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Introduction

Consensus Liberalism and the Challenge of Pluralism

This is a book about liberalism. In many places in the West and elsewhere, liberalism as a creed is under siege. The increasing power and success of social movements, particularly in postcolonial and post-socialist states, has both given voice to long-suppressed communities and revealed long-overlooked lines of division and conflict. Increasingly multi-cultural societies with fluid borders have enhanced the level of communi-cation across deep historical divides but also revealed the challenge that deep pluralism poses for democratic values of unity, self-government, and equal treatment. These historical developments have given new urgency to what might be called "the problem of pluralism," the problem of combining basic liberal commitments with both democratic rule and an acceptance of deep differences at the level of values, worldviews, and identities.

In response to the problem of pluralism, there has been a veritable chorus of challenges to the ideals of specifically liberal democracy coming from both the Left and the Right. From the Left, the challenges have taken the form of calls for greater accommodation of cultural diversity within nation-states, explorations of postnational systems of self-government designed to expand the range of choices available to mobile populations, and a forthright embrace of identity-based politics with its clamor of conflicting claims asserted in mutually incomprehensible voices. From the Right, especially in the United States, over the past three decades there has been a revival of a specifically religious form of politics that was largely absent from the national discourse of the previous half century, as well as essentially defensive ethnic and cultural politics aimed at fend-ing off perceived threats to traditional social and political order. Other

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critics from the Right have questioned the tradition of liberalism on the grounds that it is too weak a creed to stand and fight against its most determined enemies. Among democratic theorists across the ideological spectrum, there has been a renewed interest in nationalist ideologies at the same time that intellectuals struggle with the challenges of an increasing international order of governance.

Multiculturalism; religious conservatism; revivals of republican, nationalist, and authoritarian traditions; agonistic and populist versions of anticonstitutionalism – the list and intellectual range of philosophical challenges to the legitimacy of the basic liberal model seems almost unlimited. At the same time, historical circumstances force us out of the assumption that the case for or against liberalism can be made within the safe confines of the United States, Canada, and the nations of Western Europe. Both defenders and critics of liberalism sometimes seem to assume that the security of our own political environment somehow diminishes the stakes of the argument. One of the motivating concerns of this book is the fear that our vision is clouded by an undue complacency about the potential for conflict in our own politics. There is a certain intellectual recklessness that is sometimes bred by a sense that we need not fear that the center will not hold. That cautionary observation becomes only stronger when we raise our eyes to gaze on other parts of the globe where the terms of democracy for the next generation are being contested and worked out. In the recent past, as modernization and democracy have pushed (or been pushed) into the Islamic states of South Asia, North Africa, and the Middle East, we have witnessed a violent and at times terrifying response on a large scale from reactionary forces mobilized around a rejection of the basic liberal principles in favor of religious authoritarianism. More recently, popular uprisings challenging autocratic regimes – uprisings whose outcomes remain in doubt at the time of this writing – give renewed urgency to the project of developing a theoretical vocabulary that is adequate to the needs of ever-changing forms of democratic aspiration.

These circumstances lend renewed urgency to basic unsettled questions. Does liberalism have a meaningful answer to the problem of governing in a situation of pluralism? What kinds of conditions are required for a liberal democratic polity to succeed? What commitments from the polity's citizens are required for those conditions to be maintained, and what qualities must those citizens possess in order for those commitments to be undertaken and kept? How can these questions be raised and addressed in a way that is consistent with basic liberal commitments?

In addressing these urgent questions, this book seeks to make two arguments. The first is that a coherent and consistent understanding of basic liberal principles entails an equal commitment to the constraints of public justification. The theory of public justification says that only certain kinds of reasons are acceptable bases for the exercise of government's coercive powers. This is narrower than other theories of public reason in that it is limited to the articulation of justifications for coercion, but at the same time it is broader than some of those theories in that its constraints extend to all public discussions of such justifications. Each of the terms of this formulation is contentious and requires explanation. But right at the outset a reader might respond that this formulation begs a critical question: does the same theory imply any constraints on the justification for noncoercive efforts by governments to influence attitudes and conduct? The question is a fair one, and a full response is beyond the scope of this book. But contemporary challenges to liberalism from across the spectrum question the viability of an argument for any constraints at all. As a result, although the case for constraint is nothing like a complete theory of liberal governance, it is a necessary first step toward a particular understanding of how that goal might be pursued.

