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# Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls?<sup>\*</sup>

*Stephen Macedo*

## LIBERALISM AND THE LIMITS OF DIVERSITY

Nowadays it often appears that liberals have been outflanked on the issue of diversity. Political activists and theorists increasingly insist that greater weight be given to what distinguishes particular groups from others. Those who clamor for a “politics of difference” are as likely to be attacking as seeking to extend liberal values and practices.

Iris Marion Young, for example, wants a politics that “attends to rather than represses difference,” in which no group “is stereotyped, silenced, or marginalized.”<sup>1</sup> She dismisses the ideal of impartiality and such notions as moral universality, human nature, essentialism, and various other pre-postmodern sins and vices, because all deny the basic significance of group-based differences: “Groups cannot be socially equal unless their specific experience, culture, and social contributions are publicly affirmed and recognized.”<sup>2</sup> Young rejects “melting pot ideals of assimilation and unity,” not surprisingly, arguing that the “desire for political unity will suppress difference, and tend to exclude some voices and perspectives from the public.”<sup>3</sup> She advocates “bilingual-

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1. Iris Marion Young, *Justice and the Politics of Difference* (Princeton, N.J.: Princeton University Press, 1990), pp. 7, 95.

2. *Ibid.*, p. 174, and see pp. 10, 100–107, 112–15.

3. *Ibid.*, pp. 88, 118.

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bicultural maintenance programs" to preserve and affirm group-specific identities.<sup>4</sup>

The notion of a politics that does not "devalue or exclude any particular culture or way of life" is neither plausible nor attractive.<sup>5</sup> Young's own stance has only the appearance of all-inclusiveness. She champions 1960s New Left constituencies (blacks, native people, women, gays, the disabled) and simply leaves aside complaints of Nazis, fundamentalists, or even the Amish, all of whom could claim to be victims of oppression, at least as Young describes it.

Fundamentalists, for example, could claim to be victims of stereotyping and cultural marginalization. They lack status and respectability in important centers of cultural power and would certainly join Young in challenging pretensions to impartiality, especially those of "modern scientific reason." Many fundamentalists undoubtedly consider themselves oppressed in these ways.<sup>6</sup>

Is solicitude for fundamentalists a fair-minded extension of multicultural concern to the political Right? The idea is not as farfetched as it may seem. Nomi Stolzenberg has recently defended the plausibility of the fundamentalist charge that teaching "diverse viewpoints in a tolerant and objective mode threatens the survival of their culture" and is a liberal means of assimilation, "that insidious cousin of totalitarianism."<sup>7</sup>

The indiscriminate embrace of difference and diversity should be resisted. Inevitably, some groups will be marginalized and feel oppressed by even liberal public policies and the wider culture those policies help promote. Unfortunate as they are, such feelings may indicate the need for adjustments not in public policy but in the group.

4. *Ibid.*, p. 181.

5. *Ibid.*, p. 37.

6. Fundamentalists could also claim—as Young says of other oppressed groups such as women, blacks, and gays—to be identified with the body and regarded as "ugly, fearful, and loathsome"—i.e., as rednecks, sweaty hicks, and country bumpkins (see Young's account, p. 124), and the "five faces of oppression" (*ibid.*, pp. 48–63), esp. "marginalization" and "cultural Imperialism" (pp. 53–61).

7. Nomi Maya Stolzenberg, "'He Drew a Circle That Shut Me Out': Assimilation, Indoctrination, and the Paradox of Liberal Education," *Harvard Law Review* 106 (1993): 581–667, pp. 583, 582. Stolzenberg's provocative and searching article—to which my own argument is in many ways a response—is mainly concerned to highlight the seriousness of fundamentalist complaints, though she also evinces a good deal of sympathy for those complaints. Like Stolzenberg, Sanford Levinson emphasizes the moral costs to people with totalistic faiths of the liberal "privatization" of religion, giving too much weight to religious objections (see "The Confrontation of Religious Faith and Civil Religion: Catholics Becoming Justices," *DePaul Law Review* 39 [1990]: 1047–81, and "Religious Language and the Public Square," review of *Love and Power: The Role of Religion and Morality in American Politics*, by Michael Perry, *Harvard Law Review* 105 [1992]: 2061–79).

Assimilation is an inescapable and legitimate object of liberal policy: it all depends on the justifiability of the values toward which institutions assimilate and the reasonableness of the means. Liberal diversity is diversity shaped and managed by political institutions.<sup>8</sup>

The "politics of difference" is unfocused but not entirely misguided. It could be taken as a useful warning against the aspiration of even some liberals to a politics that would directly promote ideals (such as autonomy) in all spheres of life. We should, I want to argue here, heed the warnings against totalistic liberalisms, not in the name of the politics of difference, but under the banner of political liberalism and a limited but tough-minded conception of public educational authority.<sup>9</sup> I want to argue for a political liberalism with spine. While we should put aside matters about which reasonable people disagree, we should also be resolute in facing up to the fact that no version of liberalism can make everyone happy. Perhaps, in the end, our politics does come down to a holy war between religious zealots and proponents of science and public reason. Political liberalism, I shall argue, offers the hope of deliverance from both politics as holy war and politics as the embrace of nonjudgmental, unqualified pluralism.<sup>10</sup>

#### MOZERT V. HAWKINS AND THE FUNDAMENTALIST COMPLAINT

Even the most basic forms of liberal civic education give rise to complaints grounded in religious diversity; we will focus here on one striking example. *Mozert v. Hawkins* involved a 1983 complaint by "born again" Christian families against the local school board in Hawkins County, Tennessee.<sup>11</sup> The families charged a primary school reading program with denigrating their religious views, both in its lack of religious "balance" and in the uncommitted, evenhanded nature of the presentations.<sup>12</sup> The complaint was, in part at least, not so much that a particular religious claim was directly advanced by the readings

8. And because indiscriminate talk of difference and diversity is all too popular in the academy, William A. Galston seems to me to go well beyond giving "diversity its due" when he advances an interpretation of liberalism as the "Diversity State," a state that affords "maximum feasible space for the enactment of individual and group differences, constrained only by the requirement of liberal social unity" ("Two Concepts of Liberalism," *Ethics* 105 [1995]: 524, in this issue).

9. Political liberalism is potentially tough-minded—I want to develop that potential here.

10. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

11. *Mozert v. Hawkins County Bd. of Education*, 827 F.2d 1058 (6th Cir. 1987).

12. It was noted in *Mozert*, e.g., "that of 47 stories referring to, or growing out of, religions (including Islam, Buddhism, American Indian religion and nature worship), only 3 were Christian, and none Protestant" (Danny J. Boggs, Circuit Judge, concurring in *Mozert*, 827 F.2d at 1080–81, n. 13).

but that the program taken as a whole exposed the children to a variety of points of view and that this very exposure to diversity interfered with the free exercise of the families' religious beliefs by denigrating the truth of their particular religious views. (Parent Vicki Frost said that "the word of God as found in the Christian Bible 'is the totality of my beliefs'").<sup>13</sup> This complaint was not the only one offered by the *Mozert* parents but it was the most reasonable one and is, in any case, the complaint on which I want to focus here.

The families asked that the children be allowed to opt out of the reading program, and that program only, while remaining in the public schools. Some schools at first allowed these students to participate in an alternative reading series, but within a few weeks the County School Board resolved to make the reading program mandatory for all and to suspend children who refused to participate.<sup>14</sup> A number of children were indeed suspended, after which some withdrew and went to Christian schools, others resorted to home schooling, some transferred out of the county schools, and a few simply returned to their public schools.<sup>15</sup>

*Mozert* raises fundamental questions in an apparently moderate posture. The families did not seek to impose their ideas on anyone else through the public school curriculum and did not (apparently) challenge the general legitimacy of secular public schooling. They wanted only to opt out of a particular program while remaining in public schools—How much harm could there be in that? And yet, the *Mozert* objections went to the heart of civic education in a liberal polity: How can tolerance be taught without exposing children to diversity and asking them to forbear from asserting the truth of their own particular convictions, at least for political purposes?<sup>16</sup>

*Mozert* recalls the famous case in which Amish parents objected to sending their children to public high school on the ground that doing so would expose their children to a wide variety of "alternative life styles" and undermine the simplicity and other-worldliness essential to their religious community.<sup>17</sup> In both cases parents effectively

13. Opinion of Judge Lively in *ibid.*, p. 1061, quoting the testimony of Vicki Frost.

14. For an excellent account of the political struggle behind the *Mozert* litigation, see Stephen Bates, *Battleground: One Mother's Crusade, the Religious Right, and the Struggle for Control of Our Classrooms* (New York: Simon & Schuster, 1993).

