepen our sense of political and social solidarity, and if liberals are right that a neutral state is central to liberalism, then liberalism and communitarianism would seem to be deeply opposed to one another.

What Kind of Reconciliation Do We Need?

If we find the claims of liberals and communitarians plausible, then, we need to find some way to resolve, or at least reduce, the tension between them. We have to find a way to understand the goals of liberals and communitarians that allows us to seek both at the same time.

Now it should be evident what kind of resolution we are not going to get. We are not going to find a way to settle all political disputes between liberalism and communitarians let alone those that take place within each of these traditions. We are not going to find a vision of the human good that gains universal appeal while telling us the proper limits of civil liberty. Nor are we going to develop a conception of the right that once and for all convinces communitarians that they have no justification for pressing their claims where these violate the neutrality of deontological liberalism.

If one is a liberal allergic to political conflict then our inability to resolve the liberal-communitarian debate in either of these ways is unfortunate. (If one is immune to the charms of community, the failure of the second resolution is especially troubling.) But if one finds the communitarian vision at all plausible, then a once and forever resolution is neither necessary nor particular attractive. For, it is evident that the political debate, at least about the human good and the virtues, is going to continue indefinitely. And most communitarians would acknowledge that this debate about the good is not only necessary in a large political community but also attractive.

As we have seen, there will always be some conflict about the good and the virtues in a large political community because, like politics itself, all virtue is local. Even where two different local communities recognize the same virtues, the precise actions they specify will be different. For different local communities pursues somewhat different goods and thus exemplify the virtues in ways that reflect the character of the goods of greatest importance to them. And, as I have suggested, the virtues are learned, in the first instance, in local communities. That requires, however, men and women who enter the larger community to gradually modify their understanding of the goods available to them and, thus, also of the meaning of the virtues they have been taught. This process is a necessary to the enlargement of vision that communitarians hope to achieve when they talk about transforming our political life as a whole by an infusion of civic virtue.

The conflict between different conceptions of the good and the virtues is not only necessary but attractive. For it encourages both innovation and a more reflective appropriation of political and moral traditions. A debate about the nature of the good and the virtues among men and women who take the good and the virtues seriously is bound to stimulate the kinds of challenges that keep traditions of thought on their toes. It can, of course, also lead to serious political conflict. This is a problem to which we will return in a moment. But it should be evident that debates between people who acknowledge the importance of the virtues in our lives are as likely to bring people together as to divide them.

Conflict about the good and the virtues, then, is at least partly desirable from a communitarian point of view But conflict about our civil liberties is more troubling. I have supposed here that both liberals and communitarians favor the central civil liberties. Our liberties are most secure, however, when they are sustained by a public philosophy that is widely shared. Deontological liberalism claims to present such a public philosophy. But it is not, and is not likely to be widely shared because, as we have seen, liberal neutrality is incompatible with the claims of communitarianism

So, if liberals and communitarians are truly committed to civil liberties, the kind of reconciliation we need between these two tendencies is a defense of the central civil liberties that leaves room for at least some of the proposals for the restoration of civic virtues put forward by communitarians.

In search of such a defense of civil liberty, I think we have no choice but to begin by taking a liberal tack. We need a principled solution to the difficulties I have pointed to, one that is neutral in that it does not rest on any particular conception of the human good. For, as I have already argued, there is no hope of gaining any broad agreement on a conception of the good or the virtues. And, without such a conception, communitarians of different stripes will continue to insist that they support civil liberties in general, but that these liberties need to be restrained in order to attain certain vital goods. Opponents of pornography will defend freedom in general, but oppose pornography because it degrades and leads to the abuse of women. Religious leaders will support civil liberty in general but insist that the religiosity of the American people cannot survive without some laws against blasphemy. Patriots will support freedom in general but hold that flag burning undermines support for the republic. Democrats—both the upper and lower case kind—will support liberty in general, but hold that unrestricted commercial speech gives the rich—and Republicans—an unfair political advantage. Supporters of every oppressed minority will support freedom in general but insist that they need group libel laws to protect them from speech that disparages them. And then, everyone else will jump in with their own exceptions.

Liberals are right, then, in at least this: The protection of civil liberty depends upon a general agreement to bear the costs of freedom. And, make no mistake, freedom is costly in a whole host of ways. From the burdens of bigoted and discriminatory speech to the costs of cleaning up after demonstrators; from the difficulties of crime fighting to the unpleasantness of being on the receiving end of an expose; in these ways, and many others, freedom and liberty are costly. To live in a free community, however, is to accept these costs. To start picking and choosing which costs we are willing to pay, however, is dangerous. For, as each group or individual seeks to avoid the costs of freedom, another one will make a similar claim. The extension of freedom in contemporary America—which, as Michael Sandel reminds us in *Democracy's Discontent* is a relatively recent phenomena[10]—has depended upon a steadily expanding circle of agreement to accept one after another of the costs of freedom. It was not easy to get this process of started. And it is too easy to imagine this virtuous circle turning vicious, as one after another kind of freedom is excluded for being too costly.

The kind of reconciliation we need between liberalism and communitarianism, then, is one that, in a principled manner, preserves the widest possible civil liberty while, at the same time, allowing us to attain communitarian ends that are compatible with this liberty.

The Principles of Civic Freedom

Here is my proposal: Communitarians should accept the most extensive civil liberty while liberals accept government action in support of one or another conception of the human good.

More precisely:

1. The speech or actions[11] of an individual or group cannot be prohibited by the government in order to protect the individual or group speaking or acting from bringing any evils on themselves in any way; to protect other people from any evils that result solely from the direct or indirect effects of the speech or action on the desires or beliefs of others; or to reduce the direct costs to the political community of protecting speech and action that is otherwise legitimate.

[10] Sandel, *Democracy's Discontent*, pp. 56-60.

[11] In a longer paper I would explain why we need a broad freedom of action as well as freedom of thought.

2. Governments can use their power to encourage, honor, subsidize, regulate and tax the activities of human beings in order to realize a vision of the common good, except where such action is prohibited by the first principle and provided that this action is taken in as local a form of government as is consistent with the good in question.

On this view, the state may not set any limits on what we think, say, and, in the privacy of our homes, do. But, at the same time, the state can encourage, honor, subsidize and encourage by means of regulation and taxation particular ways of life. In doing so, however, it must adopt the principle of subsidiarity: government endorsement of a particular conception of the good must be undertaken in as decentralized a manner as possible.