The observation that a theory of public justification is not a complete theory of liberalism is important. It should be obvious that any number of profoundly illiberal outcomes can be justified with perfectly publicly accessible reasons. To take a simple case, it would be easy to "justify" the enslavement of one quarter of the population on the grounds that doing so would be economically beneficial to the other three quarters. There is no substitute for substantive rights guarantees, nor for checks and balances, principles of limited government, and adequate institutional arrangements. None of these things is guaranteed as a byproduct of a theory of public justification. On the contrary, the theory of public justification that is presented here is only sensible in the context of a prior commitment to liberal democratic governance. To put it another way, the first argument of this book is that the case for constraints of public justification follows necessarily *from* a prior commitment to basic liberal principles, not the other way around.

The second major argument of this book is that if liberalism is to respond to its current challenges, its defenders must abandon their lingering attachment to the politics of authenticity. What connects the challenges from the Left and Right is a common appeal to a claim of authenticity, a promise to secure space for a politics that expresses citizens' deepest and truest selves. The concern that is expressed from both sides is

that liberalism fails to provide such an opportunity and therefore results in a politics that is unfair to those for whom such authenticity is a felt need, fails to provide a basis for true unity, or results in an enfeebled form of political discourse. In response, liberal writers have tried a wide variety of strategies to ensure that the politics of authenticity remains central to the ideal of liberal democracy. These arguments, though, are weakened by the fact that they incorporate a basic contradiction between the desire to conceive of politics as the expression of citizens' deepest, most identity-constitutive authenticities and the need for a politics that can accommodate genuine diversity. Ultimately, if the project of liberalism is to survive the challenge of deep pluralism, the attachment to the politics of authenticity has to be surrendered. The ideal of a liberal democracy commensurate with deep pluralism requires a commitment to creating a politics that is a work of artifice, crafted by citizens working together in good faith and with seriousness of purpose, rather than a version of the political conceived as a natural object discovered by outside observers. The theory of public justification contains an understanding of political activity as a distinctive and conceptually autonomous endeavor rather than as an epiphenomenal expression of historical consciousness, timeless revealed truth, or inherited practice.

These two elements of the argument mutually inform one another. The constraints of public justification help demonstrate the necessity of moving beyond a politics grounded in appeals to authentic identity, and the conditions of a politics that eschews the invocation of authenticity as a justification for coercion dictate the constraints of a well-conceived theory of public justification. Although the full development of these two arguments takes the remainder of this book, a brief consideration of the background of the problem and the terms in which I develop a response is in order at the outset.

Liberalism, Democracy, and the Challenge of Pluralism

The conception of "liberalism" that is at work here is a distinctively modern response to the challenge of "deep" or "value" pluralism. Deep pluralism is a challenge for any society, but it is a particular challenge for a democracy. Government of the people and by the people entails a basic premise that a political system reflects and answers to the society, rather than shaping its people in a top-down fashion in accordance with some guiding program whose truth is known to enlightened leaders. The motto *e pluribus unum* names the aspiration that effective collective

self-governance can emerge from plurality. The question is, how much plurality, and of what kind, is consistent with that aspiration? Even in nondemocratic systems, the phenomenon of deep pluralism poses a challenge. How, other than by sheer force, can people who have fundamentally different worldviews be persuaded to work together toward common goals?

The problem of pluralism has ancient roots. The phenomenon of deep pluralism has been the challenge with which the Western political tradition has wrestled from its earliest moments. Above all, the problem of pluralism is the challenge of finding ways to communicate in order to engage in unified action. The great tradition of the Abrahamic religions may be said to begin with the story of the Tower of Babel, when the single, unified people of the world were divided into separate nations. The key to the division of the peoples was language. "And the Lord said, 'Look, they are one people, and they have all one language; and this is only the beginning of what they will do; nothing that they propose to do will now be impossible for them. Come, let us go down, and confuse their language there, so that they will not understand one another's speech.'"[1] From that point on, the Hebrew Bible tells the story of one of these groups, and nothing is of greater importance than ensuring that Abraham's people would remain homogeneous, distinct, and separate from the others.

This earliest solution, if it can be called that, was tribalism. For a tribalist, the solution to the problem of pluralism is simple: get rid of it. This approach is stated in the clearest possible terms in God's instructions to the Israelites at the moment of their entry into the promised land: "But as for the towns of these peoples that the Lord your God is giving you as an inheritance, you must not let anything that breathes remain alive. You shall annihilate them – the Hittites and the Amonites, the Canaanites and the Perizzites, the Hivites and the Jebusites – just as the Lord your God has commanded, so that they may not teach you to do all the abhorrent things that they do for their gods, and you thus sin against the Lord your God."[2] In their relations with one another, the injunction to the

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[1] New Revised Standard Bible Translation Committee, *The Holy Bible: Containing the Old and New Testaments with the Apocryphal/Deuterocanonical Books [New Revised Standard Version]*, ed. Bruce M. Metzger (Oxford, 1990), Gen. 11:6–7. I employ this translation in the spirit of ecumenicalism; whatever the Bible originally meant to the Hebrews, its significance for Western thought is shared across multiple traditions.

