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UNIVERSITY OF OKLAHOMA

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DEMOCRATIC VIRTUES:  
SOLIDARITY, TOLERANCE, AND REFLECTIVE OBEDIENCE

A Dissertation

SUBMITTED TO THE GRADUATE FACULTY

in partial fulfillment of the requirements for the

degree of

Doctor of Philosophy

By

THOMAS J. SINGLETON, JR.

Norman, Oklahoma

2002

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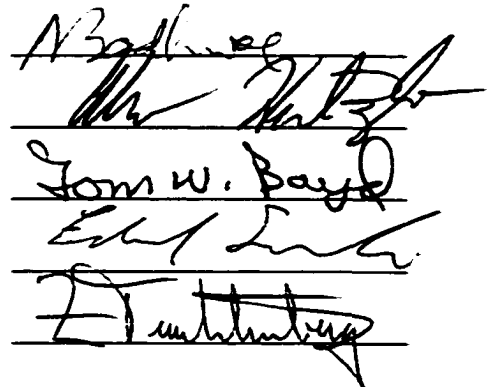
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DEMOCRATIC VIRTUES:  
SOLIDARITY, TOLERANCE, AND REFLECTIVE OBEDIENCE

A Dissertation APPROVED FOR THE  
DEPARTMENT OF PHILOSOPHY

BY

  
The image shows five handwritten signatures, each on a separate horizontal line. From top to bottom, the signatures are: 1. A stylized signature that appears to be 'N. B. ...'. 2. A signature that appears to be 'W. ...'. 3. A signature that appears to be 'Tom W. ...'. 4. A signature that appears to be 'Ed ...'. 5. A signature that appears to be 'D. ...'.



## **Acknowledgments**

There are many who deserve thanks, but I must begin with my parents for thirty-two years of incredible love and support. I would also like to thank my committee members: Neera Badhwar, Tom Boyd, Allen Hertzke, Ed Sankowski, and Zev Trachtenberg. Special thanks go to Neera whose advice and comments were always helpful and encouraging; this dissertation has benefited enormously from her advising. Tom also deserves special recognition, for he, more than anyone, has helped me understand what it means to be a philosopher and a teacher. Susan Nostrand and Shelley Konieczny have been able to answer more questions about Department and University policies than any one person has a right to ask. Rebecca Titford graciously proofread the final draft, but all errors, of course, are mine. A.M.D.G.

## **Table of Contents**

<b>Abstract</b>	<b>vi</b>
<b>Chapter One: Plato's Problem</b>	<b>1</b>
<b>Chapter Two: Solidarity</b>	<b>25</b>
<b>Chapter Three: Tolerance</b>	<b>63</b>
<b>Chapter Four: Reflective Obedience</b>	<b>90</b>
<b>Chapter Five: A Problem Resolved?</b>	<b>124</b>
<b>Selected Bibliography</b>	<b>130</b>

## **Abstract**

Plato warns that every democracy will eventually devolve into a tyranny. His reasons for the fall appear to play a role in the decline of the Roman Empire; the upheavals in France from the rule of Louis XIV through the Republic, Napoleon, and the Restoration; and the transition in Germany from a monarchy through a republic to the Third Reich. Similar conditions are evident in their initial forms in the U.S., and these conditions are gross misunderstandings of freedom and equality. More specifically, many have forgotten that freedom cannot be unlimited and that not all ideas are equally valuable.

To defend itself, a liberal democracy should promote three virtues: solidarity, tolerance, and reflective obedience. Each helps avoid the conditions Plato fears. Solidarity builds a sense of community to overcome factionalism. Tolerance allows one to determine what should be prohibited and what (although objectionable) should be allowed. Reflective obedience provides the grounds for obeying the law for reasons other than prudence or coincidence (i.e., the felicitous agreement between one's moral beliefs and the law's prescription) while preserving individuality by outlining a mechanism of resisting on the grounds of conscience.

These three virtues are not independent but intimately related. Solidarity is the foundation for the other two, which can be developed fully only in conjunction with solidarity.

## **Chapter One**

### **Plato's Problem**

In the *Republic*, Plato develops the ideal city, an aristocracy in which the truly best men and women – morally, intellectually, and physically – rule the *polis*. Plato also warns that because humans are imperfect, the people and the city will decline, passing from an aristocracy through timocracy, oligarchy, and democracy to tyranny. Each regime is worse than its predecessor, and the last is as unjust and discordant as the first is just and harmonious. Moderns look at this ancient taxonomy of constitutions and marvel that democracy, which we hail as the best, most just form of government, not only ranks below aristocracy but is almost at the bottom, just above tyranny. Winston Churchill almost agrees with Plato when he jests that democracy is the worst form of government, except for every other form. Democracy is not perfect, but no other type of government can allow for the freedom and cooperation possible in a democracy, two features that are difficult to balance but must be balanced for the sake of justice. Finding this balance is at the heart of my project.

One cannot deny that the ancient Athenian conception of democracy is very different from what we find in modern Western democracies. But are the underlying principles so different? Both Plato and Aristotle argue that democrats value the freedom of the individual and equality of all citizens, identifying them as the two pillars of an

ideal democracy. The rhetoric of democracy continues to include declarations of freedom and equality for all citizens (whether or not all people will be allowed citizenship). If ancient and modern democracies are founded on some of the same ideals, then it is reasonable to ask whether they are subject to the same consequences. If Plato is correct in assuming that the democracy he lived in would gradually devolve into a tyranny, we must examine whether our own democracy is susceptible to such a decline, and if so, how we can curb or even reverse the slide.

I do not contend that the United States faces an immanent, much less inevitable, transformation from a liberal democracy<sup>1</sup> to a tyranny, but the attitudes regarding freedom and equality that Plato fears are found among U.S. citizens, and that should give us pause for reflection. If Plato's fears have some ground, then a liberal democracy should examine itself for the destructive attitudes or misunderstandings. If the misunderstandings are found, even in embryonic form, there are ways to correct them. Of course, these antidotes must be compatible with a liberal democracy; if not, they are just as bad as the poison Plato describes. My goal in this dissertation is to demonstrate that Plato's fears have a reasonable basis and there is cause for concern and propose a solution to the problem. Freedom and equality are, in some quarters, grossly misunderstood. Chapter One will focus on these issues while the following three chapters present solutions. Each of the three chapters addresses a different virtue that is especially needed by citizens of democracies. These virtues enable citizens to clarify

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<sup>1</sup> "Liberal" and "liberalism" are tricky words, for they have many connotations. I agree with Charles Taylor's criticisms of "neutral liberalism" in *The Ethics of Authenticity*. He argues that proponents of this form of liberalism discourage the state and individuals from critiquing others' values and behavior. Of course, this in itself is a critique of those who critique others. Nor should "liberal" be confused with libertarianism, a theory of the state without some of the aspects of moral philosophy associated with liberalism. By "liberalism", I mean a respect for individuality without an overemphasis on individualism, a distinction that will be made in Chapter Two.

what it means to be free and equal and address serious differences that arise when freedom or equality is challenged. These virtues are solidarity, tolerance, and reflective obedience.

These concepts are rarely, if ever, treated as virtues in a traditional sense. Therefore, along with a definition of each and a description of how they contribute to a solution of Plato's problems, I will offer an account of how they fit the mold of virtues, using Aristotle's account. Solidarity in particular, lacks a coherent explanation in the literature. It is more often appealed to than defined.<sup>2</sup> Yet, this virtue is too important to be left in a haze. For example, it can be the best motivation for the other two. Thus, while the three virtues deserve attention on their own terms, their connection is significant in itself and will be explored.

Each of these virtues can support and strengthen a liberal democracy, and they specifically address the needs of a pluralistic society. Often, it seems, solidarity is impossible and tolerance turned into indifference in such a society, but these are the very factors responsible for the decline Plato describes. Solidarity is the most necessary of these virtues, and the others have it as their foundation. Solidarity includes recognition by a person that he is a citizen. A good citizen, in this context, would be someone who recognizes that although he is an individual, he is also a member of a larger community and that he must work and live within that community. Because solidarity is the feeling or attitude of mutuality deeper than mutual self-interest that exists between citizens, a

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<sup>2</sup> Kurt Bayertz (1999a) has gathered papers from a conference held under the auspices of the *Zentrum für Interdisziplinäre Forschung* at the University of Bielefeld. The purpose of the conference was to explore the concept of solidarity, and the conclusions drawn by the various authors have an amazing range. Nicholas Capaldi (1999), p. 39, argues that "proponents of solidarity fail to understand modern liberal culture" and that promoting solidarity will "undermine liberal culture". George Khushf and Andreas Wildt support solidarity's value even in a liberal society.

good citizen must take an active role in the well-being of the community; otherwise, the community suffers. Therefore, when solidarity is strong enough, a citizen is willing to make sacrifices to serve the interests of the society, but does not become subservient to a collective mind-set. This virtue enables the person to develop two other virtues: tolerance and reflective obedience. Both virtues stem from solidarity and can be practiced (as they are developed here) fully only by citizens engaged in democratic society.

Tolerance and reflective obedience are not merely compatible with solidarity but fundamentally connected to this central virtue. This connection is sublime because it is not easily recognized yet basic. A person can have some form of the two virtues without solidarity, but only in conjunction with solidarity can they be fully developed. If a person see himself as a member of a group, he will listen to the ideas of other members and value their input. He will consider their customs and practices and allow them to be themselves. In other words, he will tolerate differences but without compromising his own individuality or losing the customs and practices he wants to keep. He may even want to spread them and is free to do so, but he may not do so through coercion. In short, tolerance is the balance between an “anything goes” attitude and a repressive attitude towards those who are different. Not every objectionable action should be prohibited.

Reflective obedience works in a similar way. Knowing that he has had an opportunity to construct the laws, a citizen will abide by the outcome of the legislative process. He may not always agree that a certain law or policy is best, but unless it violates his conscience or his understanding of the fundamental laws of the community (such as a constitution), he will acquiesce for the sake of the smooth operation of the

community, which promotes the common good. However, again remembering that he is an individual rather than a drone in a collective, he will reflect on the various laws and policies. Those that violate his fundamental values, he must not obey. As a member of the community, however, he is not exempt from laws he disagrees with. Recognizing the need for law, a citizen who reflects and decides to disobey must accept the punishment. Otherwise, he has declared himself greater than his fellow citizens rather than their equal and will undermine the social order of the community he wants to support.<sup>3</sup>

These virtues are an antidote to the problems Plato describes in the *Republic*. In Books VIII-IX, Plato tells the story of a great aristocracy that slides ineluctably towards tyranny. Because humans are imperfect, he asserts, the most just regime will decay into gross injustice as each generation retains only a portion of that good found in its parents. In Plato's story, the aristocrats value truth, justice, and beauty and take great pride and honor in living up to these ideals. The next generation, the timocrats, desires honor in itself rather than the true source of honor and respect. Justice has no intrinsic value for the timocrat; it is merely a tool for gaining honor. Some timocrats may not even value justice as a tool and will seek not so much *to be* just as *to appear* just and thereby win honor and praise. Honor and esteem, however, do not pay the bills, and the children of timocrats will see their families stripped of wealth because their fathers tried to maintain the appearance of principle but failed to retain their wealth. These children grow up to be oligarchs, interested only in the accumulation of wealth, spending only enough money to meet what Plato calls the "necessary" desires. Being misers who love money in itself

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<sup>3</sup> Martin Luther King, Jr., responded to critics of his disobedience with the argument that he can call on segregationists to obey court orders because he is willing to accept punishment when he breaks laws in protest. That is, because he accepts punishment, he is not undermining the rule of law but upholding it. If he tried to avoid the consequences, only then would he be a hypocrite. (1986b), pp. 290-291.



(and neither live in fancy houses nor eat delicate foods), the oligarchs strip the city's youths of their wealth. The oligarchs cultivate the appetites and desires of the youths, making them both insatiable and fleeting. As a result, no youth ever truly satisfies one desire before a new one asserts itself. The youths are always trying to find satisfaction and keep paying for it. The youths become indebted to the oligarchs and sell everything they have for far less than it is worth to pay their debts. Thus, the oligarchs increase their wealth by preying upon the younger generation. The city, only halfway to tyranny, is already split into two factions battling one another.

The wealthy youths of an oligarchy lose everything to the elder generation. They sell their possessions and take out loans from the oligarchs at exorbitant interest rates to satisfy their desires – desires that range far beyond the “necessary appetites” of their fathers. Nearly all desires and appetites are equal in the youths' eyes. As long as the desire is not contrary to law (such as theft, incest, or parricide), the youths consider the desires worthy of fulfilling. Only a few are too outrageous or shameful to deny. It is in their effort to fulfill these desires that the once wealthy youths find themselves destitute and the oligarchs more powerful than before.

The decline in the quality of the city keeps pace with the decline in the character of its citizens. As more people value honor over justice, the city's constitution - its government, laws, and practices - changes from an aristocracy to a timocracy. Likewise, the love of money and oligarchy develops from a corrupted timocracy. When the new rulers (the sons of timocrats) value money over honor, they impose limits on who can rule. Money and property, rather than virtue or honor, become the prerequisites for holding office. This inflames the desire for money because money leads to power which

enables one to make even more money. The ruling offices are no longer a way to exercise virtue but become tools for money-making and self-preservation. Governmental power is no longer exercised for the good of the community but for the good of the rulers. The oligarchs dare not lose their power; thus, they impose limits on who can vote, excluding the poor.

The newly poor citizens resent the wealthy, especially when the poor were once rich themselves or know their parents were rich. Those whose families have been poor for generations have no less contempt for the rich. They rebel and set up a new order, a democratic regime in which the citizens are equal – just as all desires and appetites are equal regardless of their real (natural) worth or status (557e-558c). In the dialogue, Socrates asks Adeimantus' opinion of this new constitution: "First of all, then, aren't they free? And isn't the city full of freedom and freedom of speech? And doesn't everyone in it have the license to do what he wants?" (557b). Of course, Adeimantus agrees. While some moderns appear to value such a constitution, Plato believes it damns the city to tyranny, the inevitable result of democracy.

A democracy, according to Plato, is a constitution that allows citizens to do whatever they please in the name of freedom. They may conduct their lives as they wish, even if that means avoiding service to the city by refusing to hold office, serve on a jury, or enlist in the military. No one has any obligations except those chosen, and then only for as long as he wants to be obligated. The individual satisfies appetites and desires as if they were chosen by lot rather than weighed and evaluated to determine which is best. Likewise, Plato reminds us that officials of a democracy are chosen by lot rather than reason. After all, desires and citizens are equal, and Plato's democrats found no reason to

value one candidate or desire over another. While the earlier generation may have allowed the law to set limits for them, the citizens of a democracy have the power to change the law. Consequently, nothing is off limits.

Freedom and equality, the hallmarks of democracy for both the ancients and moderns alike, are actually the downfall of democracy, according to Plato. Being free to do even that which is shameful, and being *unable to determine* what is shameful and treating unequals as equals is Plato's description of the state of citizens in a democracy. In fact, democracy's "insatiable desire for what it defines as the good [is] also what destroys it" (562b). The citizens are so confused about what the good is, that they identify what is destructive as good. The result is necessarily the opposite of a democracy (rule by the many): a tyranny (rule by one).

While the oligarchy has idle citizens because they are destitute and unskilled, the democracy has idle citizens because no one dares to tell them they ought to do something productive.<sup>4</sup> The prevailing attitude is that each person is free to live the life he chooses, and none but the intolerant would criticize another's choice. To criticize another is to judge him at some level – his actions, his values, his worth as a person. The distorted views of freedom and equality hold that such judgment is intolerable because one may judge only if he is better; therefore, to criticize another is a denial of equality. It is an intolerant and, therefore, undemocratic act.<sup>5</sup> But not all the idle citizens are lazy and harmless. The fiercest idles (Plato's "stinged drones") make speeches in the marketplace and become well-known while their followers (the "stingless drones") "settle near

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<sup>4</sup> During the period of transition from oligarchy to democracy, it appears the idle young men live off the wealth of their fathers (the oligarchs). As we have seen, they quickly dissipate that wealth and are left in need of a "champion."

<sup>5</sup> Plato believes the democrats have abandoned reason; only desire and the demagogue guide their actions. Therefore, it should come as no surprise that they are intolerant in the name of tolerance.

the speaker's platform and buzz and refuse to tolerate the opposition of another speaker" (564d). Once this happens, the stinged drone is no longer idle, having become a politician. The stinged drone, the politician, knows how to manipulate the people. Under the pretext of compassion for the poor, he redistributes wealth to help the poor who are the majority of the population. Of course, this type of politician helps others only to serve himself; he gains wealth and power in his efforts to help the disadvantaged. This leader becomes a champion of the people, winning respect and power, which, like the oligarchs, he uses to gain more power. Plato describes the transformation:

He brings someone to trial on false charges and murders him . . . He banishes some, kills others, and often drops hints to the people about the cancellation of debts and the redistribution of land . . . [I]sn't a man like that inevitably fated either to be killed by his enemies or to be transformed from a man into a wolf by becoming a tyrant? (565e-566a)

The tyrant wins over the people of a democracy and then enslaves them. The tragic flaw in democracy, according to Plato, is that the democracy's love of freedom and equality allows the tyrant to come into power. What the democracy values most destroys it.