15. See *Mozert*, 827 F.2d at 1059–60. A district court at first overturned the school board's decision, but the board was later upheld by a federal appeals court, which included Judges Lively (writing for the court) and Boggs (concurring).

16. See the helpful discussion in George W. Dent, Jr., "Religious Children, Secular Schools," *Southern California Law Review* 61 (1988): 863–941, from which I have learned much. Dent points out that states often excuse religious children by statute from particular parts of the curriculum; some localities allow children to be excused from sex education classes on religious grounds (p. 924, n. 337).

17. *Wisconsin v. Yoder*, 406 U.S. 205 (1971).

claimed that exposing children to different ways of life would prevent their becoming members of their respective faith communities. The Amish case was, in a way, politically easy, since being Amish is not a growth industry: the Amish pose no threat to the health of the wider liberal society.<sup>18</sup> Protestant fundamentalists are far more numerous and powerful and are often highly politicized and hostile to at least some liberal values.

Two issues immediately arise. Can exposure to diversity interfere with the free exercise of religious beliefs? If so, does a liberal state have the authority to condition a benefit such as public schooling on the willingness of parents to have their children exposed to diversity?

First the threshold matter: Can exposure to diversity interfere with religious freedom? Judge Lively denied it: "Exposure to something does not constitute teaching, indoctrination, opposition or promotion of the things exposed."<sup>19</sup> The matter would have been quite different were the state directly to inculcate particular religious ideas, or to require particular acts forbidden by the students' religious convictions, or to mandate affirmations or professions of belief.<sup>20</sup>

Other judges conceded that the reading program interfered with the parents' ability to pass along their religious values. The program could be likened, Judge Boggs suggested, to requiring Catholic students to read items on the Catholic Church's official index of prohibited books, under pain of giving up the right to free public schooling.<sup>21</sup> Public schooling is available to these fundamentalists only on condition that they do things they view as at odds with salvation. The children may resort to Christian schools or home schooling but, Boggs noted, even the modest tuition charged by local Christian schools "amounted to about a doubling of the state and local tax burden of the average resident."<sup>22</sup>

Let us concede that the mandatory reading program interferes with these parents' ability to teach their children their particular religious views. Whether this is a violation of moral rights is another question. To address that question, let us consider the precise nature of the interference and its possible justification.

18. They are what Jeff Spinner calls "partial citizens" in his important book, *The Boundaries of Citizenship: Race, Ethnicity, and Nationality in the Liberal State* (Baltimore: Johns Hopkins University Press, 1994).

19. *Mozert*, 827 F.2d at 1063; some school officials likewise denied that any values at all were being taught, County Superintendent Snodgrass said that the schools do not teach "any particular value" and that they "teach and promote reading, not values" (quoted in *Mozert*, opinion of Judge Boggs, 827 F.2d at 1077).

20. *Ibid.*, p. 1064.

21. *Ibid.*, pp. 1075-76.

22. *Ibid.*, p. 1080. These points are forcefully developed in Stolzenberg, pp. 599-611.

## COMPREHENSIVE VERSUS POLITICAL LIBERALISM

The most straightforward justification of the reading program would be on the basis of a comprehensive liberal ideal of life as a whole centered on autonomy or individuality. Public schools, a comprehensive liberal might say, need not confine themselves to any narrowly defined civic mission but may properly promote, as Amy Gutmann puts it, "rational deliberation among ways of life."<sup>23</sup> To this, of course, the *Mozert* families are fundamentally opposed, and the comprehensive liberal will reply that fundamentalists are simply wrong to deny the importance of critical thinking in all departments of life.

Comprehensive liberal ideals are deeply partisan and not easily defended. They claim too much. Do we really want to premise political authority on the contention that critical thinking is the best way to attain religious truth? Perhaps this can be avoided. An alternative approach would be to put aside such matters as religious truth and the ultimate ideals of human perfection and attempt to justify at least the most basic matters of justice on grounds widely acceptable to reasonable people—and not only to those who share our particular view of the whole truth. Such is the approach suggested by John Rawls's *Political Liberalism*. I want to defend that approach here and display its practical promise. That political liberalism has any practical promise is denied by those who regard it as representing nothing more than the prejudices of "American East Coast liberals."<sup>24</sup> In fact, however, the federal court in *Mozert* rejected reliance on comprehensive ideals of life in favor of a stance resembling political liberalism.

Judge Lively defended the authority of public schools to teach values "essential to a democratic society," including toleration; they may "acquaint students with a multitude of ideas and concepts," so long as they avoid direct "religious or anti-religious messages." Public schools, he said, may teach "civil tolerance," which is the notion that "in a pluralistic society we must 'live and let live.'"<sup>25</sup> Schools may not teach a religious doctrine of toleration, such as one which says, "all religions are merely different roads to God."<sup>26</sup> "No instrument of government" could legitimately "require such a belief or affirmation." Public schools may, in effect, teach that all religions are the same in

23. Amy Gutmann, *Democratic Education* (Princeton, N.J.: Princeton University Press, 1987), pp. 30–31. John Dewey insisted that there is "one sure road of access to truth" in all spheres of life: the scientific method (*A Common Faith* [New Haven, Conn.: Yale University Press, 1934], p. 32).

24. John Gray, "Can We Agree to Disagree?" *New York Times Book Review*, May 16, 1993, p. 35.

25. *Mozert*, 827 F.2d at 1069, and p. 1068, quoting Bethel School District No. 403 v. Fraser, 106 S. Ct. 3159, 3164 (1986).

26. *Mozert*, 827 F.2d at 1069.

the eyes of the state, not that they are all the same in the eyes of God. By construing the public doctrine of toleration as strictly civil, Lively accepted fundamentalist parent Vicki Frost's insistence that "we cannot be tolerant in that we accept other religious views on an equal basis with ours."<sup>27</sup>

Notice the similarity with political liberalism, which starts with the conviction that reasonable people disagree deeply and permanently about their religious beliefs and philosophical ideals of life. Political liberalism bids us to acknowledge that, given the difficult matters of judgment involved, people may reasonably disagree about the justifiability of even purportedly liberal ideals of life as a whole, such as Kantian autonomy or Millian individuality. That the good life consists in autonomy is properly regarded as one more sectarian view among others, no more worthy of commanding public authority than other philosophical and religious ideals of life that reasonable people might reject.<sup>28</sup> Political liberalism extends the principle of toleration, as Rawls puts it, from religion to contestable philosophical ideals of life.<sup>29</sup>

People who disagree about their highest ideals and their conceptions of the whole truth, might nevertheless agree that public aims such as peace, prosperity, and equal liberty are very important. That is political liberalism's virtue: it focuses our attention on shared political values without requiring or expecting agreement on ultimate ends or a comprehensive set of moral values governing all of our lives.

The basic motive behind political liberalism, it should be emphasized, is not fear of conflict or a desire to exclude religious speech from the public realm but the desire to respect reasonable people. In a free society, many of our fellow citizens hold fundamental moral and religious beliefs that we believe false but which we can also allow are within the bounds of the reasonable for political purposes.<sup>30</sup> What political liberalism asks of us is not to renounce what we believe to be true but to acknowledge the difficulty of publicly establishing any single account of the whole truth.<sup>31</sup> It invites us to put some of our (true) beliefs aside when it comes to laying the groundwork for common political institutions. In accepting this invitation, we are not moved by the power of those with whom we join but by respect for

27. Quoted in *ibid.*

28. Rawls, *Political Liberalism*, pp. 77–78.

29. *Ibid.*, p. 154.

30. As in: "Your Catholicism absurdly defers to the authority of the Bishop of Rome, but I welcome you as a fellow citizen whose public reasonableness is shown by the fact that you do not seek to impose your religious beliefs on me by political means, but instead join with me in acknowledging the political authority of reasons we can share."

31. See Rawls's account of the "burdens of judgment" (*ibid.*, pp. 54–58).



their reasonableness. We do not seek to respect pluralism or diversity as such but reasonable pluralism.<sup>32</sup>

Political liberals do not, as some argue, seek to exclude religious people from the public realm or to curtail their political speech.<sup>33</sup> The aim, rather, is to suggest that the most basic political rights and institutions should be justified in terms of reasons and arguments that can be shared with reasonable people whose religious and other ultimate commitments differ. Religious beliefs are, on this account, regarded as no different than secular ideals of life as a whole. Neither Protestant fundamentalism nor Dewey's secular humanism are proper grounds for determining basic rights and constitutional principles.