[2] *The Holy Bible [New Revised Standard Version]*, Deut. 20:16–18. The translation is correct: in the original Hebrew, the phrase is *lo tihayeh kol n'shama* ("you will not leave alive any breathing thing"). It is an interesting question as to whether the original

Israelites was entirely different: "Justice, justice, you shall pursue."[3] The implication is clear; it is only inside the boundary of shared identity, under conditions of separation and homogeneity, that "justice" can be a meaningful concept. Those who are different are threats, either enemies who will seek to physically conquer the Israelites or – worse, from the Bible's perspective – temptations to the Israelites to abandon their unique identity and dissolve the separating boundary between the inside space of justice and the outside arena where competition for violent domination is the only ordering principle.

The appeal to homogeneity as the necessary precondition for a politics that gets beyond "kill everything that breathes" is a constant in Western political thought prior to liberalism. The *Herrenvolk* democratic tradition of classical republicanism preached the same need for homogeneity and feared the corruption of outside influences as a threat to the idealized model of deliberative and participatory politics. The universalizing appeals of the later Abrahamic religions continued the insistence on homogenizing perfectionism even as they expanded the scope of inclusion beyond tribal limits to the adherents of orthodox doctrine. The traditions of Romantic nationalism begin with the same idea that before there is a state, there is a homogeneous people of whom the polity is merely an extension. Marxism in its politically active form similarly sought homogeneity by the reduction of all relations to economics and the consequent dismissal of all other forms of differentiation as examples of false consciousness. In all of these systems of thought, there remains the identification of forms of difference that threaten the necessary homogeneity of the polity. A doleful history of exclusion and persecution testifies to the resilience of "kill everything that breathes" where those outside the homogenizing order are concerned, even as that same homogeneity is proclaimed to be the basis for peaceful coexistence inside.

In later periods, other theories have arisen that sought to dispel the claims of homogeneity and find room for pluralism within a political order. The Renaissance humanist understanding of politics as a secular collective endeavor is one example. The early modern rediscovery of natural law likewise offered alternatives to the pattern of primitive tribalism. Christian teachings of equality among believers were extended to more universalizing theories of toleration and equality with the assault

readers of this text understood birds, fish, or insects to be things that "breathe." The same passage specifically instructs the Israelites not to destroy fruit-bearing trees. With the advent of nuclear weapons, our modern understanding of "everything that breathes" has been joined by a capacity to carry out the ancient edict.

[3] *The Holy Bible [New Revised Standard Version]*, Deut. 16:20.

on doctrinal authority, a move that represented a critical step toward the acceptance of pluralism (Habermas, 2004).

The liberal tradition likewise arises in the first instance from a rejection of an essentialist and absolutist vision of a totalizing order. To a greater degree than any of the earlier responses to the problem of pluralism, liberalism seeks to embrace difference and make space for it by limiting the reach of power. At the same time, liberalism must confront the question of how far pluralism can extend without endangering the liberal order itself. Liberalism is classically associated with contractarian theories that situate the conditions for democratic self-rule in the fact of shared commitments. For Locke, one limitation on tolerable pluralism was clear: one who would not accept the dictates of the laws of nature could have no place in the Commonwealth. Given that the truth of the laws of nature is the necessary conclusion of any reasonable actor, a person who refuses to be bound by those commitments manifests a refusal or an inability to act reasonably, "and therefore may be destroyed as a Lion or a Tiger, one of those wild savage beasts with whom men can have no society nor security" (Locke [1690], 1988: 274). From the outset, then, the idea of government by consent has depended on some assumptions about the character of citizens' reasoning processes, if only in order to make sense of the possibility that they might be persuaded to give their consent to be governed in the first place.