Plato's account is fictional; he does not relate the history of any particular Greek city-state, and many might object that even if his account is true, it does not apply to states in other periods, especially in the modern era. However, there are examples of states in antiquity as well as the Enlightenment and the twentieth century that follow the general trend described by Plato. Indeed, the trend appears in the modern U.S., too. The point of the following examples is that Plato's story is not as far-fetched as some might think or hope.

Rome was not always an empire ruled by an emperor. Before Julius Caesar, it was a republic. The senators were members of the highest class, and while they certainly

were not as virtuous as the philosopher-rulers of Plato's ideal city, they fell somewhere between the timocrats and oligarchs. Succeeding Julius after the brief reign of the Triumvirate, Augustus became the Imperial Dictator. The Senate no longer ruled Rome and its territories; it was subservient to the Emperor.<sup>6</sup> What make this frightening are the parallels between Augustus' rise in power and that of Plato's demagogue. The outlying provinces, which had little say in the Senate, did not want to be ruled by it but longed for someone who could control the Senate and rule the empire. Edward Gibbon writes: "The people of Rome, viewing, with a secret pleasure, the humiliation of the aristocracy, demanded only bread and public shows."<sup>7</sup> Compare this to Plato's description of the poor in any city, but especially an oligarchy: a city divided over wealth needs only a small spark to incite the poor to wage a civil war.<sup>8</sup>

The *ancien regime* of France is called an aristocracy, but again, like the Roman Senate, it was not an aristocracy in the Platonic sense, for the nobility never demonstrated an inherent excellence as persons or as rulers. In Plato's schema, the French aristocracy was an oligarchy, rule by the wealthy. While Louis XIV may have been a tyrant, completely controlling the state, under Louis XVI the nobility regained its power and then some, pressing for a constitution to further limit the king. The wealthy nobility exercised their power with the king, and titles of nobility and wealth were passed from fathers to sons. As expected, there were citizens not as wealthy as the nobility – the truly poor who resented their poverty and the middle class who resented their lack of political power. Plato warns that extremes of wealth and poverty produce two cities in one

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<sup>6</sup> Wilson (1997), p. 24.

<sup>7</sup> Gibbon, p. 53. Gibbon's use of "aristocracy" is in the ordinary sense of a hereditary class of rulers, not Plato's "rule by the best."

<sup>8</sup> Plato (1992), 554c-557a.

geographical area, and the lack of equality angers those who consider themselves equal to the rulers. Understandably, France was ripe for revolution, and when the revolution occurred, it was under the banner, “Liberty, Equality, and Fraternity.” However, within four years of the storming of the Bastille, the quest for democracy had become a Reign of Terror in which not only the monarch but also members of the nobility and any potential “enemy of the Republic” were executed in the name of freedom and equality. The people, however, finally realized that the demagogue Robespierre had become a wolf-like tyrant and executed him. Unfortunately, Plato never promised the decline was reversible, returning to an ideal aristocracy after tyranny. Instead, France swung like a pendulum between democracy and tyranny for more than the first half of the nineteenth century.

A third example of the slide to tyranny is Germany. Under the Kaiser, the government of Germany was similar to that of France before the Revolution: a hereditary nobility but with a relatively new monarch. Once again, it was a form of oligarchy. After Germany’s defeat in World War I, the people set up a republic – more like Plato’s democracy than any of his other regimes. An economic depression in Germany after the war left the people frightened and destitute. One man stepped forward and offered them hope through his political party. Despite a failed coup in 1923, this “special champion”<sup>9</sup> of the people nearly defeated the incumbent president a decade later. Although Adolf Hitler lost the election for president, the Nazi Party won enough seats in the Reichstag to force President von Hindenburg to appoint Hitler as Chancellor of Germany. After von Hindenburg’s death, a plebiscite – a vote of the people – combined the offices of President and Chancellor, strengthening Hitler’s power. Upon abolishing the Reichstag, Hitler was the government of Germany. While Robespierre’s tenure was dubbed the

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<sup>9</sup> Plato (1992), 565c-d.

Reign of Terror, there are few tyrants who can challenge Hitler for cruelty and injustice.<sup>10</sup>

In Rome, France, and Germany, we see a slide from oligarchy through democracy to tyranny – the course Plato lays out in the *Republic*. Furthermore, the causes are similar: extreme poverty and someone who can play on the fears and desires of the people. On one level, these are just generalized historical examples that fit a simplified version of Plato's theory. After all, the poverty in Germany was the result, in part, of excessive reparations imposed by the Treaty of Versailles and a world-wide depression that followed Germany's national recession; it was not, as Plato described, a case of oligarchs fleecing the people. However, Nazi propaganda flooded the media and schools with false images of wealthy Jews who manipulated not just people but even entire nations for power and economic gain. Hitler's political party created a fictional class of oligarchs, and opposition to these supposed oppressors unified the people in their support of Hitler.

Robert Waite describes his campaign efforts:

. . . [T]he Nazi rallies were cleverly planned mass meetings that combined some of the emotional attractions of American football rallies, evangelical prayer orations, and Wagnerian opera. His speeches were designed to appeal to the emotions and not to the intelligence of his audiences, and they repeated the same simple themes: avenge Versailles, crush the 'traitors of the Weimar Republic,' smash the Jews and Communists, and make the fatherland triumphant over all its enemies.<sup>11</sup>

He created fear and resentment towards a group, and it is this very fear and resentment of challenges to distorted concepts of freedom and equality that Plato warned could lead to tyranny.

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<sup>10</sup> Sadly, one contender for the infamous title of "Most Tyrannical" would be Joseph Stalin whose rise to power could serve as a fourth example in this list. Russia was a monarchy under the Czar. A revolution led to what was supposed to be a government of the workers (Plato's democracy – rule by the poor – but not a modern democracy); this government quickly became a tyranny growing even more cruel under Stalin whose goal was power.

<sup>11</sup> Waite (1992), p. 161.

What do these examples tell us? That Plato is right, that every democracy will become a tyranny at some point? Plato is not Nostradamus; he does not claim to predict the future. Rather he sees what happens in city-states and issues a warning about what could happen in any democracy. In the right circumstances, humans being what they are, a democracy that values freedom and equality in the wrong way can become a tyranny because the frustrated desires for them easily lead to fear and resentment. If that fear and resentment can be effectively aimed at a particular group, the demagogue can manipulate the people into giving him considerable power. How a democratic people defines freedom and equality, how extensive the freedom is and in what regard citizens are equal, plays a fundamental role in whether that democracy will fall under the power of a tyrant from within. This brings us to the question of whether the United States could slip from democracy to tyranny.

The United States has existed under the same constitution for over 200 years. It guarantees specific freedoms but also clearly states that the list is not exhaustive. This same constitution also declares that all citizens are equal under the law. There are ways to understand freedom and equality such that a democracy does not become a tyranny, and the democratic virtues I explore in later chapters help define these terms. However, there are examples, addressed below, of dangerous misunderstandings of freedom and equality. If enough citizens misunderstand democratic freedom and equality, then proper, justified restrictions or criticisms may generate fear and resentment; the result could be a tyranny.

Plato believes that in a democracy one will find an example of every possible character type – aristocrats, timocrats, oligarchs, democrats, tyrants, and all the shades



and degrees between them. Everyone is different and has his own set of values, and no one is willing to tell anyone else that an action or way of life is wrong. A democracy, for Plato, is not even a true city because of the division between rich and poor and the conflicting characters of the citizens. There is so much conflict that there is no longer political unity, or as Julia Annas describes it: “[T]here is not only no universally recognized common good, but no universally respected common government.”<sup>12</sup> With no common good, there is no common goal. With no common good or government, nothing binds the people together into a community. They begin to see themselves at best as members of small groups, subcultures, and at worst as solitary individuals with no responsibility for anything but themselves. This diversity and isolation result from the extreme definitions of freedom and equality found in Platonic democracies.

Similar conditions are found in the U.S. today. There is a sense among some citizens that the Constitution guarantees freedom to do nearly anything, and that not only are citizens equal before the law but also that all actions are morally equal. Too many of my students ask, “Who am I to judge?” when given a moral dilemma. Many adults ask the same question. That the student or adult is a rational member of the community who must decide how he or she will act gives the person not only a right but also an *obligation* to himself to reflectively evaluate actions and make a judgment about his own morals by asking, “Will I behave the same way?” Furthermore, a person has a right to look at another’s action and decide if that action is fair or just. Others’ unjust actions hurt him, and he has a right to protect himself from unjust behavior. If the citizen decides the action is unjust (e.g., harmful or dangerous enough to others), the citizen should try to restrict that action through the law. The virtue of tolerance is the ability to judge

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<sup>12</sup> Annas (1981), p. 299.

correctly when an action (or idea) ought to be allowed or suppressed. Perhaps actions that endanger only the agent should be tolerated, but those that endanger another without his or her consent clearly ought to be prohibited. This prohibition marks the transition from the personal sphere to the political sphere in which all three of the democratic virtues are expressed. Tolerance in this context is concerned with what the political community should allow even if a majority of individual citizens object to the actions in question.

A concrete example of a misunderstanding of freedom is found in some students' attitudes towards university alcohol policies. In the spring of 1998, riots broke out at several colleges and universities where students were upset about alcohol policies – either new ones or the stricter enforcement of existing ones. Joe Uscinski, a Plymouth State junior, said, "It's about basic freedom . . . We want the town and college to allow us to have fun for one weekend a year."<sup>13</sup> Surely this student and many others want to have fun more than just one weekend a year, and the desire is reasonable and normal, but what does he mean by fun? Does he have a right to *whatever* he finds fun? A University of Connecticut sophomore, Scott Berni, was upset by the presence of police officers at a party: "Students see it [police presence] as a violation of their right to have a good time."<sup>14</sup> What makes this disconcerting is that the police (state, local, and campus officers) did nothing when students hurled bottles and rocks at them, despite the risk of harm to the police officers themselves. The police did nothing when students flipped over a car. The police did nothing when students set a couch on fire. Only when students

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<sup>13</sup> "Student Rioters Demand the 'Right to Party,'" in *The Chronicle of Higher Education*, Vol. 44, no. 36,

<sup>14</sup> Gose, (1998), p. A 47. Police were present because the annual party held the year before was "marred by riots and dozens of arrests." Furthermore the night before the incident with the car, a student-ignited bonfire had threatened an apartment building.

placed the car on the fire, did the police act. They were patient and indulgent, perhaps too much so, but the police only interfered with students and dispersed them when their actions became dangerous to innocents in the surrounding area. Yet, Berni accuses the police of interfering with his “right to party”, initially by their presence and then by not allowing the students to blow up a car. An attempt to prevent harm to others when someone is engaging in dangerous behavior is a legitimate interference with freedom. People who believe they have the freedom to engage in such destructive and dangerous behavior misunderstand the democratic principle of freedom. Plato’s concern about a democracy is that all desires were considered equally good and worthy of fulfillment. This misunderstanding the students have is one of the dangers of democracy Plato warns about. Correcting this misunderstanding is key to preventing the decline Plato believes every democracy will experience.

Freedom cannot be so expansive as to allow people to harm others. J.S. Mill argued that a liberal society must adhere to one basic tenet of liberalism: the harm principle. That is, a person’s actions are limited to those that do not hurt or harm other, unwilling people. An ardent advocate of personal freedom, Mill would agree that the police had to act to stop the students’ actions described above. Perhaps they could gather and insult the officers and even start a bonfire in an open field, but they cannot be allowed to put a car on a bonfire close to inhabited buildings. However, while Mill does allow one to interfere to stop someone from hurting himself or herself, measures to prevent self-inflicted harm are not required. Echoing Mill’s views, Justice Potter Stewart put it nicely when he wrote, “The right to swing my fist ends at my neighbor’s nose.” This statement is also an illustration of the well-known declaration that every right has a

corresponding duty (to respect the other party's rights) and every freedom has a corresponding responsibility. If I have a right to swing my fist, I must remember my neighbor has a right not to be hit. Therefore, I have a duty not to hit him. Even with the freedom to swing my fist, I have the responsibility not to hit my neighbor, to be aware of when I put him in danger. I respect my neighbor's right and fulfill my duty and responsibility by not hitting my neighbor in the nose. Likewise, if I have a right to party, that right is limited by the rights of others; I can party only in ways which do not endanger others, for anyone I injure or kill is deprived of his or her right to party, along with many other rights. The freedoms protected by rights must be compossible. No society can grant freedom without limits; the result would be a continual conflict between the freedoms of each citizen, none being able to trump another. This conflict is exactly what Plato fears. Plato opposes the following argument: In a democracy all desires are considered equal and equally worth fulfilling; therefore, anyone can do whatever he wants. This extreme freedom, this absolute freedom, is what destroys democracy and sets up the conditions for a tyranny.

The misunderstanding that freedom is unlimited destroys democracy by destroying the social relationships and freedoms that keep a democracy healthy.<sup>15</sup> If the student quoted above believes he has the right to party any way he chooses, he has declared that all other citizens are of a lower status. In fact, each has declared the other to be a lower-class citizen, for if a person chooses to party in a way that prevents the other from having a good time, then his right supercedes that of the other. If the same person is always permitted to exercise his right at the expense of the other, the two are not equal.

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<sup>15</sup> Plato believes proper social relationships are necessary to maintain an aristocracy; his democracy results from a breakdown in society. A modern, liberal democracy also needs proper social relationships to remain healthy, and a healthy democracy, contrary to Plato's theory, is the most just regime.

Yet, if everyone is equal, and one person has unlimited rights, then each person has an unlimited right (Berni was upset that police stopped the crowd from trying to burn a car), but unlimited rights for all is conceptually impossible. For if the student should respond, “No, everyone is equal. Everyone has a right to a good time,” we face the problem of deciding who may exercise his right to party – the students who want to place cars on bonfires, or the quartet of friends in the neighboring apartment building who most enjoy a night of bridge without the risk of serious injury from exploding cars. Furthermore, the car owner need not surrender his car to Berni and his friends. The real problem in this situation is the confusion between rights and desires. Berni, Uscinski, and the other students believe that their desire for a good time gives them a right to a good time. Furthermore, whatever they desire to do, they believe they have a right to do. If all citizens are equal, and all desires are equally valid and worthy of being fulfilled (as Plato warns the misguided democrat will believe), then the citizens’ desires will conflict, and there is no process to resolve the conflict. When citizens believe their desires are the same as rights and related to their freedom, the conflict can be fierce indeed.

Pope John Paul II warns that this attitude of unlimited rights is destructive of the society and the human person. Any conception of freedom that denies solidarity and “exalts the isolated individual” will generate profound conflicts between members of the society. The fruit of such conflict is a degradation of the human person, reducing the society to one in which might makes right.<sup>16</sup> Human beings, of course, can aspire to much more, but these aspirations can be met only if some degree of solidarity exists. The social order (or disorder) John Paul foresees if absolute autonomy is pursued is a Hobbesian state of nature, a war of all against all. He writes: “Everyone else is

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<sup>16</sup> John Paul II (1995), no. 19.

considered an enemy from whom one has to defend oneself. Thus society becomes a mass of individuals placed side by side, but without any mutual bonds.”<sup>17</sup> While the examples of Berni and Uscinski may appear minor concerns, the seed of this destructive attitude is present. It would seem that they mean by “freedom”, whatever one desires. Widespread acceptance of this definition is

a threat capable, in the end, of jeopardizing the very meaning of democratic coexistence: *rather than societies of “people living together”, our cities risk becoming societies of people who are rejected, marginalized, uprooted and oppressed.*<sup>18</sup>

No society can exist if its citizens have unlimited freedom. At least, no desirable society, no society fit for human beings can exist if its citizens have unlimited freedom. In such a society, the weak are at the mercy of the strong.

If there is no process to resolve the conflict between rights or desires, the social bonds break down; factions form and divide the city. Sometimes there is a genuine infringement of rights, but other conflicts can also lead to factionalism, such as antagonism between rich and poor or between different ethnic groups. However, solidarity is much more than a process to solve these battles; it is a disposition or way of looking at the society or community that, if enough citizens share, can keep the conflicts manageable. As with any conflict, there must be a willingness to resolve it; otherwise, the parties will never reconcile. If citizens respect one another as citizens and recognize that their concerns must be heard and then judged, there will be more reason to seek a process that can resolve the conflict. It is essential that each party recognize the needs of others, for it is in this recognition of the citizenship of the other that one can develop a genuine virtue of tolerance. It should be pointed out, however, that a breakdown of the

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<sup>17</sup> John Paul II (1995), no. 20.