The principles of civic freedom hold, first, that there should be no restrictions on government policies that are not neutral between different conceptions of the good. So all those communitarian policies of regulation and subsidy I discussed above would be legitimate. But none of the communitarian restrictions on individual freedom would be allowed.

To flesh them out, let me quickly, and tentatively, suggest some applications of these principles.

On the principles of civic freedom, governments could not absolutely ban offensive speech or pornography and obscenity. It could, however, require that particular commercial products be sold in certain places and not others. Thus it could, for example, dishonor the taste for pornography by requiring it to be sold under restrictive conditions. It can insist that goods that are offensive or obscene be labeled as such. It could warn citizens against such goods. It could not prevent private funds to be used to support museums that show works of art that are considered obscene or offensive. But it would be acceptable for a government to withdraw public funding from such works of art. Thus, on the view I am presenting, the American constitutional principle that requires that government regulation of speech be content-neutral would be overturned.[12]

On the principles of civic freedom, governments could not prevent people from practicing a religion or from advocating unpopular political ideas. But it would not be inappropriate for a government to encourage religion in general or, at local levels of government, or by means of tax subsidies or credits to individuals, a particular religion. These practices would have to be modified in America, given our constitutional barrier to the establishment of religion. Still, in interpreting the constitution, the principles of civic freedom would call for the free exercise clause of the First Amendment to have much greater priority than the establishment clause. Had this view been taken, the court decisions that Congress attempted to overturn by enactment of Religious Rights Restoration Act would never have been made. And, under this way of reading the Constitution, prayer would not be allowed in publicly run schools, but individuals would be allowed to use vouchers to attend parochial schools.

On the principles of civic freedom, governments, and individuals could not discriminate between individuals on grounds of their race, ethnicity, religion, sex, sexual orientation and so forth. But a government could withhold its approbation from the actions of its citizens even when those flow from these suspect categories. It would be wrong, then, for a government to deny gay and lesbian couples the right to the various benefits that are provided to marriage partners today and that could be provided to all domestic partners in the future. And it would be wrong to outlaw gay and lesbian sex. But it would not be a violation of the principles of civic freedom for a government to encourage traditional families by

[12] This is a paper on moral philosophy not constitutional law, so I won't discuss the legal principles and strategy that we should adopt to over turn this principle. Given how recently this principle entered into our constitutional deliberations, I do not think it would be very hard to overturn.

restricting marriage to heterosexual couples.[13] Nor would it be wrong to give special benefits to families, whether gay or straight, with children.

On the principles of civic freedom, government may not regulate commercial or political advertising or donations to political candidates, except with regard to the same time, place, and manner restrictions that are legitimate in the regulation of other speech and action. Governments could, however, provide public subsidies for political campaigns and also adjust these subsidies so as to balance private donations. Within limits, they could certainly tax commercial speech or, at the very least, reduce the business expense deductions allowed for such advertising.

The Grounds of the Principles of Civic Freedom

While my proposal cuts the knot of conflict between liberalism and communitarianism, it needs some defense both in its own terms and against the objections that are certain to be raised against them by both liberals and communitarians. Let me first give a brief sketch of the fundamental point of the principles of civic freedom. Then, in the next two parts of the paper, I will address objections from liberals and communitarians.

Freedom, on my views, is best thought of as the means by which human beings discover and seek to attain their good. The principles of civic freedom, then, rest on the notion that human beings have the capacity, in both our political and individual lives, to pursue a reasoned account of human nature, the human good, and our own good here and now. I suggest that we think of reasoning about the human good in a pragmatic manner.

Hilary Putnam has argued that

> From the earliest of Peirce's Pragmatist writings, Pragmatism has been characterized by *antiscepticism*: Pragmatists hold that *doubt* requires justification just as much as belief; and by *fallibilism*: Pragmatists hold that there are no metaphysical guarantees to be had that even our most firmly-held beliefs will never need revision. That one can be both fallibilistic and antisceptical is perhaps the basic insight of American Pragmatism.[14]

To accept a pragmatic form of reasoning about the human good is to reject the philosophical scepticism of traditional liberal thought about the human good. We have no philosophical grounds, and little empirical grounds, to deny that there is a human nature that transcends all human cultures. At the same time, a pragmatic account of reasoning about the human good is fallibilistic in nature. There are no guarantees that any features of human nature are broad enough and widely enough shared to sustain an account of the human good. Nor are their any guarantees that we will reach consensus about the human good. But we do not need such guarantees in order to explore questions of our own nature and our good. Nor do we need consensus in order for reasoning about the human good to be productive of individual and political and social enlightenment.

A pragmatic approach to thinking of reasoning about the human good supports freedom. Indeed, the mere possibility of reasoning about the human good mandates that we have the freedom, in both our

[13] On this view, marriage as opposed to domestic partnership would be an entirely honorific state. Let me be clear that I am addressing questions of political right, not of the common good here. Though I do not think gays and lesbians have a right to state sponsored marriage—and oppose granting them this right as a matter of constitutional law—I do think that state sponsored marriage for gays and lesbians would be in the common good. I would like to see it brought about by means of legislation rather than constitutional adjudication.

[14] Hilary Putnam, *Pragmatism*, (Blackwell, 1995), pp. 20-21.

individual and collective lives, to examine and test different conceptions of a good life. This freedom is most likely to be found, I suggest, when we protect the most extensive civil liberty to express our ideas and to do as we please in our private lives *and* when local and regional governments can support a particular conception of the good life. It is evident, I suppose, that the freedom to explore new ideas and to test them in practice is necessary if we are to reason in a pragmatic way about our own good. But the same can be said about the common good. For, again there is no way to settle, in advance, the question of whether the human good in general or our own good, here and now, is best served by more communal or by more individual institutions and practices. So, just as we have to be open to individual reflection and experiment, we have to be open to political attempts to realize one or another conception of the common good.[15]

III. COMMUNITARIAN OBJECTIONS TO THE PRINCIPLES OF CIVIC FREEDOM

So, the principles I propose do not seek to reconcile liberalism and communitarianism by splitting the difference everywhere. These principles legitimate the communitarian concern for the common good. But they also legitimate the liberal desire for the protection of an extensive list of civil liberties.

Let me now turn to first to the communitarian objections to this proposal.

Can Community Survive Civil Liberty?