Political liberalism does not "silence" people, or limit First Amendment rights to free speech. There may be a variety of ways, indeed, in which religious speech can *support* political liberalism by clarifying the depth of one's commitment to liberal principles and the political authority of public reasons.<sup>34</sup> The crux of the matter is not speech at all but the legitimate grounds of coercion. The point of specifying the nature of public reason is to argue that when defining the constitutional basics—the fundamental rights and principles that will limit and direct the fearsome coercive powers of the modern state—we should, at least at the end of the political day, affirm the authority of grounds that we can share with our reasonable fellow citizens. Acknowledging the political authority of public reasons is one mark of a virtuous citizen, but people are entirely within their rights not to be virtuous, here as elsewhere.

The *Mozert* court's notion of civil toleration offers a way to extend political liberalism to public schooling. We focus on shared public principles and leave the religious dimensions of the question aside. The public school curriculum would in this way avoid directly confronting or denying the *Mozert* families' contention that the Bible's authority should be accepted uncritically. "When asked to comment on a reading assignment," Lively said, "a student would be free to give the Biblical interpretation of the material or to interpret it from a different value base." There was "no compulsion to affirm or deny a religious belief," or, presumably, any other comprehensive moral view.<sup>35</sup> By simply leaving aside the religious question as such (at least

32. See Joshua Cohen's helpful discussion, "Moral Pluralism and Political Consensus," in *The Idea of Democracy*, ed. David Copp, Jean Hampton, and John Roemer (Cambridge: Cambridge University Press, 1993).

33. For a popular version of this charge—directed at American liberalism in general rather than political liberalism in particular—see Stephen L. Carter's *Culture of Disbelief: How Law and Politics Trivialize Religious Devotion* (New York: Basic, 1993).

34. Rawls clarifies this in "The Idea of Public Reason: Further Considerations" (December 18, 1993, unpublished; on file with me).

35. *Mozert*, 827 F.2d at 1069.

in the sense of not taking an official position on it), Lively and political liberals leave the school door open to reasonable fundamentalists, that is, to those willing to acknowledge for political purposes the authority of public reasonableness.

Political liberals must walk a tightrope, emphasizing the great weight of shared political aims but, so far as possible, avoiding comment on the wider moral and religious claims. Children should not be chastised for saying in class that God created man, though they might also be asked to describe scientific theories and evidence on the issue of human origins. Political liberals might well applaud the concurring opinion of Judge Chambliss, in the *Scopes Monkey Trial*, who tried to save the Tennessee law at issue by construing it not as a ban on the teaching of evolution but as a ban on the teaching of any theory that positively denies a role for God in the creation of the universe.<sup>36</sup> This Solomonic move could be seen as a political liberal attempt to keep public authority from directly endorsing or disparaging any particular religious view: it defends the place in public schools of widely accepted scientific evidence while not taking a position on the question of how—or whether—God fits into the whole business.<sup>37</sup> Chambliss would have allowed the teaching of theories of evolution on this condition.

It is tempting to say that the only real difference between political and comprehensive liberalism is that proponents of the latter are simply more candid in admitting that liberal institutions foster an ideal of life as a whole and that “civil” toleration inevitably promotes “religious” toleration. Candor is not, however, the crux of the matter: political liberalism stands for a restraint that would be unnatural for one committed to the political authority of a vision of the good life as a whole informed by autonomy or individuality. Political liberals will reject in principle a public program that teaches a religious doctrine of toleration or one that advances John Dewey’s claim that science is the “one sure road of access to truth.”<sup>38</sup> Political liberalism aims to open its doors to those who reject the wider moral ideals of Kant, Mill, or Dewey. Comprehensive liberalism stands for values that really are broader and deeper and more stridently partisan than those of political liberalism.

36. *Scopes v. State* 289 S.W. 363 (1927), pp. 368–69.

37. Students on this account might be allowed to describe and defend their religious views in class in certain ways, and so, as Kent Greenawalt properly suggested to me, religion will not necessarily be kept altogether out of the public schools. There may of course be good reasons (fears of peer pressure on children with minority religious views) to frown on student professions of religious belief in schools, but these are matters I need not settle here.

38. Dewey, p. 32.

## LIBERALISM AS INDIRECT ESTABLISHMENT OF RELIGION?

Political liberalism avoids certain vexing religious and philosophical disputes about which reasonable people have long differed. Nothing in my defense of political liberalism should, however, be taken to suggest that it is nonpartisan, uncontroversial, or equally accommodating of all religious beliefs. The goods promoted by political liberalism (freedom, peace, prosperity) will not be valued equally by people of different faiths. More to the point at hand, promoting core liberal political virtues—such as the importance of a critical attitude toward contending political claims—seems certain to have the effect of promoting critical thinking in general. Liberal political virtues and attitudes will spill over into other spheres of life. Even a suitably circumscribed political liberalism is not really all that circumscribed: it will in various ways promote a way of life as a whole.<sup>39</sup>

Political liberalism is neutral with respect to ideals of life as a whole only in the very limited sense of not relying on the justifiability of any particular comprehensive ideal or view of the whole truth.<sup>40</sup> Political liberal principles are neutral only in being publically justified independently of religious and other comprehensive claims. Citizens are asked to put aside their comprehensive moral and religious conceptions, in the sense that they should acknowledge the political authority and adequacy of reasons that can be shared by reasonable people who disagree about their ultimate ideals.<sup>41</sup>

It is certainly possible to conceive of far more demanding forms of neutrality or fairness. One might argue that public policies should have neutral effects on the (major?) religions of society, insofar as is possible. Citizens might, under such a scheme, refuse ever to put aside their deepest moral commitments for the sake of public reflection on shared secular aims and interests; they would instead invoke these

39. In this way, I would continue to hold to what I have said in previous works (such as *Liberal Virtues* [Oxford: Clarendon, 1990]) about liberalism as a way of life or regime. I would now more clearly circumscribe the direct authority of the state, allowing it to promote autonomy and critical thinking in politics but not in, e.g., religion.

40. See Rawls, *Political Liberalism*, pp. 191–94.

41. Of course, those shared public reasons—adequate in themselves for justifying basic principles of justice—will for each citizen be situated within a larger universe of moral value and a view of the whole truth, religious or otherwise. Those wider, extra-political beliefs will not be shared by all of our reasonable fellow citizens. Political liberalism never asks citizens to deny that their religious or philosophical beliefs are the ultimate grounds of their political convictions. These ultimate grounds generally need not be invoked in a political context and are, after all, the very things about which we differ reasonably. These ultimate beliefs need not be bracketed in the sense of being denied, but they should be bracketed in the sense of not being invoked or relied upon as the public ground of decision for matters of basic justice. I rely here on Rawls's recent but as yet unpublished paper, "The Idea of Public Reason: Further Considerations."

beliefs in the public realm and use them as a yardstick for measuring the acceptability of basic public principles. Encouraging people to bring their ultimate commitments—religious, philosophical, etc.—directly to bear in politics might reflect a desire to respect and preserve their group-based identities and convictions.<sup>42</sup> In some places—quite apart from what theorists might like—people might simply refuse to put aside religious and ethnic group-based sensitivities. Political liberalism is quite different: it advances an ideal of citizenship according to which we formulate and defend basic principles of justice by relying on public reasons that we can share while disagreeing about our ultimate commitments.

The very aspiration to think about politics from a perspective that is in this way independent of religious views and other controversial comprehensive conceptions is nonneutral: its appeal will vary greatly among people of different faiths. Totalistic faiths (such as Vicki Frost's belief in the Christian Bible as the "whole truth") will be especially resistant to thinking about politics (or anything else) from a perspective that in any way "brackets" the truth of their particular religious views.

It does no good to deny that some will find the strictures of liberal public reason burdensome. To refrain from invoking our religious beliefs when exercising public power may come naturally to many who have grown up within a pluralistic liberal order—but let that not obscure the significance of this form of restraint. Niklas Luhmann seems to downplay liberalism's significance by arguing that a liberal society stands for nothing as a whole. Indeed, he suggests, seeking a meaning or point of the modern social order as a whole is fundamentally anachronistic, for ours is a "differentiated society," a fragmented social order divided into distinct spheres of life: economic, political, religious, educational, and so on. Principles apply in particular spheres but not across society as a whole.<sup>43</sup>

The problem is that a differentiated society does stand for something as a whole—several things in fact. Luhmann himself allows that the division of society into many spheres allows individuals facing unwanted constraints in one sphere to flee to another.<sup>44</sup> A differenti-

42. It might be a way of protecting and preserving their "constitutive" commitments, as Michael Sandel would say (see *Liberalism and the Limits of Justice* [Cambridge: Cambridge University Press, 1982]).