<sup>18</sup> John Paul II (1995), no. 18.

social network or a decline in social capital may result from exaggerated or self-absorbed notions of freedom, but it could also precipitate such ideas.

Robert Putnam's thesis in "Bowling Alone" is that weak links between citizens weaken the democracy itself. Those links and democracy are nurtured by fraternal orders, neighborhood associations, parent-teacher organizations, and even bowling leagues. Organizations where people meet and can talk need not be focused on civic problems but can be purely social groups. The effect is the same regardless of the group's purpose: various individuals gather and begin talking.<sup>19</sup> That discourse often will turn towards political issues, but even when it does not, something important happens. The members begin to see their community through the eyes of another. This new perspective reminds each member that the community does not exist for him alone. Others with different needs are also part of the community. A healthy social network linking members from different economic levels and various parts of the city strengthens the whole community by fostering a sense of citizenship or solidarity – "it's not just about me." This solidarity is a virtue without which there can be no strong democracy.

Solidarity, then, is the principal democratic virtue. Two other virtues flow from solidarity: tolerance and reflective obedience. But in what way are they virtues? I shall give a general account of virtue here, an account relying heavily on Book II of Aristotle's *Nicomachean Ethics*. The discussion of each of the three democratic virtues will refer back to this general account of virtue.

A virtue is a certain kind of habit – doing the right thing, in the right way, and for the right reasons. Virtues of character (which these democratic virtues are) are not found naturally in people but must be taught and developed as habits. Habit becomes second

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<sup>19</sup> Putnam (1995).

nature such that whoever has a given habit acts consistently in certain ways, almost without thinking about it in familiar situations. Of course, virtuous people are not unthinking or unreflective automatons, and many situations call for deliberation about the best way to act. Virtue is ultimately the result of the choices one makes throughout life. In making these choices, a person develops habits that become virtues when he understands why they are good and actively cultivates or preserves them by making the right choices.

The three characteristics of virtue are consistency (which habit provides), knowledge that they are good actions, and choice of an action for its own sake (i.e., not primarily or solely for a further goal). While Aristotle appears to place almost no emphasis on knowledge (“the knowing counts for nothing, or [rather] for only a little”<sup>20</sup>), ideally, a virtuous person knows his actions are virtuous. Knowledge of why the action is right is a minimal condition. Without it, a person has not acquired the virtue but only acts in a virtuous manner. A citizenry that unknowingly practices democratic virtues will be better off than the doomed city Plato describes, but it will never flourish in the same way as a city whose citizens (or at least a majority of them) practice the virtues and know that they are virtues and why. Not knowing why their actions are virtuous, the citizens are at the mercy of the demagogues and modern sophists who will try to persuade them that their habits merely satisfy convention rather than exhibit virtue.

Another essential element of virtue is that it lies between two extremes (1104a12-38). One extreme is a lack or deficiency of an emotion or action; the other is an excess. Aristotle’s own example is of temperance. An excess of temperance is insensitivity, never taking pleasure in anything. The deficiency is a form of gluttony, taking far too

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<sup>20</sup> Aristotle (1985), 1105a30-1105b5. Brackets are the translator’s addition.



much pleasure in food or sex and maybe even becoming addicted to them. The virtuous person can determine how much is too much and how little is too little. Accordingly, a person with the virtue of reflective obedience will know when he should *not* obey certain laws. They may be inherently unjust, unconstitutional, or (because of emergency situations) excusable. Whatever the reason may be, the virtuous person can determine the proper course of action, the proper mean between the two extremes. The difficulty in choosing the mean is that it is not an absolute median point, as six is the mean of two and ten. Rather, it is the median appropriate to the person in his particular situation (1106a72-1106b6). Again, a modified version of Aristotle's example is useful: Milo the athlete needs more food than some other gymnasts. Milo can be temperate while eating several times more food than Mary Lou Retton, a much smaller person, who is also temperate rather than anorexic because she eats less food. Each virtue is a balance, and the balance may vary from one situation to another.

Finally, why use the term "virtue" at all? A virtue is an excellence that makes whatever has the virtue an excellent example of whatever it is. A horse that has the virtue of a horse is an excellent horse. A person who has a human virtue is an excellent human. A citizen who has a democratic virtue is an excellent citizen of a democracy. According to Aristotle's *Politics*, an excellent citizen is one who has "knowledge of rule over free persons from both [points of view]," one who can rule and be ruled in turn (1277b15-16). This changing of roles is an essential element of a democracy. While many individuals may choose never to run for office, the office is open to them. However, once in that office, they are not guaranteed to hold it for life. Certain public offices may have term limits insuring a maximum time any one person may hold those offices. These limits

reinforce the need to have citizens be willing to take their turn as rulers yet also be able to return to the status of being ruled. Those who can do this are excellent citizens, virtuous citizens.

The regime I defend is what Aristotle would call a polity, and it is his ideal form of government (1295a25-1296b12). In a polity, the citizens take turns holding office and ruling the city. It is similar to a democracy because a democracy is a corrupted form of polity just as tyranny is a corruption of monarchy and oligarchy is a corruption of aristocracy. In a polity, all of the citizens share in ruling (but not all at the same time) for the good of the city as a whole. A democracy, on the other hand, is ruled by the poor (who are usually a majority of the society) for their own advantage (1279a22-1279b10). Although they may want to serve the majority, they see the majority as a subset of the city. Democrats, for Aristotle, do not look to the good of the city as a whole. A polity is more just because it does consider everyone, not just the ruling party. Aristotle's polity is the best equivalent to a modern liberal democracy.

The virtues necessary to be a good citizen of a just regime will also make one a just person. While a good citizen and good person do not coincide in unjust or corrupt regimes, they are one and the same in the best of regimes. Thus, the citizen of a liberal democracy is a good person if that person is also a good citizen. The democratic virtues for which I argue are, then, proper human virtues. That is, they serve to perfect one not only as a citizen but also as a human being.

That good citizens in a just regime are by that fact good human beings should come as no surprise. To the many definitions of man, Aristotle adds, "man is a political animal." Man can survive when living in an unjust community, but he flourishes when

living in a just community. It is when a human being finds himself all alone that he is broken. Physical torture can break a man's body and spirit, but absolute solitude, when forced upon someone, can destroy his mind.<sup>21</sup> Whether the solitude is a result of solitary confinement in prison or an accident stranding one on a desert isle or in the mountains, the loneliness will take its toll. Those who manage to survive often recount their effort to recall other people or things they learned or plans they have with other people. They recall or imagine some kind of community for themselves, and only in that can they endure the alienation from other human beings.

Because human beings are political or social animals, the central democratic virtue is solidarity. A person must see himself as part of the community if he is going to work to ensure its survival. He must see himself as part of the community, connected to others, to flourish as a human being.

These democratic virtues – solidarity, tolerance, and reflective obedience – need further development and explanation. I will examine each in turn, making the case for why it is a virtue by explaining the extremes on either side. Then, I will propose a definition for each. Along the way, I will offer a brief argument for the unity of these three virtues.

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<sup>21</sup> Forced solitude is more detrimental than voluntary solitude. There are some individuals who choose the life of a hermit, but many who opt for such a life see themselves as deepening their relationship with something that transcends themselves, thus creating a community. However, even many hermits recognize the need for community, as seen in the custom of the early anchorites of Christianity to meet weekly for liturgy, meals, and conversation.

## **Chapter Two**

### **Solidarity**

Solidarity is a slippery subject, one that has been often discussed but rarely defined adequately. First used as a legal term by the Romans to denote co-responsibility for a debt, “solidarity” assumed its current sense of some type of fraternal union in the mid-nineteenth century.<sup>1</sup> This current sense, however, is vague and left undefined by many who use it; consequently, many praise solidarity without really understanding it. As the cardinal democratic virtue, the term “solidarity” must have more definite content than it commonly has. It is my goal in this chapter to give solidarity content by (1) providing a working definition, (2) explaining how it fits an Aristotelian scheme of virtue, (3) evaluating a common charge that no liberal society can foster solidarity, and (4) arguing that a society without solidarity will falter.

Numerous conceptions of solidarity exist, and to survey them all would take considerable effort and time. For some, the term evokes visions of men and women united in a common struggle against tyranny, oppression, or the challenges of life itself. For others, it causes concern; solidarity has been used to describe a community in which the individual is relegated to the level of a cog in the wheel. That is, what the community

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<sup>1</sup> Bayertz (1999b), p. 3; Wildt (1999), pp. 210-212. Wildt argues that *solidarité* is not an equivalent of *fraternité* as the words were used during the French Revolution. However, their relationship is much closer now, as are their English equivalents “solidarity” and “fraternity”.

wants and needs supersedes the desires or goals of any particular individual; solidarity has been the goal of collectivists and makes those concerned about individual rights wary.

Rousseau's theory of the general will raises the hackles of individualists. Some interpretations of the general will leave it open to the critique that it reduces the autonomy of individuals by forcing them to submit to the general will. Rousseau, however, believes that the general will is not (supposed to be) in opposition to the individual will. Ideally, each citizen desires the common good and sees what will bring about that good. Thus, the individual's will coincides with the general will. Each individual retains his rights and autonomy because he wants what the society as a whole wants; furthermore, he must act on these wants and not leave them to a representative who can never express anyone's individual will but his own. However, there are serious limits on associations. Any association that threatens social unity must be discouraged because it would obscure the common good, leading the sub-group's members to seek the good of the association rather than the good of the society as a whole. Such a view is inconsistent with liberal principles and ideals, especially that of free association.<sup>2</sup> Rousseau's general will, while supposedly protecting autonomy, makes the individual part of a collective; the individual's will should be the will of the people as a whole.

Opposing Rousseau, Pope Pius XI warns in *Quadragesimo Anno* that a collectivist notion of society degrades the human person and violates basic human rights. Thus, movements such as communism or socialism do not provide just solutions to political and economic problems the world was facing in 1931, when Pius wrote the encyclical, or today. Of course, an extreme individualism is no healthier. Trying to

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<sup>2</sup> Nicholson (1998), p. 10.

operate on a general will that no individual may actually support is Scylla, and encouraging each individual to think only of himself is Charybdis. The route to a just social order lies in a narrow passage between individualism and collectivism.<sup>3</sup> Quoting Leo XIII, Pius urges each government to “put forth every effort so that ‘through the entire scheme of laws and institutions...both public and individual well-being may develop spontaneously out of the very structure and administration of the State.’”<sup>4</sup> This balance between the common good and the individual’s good is difficult to achieve. What helps in finding this balance is the realization that members of a community do have something in common, something that serves as a bond between the citizens.<sup>5</sup>

Above all else, solidarity contains a sense of mutuality grounded in the bond among the people with the virtue of solidarity. Andreas Wildt believes that two of the conditions of solidarity (he gives nine in all) are (1) that the “agent and recipient are bound to one another by *feelings* of belonging together or sympathy” and (2) that the “agent assumes at least the possibility of analogous situations in which the *recipient acts*, has acted, or will act *in analogous ways* towards him or third parties, and that he is guided by a similar motivation”.<sup>6</sup> One who acts out of solidarity acts out of a sense of obligation (a third condition) but also believes that the one he helps would act in a similar way and for similar reasons should their circumstances change. This is neither repaying a debt nor purchasing insurance. The agent does not repay a past kindness, even if one has been rendered; the agent does not perform his kindness to ensure a future kindness. The agent believes that he is obligated to act to help the other because of some bond between

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<sup>3</sup> Pius XI (1981), no. 46.

<sup>4</sup> Pius XI (1981), no. 25.

<sup>5</sup> Pius XI (1981), no. 84.

<sup>6</sup> Wildt (1999), pp. 217-218.

them. For example, an adult woman may feel an obligation to care for her much younger brother upon the death of her parents. She probably hopes and may even expect that her brother will care for her when she is old and infirm, but such a return is not her primary motivation. It may be that she will never need his aid, or another unfortunate accident may render him completely unable to ever care for her. She will still feel an obligation to care for him, and the fact that it is impossible he will be able to repay her does not change her assumption that he *would* be just as generous if he *could* be.

What can produce such a bond or feeling of obligation? In this case, it appears to be their family relationship, but blood is not the only bond. A long-standing friendship, common religious beliefs, and shared citizenship are also foundations for a feeling of obligation. Of course, some relationships produce stronger bonds than others. Two Americans may feel solidarity if they meet in Europe and face problems (especially problems associated with being a tourist or being American), but they may feel no such bond if they meet on a street corner in their hometown. In an ideal democracy, common citizenship will be a basis of solidarity, a feeling of mutual obligations.<sup>7</sup> Without it, the democracy is in danger, for there is not sufficient unity to avoid the factionalism Plato fears.

Changing the previous example so that her action is not one of solidarity may help bring the unique nature of the action into sharper focus. Should the sister and brother be estranged and she felt certain he would never, under any circumstances, act in a similar way by offering her aid, perhaps she would not take him in. If she provides aid but feels no sense of belonging, her action, according to Wildt, would not be solidarity. The act

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<sup>7</sup> Bayertz (1999b), p. 3, also writes that solidarity is a "mutual attachment between individuals" at two levels, one being the "actual common ground" they share and the other a "*normative* level of mutual obligations to aid each other".

may be described as altruistic or selfless, and may be supererogatory, but it cannot be called an act of solidarity. It could, on the other hand, be self-serving because inheriting her parents' wealth is contingent upon caring for her brother. In such a case there would be no mutuality in the relationship, no assumption that her brother also experiences a "feeling of belonging together". This sense of belonging, sympathy, connection, or unity is essential to solidarity. Solidarity is not a synonym of altruism or agape, some kind of pure selflessness. Yet, it is certainly not selfish either. The mutuality that is at the heart of solidarity is the recognition that the other person is "like me" in some way. It may even carry a sense of, "There but for the grace of God go I." If a person can recognize that he (or his situation) is not all that different from the one who suffers, he is more willing to lend a hand.

Richard Rorty's view of solidarity runs along these lines, but is not as complicated as Wildt's nine conditions. Following Judith Shklar, Rorty defines a liberal ironist (his ideal liberal) as one whose goal is to avoid being cruel.<sup>8</sup> Two passages from *Contingency, Irony, and Solidarity* are especially revealing:

J.S. Mill's suggestion that governments devote themselves to optimizing the balance between leaving people's private lives alone and preventing suffering seems to me pretty much the last word (63).

She [the liberal ironist] thinks that recognition of a common susceptibility to humiliation is the *only* social bond that is needed ... Her sense of human solidarity is based on a sense of a common danger, not on a common possession or a shared power (91).

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<sup>8</sup> Rorty (1989), pp. xv, 146. Shklar defines a liberal as one whose goal is to avoid cruelty. Rorty considers the best liberal to be a liberal ironist rather than a liberal theorist or (even worse) a metaphysical liberal. The ironist and theorist both believe their being and their language are radically contingent – a result of historical accidents. The culture and era, as well the specific family, into which a person is born shapes his life in a fundamental way and do not conform to a divine or cosmic plan. They are contingent facts that could have been radically different. A person's values are as contingent as his being, and no morality is absolute. The metaphysical liberal (viz. Jürgen Habermas) believes in an absolute to which one's concept of justice, truth, or the good can correspond or fail to correspond.



Rorty subscribes to the Harm Principle, and believes it is not only the fundamental but also the only rule to restrict a government. One way of not being cruel is to prevent suffering; therefore, a government is allowed to act to prevent suffering, and this is the only time it may limit a person's freedoms. Presumably, however, not all suffering merits interference with others' private lives; a balance must be found between the two. Furthermore, what binds the people in a society is the fact that all of the members – in fact, all humans – are susceptible to humiliation, the worst suffering a person could endure. Humiliation is not, however, just any kind of pain. All brute animals can feel pain, but only human beings can experience humiliation. A person is humiliated when he is forced to deny the value of something he has valued previously. This specific pain comes from the fact that all he is and values is contingent. Because there is no absolute, the individual person has given this thing value. Destroying what he values is an attack upon the person himself. Rorty writes:

They can all be given a special kind of pain: They can all be humiliated by the forcible tearing down of the particular structures of language and belief in which they were socialized (or which they pride themselves on having formed for themselves).<sup>9</sup>

For Rorty, it is not common ethnicity, shared history, shared religious beliefs, or common language that unites people. It is their ability to suffer as beings that have values

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<sup>9</sup> Rorty (1989), p. 177. Also see p. 92. Chapter Eight is a discussion of cruelty in George Orwell's *1984*. The antagonist, O'Brien, wants to destroy what Winston holds dear, specifically his love for Julia and his commitment to a particular phrase that describes reality: "two plus two make four". These are important to Winston, and his denial of them, although brief, leaves him a broken man. He is no longer who he thought he was. The challenge Winston faces is not a redescription of how he sees the world. As difficult as that may be, people experience it whenever they adopt new ideas such as in a political or religious conversion. What happens to Winston, however, is a momentary lapse of seeing the world as he believes it is. It is almost like a temporary insanity. Winston actually *believes*, if only briefly, that two plus two really make five. Winston's experience is humiliating and traumatic not because he has a change in his worldview but because he has slipped momentarily into what he would probably describe as insanity. Apparently this brokenness cannot be healed – for Rorty or Orwell, but Rorty never acknowledges such a possibility and never discusses it.