The main communitarian critique of the principles of freedom will be echoed by traditionalist religion as well: an extensive civil liberty is incompatible with a citizenry animated by civic virtue. The good motives of civic virtue, on this view, will be drowned out the by bad motives encouraged by such things as the objectionable material on television.

I think this communitarian objection is not terribly serious, at least in so far as it comes from communitarians who claim to respect civil liberty. I would not say that there are no costs both to individuals and the community as a whole of the trash that is so easy to see in newspapers, magazines, on the radio and on television. There are serious harms. But liberalism, as I have suggested, is constituted by an agreement to live with at least most of these harms. And the marginal benefits we would get from restricting the worst material on television are surely negligible. Pornography and obscenity can, I suppose, make for crude and self-absorbed citizens. But the daily fare on so many television programs is not all that much better. It would be very nice to change the character of television. But very few communitarian take the thought of truly restrictive censorship of television seriously. So, they have little to complain about my proposal that we remove all barriers to the expression of repulsive ideas, at least in so far as they are only viewed in the privacy of one's home.

Communitarians can, however, take heart, in my claim that government need not justify its policies in content neutral terms. On the view I am defending here, Presidents could use the bully pulpit to condemn objectionable television and CDs or to encourage television and movie studies as well as record

[15] The principles of civic freedom evidently owe a great deal to John Stuart Mill's *On Liberty* and Alexander Meiklejohn, *Free Speech and Its Relation to Self-government* (New York: Harper and Row, 1948). My argument differs from that of Mill and Meiklejohn in that I specifically seek to derive an argument for non-neutral government. (I do not think either Mill or Meiklejohn could be considered extreme partisans of neutral government, however.) My argument differs from that found in Mill in that it makes no reliance on utilitarianism (But did Mill's argument in *On Liberty*?). And it differs from that of Meiklejohn in that I hold that the experiments individual undertake in thought and action contributes in important ways to political discussion and debate. Thus I justify a much broader freedom of action than Meiklejohn accepts. In that respect, of course, my argument is close to that of Mill. Although there is little evidence of it here, central to my argument is an account of the possibility of reasoning about the human good that goes far beyond that found in Mill's discussion of this issue in *Utilitarianism.*

companies to stop making repulsive works of art widely available. This will not stop the production of such works. With the availability of the internet today, it is likely that nothing will. But public condemnation of the worst that people see and hear every day might very well carry some weight. It might be harder to find objectionable materials. And we might restore a sense of shame in people who now enjoy them.

The principles of civic freedom, then, ask communitarians to accept many of the costs of civil liberty, costs that they are sometimes unwilling to pay. But the justification of the non-neutral public policies I have put forward rests on the possibility of reasoning about the good. If it is to support civil liberty and a variety of conceptions of the common good, however, such reasoning must be conceived to be pragmatic in nature. If we had the absolute truth about the good, we would not need civil liberty to try out different ideas of the good in our own live nor democracy to be them into place in our community as a whole. A pragmatic conception of reasoning about the good, then, supports the communitarian effort to discover and pursue the common good in our political life. At the same time, it makes that pursuit more difficult—though not impossible—by refusing to legitimate most restraints on our liberty.

IV. LIBERAL OBJECTIONS TO THE PRINCIPLES OF CIVIC FREEDOM

The liberal objections to the principles of civic freedom are, I think, more serious than those that can be raised by communitarians. But they too can be answered.[16]

The Rejection of Neutrality and Equity

A first liberal argument against the principles of freedom is that it is unfair for government to act on the basis of a conception of the common good that is not accepted by or acceptable to everyone. Often this claim is raised in the context of a discussion of taxation. It is illegitimate, some liberals, say to tax some people to support a conception of the good that they reject.

This claim has traditionally rested on liberal skepticism about our knowledge of the good, or of God. If the good is nothing but the satisfaction of our wants, whatever they happen to be, then one can plausibly argue that it is tyrannical for a government to tax us to pay for goods we do not want. And, if there is no view of God that commands the assent of everyone, it is certainly conceivable that a member of a dissenting religious might think he is risking his immortal soul when he pays taxes to a church not his own. So the just state is a neutral state that is, one that does not rest on any controversial conception of the good and that does not provide any common goods that are not wanted by everyone.[17]

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[16] There are also certain respects in which my proposal strengthens the case for civil liberty. I have addressed this question in Rawls these issues in "Public Goods, Political Liberalism and the Priority of the Right over the Good." This paper has not yet been published in English but it is available at my web site, www.stier.net.

[17] In recent years, some political theorists have argued that neutrality is not really required by deontological or procedural liberalism. My response is that this would be nice, if true. But, by and large, I don't think it is true. Or, to be a bit more precise, it seems to me that much in the whole project of deontological liberalism would have to be given up if it were to accept the second of my principles of civic freedom. I recommend this move and think much would be gained by dropping the deontological liberal insistence on neutrality—that after all is the whole point of this paper. But I think it is difficult to do so if one remains within the ambit of deontological liberalism.

There is little doubt that the two leading figures of deontological liberalism insist that the state adopt public policies that aim at securing some controversial public or communal good. Dworkin clearly upholds the neutral state. Why would he go to such lengths, in "Can a Liberal State Support Art" to argue that support for the arts does not violate liberal neutrality? And, in *A Theory of Justice*, Rawls cast doubt on the legitimacy of many public goods as they are currently provided in the liberal democracies. By his endorsement of the Wicksell unanimity criterion, Rawls essentially tried to find a non-political way of determining what public goods should be provided and who

These arguments have a long history in liberal thought. But, so long as we do not ask members of a religious minority to risk their souls to pay for an established church, I do not think a liberal regime is wrong to purse any common goods.[18] For one thing, though I cannot defend this claim in detail here, I think there is good reason to reject the philosophical skepticism about the good characteristic of so much

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should pay for them (*A Theory of Justice*, pp. 282ff). Of course, as Rawls noted, Wicksell's proposal cannot be adopted in practice.

The interesting question is whether Rawls's late political theory, his political liberalism, requires a neutral state. Rawls never really addresses public goods in *Political Liberalism* so it is not clear whether his views have changed. Given the whole tenor of his late thought it seems, at least at first, that he would insist on a neutral state. Rawls hopes to find a way of accommodating people with different reasonable political and moral views by bracketing their differences and putting them to one aside. He would like to find a basis on which reasonable people could agree to principles of justice and, if possible, a constitution, that does not rest on any controversial view of the good. Given this aim, it would seem that a liberal state should also be neutral between different conceptions of the good.