43. "In highly complex societies none of the central functions of the societal system can be assumed by a unified organization" (Niklas Luhmann, *The Differentiation of Society*, trans. Stephen Holmes and Charles Larmore [New York: Columbia, 1982], p. 80, and see chap. 4 generally, and the useful introduction by Holmes and Larmore, pp. ix–xxxvi).

44. "Organizational plans and directives are evaded, distorted, redefined, or intentionally derailed at the level of interaction. The slack relation between official Church dogma and ordinary confessional practice . . . offers a good example of this process of routine deviation" (Luhmann, p. 79).

ated society thus serves the cause of freedom and promotes moral laxity as well as a certain kind of individualism. All this is exactly what fundamentalists object to. In such an environment, Vicki Frost will have a hard time teaching her children that the “totality” of truth is found in the Christian Bible. Many forms of discipline will be hard to sustain in the differentiated society, which indirectly fosters distinctive forms of personality, culture, and even religious beliefs and which is, then, a particular type. We should avoid the common tendency to underdescribe the pattern of life which is liable to be promoted by even a circumscribed political liberalism.

We should also avoid the increasingly popular tendency to exaggerate liberalism’s religious partisanship. Nomi Stolzenberg commits this error, I believe, by arguing that when liberals ask people to bracket their religious beliefs for the sake of public reflection on political principles they take sides in a debate within Protestantism.<sup>45</sup> She points out that fundamentalism was born as a rejection of those modernist and “liberal” strains within American Protestantism which encouraged people to bracket inherited convictions about the truth of scriptures for the sake of historical or critical studies of their meaning. Modernist Protestants often embraced not only the higher criticism, which studies the meaning of the Gospels in light of their original historical context, but also the view that religious views should adjust to the findings of modern science. Fundamentalists resist bracketing the truth of religious claims, Stolzenberg insists, for such a stance lacks religious seriousness. The “essential point” for fundamentalists is that “the objective study of religion, and objective approaches to knowledge in general, are quintessentially secular humanist activities.”<sup>46</sup> On Stolzenberg’s account, the liberal demand that we not rely upon religious grounds or invoke religious truths in politics gives the *religious* opponents of fundamentalism all that they have sought. Fundamentalists have every reason, therefore, to make holy war against liberalism.

Such a conclusion would be far too hasty because Stolzenberg’s analysis does not apply to political liberalism. The political liberal avoids saying anything about how religion is to be studied: that is left to churches and other private groups. The political liberal can live with the notion that fundamentalism may be the truth in the religious

45. See Stolzenberg’s excellent account, pp. 616–34.

46. *Ibid.*, p. 614. As Vincent P. Branick puts it on behalf of fundamentalists, “To the degree that the historical-critical method requires that I distance myself and my life decisions from the matter at hand, to the degree the method renders me a detached observer of the Bible ‘out there,’ it becomes a game. Such playfulness fails to do justice to the seriousness of scripture” (“The Attractiveness of Fundamentalism,” in *What Makes Fundamentalism So Attractive?* ed. Marla Selvidge [Elgin, Ill.: Brethren, 1984], quoted in Stolzenberg, p. 626).

sphere—so long as it does not claim political authority.<sup>47</sup> Political liberals will, moreover, make common cause with moderate fundamentalists to deny political power to any—including secular humanists—who would shape basic rights and principles of justice in light of their view of the whole truth.<sup>48</sup> Room is provided, in this way, for a broad range of religious orientations to converge on a shared political view. Finally, political liberalism asks of fundamentalists only what it asks of others, including proponents of secular ideals, such as Dewey's humanism: to put reasonably contestable comprehensive ideals to one side in the political realm and to focus on values such as peace and freedom that can be shared by reasonable people.<sup>49</sup>

There is, then, a crucial difference between political liberalism's insistence on the political authority of public reasons and the theological controversies between fundamentalists and their opponents. The higher criticism—on Stolzenberg's account—says bracket the truth question (or put aside your belief in inherited truths) for the sake of religious study. The political liberal says recognize that the question of religious truth must be bracketed in order to justify the basic principles that will guide the coercive power we hold together as a political community. We should not sell this concession short, and it is not obvious that fundamentalists (at least moderate fundamentalists) will do so. Political liberalism is, therefore, not as partisan as Stolzenberg suggests.

Stolzenberg is not alone in her hasty leap for the proposition that fundamentalism and liberalism are at war. Stephen Carter proposes "that in its stated zeal to cherish religious belief under the protective mantle of 'neutrality,' liberalism is really derogating religious belief in favor of other, more 'rational' methods of understanding the world. The great risk lying a bit further down this path is that religion, far from being cherished, will be diminished, and that religious belief will ultimately become a kind of hobby: something so private that it is as irrelevant to public life as the building of model airplanes."<sup>50</sup> Another

47. It is not true, then, that liberalism is based on religious uncertainty or value subjectivism, as Stolzenberg suggests (pp. 587, 647–65).

48. This is an important concession in the context of *Mozert*, since some of the most influential shapers of American public schooling have advocated comprehensive liberalism diametrically opposed to fundamentalism (see Dewey, *Common Faith*).

49. As Thomas Nagel argues: "The true liberal . . . is committed to refusing to use the power of the state to impose paternalistically on its citizens a good life individually conceived" (*Equality and Partiality* [Oxford: Oxford University Press, 1991], p. 165).

50. Stephen L. Carter, "Evolutionism, Creationism, and Treating Religion as a Hobby," *Duke Law Journal* 1987 (1987): 977–96, p. 978. I am indebted to Glyn Morgan for calling this article to my attention; its argument is consistent with Carter's more recent *Culture of Disbelief*.

worry might be that religious people will increasingly understand the liberal settlement in Carter's terms and so make holy war against it.

Carter believes that liberalism rests on the authority of a model of reason which is secular, scientific, and at odds with fundamentalist religious communities and biblical hermeneutics. For Carter, liberalism chooses science over religion, and in the name of neutrality tells religion to get lost. In the name of fairness, Carter would broaden political justification to include the religious voice and invite people to enter the political arena with their religious convictions intact and in play.

Political liberalism is not, however, grounded in a comprehensive commitment to science: reasonable people may believe that in some areas science pulls up short, and political liberalism does not settle the matter of just where or when. Political liberalism seeks to avoid upping the ante with Carter, and for good reason. Consider what happens when Stanley Fish embraces Carter's characterization of our public life. Liberalism claims, he says, to be ultimately tolerant, fair, and dependent only on reason: a court of appeal above the ideological and sectarian fray. But, Fish charges, there is no "reason" above the fray, no ultimate fairness or neutral standpoint. Liberalism places its faith in scientific reason which has no privileged claim to transcendence, only pretensions thereto. Since liberalism defines itself by its nonpartisanship, says Fish, "one can only conclude, and conclude nonparadoxically, that liberalism doesn't exist."<sup>51</sup>

Political liberalism offers a way to defuse this war of absolutes. It seeks ground shared by reasonable people and leaves it to citizens individually to connect political values with their beliefs about the truth as a whole. As a public matter we will not share a common account of liberalism's transcendence because we do not share a common conception of the whole truth. That does not mean that liberalism is grounded in skepticism or that it is ungrounded in a transcendent view. Each citizen is free to connect the shared political view with their own view of the whole truth in their own way. If one of the comprehensive views that supports liberalism is true, then liberalism is grounded in the true transcendent view. (And in that case, as Rawls says, those political liberals who espouse false comprehensive views at least have true political views.)<sup>52</sup>

This does not mean that liberalism's justification is uncontroversial or nonpartisan. Every political theory is both controversial and partisan—noticing that is no great victory for Fish. Since political

51. Stanley Fish, "Liberalism Doesn't Exist," *Duke Law Journal* 1987 (1987): 997–1001, p. 1001.

52. Rawls, *Political Liberalism*, pp. 127–29.

liberalism, properly understood, does not claim to be nonpartisan, Fish would be rash to conclude that it does not exist (perhaps we should conclude that Fish does not exist?).