(especially self-determined values) that allow humans to feel solidarity with one another.

The duty of a liberal, according to Rorty, is to expand his list of who can feel this unique type of pain. That is, one must expand the list of those who are “one of us”. This expansion is important because we do not want to hurt those who are “one of us”, but we do not care as much about “them” (the “not-us”).<sup>10</sup> This list includes those with whom one can identify as a fellow-sufferer. People who are most like me will easily fall into my list of “one of us”. Thus, a member of a minority group will quickly add fellow members of that minority, because he knows they can suffer in ways much like his own. He can expand his list of “one of us” by recognizing the humiliation or pain members of *other* minority groups suffer. While the suffering may be different, it is recognizable as humiliation. For example, Native Americans who almost lost their language because of repressive measures in the late nineteenth century should be able to understand contemporary efforts in southern Louisiana to maintain French as a living language in the region rather than just an elective course in high schools. Of course, one need not rely on such a restrictive criterion as ethnicity. Rorty’s own example is of motherhood. A mother in any time period, ethnic group, socio-economic status, etc., knows the pains associated with raising children; therefore, she can include all mothers in her list of “one of us”.<sup>11</sup> Nor should it be difficult to add fathers, since they too share the worries and concerns mothers face. By focusing on similarities rather than differences, a loosely bound group of seemingly disparate members can develop a sense of mutuality and sympathy. Thus, one who remembers the struggles of raising small children is quicker to assist a young parent. He does not owe this assistance in an objective sense, but he may

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<sup>10</sup> Rorty (1989), p. 196.

<sup>11</sup> Rorty (1989), p. 191.

feel an obligation *à la* Wildt to lend a hand.

Mutuality engenders a sense of unity. In some way, “we” are separate and distinct from “them”. In politics, “we” are the citizens, and a central problem of political theory is how united, how uniform, “we” must be. One way to put the question is, how much of the “I” is lost within the “we”? Conversely, at what point does emphasis on the “I” destroy the “we”? The question is as old as Plato who realized his description of the best city must offer an explanation of why the individual should be just, the central theme of the *Republic*. Aristotle raises the question more directly in the *Politics*. He acknowledges that citizens must be partners in some matters, but asks whether they should be partners in everything. Living in the same location is a necessary but insufficient condition for being a city, but if there is too much unity, there is no city. Instead, there is some kind of mega-household or – more frightening – hyper-individual.<sup>12</sup> Aristotle rejects a strong collectivist attitude, for too much unity “would destroy the city” (1260a28-1261b15). A household, much less an individual, is no city. Any group so unified it becomes a household cannot be a city as well. Thus, the good of living in a city (living well) cannot be fulfilled with excessive unity.

Alisdair MacIntyre gives a modern view of the problem in his contrast between patriotism and liberalism, an offshoot of the debate between communitarians and liberals. He sees both sides as “permanent sources of danger” to society.<sup>13</sup> Patriotism is charged with encouraging actions that, while promoting the nation’s good or furthering its goals, might endanger the rest of humanity, or at least a significant part of it. Liberalism,

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<sup>12</sup> The villains of many science fiction stories are collectivist societies in which the individual is absorbed into the larger community. Examples in popular fiction include *Star Trek*’s Borg collective and the insect-like enemy in Orson Scott Card’s *Ender’s Game*.

<sup>13</sup> MacIntyre (1984), p. 18.

however, has been described as minimizing the importance of social and cultural ties, turning the community into a group of individuals motivated only by mutual self-interest. Although MacIntyre has a definite preference for a patriotic morality, neither extreme is ideal, but there is a middle ground between these two sides, which are also divided along the lines of communitarianism/liberalism and collectivism/individualism.

These pairs of words represent the extremes between which the democratic virtue of solidarity lies. To strike the balance between these two extremes is to forge the foundation of a community. From the balance that is solidarity flow the other democratic virtues of tolerance and reflective obedience. It is possible to acquire a weak form of these other virtues in the absence of solidarity, but the true virtue of tolerance and reflective obedience appropriate to a democracy can develop only with solidarity as the groundwork. Solidarity is the cardinal virtue of any community, especially a democracy, for without it a democracy cannot survive. What holds a democracy together is a concern for the community as a whole; unmitigated individualism cannot do the job.

Liberal democracies (such as the U.S.) tend to promote individualism to the exclusion of solidarity, or so communitarians claim. An individualistic attitude certainly benefits citizens as individuals, but what does it do for them *as citizens* or for the community as a whole? Without a commitment to the community, the citizens focus on their own well-being, not the common good. Not looking to the common good, the citizen may not notice that the society is falling down around him. Even worse, he may knowingly advance the decline for his own benefit.<sup>14</sup> Of course, not all who take

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<sup>14</sup> For example, a person who seeks his own good even at the expense of others might engage in drug trafficking (if he thinks he can get away with it). His own participation in illegal activities as well as the increase in others' crimes that result from drug use (such as theft to support a habit) drive up the costs of

liberalism to an extreme are short-sighted. Some may make decisions based on what will be beneficial in the long-term, perhaps for the sake of themselves or their descendants, and those decisions will be similar to those made by a person with the virtue of solidarity. However, the motives and intentions of each person will be different, and even when planning for long-term benefits, the individualist and the person with solidarity will make decisions of sufficiently different character that one might often lead to destruction while the other more often helps build a stronger community. A society in which the citizens lack solidarity faces tough challenges. If liberalism, by its very nature, does not permit solidarity, much less promote it, then any liberal government is likely to fail.

Wildt describes solidarity as a sense of mutuality, and Rorty argues the mutuality is the ability to be humiliated. Rorty urges people to expand their lists of who can suffer humiliation, but he warns that the larger the list becomes, the weaker the sense of solidarity. This problem plagues all understandings of the word, unfortunately. When one expands the definition of “one of us” to include all human beings by saying “he is one of us because he is human”, one has a “weak, unconvincing explanation of a generous action.”<sup>15</sup> Rorty’s conclusion is correct; few find this reason convincing enough to motivate them to act in solidarity.<sup>16</sup> Few people have a universal “one of us” sense of solidarity because it takes an extraordinarily empathic person to feel the humiliation of everyone he hears about. Without an ability to recognize others’ experience of this special kind of pain, one basis of solidarity is lost. It is difficult for

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law enforcement, using funds that could be better used to develop or maintain infrastructure, education, etc., while the dealer focuses on his benefits – enormous profit.

<sup>15</sup> Rorty (1989), p. 191. (For both Rorty and Wildt, any act of solidarity can be described as generous because there is no outside compulsion to aid another, only the obligation a person “feels” he has to the other.

<sup>16</sup> Rorty is right in his description of attitudes but not in his explanation.

those in privileged positions to understand the humiliation often experienced by those living in true poverty or oppression. Often, it is a similar experience that allows one to identify with the humiliation of those in another group.<sup>17</sup> Important as empathy is, though, the mutuality of solidarity must be based on more than just the shared susceptibility to pain.

Amartya Sen makes a distinction that can be used to formulate a response to Rorty. In his critique of traditional economic theory, Sen argues against the notion that all actions are motivated by egoism. His argument rests on the distinction between sympathy and commitment. A person who is pained upon seeing the pain of another or delighted upon seeing his delight feels sympathy for the other. The sympathetic man may work to alleviate pain and increase happiness, but the motive is egoistic; he directly benefits when others are benefited. A woman who feels commitment, on the other hand, recognizes injustice when she sees it and wants to correct it. She is committed to maximizing justice and minimizing injustice. Her motives are not egoistic.<sup>18</sup> Rorty appeals to sympathy and believes one cannot be universally sympathetic; broad statements lose their power. Sen's distinction explains how one can work to improve the conditions of those for whom one feels no sympathy in Rorty's strong sense.

Unlike commitment, "sympathy relates similar things to each other."<sup>19</sup> This description is consistent with Rorty's view, for he argues that one can feel sympathy only for those one finds similar (although he thinks one should try to broaden the set). Benefitting these people directly benefits the agent. Commitment, however, might lead to the opposite effect. Realizing that a group of people is treated unjustly, the committed

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<sup>17</sup> Parks Daloz, et al. (1996), Chapter Three, especially the discussion of marginality, pp. 72-77.

<sup>18</sup> Sen (1977), p. 326.

<sup>19</sup> Sen (1977), p. 327.

woman described above may be willing to sacrifice her welfare for the good of others. This is the heart of solidarity: a commitment to the welfare of the group or its weakest members so great that it leads to sacrifice. How much sacrifice is called for varies, but a total sacrifice is never obligatory.

Solidarity can exist between those who recognize the suffering (actual or potential) of each other and between those who are engaged in a common enterprise with others. This enterprise may be for better working conditions, to win a game, or to keep a neighborhood safe. Because they are working together, there is a connection even stronger than empathy or susceptibility to humiliation. The members of a labor union, softball team, or neighborhood-watch committee can all feel a sense of solidarity with their fellow members. Each knows that he must contribute to the good of the group for two reasons. First, his own good is tied to that of the group. If the union's strike is successful<sup>20</sup>, then each member will benefit from higher wages or safer working conditions. Of course, each member may be called upon to make sacrifices: one may have to give up a paycheck for several weeks or months during the strike, but a successful strike will benefit him, his family, and his co-workers. Those weeks will be difficult but necessary for the common good of the union members, a good that includes his own personal good. Even before the strike (or after a successful one), he must make certain sacrifices. He must pay his union dues and contribute to the strike fund. The worker would like to be able to spend that money on other goods, but his own well-being depends upon a strong union.

A second reason to join the union is that his friends also benefit from it. He might

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<sup>20</sup> In this example, the union's goal is justified and is not making unreasonable demands. Of course, this is not always the case among real unions.

not work in a very dangerous part of the factory, but several of his friends do. He recognizes the possibility of pain his co-workers or their families may experience. In order to ensure their safety, he is willing to be part of the union and strike if their safety or wages are below acceptable levels. This second reason, the welfare of his friends, may be related to his own good, for these co-workers are his friends, and anything bad that happens to them happens to him as well. The worker strikes to protest unfair practices on the part of management, partly to prevent management from doing the same to him, partly to protect his friends, and partly because what the management is doing is simply wrong. The worker knows that he might benefit, a friend might benefit, but at least some person, even a stranger, will benefit because a wrong has been stopped. This stranger, however, is also part of the union and part of the industry, someone who risks humiliation by mistreatment.

Solidarity, then can work at a broader level than just personal relationships. The worker may not have worked in the dangerous area in years (a benefit of seniority and promotions), yet knowing the dangers, he wants to put an end to them so that no one will be put at unnecessary risk, even those he has never met. Likewise, workers in a different industry may initiate a sympathy strike to show their support for the other workers. This support is a sign of solidarity between the workers. Each individual knows that he alone cannot change the company's policies, but if the workers band together, then they can make much-needed changes. They work not only for themselves, but also for each other against a common "enemy" and for a common purpose. Solidarity is, in part, cooperation to meet a common goal, yet it is much more than that, too.

Without a bond, the workers will face difficulties in the collective bargaining



process. When too many workers cross the picket line, the company has little problem meeting its production quotas and suffers no economic damage. On the other hand, when the workers are willing to make sacrifices, both for their own future benefit and for the benefit of workers whom they have never met, they present a powerful force with which the company must bargain. While the sacrifice one makes is often for one's own good and for the good of friends and family, the sacrifice and bond can also be with those one has never met. Yet, a bond still exists, a bond of good will, a desire that the others be treated fairly. If this bond does not exist, then the union is not the result of solidarity. Unions can abuse (and have abused) their power and serve only its leaders. Once the union, or any community, begins to exist for its own sake or only for the leaders rather than for the individual members, it becomes destructive. This is the sublime beauty of solidarity: out of concern for *each individual* (not just one's own good), one works for the *common good*.

While many of my examples have focused on labor relations, they are not the only ones. As an antidote to generations of discrimination, federal law and many companies' have adopted affirmative action policies. In short, the policies advocate preferential treatment be given to groups whose members have been discriminated against in the past. The goal is to help more members of these groups achieve higher levels of education and positions of authority within businesses and government. Of course, if selected groups are given preferences, there are some people in the majority group who may be qualified for the job, scholarship, or other benefit that does not receive it. Certainly not everyone agrees with affirmative action policies, but many in the majority group do support them even though it means their own loss. A supporter's

reasoning is that although the policy may make it more difficult for him to reach certain goals, he still has a better chance than members of the minority groups. Furthermore, while it may not be fair in a strict sense that certain groups receive preferential treatment, unfair practices in the past have made it more difficult for them to achieve the same goals that the majority supporter may be able to reach. That is, without affirmative action, many others would be left worse off than he is under such a policy. Out of a spirit of solidarity, he supports affirmative action even though he is not immediately helped by it and might even suffer some harm from it.

Solidarity is an antidote to extreme individualism, but it does not deny the rights or needs of the individual. Extreme individualism values the needs of the one over the needs of the many and results in a callous egoism. Solidarity responds to this attitude not by reducing the value of the individual, for he is still important. Individuality still exists; the obligations that come with solidarity are self-imposed. The obligations are a result of the various bonds a person chooses to cultivate with others. Therefore, these bonds are an expression of his individuality. In working to support and strengthen his community, he serves himself. He also supports those whose values he shares, but he need not share every value with those he supports. There may be enough overlap that he can support those with whom he has disagreements. In this way, the virtue of tolerance can grow out of solidarity. He respects the individuals in his community, individuals with whom he shares some values, and he protects the differences they have. In order to support this individuality, he works to strengthen the community that allows it to flourish.

This example shows that a positive bond of good will can exist beyond more than just co-workers or workers in general. Solidarity is not limited to the labor movement.

University students have gone on strike in France as well as in the United States.<sup>21</sup> Consumers can also enter the bond by participating in boycotts or other campaigns to combat unjust wages or working conditions or policies endangering the environment. Likewise, opposition to segregation or other injustices can be examples of solidarity: boycotts were the grassroots response to Apartheid in the 1980s. Sacrifice is a sign (but not always necessary) of this solidarity. The worker who strikes on behalf of another industry forfeits his wages. The consumer who buys a more expensive brand because it is more environmentally responsible forfeits some of her disposable income on behalf of future generations. A student who strikes still pays tuition but loses class time and runs the risk of serious grade penalties. This sense of solidarity, when rooted in justice, can run very deep. A colleague once told me, "As much as I like beer, I will not drink [brand x] even if it's the only one available." The anti-union tactics of the brewery led to a nationwide boycott a generation ago. Many people still observe the boycott despite many changes in the management style of the brewery.<sup>22</sup>

This description of the need for solidarity in the labor union is analogous to that need in the civic community. If no citizen has an eye on the common good but looks out only for himself, then the society will be as unsuccessful as a labor union full of workers crossing the picket line. A community full of individuals acting purely out of a narrow self-interest is no community; there is no friendship and little concern for justice or

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<sup>21</sup> Some strikes include those at the Catholic University of America (1960s) over denial of tenure to a professor and at Harvard University (2001) over just wages for the lowest-paid staff members such as custodians and cafeteria workers.

<sup>22</sup> Perhaps this is an imperfect solidarity for it refuses to forgive and incorporate those who were once opponents. There is a refusal to expand the list of who counts as "one of us".

motivation to do what is right because it is right or just.<sup>23</sup> While Adam Smith is right that self-interest under the right circumstances can promote certain aspects of the common good, self-interest alone cannot produce a benevolent, invisible hand; self-interest must be tempered with genuine solidarity. Extreme individualism judges every action on the answer to one question: What will benefit me or my closest associates the most? Such attitudes are destructive to the community because factions develop. It is a city full of factions that Plato worries will collapse under the pressure of a demagogue, degenerating into a tyranny.