One could imagine two ways to develop political liberalism in a direction that would accommodate public and communal goods that are not neutral. First one might argue that any public goods that might be acceptable to reasonable people could be justly provided in a liberal democracy. While Rawls gives us some—though, in my view, not enough—reason to think that reasonable people might agree on the two principles of justice, he gives us no reason to think that reasonable people would agree to the list of public and communal goods provided today in the liberal democracies. They might agree that a reasonable case could be made for supporting these goods. But there would certainly be reasonable people who would not agree, again with reason, that these goods should be provided. Everyone one of the goods I mentioned in the text is controversial, if not among the professors who likely to read this paper, then among the citizenry at large. (And I bet you could find a fair number of professors who would have doubts about some of these goods, such as subsidies for football stadia, or who would look askance at my proposal to allow public vouchers to be used at religious schools.) We can't paper over the differences that exist about the common good in our polity by invoking the term "reasonable" like a mantra—as I have facetiously done here—any more than political theorists of an earlier age could do so by talking about their moral intuitions.

Second, one could argue, as I have in "Public Goods, Political Liberalism and the Priority of the Right over the Good," that political liberalism should drop its insistence on neutrality altogether. Given the practical impossibility of a neutral liberal state, political liberals should conclude that any public goods could be legitimately provided by a polity and society, so long as the decision to do so is the result of a just process of political decision making. In accepting this claim, one might argue that political liberalism does not require neutral public policies but only that liberal principles of justice, or the grounds for accepting these principles should not rest on any controversial conception of the good. What makes this approach to common goods plausible is that political liberalism does not, like traditional liberal thought, rest on scepticism about reasoning about the good. In abstracting from all philosophical as well as political and moral views, political liberalism takes not stand on the possibility of reasoning about the good. So for political liberalism, there are no grounds to argue that forcing people to pay for common goods they do not want is fundamentally unjust. It may well be, after all, that these common goods benefit even the people who do not want them.

I think this is the right path to follow. But it very much cuts against the grain of both deontological and political liberalism. For these liberal theories have hoped to find moral principles by which to settle our most central political disputes. Such principles would set out the terms in which political claims within the liberal polity could be made. In doing so, they would help assure that politics is carried on in a reasoned manner that is fair to all. And they would also limit political conflict and promote a stable polity. I have argued, in other work, that we do not need principles of this sort if we are to have reasoned debate in politics or a stable polity. And I have argued here that we should expect, and indeed, welcome continued debate about the human good. If one wants to accept these arguments as a plausible interpretation or reworking of Rawls's political liberalism, that is fine with me. But, as I said, they seem to take us far from the spirit of Rawls's work.

[18] For the most part American religions do not hold that we would risk our souls by paying taxes to support an established church not our own. And, if some did, then the only morally required response, I think is to offer the dissenters a rebate on a portion of their taxes. It may be a good idea to separate church from state and it is certainly required for the federal government under the first amendment. But I do not see that it is a requirement of political morality as such. I do not think that government support of the Church of England raises any profound moral problems.

liberal thought. More importantly for our purposes, I would insist that there is no such thing. In issuing regulations or by taxing certain goods and spending money for certain purposes, liberal governments are always doing things that many if not most citizens disapprove. In a democracy, we can't help but be put in the situation of dissenting from some collective decision about our common good.

Liberals might argue, of course, that most government decisions do not rest on a conception of the common good. The liberal strategy of avoidance and insistence on a neutral state, they might say, avoids this circumstance.

The trouble with this argument, however, is that no liberal state has or, for political if not moral reasons, could ever refrain from providing goods to its citizens that raise the questions about nature of the common good. The liberal democratic state compels us to pay taxes for many public and communal goods: elementary, secondary, and higher education and, in some places, day care; roads, bridges, and harbor improvements; garbage collection and fire fighting; public parks, wildlife preserves and national forests; environmental protection; grants to artists, libraries, museums, theaters, orchestras and opera companies; baseball and football stadia. The liberal democratic state also regulates the way we construct buildings and, except in uncivilized places like Houston, extensively regulates land usage. Many of these public goods are widely desired. However, none of them go unquestioned.[19] And some of them are the subject of intense local or national controversy. Moreover, even where there is widespread acceptance of public provision for one of these goods, there is often great disagreement about what exactly to provide and how it should be provided. Questions about human nature, the human good, and our own good are raised in all these debates.

A further response to the liberal objection is to point out the fundamental inequity of liberal neutrality. What exactly is neutral about a state that allows individuals to pursue their individual goods but would not allow them to pursue common goods? A neutral state does treat the ends of human beings fairly when it prevents people from acting collectively to attain goods that they cannot attain in any other way.

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[19] One might argue that neutrality is not violated when the liberal democratic state provides the goods I have mentioned. One argument to this effect is that government action to provide these goods can be defended as necessary to protecting or furthering liberal democracy itself. This argument can justify public provision of education for the purpose of creating equality of opportunity. And it can also justify a limited civic education in the principles of liberal democracy. But I don't think most of the other goods can be justified in this way. I suppose that, if one accepts the communitarian arguments I presented at the beginning of this paper and agrees that liberal regimes are most likely to survive by adopting the recommendations of communitarians, then one would have a neutral defense of a non-neutral liberal democratic polity. It is, however, rather silly to argue for a neutral state only to turn around and hold that the neutral state can only be protected by violating that neutrality. There are two further problems with this argument. First, it is not clear we can pursue certain goods and virtues solely for the sake of preserving liberal democracy. (This is one of the reasons I said, in note 4, that there are deeper arguments for communitarianism then the one rehearsed earlier in this paper.) It may be true that a polity in which people are devoted to Biblical religion or Aristotelian virtue is one in which liberal democracy is more secure. But one can't seriously be devoted to these ways of life for the sake of liberal democracy alone. Second, why should we be limit the common goods we seek only to those that serve to make liberalism more secure? If the pursuit of certain common goods makes for a more fulfilling life, why isn't that justification enough for public support of those goods?