Under what conditions can citizens be expected to find the case for such shared commitments persuasive? There are at least two different approaches to this problem. One is the Madisonian idea of an institutional design capable of generating desirable outcomes as the consequence of individuals pursuing their own interests, an approach that has been called "making democracy safe for the unvirtuous" (Putnam et al., 1992: 87). Such an argument posits that the only support required for the commitments necessary to sustain a democracy is actors' awareness of their own self-interest. Critics argue that such an approach both expects too much in the way of benefits from its institutional design and understates the critical importance of shared, internalized norms produced by a shared set of socializing experiences (Dahl, 2006).[4]

Other democratic theories, sometimes called "aretaic," emphasize the necessity of virtues, "dispositions,"[5] or other qualities in political

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[4] For an approach that seeks to combine structural incentives and efforts to shape citizens' psychological makeup, see Shapiro, 2006: 93–9.
[5] Richard Flathman, drawing on the writings of Michael Oakeshott, emphasizes "dispositions" of citizenship (Flathman, 2005: 135).

actors – citizens, representatives, or judges – in order for them to per-
form their democratic functions (Farrelly and Solum, 2008; Solum, 2004;
Solum, 2003). Virtue-based theories of democratic citizenship quickly
shade into perfectionist claims that because the well-being of the polity
depends on citizens' possession of positive qualities, it is the proper con-
cern of the state to seek to inculcate those qualities. In a less statist sense,
any theory that makes normative claims about the qualities that citizens
ought to have can be thought of as perfectionist, in contrast with neu-
tralist theories that insist that we take citizens as we find them.[6] There
is a special problem that arises for aretaic theorists who are not also
perfectionists. Such writers find themselves in the position of arguing
that it is of the utmost importance that citizens display certain qualities
of character but that it is either beyond the capacity of government or
none of the government's business to attempt to inculcate those qualities.
There are echoes here of Rousseau's classic paradox in which he simul-
taneously posits the necessity of a virtuous citizenry in order for the state
to do its perfectionist work and, at the same time, the necessity of the
perfecting influence of the state in order to secure a virtuous citizenry.[7]

[6] George Sher explores the concept of neutralism and its limits in terms of the liberal value
of autonomy. Sher concludes that neutralism neither necessarily serves nor inhibits the
goal of autonomy and that a limited form of perfectionism that seeks "near-universal and
near-inescapable goals" is both compatible with autonomy and provides the best guide
for delimiting the authority of the state to pursue perfectionist goals (Sher, 1977: 18).
George Klosko agrees that there exists a set of value commitments that cannot reasonably
be disputed. "The set of acceptable values in regard to a specific society constitutes the
necessary background to a neutrality principle" (Klosko, 2003: 167–77). For Klosko,
some of these values are epistemological; thus he asserts as noncontroversial the propo-
sition that scientific standards are accepted as more probative than religious arguments.
More generally he proposes, in effect, an ordering between arguments from epistemol-
ogy and arguments from fairness. "If . . . epistemic and popular standards conflict, the
epistemic will ordinarily take precedence," a situation that he exemplifies with the case
of creationism by relying on a sharp religion/science distinction. This emphasis leads
Klosko to a fairly demanding form of perfectionism in which he calls on citizens not
only to accept the desirability of constraints but also to possess "the necessary intellec-
tual sophistication." Under these circumstances, "their deliberations can be acceptably
neutral" (Klosko, 2003: 169–70, 182). This is a form of perfectionism that is similar in
principle to the arguments for deliberative democracy reviewed in this chapter.

[7] "For a nascent people to be capable of appreciating sound maxims of politics and of
following the fundamental rules of reason of State, the effect would have to become the
cause; the social spirit, which is to be the work of the institution would have to preside
over the institution itself, and men would have to be prior to laws what they ought
to become by means of them" (Rousseau [1762], 2009: 71). In modern, constitutional
democracies, Bonnie Honig suggests, we see a recurrence of the same dilemma in a
different form. Honig refers to Rousseau's conundrum as "the paradox of politics" and
insists that it continues far beyond the moment of founding. Second, Honig identifies

Rousseau's solution was to posit a heroic founding legislator who used religious authority to persuade not-yet-virtuous citizens to form a political arrangement capable of teaching them political virtue. This clearly is not a "solution" from the perspective of the neutralist liberal who seeks above all to create space for pluralism within the democratic polity.

In this book, I make two quite modest assumptions about the problem of shared commitments in a plural polity. The first is that most people – let us say most citizens – are truly open to the possibility of being persuaded. The second is that most citizens share a commitment to a tradition I refer to as "consensus liberalism." Liberalism, like any political theory, comes in many flavors. But what might be called the tradition of consensus liberalism rests on three basic normative commitments that work in concert: individual freedom, basic equality, and a limited state.