The success of a community depends upon the willingness of its members to work not just for themselves but also for the sake of the other members of the community. No community is an entity in itself, and it should never be treated as such. The value of a community is found in what it provides for its members and their well-being.<sup>24</sup> The community exists for the sake of the individual; therefore, its survival cannot demand the sacrifice of individual members. However, a successful community, one founded on solidarity, will have members who willingly sacrifice themselves to one degree or another for the sake of their fellows.

A community, whether nomadic tribe or modern nation-state, can be said to have a virtual life of its own in that it has a history which, although written by past individuals, shapes new and future individual members. This life is virtual because while there is something larger than an individual here, this thing is not primary. Individuals exist prior

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<sup>23</sup> Communitarians usually criticize liberals for their over-emphasis on justice and neglect of friendship. Neera Badhwar (1993) responds to this critique by arguing that friendship and a sense of community require justice. The importance of justice will become more apparent shortly.

<sup>24</sup> See Aristotle (1984), 1287b 23, "The good life then is the chief aim of the society, both collectively for all its members and individually." People gather in cities not merely to live but to live well. They want to increase their own good by joining others in the pursuit of the good life.

to the community both in time and in importance. Therefore, whatever we say of the community that is similar to how we would describe an individual is said analogously. While a community acts and engages in a project, it does not do so in the same way an individual does. An individual person can make conscious choices, and a community can virtually make a choice. The difference is that the community makes a choice because its individual members reflect and choose. A community cannot be autonomous as an individual can be. A community cannot even exist without individuals although individuals can exist (but not flourish) without a community. The founders shape a community and give it structure and purpose, and through its virtual life, the community shapes future generations. The history of the community eventually becomes a narrative, and then individuals derive at least part of their identity from the community and its history.

A narrative is history but more than a chronicle. While a chronicle relates what has happened, a narrative identifies which of those events are important and why. A narrative tells a story; in the case of a community, the story is “Who We Are” or “How We Came To Be”. A narrative provides a way for the community to understand itself, to see where it has been and where it should be headed. Without this narrative, no community can exist. A group without a communal narrative is not a community but a group of persons who live in a certain geographical area with no ties to each other, no way of relating to each other on any level other than that of mutual advantage. Without a communal narrative, the individuals do not see themselves as part of a group. Fraternal orders develop elaborate initiation rituals that explain the purpose of the group and put members through a common experience to bring them closer together. Many religious

rites do the same; they have stories, perhaps acted out, that explain where they came from and who they are. The script for the Seder Supper requires the youngest child to ask the father of the family why the night of Passover is special, why it is different from any other night. The answer is that something special happened on this night, something that made these people into a nation. These rituals bind the individuals into a community: religious, ethnic, or fraternal. Without the rites, the persons remain individuals; they do not, nor can they, consider themselves engaged in any common enterprise at a meaningful level which is the essence of solidarity. At this weak level, a member will leave the community whenever it becomes too costly to remain. One who feels a genuine bond to the community and derives his identity, at least in part, from the community will not be so quick to leave. This member may be more likely to stay if the community benefits, even if that member will suffer.

Alexis de Tocqueville stresses that this bond forms not from sharing a geographical area or even common laws but from a shared history. "History" as he uses it, however, is a narrative, for the people also share a common set of mores.<sup>25</sup> A shared history leads to shared customs and values, and these are valued because the narrative has taught their importance to the community's identity: we are a people who value *x* and *y*. It is through this narrative and shared customs and values that the bond of solidarity is formed. They also shape the laws the people adopt, live by, and possibly die to defend.

Solidarity, then, can be based on a common history that generates common mores, but solidarity also includes a willingness of the members to look at each individual as valuable in himself. By recognizing their common roots, each individual recognizes the other members as having a status equal to his own. All members of the group have the

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<sup>25</sup> Tocqueville (1994), pp. 321-322.

value he has. This inherent value is one form of mutuality among the citizens, and mutuality is necessary for solidarity. No matter how long a people have shared a region, history, or even narrative, they are not a community and the members do not have the virtue of solidarity if they view each other primarily as instruments. Unless one regards *himself* primarily as an instrument, there is no mutuality if he regards others that way. If the common attitude is that others are instruments, then everyone is out for his own good. Recognizing the intrinsic value of others can lead to different attitudes: all humans have rights, all humans should be respected, all humans should be loved, etc. Any of these attitudes can serve as a foundation for a form of solidarity because it brings the individual out of himself and his own concerns and enables him to consider the rights or needs of others as important for their own sakes, just as he considers himself important for his own sake.

Individuals who live in a group but do not consider themselves as bound together in a community, those who do not see their own life stories as chapters in the communal narrative, have no deep commitments to each other. The various members joined the group and work for the group's survival only out of self-interest. As soon as defense of the group fails a cost-benefit analysis, the members will no longer support it. If, however, an individual identifies more closely with the group, if an individual finds the group important not only out of self-interest but also as a source of identity, then he is interested in the group not only for his own sake but also for the other members of the group – his people, whom he calls “us”. This group, one in which the individuals care for the group itself due to a communal narrative as well as value and care for one another, is a community while the other is not. The members do not consider each other as merely

economic partners; no member regards the others as a means to his own end but as partners in something that serves everyone. Rather than bailing out when problems arise, the member of a true community continues to fight for the survival of the community – sometimes to the point of his own death. Hence, some make the argument that no country worthy of existing should have to resort to conscription to raise an army. If members are unwilling to defend it, then they have placed little value on the community itself or its members. Perhaps it is better to let such groups collapse. However, it is not true that every nation that can raise a volunteer army is a healthy, strong community that benefits the world. Demagogues have a habit of generating fervent support for questionable goals.

The mutuality of solidarity, then, contains a sense of community, a sense of being tied together by something other than and greater than personal self-interest. Community provides more than mere economic gain but also a sense of identity. One living in a community might even consider the community to be more important than himself and that the community's survival takes precedence over *his own* survival.<sup>26</sup> This solidarity is the product, in part, of a communal narrative. When a number of individual persons share a source of identity and a common purpose, they are bound together by more than mere self-interest. But how do these bonds form? How does a group form a communal narrative?<sup>27</sup>

More specifically, one might ask what narrative the citizens of the United States

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<sup>26</sup> The liberal democrat should never force the sacrifice on someone else; this would be a gross violation of the other's autonomy. Nor will all members be willing to sacrifice themselves. Solidarity can lead to martyrdom, but it does not demand it.

<sup>27</sup> The communitarian extreme of this virtue, however, would place the individual at the service of the community. Extremists would, if necessary, sacrifice an individual for the sake of the whole. The liberal extreme would condemn a forced or free sacrifice for the community, but the virtue of solidarity calls for balance. The community may not demand the sacrifice of a member, but it praises supererogatory acts of voluntary self-sacrifice.



share. The nation is only a little over 200 years old; it is cobbled together from indigenous peoples and former British, French, and Spanish colonies; furthermore, most citizens' families have been part of the community for only a few generations. It would seem that there is little to tie this group of more than a quarter-billion people together. For most Americans, the communal narrative is not so much the story as the goals and ideals the nation strives for and represents. These goals and ideals are best understood by studying the history of the U.S. – the revolution of the Founding Fathers, the Civil War, the civil rights struggle, and the expanding role the nation plays in world politics. What unites so many Americans is the relationship each has to these goals and ideals. In fact, some Americans claim ancestors directly involved in those struggles mentioned above while others have ancestors who came to enjoy the benefits won in early struggles and have worked to expand them. Some Americans are new immigrants also hoping for the better life promised by the achievements of the nation. The nation has a common narrative: the hope for freedom and the efforts to guarantee and expand that freedom. The citizens agree, at least in general, on what is good for them.

The communitarian conception of community is one in which, as Neera Badhwar describes in her discussion of communitarianism, “two or more individuals constitute a community when they share a common conception of the good, and see this good as partly constitutive of their identities or selves.”<sup>28</sup> This communal narrative provides a lens through which members of the community may view the world and their place in that world. Studying the history of a people provides insight into how the individuals think and live, what they consider to be good or bad, desirable or unpleasant. In short, one will have a better grasp of what drives the individuals and the community as a whole

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<sup>28</sup> Badhwar (1993), p. 251.

to action. The constitutive good of an individual is that standard from which he derives a part of his identity and by which he judges the world and decides what to do. Members of a community, according to the definition above, share a conception of the good that has been formed by the communal narrative and contributes to the formation of the self of each individual.

The narrative shared by members of a community supplies a basis of mutuality that is deeper than the common susceptibility to humiliation Rorty describes. With this notion of solidarity, however, it would seem that the criticism that solidarity is not possible in a liberal society is true. John Rawls argues that any liberal democracy cannot help but become a pluralistic society. Liberalism argues that society must be based on the rights of the individual, not on any particular conception of the good; therefore,

[u]nder the political and social conditions that the basic rights and liberties of free institutions secure, a diversity of conflicting and irreconcilable comprehensive doctrines will emerge, if such diversity does not already exist.<sup>29</sup>

Rather than sharing a comprehensive doctrine of the good as a community, each individual will have his or her own comprehensive doctrines.<sup>30</sup> This diversity, however, seems contrary to a sense of solidarity. If solidarity depends, in part, on a communal conception of the good, and liberal democracies do not have a common conception of the good, then solidarity is not possible in a liberal democracy. Because solidarity is also a necessary quality for the survival of a community, a liberal democracy is not a viable community.

It is this notion of the impossibility of solidarity in a liberal democracy that I

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<sup>29</sup> Rawls (1989), p. 235.

<sup>30</sup> This is not to say that a number of individuals will not share a comprehensive doctrine; members of the same religion will share such a doctrine of the good. Rawls' point is that the community as a whole will not share, nor should it, a doctrine of the good that covers all aspects of life.

challenge. A common communitarian critique of liberalism is that pluralism about the good divides its members of a liberal community and prevents them from forming true solidarity. The definition of solidarity can be refined in a way to respond to this critique. Holding a common conception of the good is certainly one foundation of solidarity, but also effective is holding of a common conception of the right, and this is much easier to achieve than the common conception of the good.

A conception of the good is an account of what is valuable and morally good. If this account is a constitutive part of a person's identity, then he bases his decisions and actions on this conception of the good. On the other hand, a conception of the right does not place value on any particular conception of the good. It emphasizes the right of individuals to choose their own views. While each individual has a comprehensive view or doctrine of the good, the society as a whole has a doctrine of right. Respecting the rights of its citizens, a liberal democracy does not endorse any particular comprehensive doctrine of the good; however, there must be some rules governing society, for complete freedom leads to anarchy. Therefore, the members of the society recognize the natural rights or establish the civil rights of its citizens and create a political conception of justice. This creation need not be the result of a constitutional convention, as in the case of the United States; it is a function of the individual members living out their lives within the framework of the society. The political conception is what Rawls calls an overlapping consensus of the various comprehensive doctrines of the good found within the society and is part of the conception of the right. Both conceptions are active in the culture and play a role in the development of the political structure: what citizens cannot do, what they allow themselves to do, and what they must do. The political conception of

justice draws on these various individual views of justice to form a (more or less) coherent whole. The political conception is not just an amalgam of views found in the society, but a construction of the consistent views. The political conception of justice is based on the notion of rights, and includes that which the individual comprehensive views allow. Thus a conception of the right is a product of the various customs, values, and histories of the various sub-cultures in the larger community. Incorporating what is common to each, a conception of the right (an overlapping consensus) becomes a source of solidarity. One sub-culture that is fairly new to the larger culture may not have a shared history, but the shared mores not only allow but foster bonds of solidarity.

Because each member of the society has a different comprehensive doctrine of the good, each member will have a different reason for choosing his actions. Yet, with the overlapping consensus found in the political conception, many members will be choosing the same actions, albeit for different reasons. One's comprehensive view of the good is one's ultimate reason for acting and reason for accepting the political conception of the right. The political conception is a reflection of the dominant comprehensive views in society. Although the comprehensive view plays a larger role in forming the identity of an individual, the political conception cannot be ignored, for it grows out of the life of the community. It is a product of the various comprehensive doctrines lived out by individuals who constantly interact with one another.

As sub-cultures interact, members find points of similarity and dissimilarity. If the points of difference are too great, one sub-culture may withdraw and close in on itself and no longer see itself as part of the larger group. The Old Order Amish is one such group. They do not share a sense of solidarity with the larger American culture that most

Jews, Christians, Muslims, and most other religious and ethnic groups share. Those sub-cultures that find enough points of similarity retain their differences yet find ways to work together. Thus, members of various religions and races participated in civil rights protests. The mores they held in common led to their cooperation on the political and moral level. While solidarity creates a bond among many people, it does not result in a monolithic culture. If it did, then solidarity could not be a virtue of citizens in a liberal democracy, which is inevitably pluralistic.

A person may draw his identity from the commandments of his religion as well as the rights protected by his society. In a liberal democracy, it is the political conception of justice, which includes emphasis on individual rights, that allows citizens to act in accordance with their own comprehensive doctrines of the good. Often, individuals begin to see this possession of rights as centrally important to their conceptions of themselves. In short, the devout Catholic who sees himself as Catholic and acts in accordance with the teachings of the Church may also see himself as an American who has the right to act in that way. The freedom to act in the way he chooses is part of his identity; he sees himself as empowered to make such choices.

Just as a comprehensive doctrine of the good is constitutive of a person's self, so is a political conception of the right or justice. Hence, one can draw part of one's identity from membership in a liberal democracy. In a tight-knit community in which everyone shares a comprehensive doctrine of the good, each member derives his identity from that account of the good. On the other hand, in a liberal democracy, one derives his identity from his personal comprehensive doctrine as well as the public, political conception of justice. The political conception is drawn from the life of the community. It develops as

the community grows and changes. Because the citizens shape the political conception through their interaction in the public sphere, it is a communal construct. Therefore, even a liberal democracy counts as a community in that its members share a conception of the right and this conception is constitutive of their identities.

The citizens of liberal democracies share the idea that humans *qua* humans (not just *qua* citizens) have rights that everyone and every government must recognize. Not only does this play a role in the development of each citizen's idea of himself, but it shapes the way both individuals and the society as a whole face the world. The individuals see themselves as part of a common enterprise, the preservation of freedom – both their own and that of others. The citizens have a conception of justice which they act on in their own society and are willing to defend. They realize that their own well-being, including their freedom, depends upon the survival of the society; therefore, they are willing to work to preserve it. The citizens do not stop here, though. Liberal democracy often works not only to maintain the freedom found in its own society, but also to spread that notion of freedom, as evidenced by the World War I slogan "To make the world safe for democracy," or the series of Norman Rockwell paintings, titled after the freedoms guaranteed in the First Amendment, to promote the buying of war bonds during World War II.<sup>31</sup> The value placed on each member of the society includes future as well as present members. Furthermore, the full-fledged virtue of solidarity extends beyond the borders of one's own community. While the basis may be shared mores, the

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<sup>31</sup> How aggressive a liberal democracy should be in spreading its notion of freedom is a difficult question. To impose a government on a people that has not asked for it is a violation of liberal principles, even if one argues, "If they knew what they were missing, they would ask for it." This is a paternalistic liberalism Isaiah Berlin (1969) calls positive freedom. However, should a large number of people in a nation ask for help in establishing a democratic regime, then the older democratic nation must weigh the pros and cons of intervening. The decision should be based as much on the established democracy's political conception of justice as on its national interests. The latter may require the support of unjust regimes but would violate the broader solidarity the citizens should feel with those struggling for democracy and justice.

inevitable pluralism of a liberal society forces one to recognize that one's fellow citizens are not the only humans who have value in themselves. Experience with a wide cross-section of cultures makes it evident that all people have such value and, therefore, rights. However, this broader degree of solidarity goes beyond the democratic virtue. Perhaps "benevolence" is better suited for this wider acceptance of human beings.

A liberal democracy is not based on the idea that individuals must be left alone to pursue their own goals. Instead, a liberal democracy is a community in which the members, in spite of differing comprehensive doctrines of the good and different religions, creeds, ethnic backgrounds, and political ideals, work and live together. They work to preserve the society, not only for their own benefit but also for others out of a sense of justice. Workers from one industry strike to support workers in another industry. White citizens march alongside black citizens, and non-indigenous citizens help aboriginal peoples who are fighting to end discrimination on the basis of race. Straight citizens work with gay citizens who are fighting to end discrimination on the basis of sexual orientation. Of course, there would be no need for this cooperation if everyone recognized and respected the rights of others, but the political conception cannot capture each and every view of justice in the society, only the dominant views which are consistent with each other. Furthermore, even when most citizens agree, people of good will can disagree over how to interpret the rights or how best to apply them. The majority of the citizens, who share the political conception, agree that it is right for all people to be treated in accordance with that idea of justice, but they do not always agree on what justice requires. The citizens see their effort to act justly not merely as an exercise in self-interest but in protecting the rights enshrined in the political conception.