Some liberals might argue that many of the common goods I mention could be justified because they contribute to economic growth. That is the standard argument for public support for football stadia. And, thankfully, that argument has come to be used for public support for the arts. (That argument has even lead a philistine like my former mayor, Ed Rendell, to become a great defender of government aid to the arts.) Still, there is something very problematic about this argument. Indeed, it shows the essential bias of deontological liberalism. Why, after all, should common goods be justified only when they lead to economic growth? Is an increase of income and wealth the only good? The answer is obviously no. But deontological liberalism leads us to favor certain common goods over others precisely because income and wealth are among the fews goods it recognizes as universal.

The Rejection of Neutrality and Freedom

A second objection liberals might raise to the principles of civic freedom is that government endorsement of one or another conception of the good limits the liberty or freedom of individuals. By praising or subsidizing some ways of life or actions, and condemning others, the government lowers the costs to individuals of the former and raises the costs of the latter. We can consider a number of different kinds of costs here. Take, for example, the case of labeling raunchy CDs. There is no doubt that such a policy would hurt some people. It might encourage record stores not to carry certain records and reduce the revenues of some musicians. And it might injure the self-esteem of the musicians involved.[20] But, so long as the government does not prohibit the creation, manufacture or sale of the records it condemns, no violation of civil liberties has occurred.[21] Some people benefit and others are hurt any time the government tries to provide some common good. It makes no difference whether the government puts a road in one place or another; tries to discourage smoking by means of taxation and advertising; rates the quality of meat; or expresses a view about the contents of a record. In each case, the government is acting in a non-neutral manner by expressing a view of the common good.

The Self-esteem Argument

The real appeal of the liberal objection to government endorsement of one or another conception of the good rests on a line of thought that has already begun to play a role in not just political theory but the decisions of the Supreme Court, that is an important strand of what has come to be called multiculturalism, and is enormously popular with college sophomores. It is the view that public expressions of approval or disapproval of our choices limits our freedom or is otherwise unfair because it challenges our self-esteem. I am going to call this the self-esteem argument. Supreme Court decisions, particular those that involve the establishment clause, have begun to worry about the effects of being the member of a minority religion on one's self-esteem. (Of course, the effects of segregation on the self-esteem of black children was a central concern in *Brown vs Board*.) Solicitude for the self-esteem of the people is evident in Rawls's *Theory of Justice* where the "social bases of self-esteem" is one of the primary goods to be distributed by the two principles of justice. And, public disapproval strikes even the relatively poor students I teach at Temple University as a greater restraint on their freedom than the lack of material resources.

It seems to me that the way of thought that underlies the self-esteem argument is deeply problematic. Taken to an extreme, it threatens most of what is valuable in our political and social lives. This concern for the impact of public approbation on the self-esteem of individuals leads to an understanding of the nature of tolerance that is disastrous, both for our capacity to attain most of individual and common goods and, also, for tolerance itself.

[20] Of course, in the present state of affairs this policy is more likely to lead to increased sales. And by giving the offended musician a chance to play martyr, it would only increase his self-esteem. These are just some of the reasons that the policy I am considering is, in the United States today, rather silly. But, silliness in government is not contrary to the principle of political right.

[21] Nor is it appropriate for the government to restrict the right to speech or action of its functionaries or those it supports with funds It is one thing to require government sponsored family planning clinics to give information discouraging abortions to women contemplating them. It is something else entirely for the government to gag those who work in these clinics by preventing them from offering their own views about abortion or information about where to get one. Though this is more controversial, I would apply this same standard to any people who are directly employed by the government. They, too, have rights to free speech that should not be limited, except where national security or the education of young children is involved.

It is understandable that college students in a democracy, who have just come out from their parent's house, would cavil at anyone anywhere telling them what to do or criticizing them for their choices in life. It is even understandable, although regrettable, that they frequently say that to hold them up to any ideals, violates their freedom. But it is a sad commentary on the state of political thought and jurisprudence when these sentiments have any currency among the adults who engage in these disciplines. What my students do not realize—and the adults should realize—is that practically all of the goods we seek in life are embedded in social practices that, in turn, are defined in large part by ideal conceptions of how we ought to conduct ourselves. To be a teacher or doctor or parent or policeman or fireman is impossible if one is not willing to be devoted to the ideals that shape these practices. Similarly, to truly appreciate music or the arts or food is to take part in practices that are also oriented towards certain ideals. In a pluralistic political community one would expect (and hope) that there will be a variety of ideal ways of life that compete in at least two different ways. Some are, we might say, directly competitive with one another in that one can't live up to both at the same time. One can't be both rabbi and priest. Other ideals are indirectly competitive in that they make such great demands on our time and energy that they limit the devotion we can give to other ideals. In either case, we will have a range of choices about what social practices to engage in and thus what ideals to make part of our lives. What we can't do, without reducing ourselves to the pursuit of the lowest goods in the lowest manner, is live a life that is not defined in any way by these ideals.[22]

The adults who are most concerned with sustaining the self-esteem of others would undoubtedly respond to the argument of the last paragraph by pointing out that what freedom requires is not an escape from any and all ideals but precisely the right to choose between different goods, all of which are defined by the ideals embedded in social practices. Tolerance, they might add, simply requires that we not insist that everyone adopt our conception of the good as their own. We should, instead, respect the choices each person makes.

This reply sounds good. But, for five reasons, it remains deeply misguided.

First, it is central to certain practices that others should be criticized. You can't be a good Christian and think of a proponent of the Playboy philosophy as simply a defender of an alternative lifestyle. Nor can you be a Platonic defender of the philosophic life without thinking that philosophy is better than tyranny. In a liberal political community we should certainly respect the right of other people to choose their own path in life. But we have to be able to express our own ideals, even where this requires us to criticize the choices that other people make. Moreover, we can often best show our respect for others by taking the ideals they uphold seriously and arguing with them. We register our respect by taking other people to be reasonable creatures whose choices are subject to rational examination.

Serious debate and disagreement will always be stifled when the members of a political community believe that it is wrong to publicly criticize other people's choices. The citizens of such a polity will be unwilling to make their opinions known about important questions of individual and communal life. Thus a political community that seeks to avoid being judgmental about the choices people make will not be 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 other citizens should live both as individuals and as the member of a community. So, paradoxically, a polity and society in which people can do precisely what they want to without fear of public condemnation, will also one in which there is little or no discussion or argument about public and private affairs. Freedom of action will be total, but freedom of speech will be, not legally prohibited, but culturally inhibited.