Political liberalism is not the only possible response to Carter's dilemma. Comprehensive liberals could shout "charge!" and rush to defend science, autonomy, individuality, John Deweyism, or what-have-you as the paths to the whole truth about the human good. Liberals could sound a strategic retreat and settle for a *modus vivendi* or peace treaty among fundamentally opposed groups who lack shared grounds for principled agreement. These strategies have their eloquent defenders. Political liberalism attempts, instead, to head off the clash of ultimates and to avoid both liberalism as holy war and liberalism as uneasy peace.

The distinction between religious and civil toleration helps mark off the space on which to construct a principled but politic liberalism: a liberalism grounded not in the authority of science per se, but in shared standards of reason. It is not neutral in its effects, but it at least disallows the use of political power to promote directly anyone's contestable comprehensive ideals. It seeks a reasonable consensus and trust among those who might otherwise be as deeply opposed as Carter suggests, and that is at least worth trying for.

Liberalism is not as directly partisan as Stolzenberg, Carter, and Fish suggest. It does not require that people "bracket" the truth question when studying religion (the *Mozert* contest is over a reading program not a religion class), it does not endorse secular humanism or the scientific study of religion. A political liberal citizen can hold that in religious matters one should defer to sacred books or higher authorities. Of course, it may not be easy to forbear from asserting one's fundamentalist religious views in the political realm, not as easy as restraining one's Unitarian or Lockian or Millian convictions. But to ask less of people is to renounce the notion that good liberal citizens should justify basic political principles in terms that can be shared with reasonable fellow citizens, and not only with members of one's own sect.

The political liberal offers a bargain to moderates in all comprehensive camps, whether fundamentalist Protestant or autonomy-pursuing liberal: let's put aside our wider convictions when designing commonly authoritative political institutions and focus on principles and aims that pass the tests of public reason. These concessions will not satisfy everyone, but they are significant.

#### RELIGIOUS ACCOMMODATIONS AND SUBSTANTIVE NEUTRALITY: TOWARD A SECOND STAGE OF PUBLIC JUSTIFICATION?

Political liberalism, I have argued, furnishes good reasons for justifying basic political principles in terms of public aims and values that



can be shared by reasonable people. Clearly enough, however, even publicly justifiable principles and programs will have nonneutral effects and impose disparate burdens on adherents of different comprehensive religious and moral views. Fairness might seem to suggest that at some point we should examine the disparate impact of publicly justified policies, especially on groups outside the political and cultural mainstream. These will often be groups whose comprehensive conceptions exist in decided tension with the shared values of the political order. One way to do this is to provide public justification with a second stage: a stage where, having constructed a reasonable public view, we consider pleas for accommodations and exemptions from marginal groups. Let us consider whether public justification should have such a second stage of principled exception making and, if so, whether its aim should be the kind of maximum feasible accommodation that Galston advocates in his contribution to this volume.

A second stage might be a way to grapple with the charge that liberalism deploys merely formal principles of neutrality and fairness. Political liberalism puts conflicting comprehensive views aside: it does not seek a compromise or balance among those wider views, it does not furnish any sort of guide for weighing and assessing the disproportionate effects of various public laws and policies. Those wider effects can be discerned only if we take up the comprehensive normative perspectives of those who dissent from the liberal order. A more substantial ideal of neutrality or fairness would take up these comprehensive perspectives and assess the burdens that liberal policies place on particular groups or persons when viewed from *their* comprehensive perspectives, to balance these burdens against public aims, and to grant exemptions and accommodations in the name of securing “real” neutrality and fairness.<sup>53</sup>

Solicitude for group-based diversity might well argue for these more substantial notions of fairness and neutrality. Fundamentalists are not powerless, but they are certainly outside the cultural and intellectual mainstream, especially with respect to the educational establishment, and so would seem to deserve a sensitive hearing. Should public justification have a second stage? And should the fundamentalist fami-

53. Douglas Laycock distinguishes formal and substantive notions of neutrality or liberty in “Summary and Synthesis: The Crisis in Religious Liberty,” *George Washington Law Review* 60 (1992): 841–56, pp. 848–49. Formal neutrality requires only that religious associations not be singled out for especially harsh treatment, but it is satisfied if religious groups receive the same treatment as other groups in society, or if general rules and restrictions are applied evenhandedly to religious associations along with all others. On Laycock’s view, formal neutrality is not enough to satisfy the “free exercise” clause of the Constitution. See also the instructive paper by Abner S. Greene, “The Political Balance of the Religion Clauses,” *Yale Law Journal* 102 (1993): 1619–44.

lies be allowed to opt out of the reading program because of its disproportionate impact on their faith community?

If offered as alternatives to political liberalism, the attractions of more substantive conceptions of neutrality and fairness are more apparent than real. Pursuing the mirage of perfect fairness would, first of all, be utterly debilitating: How could we possibly insure that public policies have neutral effects on the innumerable faiths and worldviews in our regime? Announcing an ideal of perfect fairness or neutrality of effect would, moreover, heighten group consciousness, group-based grievances, and political divisions.<sup>54</sup> "Perfect fairness" is also unappealing: it means being fair to reasonable and unreasonable views, to those who recognize the political authority of public reasons that can be shared by people who disagree and those who do not. Why should we apologize if disparate burdens fall on proponents of totalistic religious or moral views who refuse to concede the political authority of public reason? We must not forget how such people would behave if they had political power.

We should avoid a postmodern angst about our inability publicly to establish a comprehensive scheme of human values. Political liberalism accepts the fact of reasonable disagreement over comprehensive moral and religious ideals. That acceptance should do nothing to corrode our confidence in the principles that pass the test of public reason. It is wrong to say that liberalism makes do with mere "formal" neutrality and "formal" fairness when more substantive accounts are available. There is as much substance in political liberalism's conceptions of neutrality and fairness as our shared standards of reasonableness—and respect for reasonable disagreement—allow.

We should not pursue the mirage of perfect fairness, but that does not mean that we should never consider pleas for accommodations and exemptions: where public imperatives are marginal and the burdens on particular groups are very substantial, accommodations will sometimes be justified. We should, however, enter into the process of exception making critically, and without aiming at anything so broad as Galston's principle of maximum feasible accommodation of diversity.

54. The Constitution of India contains a guarantee of state "equidistance" from religions, which seems to stand for a guarantee of neutrality of effect (see Rina Verma, "Secularism and Communal Violence in Indian Politics" [thesis prospectus presented to the Department of Government, Harvard University, May 20, 1992]). Verma observes that "equidistance produces communalism by producing insecurity and disequilibrium among religious communities. Instead of remaining at an equal distance from the different religions, the state progressively becomes entangled in trying to please 'all of the communities all of the time.' If it grants one concession to one group, it must grant one to another group, and so on. The process, instead of making all groups feel secure about their position, actually never reaches an equilibrium, increases the burden on the state, and ends up antagonizing all groups involved" (p. 10).

The particular claims of the fundamentalist families in *Mozert* are, for example, not especially strong. The reading program at stake does indeed impose disproportionate burdens on parents attempting to inculcate fundamentalist religion. But we must remember that the source of the apparent "unfairness," the cause of the "disparate impact" here, is a reasonable attempt to inculcate core liberal values. The state is within the limits of its rightful authority. The bedrock liberal insistence on toleration is a constraint on the range of religious practices that can be tolerated. It is hard to see how schools could fulfill the core liberal civic mission of inculcating toleration and other basic civic virtues without running afoul of complaints about "exposure to diversity." Since "exposure to diversity" is a necessary means for teaching a basic civic virtue, it cannot support a fundamental right to be exempted from an otherwise reasonable educational regime.

Of course, there are uncertainties as to the reading program's efficacy, along with all other efforts to inculcate moral virtues.<sup>55</sup> It would be extremely hard to show that any particular school program is crucial for realizing the core liberal value of toleration. Empirical questions in this area seem intrinsically hard to settle, however, and so judgments about fundamental rights should turn on other grounds. The program stands as a reasonable effort to familiarize students with diversity and teach toleration. The basic question of principle is, Do families have a moral right to opt out of reasonable measures designed to educate children toward very basic liberal virtues because those measures make it harder for parents to pass along their particular religious beliefs? Surely not. To acknowledge the legitimacy of the fundamentalist complaint as a matter of basic principle would overthrow reasonable efforts to inculcate core liberal values. It would provide religious fundamentalists with a right to shield their children from the fact of reasonable pluralism. Liberal civic education is bound to have the effect of favoring some ways of life or religious convictions over others. So be it.