Often, it also includes an appeal to what it means to be part of that group. For example, Martin Luther King, Jr., argued for racial equality not only on grounds of natural justice but also on grounds of the norm of positive justice as established in the history of political philosophy and practice in the United States.<sup>32</sup>

Those citizens who see that a majority of their liberal democracy's actions are consistent with their own respective comprehensive doctrines of the good believe that their society is worthy of preservation. They will work to keep the society, the culture (made up of the various subcultures), alive and prosperous. However, all these actions should be within the guidelines established by the political conception of justice. The members of the society, then, are engaged in a common purpose and have a common view of what is just to guide their actions. Such being the case, the members of a liberal democracy can have a sense of solidarity, the notion of being bound together. Therefore, a liberal democracy is not guaranteed to fail due to a lack of community. More importantly, a liberal democracy can have a strong sense of solidarity not in spite of but because of differences among individuals and still foster individual pursuits.

This political conception of the good helps the members of the community identify a common good. There is something that a vast majority of the citizens value and want to protect or enhance. Solidarity always seeks to further the common good, and it can be argued that working for the common good serves individuals better than working for individual goods serves the community. In other words, Adam Smith may be wrong in hypothesizing an invisible hand that benevolently guides the various individual pursuits to serve the common good. He believed that by allowing individuals

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<sup>32</sup> King (1986a), p. 217.



to focus on their own interests, the community as a whole will benefit.<sup>33</sup> Mainstream thought, at the time Sen wrote “Rational Fools” and “Choice Orderings and Morality” suggested the opposite is true, although for different reasons.<sup>34</sup> Albert Hirschman argues that individuals tend to move back and forth between serving themselves and serving the community. Each pursuit has its own rewards but is not fully satisfying, thus the gradual shift from one to the other and back again. This is a different point, compatible Sen’s position. For example, a person earns money mostly for himself and his family, but he also gives to charity, especially in emergencies. Amartya Sen takes a different approach by arguing that the prisoner’s dilemma demonstrates that pure self-interest is damaging to one’s goals. He concludes that one is better off if he acts “as if” he were interested in the community’s welfare. Both approaches are worth examining.

Hirschman begins his study of shifting involvements by examining how economic theories view human beings and how humans make decisions. Unfortunately, economics leaves out important considerations, namely the disappointment that follows many purchases.<sup>35</sup> While some purchases may generate considerable pleasure at first, the pleasure usually fades over time. Either a person is disappointed because the item did not live up to his expectations or it becomes a source of comfort, a rather mild form of pleasure at best. Hirschman uses the example of purchasing an air conditioner, and it can be expanded to illustrate both problems with a purchase. At first it is a source of great pleasure, a wonderful relief from the oppressive heat. Over time, the buyer becomes accustomed to the air conditioner, and he takes it for granted. Rarely does he think,

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<sup>33</sup> Smith (1981), p. 456.

<sup>34</sup> It was Sen’s work that has helped shift mainstream thought to accept this approach.

<sup>35</sup> Hirschman distinguishes between the durable and consumable goods. Consumable goods often provide the greatest pleasure but are consumed (hence, their description as consumable) in the process. A fine meal may be enjoyable, but it may be enjoyed only once.

“Wow, this air conditioner is wonderful!” On the contrary, he may be startled at the enormous utility bills he now must pay. The air conditioner does provide some pleasure, but there is a cost – higher bills. Also, the air conditioner becomes commonplace, and he rarely reflects on the pleasure it provides. Taking an active role in the life of the community is similar to economic activity: the agent has expectations about the involvement, but his actions also yield disappointment or dissatisfaction because no one’s expectations are ever fully met. Disappointment drives the economic man to purchase something else and the citizen to shift back and forth from the private to public life.<sup>36</sup>

Not all societies draw a line between public and private lives, but the distinction is inherent in liberal societies. Hirschman believes this dichotomy is important because without it there could be no shift from private to public life or the reverse when a citizen finds one mode disappointing. Because this distinction exists in liberal societies, the citizen who finds the pursuit of individual goals ultimately unfulfilling has an option: public life. What drives a citizen of a liberal state to public action is disappointment in “consumption activities”, and it is disappointment in public life that drives him back to private pursuits.<sup>37</sup> Individuals, not society as a whole, move through this cycle, each at his own pace, although some individuals never swing far from one end of the spectrum or from the middle. Of course, major events can move vast portions of the society to one end of the spectrum or the other, and the result will be massive social action such as the civil rights movement or Vietnam-era protests. Shifts in the society’s stance may not often be so grand, but Hirschman notes that “a fairly regular alternation between liberalism and conservatism – with each phase lasting from 15 to 20 years – was found to

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<sup>36</sup> Hirschman (1982), pp. 10, 32-38.

<sup>37</sup> Hirschman (1982), p. 63.

have a distinctive *and* positive characteristic of American politics since Independence.”<sup>38</sup> For Hirschman, the liberal and conservative approaches are roughly equivalent to the public and private lives, respectively.

What makes Hirschman’s observations important to solidarity is pleasure and good found in *both* the public and private modes of life. Each is beneficial to the individual and to the society as a whole. Solidarity, as I have tried to develop it, is an integration of the private and public. Perhaps they cannot be integrated neatly to produce a smooth and shiny alloy, but they can be woven together, with each thread noticeable and distinct from the other yet forming a beautiful tapestry.

For Hirschman, there is a distinction between the private and public life, and serving both, through rarely possible at the same time, is a good thing. Rorty would agree insofar as he thinks it impossible to reconcile one’s private and public lives. They are like the poetic east and west that shall never meet. No reconciliation is possible, and looking for one is fruitless. Much of political philosophy, however, seeks just such a union. Plato, Adam Smith, Immanuel Kant, Karl Marx, and a host of others propose solutions to the problem. They include advocating a collectivist approach of abandoning personal interests to seek only the common good, seeking only one’s personal benefit as the surest way to serving the common good, and serving only one’s personal interests without any regard or desire for the common good. Smith’s view that seeking one’s own benefit is the best path to achieving the common good has enjoyed widespread acceptance. While he initially proposed it in an economic context, the view has “indeed permeated the economic thinking of a large number of people who are in no way

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<sup>38</sup> Hirschman (1982), p. 132. Hirschman refers to Arthur M. Schlesinger’s, “Tides of American Politics”.

economists.”<sup>39</sup> The interest and concern over the economy is not restricted simply to economists; economics has come to dominate political campaigns. While other issues are certainly discussed and play a role in voters’ decisions, the enduring slogan of the 1992 Presidential Campaign captures many voters’ primary political or public concern: “It’s the economy, stupid.” Amartya Sen challenges this approach by proposing another way of approaching the problem than, “How will it help me have more buying power?” Using game theory, Sen advises that each citizen act as if he were more interested in the common good than his own. The result will be better for everyone – as individuals and as a community.

Sen uses the Prisoner’s Dilemma to illustrate the importance of one’s values in determining whether the outcome is beneficial or detrimental. In the standard model, two prisoners are held separately and questions about a crime they committed. Should Prisoner A confess, he will receive immunity from prosecution, and the other will receive the maximum. If A does not confess, but the other does, then A will receive the maximum penalty while B will be immune. If they both confess, they will receive a reduced sentence. If neither confesses, both will be tried on a minor charge and receive a much lighter sentence than if both confess.<sup>40</sup> If the prisoners have selfish motives, each wants the best pay-off for himself, regardless of what happens to the other. To avoid the worst pay-off (maximum prison time), each decides to confess. Confession is the rational choice because there is no prior agreement or ability to communicate to decide what to do. This rational choice leads to the second-worst pay-off possible: the reduced sentence, rather than the minimum sentence or immunity. It appears, then, that the

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<sup>39</sup> Sen (1977), p. 321. Sen quotes K.J. Arrow and F.H. Hahn, *General Competitive Analysis*.

<sup>40</sup> Sen (1974), p. 56.

rational, self-interested approach is not conducive to what is in one's self-interest.

Changing the model, Sen allows the prisoners to make an agreement beforehand: neither will confess. "Each prisoner will do the right thing" because each is confident the other will.<sup>41</sup> Before beginning their crime spree, the prisoners realized that they would be better off if they do not confess should they be arrested. Therefore, each prisoner enters and keeps a contract or promise that he will not confess. Keeping the contract, neither receives immunity, but neither receives the full or even the reduced penalty. Rather, they can be tried only on a minor charge with a minimal penalty. The "as if" aspect comes into play at this point. It does not matter what the motives of the prisoners were upon entering the contract. Whether each was seeking only his own interest or there was some concern for the other, each entered a contract and kept it. Doing so ensured the second-best pay-off possible. Working within a group whose members have confidence in one another to keep promises better serves a person's own interests than seeking only his own good.

A second change produces even more interesting results. Different motives (or acting as if one had different motives) could produce potentially better results. The first model assumes each prisoner is concerned only with what he should choose to benefit himself, but the pay-off is poor. The second model assumes each prisoner will keep a contract to benefit himself given that he has some assurance the other will keep the contract, too, and the pay-off is much better. A third model would guarantee the better pay-off without needing any assurance of keeping a contract. Sen describes this model as one that will "guarantee the optimum unconditionally."<sup>42</sup> Rather than standard prisoner's

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<sup>41</sup> Sen (1974), p. 60.

<sup>42</sup> Sen (1974), p. 61.

dilemma preferences (first model) or the assurance-game preferences (second model), this third model assumes other-regarding preferences. In both the second and third models, not to confess provides the best outcome. However, in the second model it depends on others keeping promises. In the third, everyone is committed to the common good, even at a personal cost. Consider the following tables Sen uses to rank the outcomes from most preferable to least preferable.<sup>43</sup>

$A_0$  or  $A_1$ : Prisoner A does not confess or does confess, respectively  
 $B_0$  or  $B_1$ : Prisoner B does not confess or does confess, respectively

Assurance-Game (second model):

A's preferences:  $A_0B_0$ ,  $A_1B_0$ ,  $A_1B_1$ ,  $A_0B_1$ .

B's preferences:  $A_0B_0$ ,  $A_0B_1$ ,  $A_1B_1$ ,  $A_1B_0$ .

Other-Regarding (third model):

A's preferences:  $A_0B_0$ ,  $A_0B_1$ ,  $A_1B_0$ ,  $A_1B_1$ .

B's preferences:  $A_0B_0$ ,  $A_1B_0$ ,  $A_0B_1$ ,  $A_1B_1$ .

In both models, A and B prefer not to confess, but if there is doubt the other will not keep his end of the bargain, the other is willing to confess. The order of preferences differs because of the lack of trust. In the third model, however, while each prisoner wants what is best for himself, he also hopes the other will benefit as well. He is willing to refuse to confess even if it might hurt him. Because both are committed to the common good and considering the welfare of others, both benefit.

A fourth model, which Sen does not consider, is what I call the Sacrificial Lamb, and it reveals that extreme altruism is unnecessary. If each prisoner sacrifices his welfare trying to save the other, the order of preferences for each would be:

Sacrificial Lamb (fourth model)

A's preferences:  $A_0B_1$ ,  $A_0B_0$ ,  $A_1B_1$ ,  $A_1B_0$ .

B's preferences:  $A_1B_0$ ,  $A_0B_0$ ,  $A_1B_1$ ,  $A_0B_1$ .

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<sup>43</sup> Sen (1974), pp. 59 and 60, respectively.

If everyone were to deny his own welfare in favor of others', the result would be the same as in the second and third models. Although in the fourth model each would refuse to confess and hope his partner would confess (giving his partner immunity while condemning himself to the maximum penalty), both would end up not confessing. What is different is the order of the preferences in the last three models. One is morally superior to the others, and that is the third model. Unlike the assurance game, having regard for others leads to the best outcome without any enforcement of contracts or promises. Unlike the sacrificial lamb, having regard for others does not require sacrifice of the self. Notice that in the fourth model, the first preference is not that both benefit but that the other benefits. This is altruism run amok because self-sacrifice is not always needed, but apparently is a preferred outcome for each prisoner. Such a spirit of sacrifice is not needed to bring about the best outcome, but a spirit of concern for the other is needed.

Solidarity does not require self-sacrifice. It does, however, require that people be aware of others' welfare and take that into consideration. Sen takes pains to make clear that the actual motives of the prisoners (or citizens in a community) are unimportant. Whether selfish or altruistic, the prisoners only need to act *as if* they are concerned with one another's welfare. Whether selfish or altruistic, *the citizens* only need to act *as if* they are concerned with one another's welfare. In both cases, the best outcome for each individual is more likely than when they act *as if* they are concerned only with themselves.

If solidarity is a virtue, acting only as if one is concerned with others is not genuine solidarity. To have a virtue, one must possess the right motives and reasons; the

virtuous man does not act as if he were virtuous, for he is virtuous. Then what does Sen's conclusion mean for solidarity and public welfare? If citizens only need to act as if they care about others' welfare, they do not have the virtue of solidarity and are not truly committed to the community. Thus, there may come a time when members decide the cost is simply too high and reject the community in one way or another. For example, one might leave while another might become a free-rider, accepting the advantages of living in the community without contributing to it. Acting as if one has the sentiments of solidarity can be an effective means of developing that virtue. The Aristotelian model of virtue gives habit an important role in the development of virtues. With the proper examples and practice, a person moves from acting in the manner of a virtuous person to becoming a virtuous person. In other words, one moves from acting *as if* he were virtuous to becoming virtuous. Although Sen is not attempting to define or defend solidarity, he does suggest people act in a way that will lead to the virtue of solidarity.

Solidarity is a virtue that seeks the balance between an alienating individualism and a stifling collectivism. Human beings are individuals and should be able to engage in private projects and pursuits. Yet, humans are more than featherless bipeds; humans are social or political animals. We flourish only within communities, and successful communities require some degree of self-denial and recognition of the value of others by all members, both of which are part of solidarity. More specifically, solidarity is the disposition through which a person recognizes the obligations he has to other individuals and the community as a whole, and these obligations rest on mutuality. As citizens individuals within a liberal democracy are equal and interact as equals. If they do not, then the *liberal* democracy becomes something else. Yet, what happens when these



**equals disagree and their comprehensive doctrines of the good conflict? Plurality will develop in a liberal democracy, and conflict is an inevitable part of such a community – indeed of any community. The citizens who possess the virtue of solidarity must develop another virtue: tolerance. The recognition of mutual citizenship provides the framework to sort out what one ought to tolerate and why.**

## **Chapter Three**

### **Tolerance**

In Chapter One, I gave a brief outline of a conception of virtue, and in Chapter Two I discussed in detail the virtue of solidarity. Now I turn to the virtue of tolerance and will develop four main points: (1) what tolerance is; 2) what makes it a virtue; (3) how it is related to solidarity; and (4) why it is necessary in a democracy.

An initial working definition of tolerance by John Horton is “the refusal, where one has the power to do so, to prohibit or seriously interfere with the conduct that one finds objectionable.”<sup>1</sup> This definition provides us only with a starting point because the definition, while helpful, raises two questions: (1) On what grounds may one object to a specific action – moral grounds alone or also on matters of taste? (2) Are only those capable of prohibiting conduct able to be tolerant or intolerant? Could someone who cannot (but would if able) prohibit certain conduct be a tolerant person? Horton does not defend this definition because he admits that one can speak of the tolerance exercised by those not in a position of power; however, this definition identifies two important problems in any discussion of tolerance.

An argument against this working definition is the same argument used against those who deny that members of an oppressed group can be guilty of racism or

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<sup>1</sup> Horton (1996), pp. 28-29.

ethnocentrism (attitudes that easily lead to intolerant actions). Some contend that only a person in a position to act on his inclinations can be racist. In other words, that one believes members of a particular ethnic group are inferior or particular actions are objectionable, is not sufficient grounds to call him a racist person. For example, a person may think those of another ethnicity are inferior (morally, physically, intellectually, or in any other way), but because he is an ethnic minority, he has no opportunity to act effectively on his judgments. He possesses neither the economic nor political power to oppress anyone in the groups that he believes are inferior to his own. He is not and cannot be racist, some argue, because power plays a definitive role in determining whether the person is racist or not. Actions that oppress or limit those considered inferior or objectionable are the fundamental criteria in deciding whether a person is racist. This argument is faulty.