Second, to inhibit people from defending their own ideals and criticizing those of others, is to prevent them from recruiting people to join them in a collective endeavor. From a communitarian point of

[22] I have drawn in this paragraph on the account of goods found in Joseph Raz, *The Morality of Freedom*, (Clarendon Press, 1986).

view, however, there is no more important political activity. Once again, liberal neutralism shows its bias against common goods.

Third, to say that we must have public approval—or, at the very least, tacit public acceptance—of whatever we choose to do demands more than any political community can or should give. Can a political community really say to people that however you choose to live is fine with us as long as you don't hurt anyone or become a public burden? Can a political community refrain not just from punishing people for their choices but also from criticizing them for their choices? Can a political community be indifferent to the willingness of people to work hard, to take care of their children, to be considerate to others, and to be concerned with the common good? Communitarians argue that the answer to all of these questions is no.

Take, for example, the care of children. Suppose that, over time, parents in the US became dramatically less interested in caring for their children and decided to keep them in day care and other organized activities during most days and with baby sitters most nights and propped before the television the rest of the time they are awake. These parents will not have done anything illegal. Their practice is not child abuse. But suppose that we had good reason to believe that parents of this sort created children with all sorts of problems both for the children themselves and for the community as a whole. For example, kids of indifferent parents might do poorly in school or be more likely to take part in criminal activity of various kinds. Would it be appropriate for our political and religious leaders to start a campaign to encourage parents to spend more time with their kids? (Such a program, I would hope would be combined with regulations that prevent employers from limiting the careers of parents who are devoted to their children.) If this campaign took off, parents who left their kids in day care from 7 am to 8 pm might feel guilty or be subject to condemnation by their friends and neighbors. And, there is no question that there is a sense in which this public disapproval would limits the freedom of these parents. But there is no reason to think that they have a legitimate claim to freedom in this respect. For public condemnation of behavior that is legal but still contrary to the common good is be very important to the well being of a polity as a whole.

It is important to note that, the kinds of public advocacy I am discussing here do not presuppose that the audience initially rejects the conception of the good put forward by the advocate. People can go wrong in their understanding of the good life for them in any number of ways. They might, to continue with the previous example, be lacking in any strong commitment to their children. In that case, the task of advocacy is very difficult, though not necessarily impossible. For the ideals in question are entirely external to the people the advocate addresses. Another possibility, however, is that people might be committed to their children yet not recognize the dangers of the path they are following. Here the ideals in question are internal to the audience, but they have a misguided understanding of what children need. A third possibility, one that is especially likely in the case of common goods, is that people do not grasp the importance a certain good has in their lives and thus, unwittingly, lose it. Here the ideals have been internalized by people but they have no explicit understanding of them. Imagine a group of parents who live in a tight knit urban community where they have devoted friends and family members who help take care of their kids after school and occasionally on weekends. It is entirely possible that people could take the value of this network for granted. But, then, when they move to the suburbs, where no such network exists, they are forced to resort to much less satisfactory alternatives for child care. Some sort of public advocacy will surely be useful in this case, as well as in the others, if people are to recognize the difficulties in their lives and how to overcome them.

It is, of course, true that public condemnation of the activities of some citizens will be painful for people who have ideas that are different, original, and perhaps even better than those of the majority. But I am not sure that this is always a difficulty. Indeed, a fourth problem with the self-esteem argument is precisely that it puts forward a sad, not to say pathetic, view of human possibilities. It is hard to believe that people can really be free if they don't have the self-confidence to stand up for their own beliefs, no matter what other people think. Doesn't freedom really require us to have a tough skin? And can people develop such independence of mind in a political community that is never willing to criticize anyone's

choices? Wouldn't we be more likely to develop such independence and self-confidence if we lived in a political community with vigorous debate? Such a community would have people who strongly disagree with the majority and stand up for their own ideas. They would be role models for the rest of us. And, in such a polity and society, we ourselves might find ourselves in the minority from time to time and thus learn how to live with the consequences of thinking for ourselves.

The underlying mistake of those who condemn policies of the sort I am considering as violations of our civil rights is the confusion between the right to liberty and the presumed right to equal public respect. Tolerance requires each of us to allow those who hold different views to express and act on them. But it does not require us to forbear from offering either public or private criticism of the strongest sort. That this kind of criticism can reduce a person's income or injure his self-esteem, while sometimes unfortunate, is irrelevant from the point of view of political right.

The concern for avoiding any injury to the self-esteem of others is one of the worst features of contemporary liberalism. And it is one of the ways in which contemporary liberals unfortunately depart from the founders of this doctrine. The early liberals presented a doctrine made for people with strong characters, capable of standing on their own and defending their point of view against those who disagree with them. (The tradition of religious dissent made a strong contribution to this feature of liberalism.) Liberalism taught these strong characters that it is, at times, prudent to live and let live. But it also taught men (and later women) to stand against the majority when that was necessary. Instead of trying to build strong characters through the polity, contemporary liberalism is directed at assuaging those least advantaged with regard to self-esteem.

What makes contemporary liberalism particularly appalling is that the policy it proposes cannot work. This is the fifth problem with the self-esteem argument. Some minimal degree of self-esteem can be based on our having equal rights with others and on our living in accord with the principles of political right. But, as Rawls's very plausible account of self-esteem should suggest to us, these abstract features of our political and social life cannot make up for a confusion about what kind of life is valuable and some confidence that we can live a valuable life. The right to free speech does not do much for the self-esteem of ghetto kids, after all. Respecting the rights of others can contribute to their self-esteem. But it is not enough by itself, apart from some conception of what a good life is and some reason to think that they will be able to live it. And that is to say that self-esteem can only be based on something like a substantive conception of the good life, whether it is secular or religious in nature—as Jesse Jackson's efforts to encourage self-esteem in ghetto kids surely shows. By denying that we can discern the good life, and by undermining public attempts to teach a conception of the good life, liberal neutralism undercuts the real basis for self-esteem.

The confused conception of tolerance held by contemporary liberals does have one respectable source, the view that there is more than one way to "be somebody" and more than one way to live a fulfilling human life. This is the fundamental truth of multiculturalism. In a multicultural society like our own, we ought to acknowledge this, both in our common public discourse and by allowing different groups some control of their own, local, political institutions, and perhaps especially, their schools. A polity that tries to strengthen strong local communities, is likely to be one in which different ways of life are recognized as valuable.[23] But it is one thing to say that there are different ways to live a good life. It is another to say that any way of life is good.