A commitment to individual freedom does not require everyone to be an anarchist or even a libertarian. Instead, what is at stake is an assumption about human nature that may be articulated as the proposition that "all things being equal, people prefer being free to being unfree," recognizing that defining "free" is a complex task in its own right. This very modest assumption puts the burden on those who advocate the extension of state authority to demonstrate a justification for the infringement on individual liberty. It is not an insurmountable burden of proof, and highly developed and even intrusive systems of state authority are potentially consistent with consensus liberalism, but in any system of thought that is to be called "liberal" the burden is on the state to justify its actions.

"Equality" is similarly a specific and limited concept. The sort of equality that consensus liberalism entails is an equality of regard from the political authority of the state. No person's interests, well-being, or views are presumptively less valuable than anyone else's. That does not mean that all interests or views must be equally accommodated; the key word is "presumptively," and the key concept is that the identity of the person cannot make his desires less worthy of consideration. The idea of a limited state, in particular, is supposed to make room for difference. In the places where the authority of the state does not reach, political authority cannot demand conformity in citizens' views, identities, or voices.

"the paradox of democratic legitimation" in the necessity of a "regulative fiction" that affirms the sovereignty of the people but also limits or shapes its actual manifestations by requiring that it aim toward a collective good. The regulative fiction motivates the quest for a "moral standpoint to guide or assess popular willing," a guiding principle that in modern democracies takes the form of a presumed commitment to constitutionalism (Honig, 2007: 4, 8, quoting Benhabib, 1994: 28–9).

Phrased in these very general terms, basic liberal principles can gen-uinely be described as objects of consensus in the thinking of citizens of Western democracies.[8] A mountain of empirical data demonstrates a commitment to these three values that is widely shared among Americans, for example, notwithstanding the persistence of deep disagreements about what constitutes a good or an ideal life (Fiorina et al., 2010; Fowler, 1999; Wolfe, 1999; Page and Shapiro, 1992).[9] Moreover, there is more at stake in this broad agreement than a habit of rhetorical usage. It is not sim-ply the case that phrases like "individual freedom" and "a limited state" are tropes that function as framing devices or that these concepts are so general and so widely used that they have become "empty signifiers."[10] Americans and other modern Westerners are by and large committed to

[8] See, for example, Norris, 1999, drawing on the World Values Survey results of more than forty countries. The most recent results of that survey are available at http://www .wvsevsdb.com/wvs/WVSAnalize.jsp, last visited March 1, 2011.

[9] Fowler demonstrates the persistence of a public consensus on basic liberal values that he describes as "individualism, individual liberty, political equality, economic opportunity, and consent of the governed." Fowler points out that these values have remained a matter of consensus and are even increasingly salient to cultural practice, even as public intellectuals have become increasingly divided in their views of how liberal values should accommodate concerns about community, the physical and social environment, and the role of civil society. Fowler particularly emphasizes the extent to which conservative and religious Americans continue to maintain their adherence to basic liberal values. "[F]ar from fading away, or becoming one factor among many, liberal values have in fact become even more central to American public life since 1965" (Fowler, 1999: ix, 61–6, 100). It is also worth noting that two famous competing accounts, Gertrude Himmelfarb's *One Nation, Two Cultures* (1999) and James Davidson Hunter's *Culture Wars* (1992), do not present actual evidence to the contrary. Both books are primarily written as screeds against the liberal consensus rather than analyses of the phenomenon. In both cases, where the authors focus on disagreements within the American polity, they are disagreements at the level of the expression of liberal values in practice rather than the commitment to those values per se. "Most [Americans]," writes Himmelfarb, "lead lives that, in most respects, most of the time, conform to traditional ideals of morality and propriety. But they do so with no firm confidence in the principles underlying their behavior. . . . They confess that they find it difficult to judge what is moral or immoral even for themselves, still more for others. Thus they habitually take refuge in such equivocations as 'Who is to say what is right or wrong?' or 'Personally, I disapprove of pornography [or promiscuity, or whatever], but that is only my own opinion'" (Himmelfarb, 1999: 119–20). By this description, most Americans recognize a separation between their own moral beliefs and what constitutes a justification for coercing others.

[10] "Framing" is an idea developed in the context of cognitive psychology and applied to tests of the effects of deliberation on opinion formation. For a broad application of the concept in the political arena, see Lakoff, 2002. An "empty signifier" is a term whose symbolic significance is so great that it ceases to have any particular semantic content and instead becomes a placeholder for an attitude of disapproval (Laclau, 2007).