Consider the case of Archie Bunker and George Jefferson. Archie is white, the majority race, while George is black, a minority race. Neither man holds the other race in high regard. Archie thinks blacks are lazy and unintelligent, and therefore unreliable. George thinks whites consciously perpetuate policies that oppress blacks in various ways and are therefore untrustworthy. Given his beliefs, Archie has no desire to hire George or any other black person. Nor does he want to use the power his group has as a majority to enact affirmative action laws that might make life better because it would give jobs or scholarships to those who, in Archie's opinion, do not deserve them. George, on the other hand, has the right to vote, but being a minority, his group does not have the power to pass laws to help themselves or hurt other groups. Each man thinks the other man is inferior in one way or another. The judgment is based not on personal experience of the

individual man but on the other's membership in a particular race or ethnic group. Clearly such attitudes are racist, regardless of the power either has to act on his prejudices, for racism is determined by one's judgments and attitudes.

An entirely different question is whether either or both men possess the virtue of tolerance. Unlike racism, tolerance is based only in part on one's attitudes, for actions are an important part of being tolerant. If Archie acts on his prejudices by denying jobs to all black applicants, supporting policies that hurt blacks, or trying to keep blacks from moving into his neighborhood, then he is not tolerant; he is trying to hold in check an element of society he deems objectionable. If he agrees to end these policies, then he *might be* tolerant; further questions, discussed below, must be answered. Whether George, whose group lacks the political or economic clout of Archie's group, is tolerant is more complicated. At the political level, he has little opportunity to enact his opinions, but at a personal level he might. Since George is a small business owner, how he treats white customers or job applicants is just as important to determining whether he is tolerant as it is in Archie's case. The same is true should George's son date a white woman: how will he react? If he acts on his prejudices to stop the wedding or protest it by not being present, he is not being tolerant. If he overcomes his prejudice and celebrates the wedding, he *might be* tolerant.<sup>2</sup> In either case, whether the man has power does not determine whether he lacks the virtue of tolerance. The two are certainly related, but they are distinct. While one's actions must be considered, the attitudes, emotions, and reasons motivating the action (or a desire to act if action is impossible) are integral components of a virtue or vice.

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<sup>2</sup> For both George and Archie, various questions must be asked. 1) Why is he allowing what he finds objectionable? 2) Are racial prejudices reasonable or moral grounds for objection? It would seem that the *virtue* of tolerance must have moral roots. This will be discussed in more depth below.

Bernard Williams writes that it is “natural” to think of tolerance in terms of power, but this view is a product of the history of tolerance in the West. This view arose out of the political question of which laws to make and who makes and enforces laws; for certainly these people have power in the society. The West addressed this question first in a political forum, but the problem of intolerance (disapproval for and objections to beliefs and cultures different from one’s own) existed before the question of what the powerful will do to those who are different. Williams writes that tolerance “is a matter of the attitudes of any group to another,” and the “problems of toleration are to be found first at the level of human relations.”<sup>3</sup> To paraphrase an early feminist slogan, the personal *becomes* the political. Only after members of different ethnic groups (including not only race but also factors such as religion and language) encounter one another and form an opinion about the value of the other’s beliefs and actions does a question of tolerance arise. If neither group has more political power than the other, one may still opt to restrict intercourse to the economic realm alone, allowing no social ties, such as friendships or marriage, to develop. This limited interaction is an attempt to control the spread of the other group’s ideas and prevent the death of one’s own group or its ideas. This spread of another group’s ideas is the risk the tolerant person takes, and the risk the intolerant person hopes to avoid.<sup>4</sup> If a group one finds objectionable is allowed to continue its practices or spread its ideology, one’s own values may be compromised. The other group’s ideas may become dominant. The way to prevent that is to keep them out of one’s own group or out of the society altogether. Therefore, those individuals who find something objectionable in others must ask themselves, “What if anything, ought I

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<sup>3</sup> Williams (1996), p. 19.

<sup>4</sup> Scanlon (1996), pp. 229-230.

do about what I find objectionable?” In the West, the answer tended to be the creation of laws to prevent the other group from existing, spreading their beliefs, or having political power.

An example of intolerance motivated by a desire to protect one’s way of life can be found in the early years of the Christian Church. In the first century, Christianity was still a sect of Judaism. Jewish Christians welcomed Gentile converts, but most accepted the Gentiles only if they submitted to the Torah, the Law of Moses. Paul, a Jew who observed the Law even after his conversion to the Christian Way,<sup>5</sup> fought this condition placed on being Christian and advocated acceptance of Gentiles without any restrictions from the holiness codes (ceremonial or ritual laws) of the Torah.<sup>6</sup> Many Jewish Christians saw this as a threat to their traditions and faith because many Gentiles were converting, so many, in fact, that they would quickly outnumber the Jews. While some Jewish Christians, even a few communities, accepted Gentiles unconditionally, many resisted fearing the influx of Gentiles would destroy their culture. A resolution was reached at the Council of Jerusalem (49 AD). Christian leaders decided there were only four laws of the Torah that Gentiles must obey (that is, four from the set of laws called into question).<sup>7</sup> Some Jewish members of the Christian sect did not want to relax any of the customs of Judaism to accommodate Gentile converts. Objectionable behavior was completely unacceptable. However, the leaders realized the theological significance of accepting Gentiles and their non-Jewish customs. While objectionable to some Jewish

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<sup>5</sup> Wilson (1997), p. 61.

<sup>6</sup> The moral laws, such as the prohibitions of worshiping idols, stealing, and killing, were obviously part of Jesus’ teachings and not seriously challenged by any Christians – Jew or Gentile.

<sup>7</sup> See Acts 13:4-14:27, especially the note to these verses in New American Bible. The Council of Jerusalem required all Christians to obey four laws, all related to diet and sex. The laws require one to abstain from meat sacrificed to idols, meat containing blood, and meat from strangled animals. All Christians must also abstain from illicit sexual acts such as incest, prostitution, and adultery (Acts 15:29).

Christians, certain Jewish customs could be ignored and some of the non-Jewish customs could be permitted. Because they had a good reason to allow what was objectionable, but also had a good reason to allow it, they were tolerant. Certain Jewish laws, however, are fundamental to Christian morality. Changes to these laws could not be tolerated, hence the compromise at the Council of Jerusalem. The initial requirement that Gentiles follow all the laws of the Torah, however, was intolerant, and its purpose was to protect the Jewish traditions. This example confirms Williams' analysis of the problem of tolerance. The initial reaction was personal; individuals, all members of a subset of the Christian sect of Judaism, objected to others whose beliefs were somewhat different. Rules within the early Church were formed, but there was no political or easily recognized ecclesial power any Christian could use against another Christian to force compliance. That power would only develop and be recognized over the next few centuries. In fact, the Christians were the minority in Judaism, and this acceptance of Gentiles, along with other issues, led to their separation from Judaism. Thus, by the end of the first century, Judaism and Christianity were distinct religions. As Jewish Christians feared, many of the Jewish customs were abandoned.

Another way to respond to the argument that only those in power can be tolerant or intolerant is through the very definition of a virtue. A virtue must be performed consistently; it must stem from a steady character. But if one never has the opportunity to express the virtue, if one never has to refrain from the impulse to suppress an opposing view, if one never even encounters an opposing view, how can we say the person is tolerant or intolerant? A temperate man is one who is rarely tempted, not because there is no excess of delicious food, but because he has self-control. He is not a slave to his

passions or appetites – in this case for extravagance or excessive amounts of food. He will enjoy what he has and be content. It follows that the tolerant woman is one who *has some desire* to suppress objectionable views or prohibit objectionable conduct *but refuses* to do so for the right reasons. Tolerance requires that there be some good reason for objecting *and* that one have a better or stronger reason for not stopping the objectionable. If it is true that a tolerant person must have the power to suppress the objectionable, it must also be true that a temperate person always has more than enough food available, but this is not the case. The intemperate person will overeat, given the opportunity, and will complain and be dissatisfied if enough food is not available. The temperate person, on the other hand, is identified by his or her ability not to overindulge when there is more than enough food, as well as to be satisfied and uncomplaining when there is less food than needed. The temperate person has the right attitudes toward food, and they motivate the right actions concerning food. There must be an analogous situation for the tolerant person.

That a virtue comes from a steady character is the solution to the problem, not the cause. For instance, the temperate man, even when he does not have the opportunity to overeat, will have little or no desire to do so. He remains on an even keel – desiring just the right amount and not being upset when that right amount is unavailable. The tolerant woman must recognize that the urge to prohibit objectionable conduct should not be acted upon at all times. A virtuous person, by definition, will have the same desires, habits, and character whether he has the power to act or not. A tolerant woman will know when it is appropriate to curb her desire to suppress what she finds morally wrong, just as the temperate man has no desire to overeat. That she has the political power to act



on her desire is irrelevant. If she does not recognize that acting on the desire is inappropriate when she does not have the political power, then she will not recognize it as inappropriate when she does have the power. Consequently, unless she has the same attitudes toward objectionable behavior most of the time, she cannot have the virtue of tolerance and exercise it when the circumstances require it. An *action* can be tolerant only if the agent has the power to act on the impulse to suppress what she dislikes. However, the *person* can be tolerant whether or not she has the opportunity to practice it because she has the proper attitude from which any future action will proceed.

Having begun with Horton's working definition, I propose something closer to a final definition: *Tolerance is the ability to control, when appropriate and for the right reasons, the desire to suppress or prohibit ideas and conduct that one finds objectionable.* George Fletcher describes these two components of tolerance: (1) "an impulse to intervene and regulate the lives of others," and (2) "an imperative – either logical or moral – to restrain that impulse."<sup>8</sup> In order to act tolerantly, one must encounter something to which he objects, something he would like to stop someone else from doing. However, at the same time, he realizes that there is some value in not intervening. The impulse to intervene and the imperative not to intervene lead to two considerations justifying tolerance. First, there must be reasons for holding something to be objectionable. One must be able to explain why the conduct or view is immoral, dangerous, etc.<sup>9</sup> Because his objections are more or less reasonable, the desire to suppress what is objectionable is rational; it is proper to have a desire to stop what he

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<sup>8</sup> Fletcher (1996), p. 158.

<sup>9</sup> Actions that are dangerous present a thorny issue. It is rather easy to justify prohibiting many actions that are dangerous to other adults, but are there times when parents should be allowed to engage in actions even if they put their children in danger? If so, then the degree and frequency of danger must play some role in determining which actions to allow and which to prohibit.

believes is immoral or dangerous. Yet, he must also be able to explain why he should not interfere with the dangerous or immoral conduct.<sup>10</sup> The first consideration justifies the impulse (but not an action) to restrain what one does not like. The second justifies why he should not stop the conduct despite his objections to it. In other words, he is tolerant when his objections to the conduct are reasonable and he refrains from interfering for the right reasons. The difficult part is explaining why one should allow something that one has good reasons to oppose.

By considering the virtue of tolerance in an Aristotelian model, it may be easier to understand what conditions would justify allowing objectionable conduct. Aristotle defines virtue as a balance between two extremes, an excess and a deficiency. In the case of tolerance, the virtue is the right amount of acceptance. An excess of acceptance leads to never condemning immoral conduct, no matter how egregious. Clearly, murder, rape, and other acts are so heinous that we cannot permit them in civil society. To do so would lead to violations of basic rights, social chaos, and a war of all against all, a war in which even the most tolerant are likely to participate after enough suffering. This degree of tolerance is absurd. A more realistic level of tolerance, less extreme but still excessive, leads to indifference. This is the fulfillment of G.K. Chesterton's observation (paraphrased) that "tolerance is the virtue of people who do not believe in anything."<sup>11</sup> In actuality, one with firm convictions about right and wrong can be tolerant yet remain cognizant that tolerance need not permit everything. On the other hand, those who believe in nothing have no reason to reject anything; therefore, they are willing to allow most forms of conduct. It is this indifference that Bernard Williams hopes will develop

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<sup>10</sup> Horton (1992), p. 32.

<sup>11</sup> Krauthammer (1998), p. 92, paraphrasing Chesterton.

through more intercultural interaction that can result from a truly “international commercial society.” Increased interaction “will encourage skepticism about religious and other claims” and allow indifference to reign.<sup>12</sup> This attitude is such an extreme that it is no longer tolerance, for indifference means that one does not care what others are doing. One who is indifferent is not tolerant (or intolerant) because he does not have any desire to suppress different views. He finds none of these views objectionable because the indifferent person has no commitments strong enough to generate any objections.

On the other hand, one who has too little acceptance will not refrain from intervening often enough, if he refrains at all. Those who lack completely an attitude of acceptance would like to prohibit everything they find objectionable. They never refrain for moral reasons or because they find value in objectionable views and conduct; if they refrain from suppressing views and conduct, it is only because they lack the power or because it would be imprudent. The reasons for allowing what is objectionable to continue are purely practical rather than moral. Not to suppress a view one finds objectionable primarily because one fears a backlash that could hurt one’s own group is a tolerant *action*. However, it is not a virtuous action because it is not the action of a tolerant *person*. The primary motivation of a virtuous action is virtue itself; practical or selfish reasons may be secondary reasons at best.

To determine what is a good reason to allow objectionable conduct or ideas, we must first ask what the basis for objection was in the first place. There is a difference of opinion as to what counts as a basis for a proper objection. Must the objection be moral and based in reason, or could it include matters of taste? Peter Nicholson argues for the former: toleration regards conduct and ideas of which “one morally disapproves” and

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<sup>12</sup> Williams (1996), p. 26.

cannot include typical prejudices and tastes because these attitudes have no moral grounding and, therefore, “cannot be the ground of a moral position.”<sup>13</sup> Mary Warnock, on the other hand, reminds us that morality itself depends on strong feelings that are not always supported by reason. Furthermore, not all non-moral sentiments lack a rational basis. Laying aside one’s “prejudices, tastes, and feelings” in non-moral matters is a good thing and praiseworthy. This is certainly included in an ordinary sense of tolerance.<sup>14</sup>

If the ordinary sense of tolerance includes taste and other non-moral sentiments, then is it fair for the philosopher to discuss another sense, a technical sense, of the word? There is no doubt that people are sloppy in the use of some words and that words even change meaning over time because of this sloppiness. While philosophy will have technical terms and jargon, it should avoid having its own special meaning for too many words that are in the general vocabulary. Too many everyday words with special meanings lead to accusations of hair-splitting and arguments over semantics rather than substance. This only confuses the choice of words more, so that non-philosophers do not know or care what we are talking about. Yet, the philosopher is expected to be as precise as possible in his or her language. This is the problem with the word “tolerance,” for Warnock is correct that “tolerance” as commonly used encompasses more than just allowing the morally objectionable. The ordinary sense appears to include bearing what violates one’s sense of taste, too, but “tolerance” is too strong a word for such an attitude, and reviewing ordinary usage will reveal a better term, one that “sounds” more correct.

Warnock uses the image of a man wearing sandals with a suit to exemplify

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<sup>13</sup> Peter Nicholson, quoted in Warnock (1987), pp. 125-126

<sup>14</sup> Warnock (1987), p. 126.

tolerating bad taste.<sup>15</sup> A man who wears sandals with a suit violates no moral laws, whatever dress code an office or restaurant may have, yet Warnock describes her reaction to the combination as one of disapproval, and she does want to tell him to wear proper shoes. I have the same reaction when I see a man wearing a hat indoors, during the national anthem, or during a prayer. As with sandals, there is no moral law the man is violating, but I disapprove nonetheless. The disapproval is based partly on custom. While growing up, I was taught to remove my hat when entering a building, during a prayer, and during the national anthem. The custom of removing a hat at these times is undergoing a change. While many men still remove their hats at these times, even more do not. With the custom falling out of favor, it may be that I am simply old-fashioned. Perhaps Mary Warnock, too, is old-fashioned for insisting that a man not wear sandals with a suit. More importantly, is either of us tolerant when we suppress our desires to tell a man to change his shoes or remove his hat?

Warnock believes that even if the objection is based on taste or feelings rather than moral reasons, the refusal to intervene is an act of tolerance, but it is “weak toleration.” This form of tolerance is “putting up with” something one dislikes. “Strong toleration,” on the other hand, is a refusal to suppress what one *morally* disapproves. For example, to allow a man to wear sandals with a suit is weak toleration; however, to allow parents of a sick child to withhold medical care for religious reasons is strong toleration.<sup>16</sup> The combination of sandals and a suit is not morally objectionable in itself, but the refusal of a parent to use routine medical procedures to save the life of his or her

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<sup>15</sup> Warnock (1987), pp. 125-126.

<sup>16</sup> Strong tolerance does not require a person to remain silent when a parent refuses to seek medical treatment for a child. A person certainly has the right to try to persuade the parent to seek help. However, strong tolerance would prevent a person from seeking legal recourse to force the parent to seek medical aid.

child is morally objectionable. It is a dereliction of the parent's most important duty – to serve the welfare of the child. Not all examples will be as easy to distinguish as these two, but the difference may help make one thing clear: “tolerance” does not apply to both cases. They are such extremes that any word appropriate for the weaker case does not do justice to the stronger.