[23] I do not discuss on possible danger of the strong local communities I encourage in this paper, that they adopt the extreme sort of multiculturalism that denies any possibility of real communication, let alone fruitful debate between different groups. I have tried to show why the communitarianism I propose here is not likely to lead to this problem in "How Much of Communitarianism is Left (and Right?)"

Communitarianism and Political Conflict

The last liberal critique of the principles of civic freedom is that they would lead to unending political conflict. For the principles of civic freedom partly revoke the liberal strategy of avoidance. Instead of bracketing questions of the human good, efforts to revive strong local communities will raise those questions again and again. But, given the enormous diversity in our ways of life, explicit attention to these questions will, no doubt, raise many hackles. If, as I just said, a communitarian polity strengthens strong local communities, it is quite likely that at least some these communities will advance ideals that conflict with one another. Communitarians should, along with defenders of multiculturalism, encourage these strong local communities to recognize that there are alternative paths to a fulfilling life and different, reasonable accounts of what God asks of us. Yet, as I have insisted above, some conceptions of the good found in our polity are deeply in conflict with others. While a communitarian polity as a whole must welcome diversity and encourage tolerance, we cannot expect each local community to take a benign view of all others. So local communities will have to be strong enough to stand up for their own ideals and, also, to tolerate conceptions of the good and the virtues they reject. But strong local communities that have very different ideals will surely come into conflict with one another. That will be especially the case if a communitarian revival encourages people devoted to the more sectarian ideals to use the state to support their preferred way of life. Imagine, a liberal might say, the political difficulties that would arise when Jerry Falwell captures control over the city of Lynchburg or the state of Virginia. The power of the state would then be used with a vengeance to teach ideals rejected by very large minorities. Conflicts between religious moderates and fundamentalists as well as among Protestants, Catholics, and Jews might lead to the kinds of tension and violence that accompanied struggles over which bible to read in school during the late 19th century.

My initial response to the prospect of political conflict of this sort is that it is not a wholly bad thing. The kind of communitarianism I have defended might be called agonistic communitarianism. I have argued that conflict between different conceptions of the good and different schemes of virtue is useful, both as a means of helping us come to understand our own views, and also as a spur to the refinement and enlargement of these views. Yet, while struggle between different views of the good is to be welcomed, such struggle can go too far. For we do not want to put the achievements of liberal democracy at risk.

There are a number of ways in which communitarians could minimize the threat to liberal democracy. First, the principles of civic freedom set an important constraint on the conceptions of the good that may properly be taught in publicly supported institutions. Schools, for example, may not teach children to violate the rights of others. Nor may they reject democratic government for, say, theocracy. People would be free, of course, to use their own resources to teach doctrines that contravene the basic principles of a liberal political community. But one would hope that most people would come to reject the conceptions of the good and virtues that lead people to reject liberty and democracy.

Second, the principle of subsidiarity embedded in my second principle surely will work to reduce political and social conflict. It is possible that much of the tension created by conflicts be different strong communities can be dissipated by pluralist means. A polity that is more democratic and more decentralized than our own could more easily allow different groups of people to pursue their own conception of the good without bothering others. Mayor Jerry Falwell of Lynchburg, Virginia would, undoubtedly be a very controversial fellow. His proposals for the schools would surely engender some hostility. But that hostility would be diminished if parents and students could attend one of a n number of very different kinds of schools.

Of course, the principle of subsidiarity is not self-enforcing. And, not only is it likely to be too vague to be easily enforced in the courts, the reliance on judges to make fundamental policy decisions is one of the ills communitarianism means to overcome. So, there may come times when state and federal governments do things that are wrong from the standpoint of the principle of civic freedom. There is, I think, no substitute for prudence or practical wisdom here. Legislators and citizens must have the good sense to recognize the appropriate limits on their attempts to pursue their own view of the common good. That is, they must not try to carry policies that aim to encourage or strengthen a certain conception of the good on a slender majority. They should respect the principle of subsidiarity. They should find more inclusive formulations of their ideals, ones that can gain broad support. They should encourage a variety of strong communities, even where these communities differ on some issues. They should recognize legitimate differences and find ways for dissenters to pursue their own view of the good. They should understand that even proper demands on the government can become problematic when they legitimize more problematic demands. Those of us who want to stimulate a more communitarian form of life must be careful to do so in moderate and restrained ways, in ways, that is, that insures that political tensions never come close to the point that the authority of a good government is questioned.

With the principles of civic freedom, I propose a clear line between what we might call the communitarian good and the liberal right (not Right!). But, while helpful, no such line can solve all our problems. It cannot warn us when political and social institutions and practices meant to realize a good life are likely to set off a movement that threaten our freedoms. Nor can it tell us what kinds of strong communities are likely to help us live better lives. So, my reconciliation of liberalism and communitarianism leads us to the recognition that, in any sound political theory, principles must be supplemented by prudence or practical wisdom. Rather than relying on fixed, formal and abstract principles to create a stable polity, I suggest that we rely on prudence. But that path is most likely to be successful if we can develop strong local communities that encourage that virtue.

Reconciling liberalism and communitarianism, then, requires liberal principles and the prudence that comes from a training in virtue. One without the other makes it impossible for us to attain the aims of both liberalism and communitarianism. Prudence without principles is blind. Principles without prudence are empty.

V. HUMAN NATURE AND THE HUMAN GOOD

If we are to defend not only the principles of civic freedom I have put forward but the whole notion of agonistic communitarianism, we need an account of reasoning about the human good. This is not the place to give such an account. I do want, however, to conclude by giving a sketch of the kind of account that we need and can, I think, achieve.[24]

I would like to begin with the conception of the self that has been put forward by Michael Sandel. Sandel has developed what he calls a cognitivist view of the self. That view is presented in contrast to two extremes. On the one hand is what Sandel calls the voluntarist account of the self. The voluntarist view holds that that the self is distinct from and prior to any of its ends. A voluntarist self must will or choose certain ends, although it is by no means clear what can ground the choices the self makes. On the other extreme is a nameless account that I will call the embedded conception of the self. This view holds that the self is wholly constituted to by a variety of ends, goals, and desires. An embedded self, however, has

[24] This account of reasoning about the human good is drawn from a long book manuscript of mine entitled *Discovery or Invention?* In it I develop, at great length, the philosophical psychology that I only sketch here. I hope to see it published in the next year or so. In the meantime, an overview of this manuscript, as well as of two others that grew out of the same project, can be found at www.stier.net.

no means by which to step back from and evaluate these ends. It tries to satisfy these ends in the order and priority with which they appear.