As a matter of basic principle at least, we have good reason to refuse the *Mozert* families' request to opt out. If intransigence here appears to be at odds with religious freedom, it must be remembered that rightful liberty is civil liberty, or liberty that can be guaranteed equally to all. All of us must accept limits on our liberty designed to sustain a system of equal liberty for all. Each of us can reasonably be asked to surrender some control over our own children for the sake of reasonable common efforts to insure that all future citizens learn

55. See the very skeptical account of political socialization through schooling in Tyll van Geel, "The Search for Constitutional Limits on Governmental Authority to Inculcate Youth," *Texas Law Review* 62 (1983): 197-297, esp. pp. 262-92.

the minimal prerequisites of citizenship. There is no right to be exempted from measures reasonably designed to help secure the freedom of all.

We have so far left aside the fact, moreover, that we are dealing with children who are not mere extensions of their parents. The religious liberty of parents does not extend with full force to their children. Adult Christian Scientists might be allowed to refuse medical treatment but not for their children. Insulating children from diversity is less serious than keeping them from needed medicine, but some level of awareness of alternative ways of life is a prerequisite not only of citizenship but of being able to make the most basic life choices. This ground alone might well be adequate to deny the claimed right to opt out.

Some will object to my intransigence, pointing out that we allow people to opt out of public schooling altogether and to go to private schools: to parochial and fundamentalist schools, and even home schooling.<sup>56</sup> If we concede a right to opt out of public schooling altogether, how can we justify intransigence in *Mozert*? I would concede the right to opt out of public schooling, but that right should be understood to be conditioned by a public authority to regulate private schools to insure that civic basics are taught. True enough, in most states private schools and home schooling are only minimally regulated, especially with respect to civic education.<sup>57</sup> That states do not fully exercise their rightful authority, however, does not mean they do not have it. So while there is a (moral and constitutional) right to opt out of public schooling, there is no right to opt selectively out of those basic civic exercises that the state may reasonably require for all children. Concomitantly, private schools have no right to resist reasonable measures to insure that all children learn basic civic virtues.<sup>58</sup>

Intransigence is in principle justified in *Mozert* because a politically basic purpose—the promotion of toleration—is at stake. Only the most basic public purposes will routinely trump religious complaints and warrant intransigent support. When more marginal political values are at stake—in school or elsewhere—then religious complainants may well have a stronger case. The fundamentalists in *Mozert* might, for example, have objected to aspects of the curriculum far more incidentally or marginally related to the pursuit of basic civic aims—art

56. In *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), the Supreme Court sustained a challenge by the operators of parochial and private schools to a law requiring attendance at public schools. I owe this objection to Jon Fullerton and Sanford Levinson.

57. See Neal Devins, "State Regulation of Christian Schools," *Journal of Legislation* 10 (1983): 351–81, esp. pp. 359–63; and Dent, pp. 909–12.

58. I would advance this principle as a corollary to *Pierce*.

classes for example; then we would approach their complaints at least somewhat differently.<sup>59</sup>

One can easily imagine religious complaints that should gain a favorable hearing. The fundamentalists might have conceded the legitimacy of the core civic mission of the readers, while mounting an objection based on liberal values themselves. They might have objected (let us suppose) that the purported “diversity” of views in the readers lacks respectful depictions of religious ways of life. They might have charged the readers with combining glowing portrayals of secularist, this-worldly ideals of life and disparaging portrayals of the more conservative forms of religious belief.<sup>60</sup> While it would be unreasonable to insist on perfect “balance” in school readers or other parts of the curriculum, political liberals can sympathize with objections to a reading program so heavily biased toward a particular comprehensive view that it appears designed to advance that view and denigrate alternatives.

Liberals can do more than insist intransigently on core liberal values: we should insist on political respect for fundamentalists who acknowledge the political authority of liberal public principles. Such fundamentalists are reasonable fellow citizens whose religious convictions should not be gratuitously disparaged in readers that profess to expose children to diversity and to teach toleration. The political liberal will hold, after all, that children from religious families are not the only ones who need lessons in tolerance. The children of evangelical atheists and of those who espouse totalistic versions of liberalism also need to learn political respect for fellow citizens who hold other reasonable views.

When complaints are advanced by small and politically weak religious groups, moreover, courts can help insure that their concerns are taken seriously and that they are treated with equal concern and respect. To leave accommodations and exceptions to the democratic branches is virtually to insure that complaints advanced by minority religious communities will often be slighted, so the courts must play a role.

My main concern here has been to argue that the *Mozert* families have no moral right to be accommodated, at least on the basis of the principled grounds surveyed here. Besides principled reasons for

59. It will not always be easy to say what is central and what is not, but the ability to read is certainly a basic skill and, likewise, knowledge of the diversity that constitutes our history and the importance of tolerance are clearly among the core civic aims. Science classes are not as centrally important to the civic mission of schools as any of these.

60. See the account by Paul C. Vitz, *Censorship: Evidence of Bias in Our Children's Textbooks* (Ann Arbor, Mich.: Servant Books, 1986).

exception making and accommodation, political liberalism also suggests certain prudential grounds.<sup>61</sup> Political liberals aspire to a society in which people share a public moral order. This aim would suggest that we have prudential grounds to accommodate dissenters when doing so helps draw them into a public moral order that is always coming-into-being. In the case of the *Mozert* families, this points to the relevance of the consideration mentioned earlier: Will the refusal to accommodate drive these families out of public schools altogether and into Christian schools?<sup>62</sup> Can we accommodate the families while only minimally compromising our principled concern with teaching toleration? While the *Mozert* families had, therefore, no fundamental moral right to be accommodated (and no judicially enforceable constitutional right, so far as I can see) school administrators who anticipated the withdrawal of these families altogether from the public system may well have had prudential reasons to accommodate them in order to keep the children within the public system.<sup>63</sup>

To say that the practice of prudential accommodation should promote assimilation into liberal political values raises the (seemingly inescapable) question: What about the Amish? Allowing Amish parents to pull their children out of high school (as Galston advocates) does not promote assimilation into liberal values. On the other hand, the Amish were no threat to the larger society: they are “private persons standing in merely private relations to others,” as Hegel said of the Quakers and Anabaptists.<sup>64</sup> This makes it much easier to recognize the good qualities promoted by the Amish way of life: the law-abidingness and hard work that so impressed Justice Burger.

We cannot be entirely happy about accommodating the Amish, however. That they are hardworking does not impugn the fact that, as Jeff Spinner argues, they are not in other respects good liberal citizens.<sup>65</sup> Amish society is patriarchal—women are regarded as unequal helpers of men—and Amish children are not prepared for being critically reflective citizens. While the state has no business promoting broad ideals like personal autonomy, moreover, to allow Amish parents to withdraw their children from high school could thwart the children’s ability to make adequately informed decisions about how to live their lives.

61. Again, I leave aside the question of whether courts should examine these additional grounds.

62. This is indebted to conversation with Lief Wenar.

63. Of course there may have been countervailing prudential reasons—an avalanche of requests for exceptions?—pushing in the opposite direction.

64. Hegel, *Philosophy of Right*, trans. T. M. Knox (New York: Oxford University Press, 1967), p. 168, para. 270.

65. Spinner, pp. 88–92.

Spinner points out, however, that Amish communities are not quite as closed-off as some idealized pictures might suggest. The Amish know that there is an outside world and that it will accept them if they choose to join it. Amish teenagers sometimes go to Florida for spring break and about 20 percent of the Amish leave their communities altogether.<sup>66</sup> There appears to be a real, if constrained, “exit option” from the Amish community, and that should at least soften our anxieties about the Amish high school exemption. If the defection rate were higher, of course, we would probably insist that Amish children be fully prepared for life in the wider society. Spinner sensibly suggests that our attitude toward the Amish should be one of “grudging tolerance”: they are not in important respects good liberal citizens, but they do not wholly tyrannize over their children and they keep to themselves. This stance seems far more appropriate than Galston’s puzzling (but not uncommon) romanticization of the Amish (and of diversity in general): perhaps we may tolerate the Amish but we should not (at least in important respects) celebrate them. If we accommodate them (and this remains a difficult matter in the case of *Yoder* that I would lean toward deciding in the affirmative) we should do so on narrow grounds that do not necessarily apply to other religious groups.

All this makes it clearer that fundamentalist parents cannot claim the same grounds for exemption as do the Amish. Fundamentalists are not sectarians living apart, but are, as noted above, increasingly politicized and hostile to many liberal values and practices.