The self on the cognitivist view, like on the embedded conception self, is constituted by a variety of ends, goals, and desires. The cognitivist self, however, is capable of reflection, of stepping back and evaluating the ends, goals and desires by which it is constituted. A cognitivist view, then, allows that some kind of reasoning about the human good is possible. But, it leaves many questions open. For there are a different understandings of what this reasoning might involve. And different implications for political and moral life follow from these different views of reasoning about the human good.

My suggestion is that, properly understood, reasoning about the human good combines discovery and invention. Again, a view of reasoning about the good that combines discovery and invention is a midpoint between two extremes. But—and this is crucial for our purposes—the discovery / invention distinction is orthogonal to the voluntarist / embedded distinction.

To discover our ends is simply look and see what they are. On such a view our ends are given. They come with name tags and priorities. The classic example of such a view is Locke's and Hume's introspective subjectivism. This, of course, is an example of an embedded self. Locke tried to develop an account of the self that could choose to modify its own ends. But his notion of the suspension of the will is ultimately unsuccessful. Hume finally acknowledged that he could give no clear sense to the notion of a self apart from its ends at all.

While the picture of human beings discovering their ends initially supports the notion of an embedded self, it can be used to support a voluntarist account of the self as well. In the hands of Kant, the self stands outside and, by means of legislating moral principles for itself, regulates the ends it discovers.

The notion that we can discover our ends does not support a cognitivist account of reasoning about the human good. For it makes reasoning essentially impossible. If all we have to do is look and see what our ends are, then there is little or no possibility of mistake and no real capacity to choose our ends.

On the other extreme we have the notion that our ends are invented. The notion that our ends are invented is an historicist idea. On this view, our ends are, for the most part, of a product of our historical circumstances. We hold our ends ultimately without grounds, simply because they are the going concern in our own time and place.

Again, the notion that our ends are invented can be given a voluntarist or embedded reading. The post-structuralists who deny the existence of authors and the self hold that we are entirely constituted by the (many) conceptions of human ends to which we have been socialized. This embedded view denies that any true reflection is possible. On the other side, Sartrean existentialism holds that our ends are, in the first instance, a product of history. Yet Sartre also insists that the self can stand above all of our socially constituted ends. On this view, we have the capacity to choose our ends. Yet our choices are ultimately radical in nature for we have no grounds for choosing one way or the other.

To think of our ends as invented does provide some opening for a cognitivist account of reasoning about our ends and the human good. For, on this view, we can engage in some degree of reasoning when faced with conflicts among our ends. We can inquire into the meaning of our ends in the tradition to which we have been socialized. We can prune and re-order our ends, so as to avoid conflicts between them or to give priority to the goals to which we are most deeply committed.

There is, however, a serious problem with a cognitivist account that rests on the notion that our ends are ultimately invented. The difficulty can be seen if we ask how we are to choose when we find ourselves torn between two conflicting goals. We can, of course, think through the meaning of our ends. We can see how these ends are a product of our culture or our family circumstances. We can examine the role they have plaid in our lives to this point. But, if we find that we have been socialized to hold two conflicting ends and have willingly acted on them both in the past, there may be no further grounds by

which to decide what is to be done. Again we have the capacity for choice, but no grounds for choice. Sometimes this may well be our circumstances. But, in other cases, we can look to our experiences of satisfaction and dissatisfaction when satisfying these conflicting ends in the past. That is, we can not only come to a deeper understanding of our invented ends but, also, look and see the extent to which our invented ends articulate deeper ends that we discover.

If our ends are ultimately invented, what we cannot do is attend to the experiences of satisfaction or dissatisfaction we have felt upon acting on these ends. If human invention stands behind all of our ends, then for *us* to be satisfied is for us to satisfy an end to which we have been socialized. That is not what we always find, however. Rather, we sometimes find ourselves dissatisfied when our ends—the ends that partly constitute us and to which we have been socialized—are satisfied. In addition, we sometimes find ourselves utterly confused about why we are dissatisfied. It is only the possibility that some but not other of our invented ends truly articulate our deeper nature that keeps us from having to make a radical choice whenever we find our ends in conflict. We rarely make such radical choices. Instead, when we decide what to keep and what to reject, when we modify some ends in light of others, we attend not just to the meaning of our ends and the place they have had in our lives but, also, to our experiences of satisfaction and dissatisfaction. These unexpected experiences of satisfaction and dissatisfaction, then, are in large part the product of a disjunction between the ends to which we have been socialized and the deeper ends that are given to us by nature. When such a disjunction arises, we try to invent new ways of life that better articulate those fundamental ends we have discovered.[25]

On my view, then, there is an element of discovery and invention whenever we think about our ends. The ends we act on are, as historicists would have it, invented by human beings who subsequently modify them. When we do modify them, however, we are attending to our experiences of satisfaction and dissatisfaction. And, in doing so, we are discovering ends that are rooted in our nature.

It is, then, the combination of discovery and invention that makes the cognitivist account of reasoning about the human good plausible. And it is this account that supports the vision of political and social life I have defended in this paper as well as the principles that guide that vision. The self is neither entirely prior to its ends nor entirely defined by its ends. Rather the self is capable of both the discovery of our deepest ends and the invention of new ways of life that best enable us to satisfy those ends given by nature. The self is, in other words, a product of an intertwining of nature and culture. As we seek our own good, we also search for the best way to understand how our ends are the product of both nature and culture. Precisely because we can do this, however, we can stand apart from our ends and evaluate them from a distance. We are not so constituted by our ends that distance from them is impossible. Nor are we capable of a standing so far from our ends that they lose all importance. It is the tension between what we are by nature and by culture that creates the occasions for and the possibility of distance. And it is the congruence between what we are by nature and by culture that makes our way of life inescapably important to us. The importance of coming to a sound understanding of what we are is the ultimate justification of the freedom we demand, both for our own sakes and for of the political community of which we are a part.

[25] I am, of course, using the term “ends” here to denote two very distinct phenomena. In the more technical works in which I elaborate the philosophical psychology I have only sketched here, I call our invented ends “desires” and the ends we discover and that are, with some qualifications I ignore here, given by nature, our “wants.” We act on our invented desires. But we discover whether our actions satisfy our wants. Thus our desires can be said to be better or worse articulations of our wants.