We may, then, sometimes consider claims for accommodations or exceptions or even adjustments in public policies based on comprehensive grounds. Does this, as some conservatives warn, open the back door to the very comprehensive sources of irresolvable conflict that political liberalism works so hard to push out the front? Does it open the sort of Pandora’s box of religious complaints that Justice Scalia and others have warned against?<sup>67</sup> In a sense, of course, it does, but the context is all important. Basic political issues have been settled in accord with the strictures of public reason. Most people affirm liberal principles and accept the vast bulk of public policy without deep conscientious reservations. We do not, moreover, enter into a second stage with the expectation that the political order as a whole will be reexamined for its “substantive” neutrality or fairness. We expect only that

66. *Ibid.*, pp. 101–2; most of those who leave the Amish community become Mennonites, not ballet dancers and astronauts, as Justice Douglas seemed to hope.

67. See Justice Scalia’s opinion in *Employment Division, Department of Human Resources of Oregon et al. v. Smith*, 110 Sup. Ct. 1595 (1990), esp. p. 1605; and see Walter Berns, “Religion and the Supreme Court,” in his *The First Amendment and the Future of American Democracy* (New York: Basic, 1970), pp. 33–79, both of whom over-emphasize the fragility of the rule of law.

some extraordinary burdens on particular groups may be lessened or eliminated without great damage to the basic integrity of the public order.

Liberals need not deny that it is sometimes legitimate to acknowledge comprehensive moral and religious views in politics as grounds for possible accommodations or exceptions. We have a long practice of allowing Quakers exemptions from combat duty even though we regard their sincere and deeply held beliefs as unreasonable in important respects. So long as most people accept political liberal values and strictures with regard to most basic matters of principle, we can safely proceed to consider comprehensively based pleas for exceptions and accommodations, as indeed we do.<sup>68</sup> In other instances, it will sometimes be legitimate to consider the comprehensive views of others in order to check that their public reasons are not mere fronts for their comprehensive moral or religious agenda (are Sunday closing laws, publicly justified on civil grounds as a common day of rest, actually just ways of favoring the dominant Christian community?) and to ensure that religious minorities are being treated as equals. It is neither necessary nor possible to banish completely comprehensive considerations from politics.

There are, then, various public grounds for accommodating dissenters by making exceptions to general, publicly justified rules, but the mere fact of a burden on someone's religious beliefs creates no automatic or general right to be exempted from a public requirement. Political liberalism holds that laws must be based on reasonable public grounds. When faced with dissenters who refuse to recognize the weight or authority of those grounds, we must not cast aside our public standards. We may sometimes accommodate or exempt dissenters when their claims do not challenge core liberal values, but we cannot, at the exception stage, discover or construct some new or higher ground that promises necessarily to reconcile religious dissenters to the political order. We must listen to dissenters, engage them in political conversation, and indeed encourage them to state their objections publicly. We cannot guarantee that we will do more. We must, in the end, be prepared to acknowledge and defend core liberal and democratic values. We should not announce, with Galston, in advance of any examination of specific cases, that we intend to accommodate diversity

68. Rawls (*Political Liberalism*, p. 11) describes the strictures on public reason as applying to the most basic political questions (the "basic structure"). He does not say whether these strictures should govern political questions more broadly, though it would seem strange if normal politics were radically discontinuous with more basic matters of principle, partly because the two are often hard to separate. I do not believe that I need to settle this matter, since the questions of concern in this article are closely linked to basic matters of principle.



wherever doing so is not a direct threat to social unity. Such a stance gives too much to diversity and too little to shared liberal purposes.

### WHAT GOOD IS POLITICAL LIBERALISM?

That, as I understand it, is political liberalism and its distinctive and illuminating approach to the problem of diversity. In closing, I want to consider a powerful line of criticism, one that would concede political liberalism's coherence but deny its necessity or usefulness.<sup>69</sup>

People should not, according to these critics, be expected to put aside their religious and other comprehensive moral views, even when fashioning basic political principles. Joseph Raz argues that the "epistemic abstinence" on which political liberalism rests is impossible and, anyhow, unnecessary. It is impossible because Rawls must assume some truths, such as that peace and freedom are good. It is unnecessary because even if people participate in politics with all of their moral and religious values engaged and fully in play, worries about chaos and bloody conflict are unconvincing. The comprehensive conceptions widely held in our society prescribe persuasion rather than coercion as the proper approach to nonbelievers. Political stability, in any case, has more to do with affective ties than shared principles.<sup>70</sup>

Unrepentant comprehensive liberals reject the strategy of avoidance in favor of a strategy of engagement: they would invite our deepest disagreements on to the political stage to be grappled with directly. Allowing people to grapple openly with their deepest moral differences is more respectful (or at least respectful in a different way) than telling people they must put aside their deepest convictions when considering the most important political matters, especially since we know this will be much harder for some people than for others. The strategy of avoidance robs our politics of its most profound sources of vigor, excitement, and importance, and it promotes forms of personality unencumbered by deep commitments to communities and ideals and a politics of mere proceduralism. Our deepest disagreements should be dealt with at retail, not moved off the political agenda at wholesale. Dropping political liberalism's strategy of avoidance would, critics say, promote a wider and more profound diversity of political

69. See Carter's remark, quoted above, p. 480; see Levinson's concluding remarks, "Religious Language," pp. 2077–79; and Kent Greenawalt, *Religious Convictions and Political Choice* (New York: Oxford, 1988), pp. 12, 35, and passim, though Greenawalt construes the demands of public reasonableness very stringently, perhaps too stringently (see *ibid.*, pp. 153–56, and Rawls's discussion, *Political Liberalism*, lecture 6, sec. 7); and see Amy Gutmann and Dennis Thompson, "Moral Conflict and Political Consensus," *Ethics* 101 (1990): 64–88. This section is indebted to discussions with Lief Wenar and Michael Sandel.

70. Joseph Raz, "Facing Diversity: The Case of Epistemic Abstinence," *Philosophy and Public Affairs* 19 (1990): 3–47.

viewpoints, deeper forms of mutual respect, and a more robust political life.

Against these powerful criticisms it must be allowed that political liberalism may not be the best ideal along every conceivable dimension. There are bound to be tradeoffs among competing values, and we must be satisfied if political liberalism seems on balance best able to secure our most basic political aims. With this in mind, let me try to dispatch the critics.

Raz's charge that political liberalism rests on unacknowledged claims to truth appears itself to rest on a misunderstanding.<sup>71</sup> Political liberalism does not leave comprehensive questions altogether aside, but that is not the same as asserting a particular view of the whole truth. Any liberalism assumes a certain range of answers to many ultimate questions, and political liberals assert that the values supporting the liberal settlement override competing sets of values. Asserting the public unacceptability (or even falsehood) of religious imperatives requiring the persecution of heretics—or other illiberal measures—does not depend on a particular account of religious truth. Citizens may adjust their religious convictions to shared political principles in their own way, and in any number of ways.<sup>72</sup> While political liberalism cannot avoid ruling out some accounts of what has ultimate value, it does not rest on a particular comprehensive account of the truth or the good as a whole.

So claims about the truth and the human good as a whole can be largely excluded from the public justification of the constitutional essentials, but why should they be if the major comprehensive views in our society generate from within many of the same limitations on the use of political power as political liberalism? Of course, insofar as the major comprehensive views in a society do generate the same limits as political liberalism, it is hard to see what the disagreement is. Political liberalism is not essentially a claim about the inappropriateness of religious speech. The important thing for political liberalism is that we can share and publicly affirm the authority of public grounds that are adequate to justify the constitutional essentials. If religious people wish to bear witness to the justifiability of political liberalism from the point of view of their religious perspectives, this may be not only appropriate but also helpful on certain occasions. Pointing out that publicly shared grounds gain further support from our (extra-political) conceptions of the truth as a whole might, for example,

71. Which, I should add, is perfectly understandable given that Raz's judgment was rendered well before *Political Liberalism* appeared.

72. See Rawls's discussion, *Political Liberalism*, pp. 209–11; the constraints generated by the political conception "do not refer to, although they limit, the substantive content of comprehensive conceptions of the good."

assuage the doubts of those who question the sincerity of our allegiance to political liberalism.<sup>73</sup>

Of course, comprehensive moralities may not generate all of the same limits on the use of state power as does political liberalism. Political liberalism, as we have seen, provides reasons for pulling up short at the comprehensive educational agenda of Deweyite liberalism. Even if comprehensive liberalisms do generate limits on the political pursuit of perfectionism, political liberalism may have the advantage of barring coercive perfectionism in principle and at the very base, and this should help attract the trustful allegiance of people with opposing but still reasonable conceptions of the good.

Indeed, there are other ways that political liberalism seems better able than its competitors to promote trust. First, under political liberalism citizens share not only substantive principles but a public form of reasoning and a common rationale for the basis of their political order as well. Leaving basic political arrangements dependent on radically different rationales invites division and distrust. Where a political community shares not only substantive commitments but also publicly available reasons and evidence, all of this becomes part of its political culture and should have a broadly educative effect.

Second, political liberalism generates trust from its simplicity: it relies only on forms of reasoning and evidence that are publicly accessible and available to citizens generally. Comprehensive liberals, on the other hand, are prepared to shape public power on the basis of principles subject to deep but reasonable disagreement, so it is hard to see why they would follow political liberalism's exclusion of complex and subtle forms of reasoning. Here again, comprehensive liberalisms appear to invite greater conflict and distrust.<sup>74</sup>

Political liberalism may have one other important advantage: it may be better able than comprehensive liberalisms to promote the transition of a *modus vivendi* (from a condition of mere peace, i.e., backed not by shared principles but only a balance of power) to a more principled public order. Suppose in a given society people's religious views are deeply opposed and at odds with liberal principles. And yet, battle fatigue leads them to establish peace and grudgingly to accept the need for political cooperation. How might this society move toward a more principled order?

Rawls suggests that political liberalism may be especially capable of taking advantage of "a certain looseness" in the comprehensive views of most people. Some people are bound to have religious or

73. Again, Rawls's "The Idea of Public Reason: Further Considerations" has been very helpful to me here.

74. All this is based on Rawls's discussion, *Political Liberalism*, p. 162.

moral convictions that stand in some tension with liberal politics. They may not, however, have worked out all the connections among their political and extrapolitical convictions and values. Political liberalism may be especially able to take advantage of this intellectual loose-jointedness: "There is lots of slippage, so to speak, many ways for liberal principles of justice to cohere loosely with those (partially) comprehensive views."<sup>75</sup> The thought here seems to be that, by avoiding comprehensive claims to truth, political liberalism does not provoke the kinds of comprehensive reflection about the coherence and compatibility of one's values as a whole—one's religious and political values, for example—that might make it harder for some people to live with the liberal political order. So, "many if not most citizens come to affirm the principles of justice . . . without seeing any particular connection, one way or the other, between those principles and their other views."<sup>76</sup> While such individuals may eventually reflect on the connections and possible incompatibilities among their political and extrapolitical values, political liberalism's strategy of avoidance makes it more likely that this will occur only after they have lived under liberal arrangements for a while. Then, when critical reflection does occur, Rawls suggests, prior experience of the great goods of the liberal order should help insure that any incompatibilities are resolved by adjusting the comprehensive doctrines rather than rejecting political liberalism.<sup>77</sup>

Political liberalism seems capable, therefore, of easing the transition from a *modus vivendi* to a principled public order. Does political liberalism do this by exploiting a certain false consciousness, by accommodating if not creating a lack of broad and deep reflectiveness? A possible rejoinder to political liberalism might assert that if comprehensive liberalisms make transitions to a liberal order more difficult by provoking broader and deeper reflection on the connections among our political lives and other spheres of value, they also in this way help insure that these transitions are more informed, reflective, and genuinely consensual. Political liberalism appears to exploit an implicit tradeoff between stable allegiances, on the one hand, and principled transparency and critical reflection, on the other. The more provocative comprehensive liberalisms, in contrast, might be viewed as more respectful of our capacity for critical reflectiveness.

Does political liberalism generate certain blessings on the basis of less than fully self-conscious transformations of belief? Does political liberalism depend on pulling the wool over people's eyes? Or, if that

75. *Ibid.*, p. 160.

76. *Ibid.*

77. *Ibid.*, last paragraph at p. 160, and also p. 208.

is too strong, does it prosper on the basis of not pulling the wool away from people's eyes?

None of these charges is sound. Every institution and practice is educative, after all, and no political order counts solely on self-conscious educative measures. Most important, political liberals are prepared fully and openly to justify the transformative institutions and practices they support, and that is sufficient. While political liberalism may seem to make philosophy take a back seat to the practical imperatives of politics, we must remember that political liberalism views deep but reasonable disagreement about the good life as a permanent consequence of freedom in modern conditions. Political liberalism provides, indeed, a philosophical account of why it is that political justification need not and should not depend on a particular account of the whole truth.

Some comprehensive liberals will continue to respond that all of this is unnecessary or worse: there is widespread agreement on many substantive political principles and procedures. We can afford to allow comprehensive moral and religious opinions to grapple in the political realm, in a way that Europeans of the sixteenth century could not and citizens of the former Yugoslavia or Lebanon cannot. We are amply ballasted by agreement, we may indeed be overly ballasted by commercialism and political life.

The question that these comprehensive liberals fail to address, however, is to what do we owe this political ballast, and what must we do to preserve it? If our political culture is dependent on our political institutions—including the work done by the political avoidance of religious controversy—then encouraging the politicization of the deepest and historically most destructive forms of disagreement could undermine the culture and jettison the ballast.

In any case, the critics of political liberalism seem consistently to miss the essential point: when determining the basic shape of the awful coercive powers of the modern state, should we not try and offer our fellow citizens reasons that they ought to be able to accept without making the absurdly unreasonable demand that they first accept our convictions about the ultimate ends of human life? Political liberalism holds out the hope of politics as a shared moral order without depending on unrealistic expectations of agreement on the most difficult questions of life.<sup>78</sup>

78. Sandel tries to suggest that there is just as much reasonable disagreement about issues of basic justice as there is about religious truth and other ultimate questions (see his review of *Political Liberalism*, *Harvard Law Review* 107 [1994]: 1765–94, esp. pp. 1789–94). This seems to me wrong. There does not seem to be any reasonable disagreement about the core meaning of the constitutional basics: the good of basic democratic procedures and core civil liberties. Questions of distributive justice (aside from the

One final advantage of political liberalism can be noted in closing. The very fact that political liberalism lays claim to only a part of the moral realm should help foster political moderation. Even if political liberalism tends to transform extrapolitical commitments in its own image, it also provides real space for reasonably autonomous communities and institutions to develop. Political liberalism bars governments and political actors from making comprehensive claims to value and meaning; it leaves our allegiances divided. Political liberalism discourages total investments of moral capital in the political realm, and that is all to the good.

Diversity is often a great liberal resource, but not always. There are religious and other forms of diversity that we have no reason to embrace or even accommodate. Political liberalism allows us to regard declarations of holy war as premature, but equally important, it should furnish liberals with sufficient spine to stand up for their own core values. It softens but does not eliminate the tension between a this-worldly politics and many religions. That must be good enough. To true believers we pledge ourselves to public justifications and the avoidance of both religious and philosophical ideals of life. We will sometimes accommodate dissenting groups, but we must remind fundamentalists and others that they must pay a price for living in a free pluralistic society.

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existence of a basic safety net) are more difficult and should for that reason not be regarded as among the constitutional essentials (as indeed they are not at present).

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### [Footnotes]

<sup>7</sup> **"He Drew a Circle That Shut Me out": Assimilation, Indoctrination, and the Paradox of a Liberal Education**

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<sup>8</sup> **Two Concepts of Liberalism**

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<sup>22</sup> **"He Drew a Circle That Shut Me out": Assimilation, Indoctrination, and the Paradox of a Liberal Education**

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<sup>46</sup> **"He Drew a Circle That Shut Me out": Assimilation, Indoctrination, and the Paradox of a Liberal Education**

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<sup>46</sup> **"He Drew a Circle That Shut Me out": Assimilation, Indoctrination, and the Paradox of a Liberal Education**

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<sup>47</sup> **"He Drew a Circle That Shut Me out": Assimilation, Indoctrination, and the Paradox of a Liberal Education**

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<sup>50</sup> **Evolutionism, Creationism, and Treating Religion as a Hobby**

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<sup>51</sup> **Liberalism Doesn't Exist**

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<sup>53</sup> **The Political Balance of the Religion Clauses**

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<sup>69</sup> **Moral Conflict and Political Consensus**

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<sup>70</sup> **Facing Diversity: The Case of Epistemic Abstinence**

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