At the risk of sounding like the semantic-obsessed philosopher I criticized above, Warnock's two types of toleration should be renamed. What she describes as ‘weak toleration’ is not an uncommon use of the word, but it does not carry the moral imperative or grounding the other sense of toleration has. Therefore, I propose that while keeping Warnock's basis of distinction, weak toleration be called “indulgence.” The attitude Warnock describes as “putting up with” is an indulgent attitude, not one of tolerance, which has a moral undertone more often than not in ordinary usage. Consider a child who likes to have a specific item with him, like Linus and his security blanket. A parent might be annoyed at times because the child is not ready to leave the house when the parent is because the child must run and grab the item. Or, should the item be misplaced, the child is upset. This behavior is ordinary in children, and in itself should raise no objections.<sup>17</sup> If the item is innocuous, like a blanket or a doll, then the parent's attitude is one of indulgence, not toleration. First, there is no moral reason to object to the item. Second, the parent might wish she did not have to keep up with one more item but allows the child to have his security item because it is not hurting anyone or anything. The parent allows something he or she does not have to allow, but at the same time, there is no overpowering reason to disallow the item. It would make his or her life a little less

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<sup>17</sup> In fact, many adults have their own security items: a purse, a cell-phone, a lucky charm, etc.

complicated to take away the security item, but little else would be gained.<sup>18</sup>

The parent disapproves of the child's attachment to a security item, and Warnock disapproves of men wearing sandals with suits. If the objection is based solely on taste or convenience, then the attitude expressed is not toleration. Matters of taste or convenience are not, in themselves, matters of tolerance, but sometimes what appears as taste is a reflection of a moral sentiment. For example, Warnock may object to sandals with suits not only because she thinks the combination looks silly but also because one who combines them may have a cavalier attitude about the function he is attending. Custom, as well as taste, dictate formal wear for a church wedding. Should a man wear jeans and a casual shirt, the bridal couple as well as other guests may react with comments like, "What bad taste!" If this is a matter of taste, then there is no question of tolerance, only of indulgence, for there is no moral disapproval involved. However, the tone of voice of those making that exclamation reveals disapproval, and the hurt feelings of the bridal couple result from a perceived slight by the casually dressed guest. Some observers will only complain about the clothing, but others will hear a message. The bad taste they decry is not so much in the clothes chosen but the way the message was delivered. Why would someone come so casually dressed to a formal affair except to imply that he thought the event was not that important? It is irrelevant what the casual guest meant to imply, if anything. The moral disapproval by the hosts is based on the message they *believe* the guest is sending. Therefore, what appears to be a matter of taste can generate a moral judgment and thereby become a case of tolerance or intolerance (allowing the guest to stay or asking him to leave). If one morally objects to something, then that person must decide to allow it or try to stop it.

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<sup>18</sup> This example is drawn from John Rosemond, a syndicated columnist and child psychologist.

Horton argues, and Nicholson implies, that one's reasons for objecting to behavior or ideas must be not only moral reasons but also good reasons. That is, one must have the proper rational grounds to permit what one has rational grounds to find morally objectionable. If one has good reasons to restrain oneself from interfering with what one objects to for irrational reasons, then one is not tolerant. Using Horton's example, a racist who does not act on his or her attitudes out of fear of a backlash is not tolerant.<sup>19</sup> It might be that a true racist would be unable to refrain from acting for the right reasons. For example, if Robert, a racist, hires without regard to ethnicity, but does so only to avoid costly lawsuits or bad publicity, he is not tolerant. If Robert hires without regard to ethnicity, but does so because he assumes there is a moral obligation to obey such laws, his conduct *appears* to be a product of good reasons. Or, if he hires without regard to ethnicity because he recognizes all citizens as equal citizens (whatever his views may be on the appropriateness of "mixing the races"), he clearly *appears* to be tolerant. Yet, Horton stipulates that one must have good reasons to object in the first place. Because a virtuous person is an excellent person, I understand the standards Horton wants the tolerant person to achieve. A virtue requires that a person do the right thing in the right way, at the right time, and for the right reasons.<sup>20</sup> These right reasons for an expression of tolerance (not merely a tolerant act) ought to include both the right reason to refrain from suppressing the objectionable and the initial grounds of objection. Nevertheless, this condition is too stringent. One who objects, for what he believes are good reasons, is tolerant as long as his reasons for refraining from suppressing the objectionable are grounded in mutual respect and fellow citizenship – solidarity.

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<sup>19</sup> Horton (1996), p. 32.

<sup>20</sup> Aristotle (1985), 1106b21-23.



I recognize I have two standards here. I allow the reasons for objecting to be judged subjectively, but I set an objective standard for the reasons for refraining from interfering. In a liberal democracy, one retains one's own comprehensive conception of the good while subscribing to a political conception. This political conception is compatible with one's comprehensive view but is much more restricted. The reasons one morally objects to views or actions one encounters in others are a product of either his comprehensive or political conception of the good. Sometimes the objection is motivated only by the larger, personal view of right and wrong; sometimes the objection will be motivated by a belief common to both views. Why one interferes or refrains from interfering, however, must always be motivated from the political view – justice – whether or not the comprehensive view plays any role. For example, two parents may decide, based on their religious views (a comprehensive doctrine of the good), that they should not seek medical care for their ill child. My comprehensive view of the good objects to this behavior and condemns it. I think the parents are being immoral, but I do not advocate forcing the parents to take their child to a doctor. I tolerate their actions because of my political conception of justice. Freedom of conscience is intrinsically valuable, and it is an important part of my political view of the good. To force the parents to violate their conscience offends my political view (as well as my comprehensive view). Because I respect the freedom of the parents to choose their religious views and to raise their child as they see fit, and this respect comes from my political view, allowing them to withhold medical care is a virtuous action.<sup>21</sup>

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<sup>21</sup> We should avoid identifying this behavior with child abuse. Withholding medical care from a child because one believes medicine is immoral is different from hitting a child because one is trying to assert complete control over a child. In the first case, the parent may be mistaken but is looking to the greatest

Tolerance is the virtue by which one allows morally objectionable ideas or behavior to persist. Although one desires to suppress the objectionable, and one is justified (at least to oneself) in wanting to suppress it, one refrains from doing so. The reasons one refrains must be the right reasons, as with any virtue. The man who does not order dessert only because he does not want to appear greedy when a business partner pays for the meal is behaving temperately, but he does not possess the virtue of temperance because he is not acting for the right reasons. Likewise, a woman running for re-election to public office may moderate her public actions until after the election. If she refrains from proposing or supporting intolerant bills or policies merely to lure more voters, her actions are tolerant, but she does not have the virtue of tolerance. Williams puts it succinctly: "toleration as a matter of political *practice*... is less than toleration."<sup>22</sup> Or, Horton: "The restraint displayed in acting tolerantly will only be virtuous on this account, if the restraint itself is appropriate."<sup>23</sup> A tolerant person will refrain for the right or appropriate reasons because virtue requires more than just right action; it requires right reason as well.

One right reason to be tolerant is that although a view or action is objectionable, it has some value. This value can come from any one of different sources. One source of value is the view itself. The view may be rational, that is, defensible on rational grounds recognizable by opponents of the view. Horton uses the example of opponents over the abortion issue to illustrate his claim that "for anyone for whom toleration is a virtue, some objections will have value but not be shared, and other objections will be held to be

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good of the child (to use medicine may endanger the child's soul as well as the parent's soul). In the latter case, the parent is seeking his or her own good, not the child's.

<sup>22</sup> Williams (1996), pp. 19-20.

<sup>23</sup> Horton, (1996), p. 38.

unreasonable and without any value.”<sup>24</sup> To expand Horton’s example: Molly may support the right to an abortion and disagree with Teresa who considers abortions to be immoral. However, Molly realizes that Teresa’s position has some rational basis and is motivated by a concern for life. Such a concern is valuable in a society. Therefore, although Molly objects to Teresa’s views and actions to limit access to abortions, because her disagreement is based on her moral principles, she allows Teresa to share and spread her views. She makes no direct efforts to stop Teresa from sharing her views and acting on them as long as Teresa acts within the law. Should Teresa step outside the bounds of the law by trespassing or through violent action, then Molly should not tolerate those actions, for Teresa’s actions are now directly endangering at least a few people, and thus endanger the community as a whole. The reverse situation is also true. While Teresa finds Molly’s views on abortion morally abhorrent, she recognizes that Molly’s views can be held by rational people of good will. Grounded in a philosophy of rights, the views are valuable. Molly recognizes the existence of rights and wants to honor them; Teresa finds value in that attitude. As long as Molly is not forcing anyone to have an abortion or promoting unsafe practices, Teresa should tolerate Molly’s actions. There can be value in views or attitudes (and the actions that flow from them) that one disapproves of, and this value is a reason one ought to tolerate them. Thus, each may publicly disagree with the other and engage in debates and other educative enterprises. Each is tolerant when not forcing the other to be silent, not because one refuses to debate the other.

Another source of value lies not in the view or action itself but in that a fellow citizen holds that view or performs that action. Tolerance flows from the virtue of

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<sup>24</sup> Horton, (1996), p. 39

solidarity through mutual respect. Because I see others in my community as citizens, people who are equal before the law, I have a certain amount of respect for them and they for me. Recognizing my fellow citizen as a free person and wanting to respect that freedom, I will tolerate his views and actions, even those that morally offend me, but only up to a point. Tolerance as a virtue is inseparable from the virtue of citizenship or solidarity.

A liberal democracy needs citizens with the virtue of tolerance. Without it, pluralism, an inevitable fact of liberal democracies, will lead to factionalism in which each group, rather than trying to find common ground with other groups and a political consensus, will try to subvert or suppress other groups. Tolerance is a natural result of the virtue of solidarity or citizenship. If citizens view themselves only as members of a religious, ethnic, or political action group, or a smaller municipality rather than of the larger community, they will have less regard for those who are not part of their own faction. Solidarity counteracts this tendency. While allowing individuals to identify with smaller groups, and even allowing them to place a higher priority on their faction than on the democratic community, citizens with the virtue of solidarity always view themselves as part of the larger group and hold themselves responsible for the common good. Along with this sense of responsibility, citizenship requires one to see other people in the community as *fellow citizens*, as being equal in dignity before the law. Recognizing others as equal promotes autonomy, a cornerstone of liberal democracies.

Scanlon makes a strong case for the value of tolerance within a society. He writes: “[T]he case for tolerance lies in the fact that rejecting it involves a form of

alienation from one's fellow citizens."<sup>25</sup> Alienating oneself from fellow citizens, withdrawing from civil society, is the antithesis of solidarity. Scanlon again:

The tolerant person's attitude is this: 'Even though we disagree, they are as fully members of society as I am...In addition...neither their way of living nor mine is uniquely *the* way of our society'...What tolerance expresses is a recognition of common membership that is deeper than these conflicts, a recognition of the other as just as entitled as we are to contribute to the definition of our society.<sup>26</sup>

Two elements deserve emphasis: first, the disputants are members of the same society; second, all citizens are equal. The citizens are trying to find a way of life within their shared community. They may attend different churches, join different political parties, and have different ethnic ancestries, but they are nonetheless fellow citizens living within the same society that values each as a citizen. Therefore, each must value the other as a citizen. Valuing another as a citizen entails allowing the other to speak, act, and contribute to society. Pope John XXIII highly values the ability to contribute to society. He argues that each person has a right to contribute to the common good of his community, and shaping the mores and values of a society is one way of building up the common good. Quoting his predecessor Pius XII, John reminds us that the community exists for the sake of the individual; the citizen is a subject, not an object of the state.<sup>27</sup> Intolerance reduces the citizen to an object; tolerance recognizes the dignity of one's fellow citizens.

Of course, tolerance does not mean having an anything-goes attitude. There are limits to what is acceptable in a society. Practicing tolerance, however, is a way of recognizing that one is not the sole judge of what will be permitted in a community. It is

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<sup>25</sup> Scanlon (1996), p. 232.

<sup>26</sup> Scanlon (1996), p. 231.

<sup>27</sup> John XXIII (1963), no. 26.

the recognition that others can and should contribute to this important decision of what will be permitted. Allowing others to participate in determining the culture of the society has been defended on grounds of self-interest, but tolerance as a virtue, growing from the virtue of solidarity and working for the good of the community as a whole as well as its individual members, makes and needs no appeal to self-interest.

John Locke, John Stuart Mill, and Benjamin Barber propose different ways that tolerance is self-serving. Locke, focusing on religious tolerance in his *Letter Concerning Toleration*, argues that one reason a person ought to tolerate other views is that he might be wrong. Superficial support for this position comes from the thought of a ruler standing before the Deity: “While I failed to see the truth, at least I never stopped anyone from preaching or practicing it.” Furthermore, Locke warns that because religion, being concerned with the salvation of one’s soul, requires an “inward and full perswasion of the mind [sic],”<sup>28</sup> forced conversion is meaningless. It does nothing for the ruler or the subject. If I am forced to follow the right religion, it does me no good. A second reason also appeals to the problem of forced conversion. Even if the laws and penalties led to a genuine conversion through habit and the influence of always hearing the same faith preached and never hearing any other, then one’s salvation is the result of an historical accident. Rather than choosing the faith one practices, it was chosen for one by the ruler. The subjects of misguided rulers, Locke believes, would be condemned through no fault of their own. Allowing a plurality of religious groups to exist gives more citizens the opportunity to save their souls by allowing them to choose their own faith. Both of these reasons are motivated by individual self-interest, and the reasons fit a Rawlsian original position. The imaginary conversation might run thus: “Should there be religious

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<sup>28</sup> Locke (1983), p. 26.

tolerance or not?" one party asks. The other responds, "If I knew my government could make the right decision, then why allow freedom? However, this veil of ignorance keeps me from knowing whether I have a wise ruler or not. It would be better for me and everyone else if each person were allowed to choose his own religion."

Locke extends religious tolerance to serve individual interests, but he limits tolerance for the good of the state. Catholics, Muslims, and atheists, at least, "have no right to be tolerated,"<sup>29</sup> for any of three reasons. First, Catholics and Muslims follow a leader higher than their political ruler – Catholics follow the Pope and Muslims, Locke fears, owe allegiance to the Mufti of Constantinople. Anyone who defers to a ruler beyond the prince is a danger to the state. One cannot trust that person as completely as one with no other allegiances. Catholics, furthermore, follow a Pope who claimed in Locke's time to have the power to depose secular rulers. While the Mufti of Constantinople may be only a second master dividing allegiances, the Bishop of Rome claimed to be a higher-ranking master who can overthrow the lower-ranking secular prince. Locke believes these are dangers the state must avoid. Finally, atheists are untrustworthy, according to Locke. "Promises, covenants, and Oaths, which are the bonds of Humane Society, can have no hold upon an Atheist,"<sup>30</sup> Locke writes. Supposedly, if a person does not believe in an afterlife, then there is no reason to behave in this life. The atheist, rejecting any conception of God and an afterlife fears no reprisals – not from the court, for one hopes to evade detection, and not from a non-existent deity. Yet, often people who claim to believe in God do lie. Perhaps Locke's fear is that if believers will lie, how much more will an atheist lie? Whether or not this is Locke's

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<sup>29</sup> Locke (1983), p. 50.

<sup>30</sup> Locke (1983), p. 51.

reasoning, he believes the state's welfare and society itself is compromised by citizens who are untrustworthy or honor a higher authority than their political ruler. A degree of tolerance, for Locke, is grounded in the self-interest of the state and the individual citizens, but not all views should be tolerated.<sup>31</sup>

With Locke, Mill agrees that fallibility is one reason to be tolerant. Only extreme arrogance can lead a person to believe he has the complete, unadulterated truth. Also, like Locke, Mill's arguments for tolerance run deeper than this and are rooted in self-interest. In *On Liberty*, Mill argues that in allowing others to express their views, a person will be challenged and forced to reflect more critically upon his own views. The opposition aids him in refining his position. If he decides to abandon his position, the decision is his own, not forced by another. The marketplace of ideas takes over. Those who can defend their views will retain them and perhaps persuade others while those who cannot defend their views may abandon them in favor of new ideas. Of course, they may also decide to hold on to them stubbornly. In general, each citizen feels more confidence that he or she has come closer to the truth. Opposition spurs on not only the leader but also the followers. Those who accept the challenge and refine their views may become even more committed to those ideas. Without a challenge, individuals become lax. If the individuals become lax and lose sight of their ideals, then the community of believers

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<sup>31</sup> There is a tension in Locke. His lack of tolerance for those who honor a religious leader above the political contradicts the following statements: "Obedience is due in the first place to God, and afterwards to the Laws" (1983, p. 48), and "The principal and chief care of every one ought to be of his own Soul first, and in the next place of the publick Peace [sic]" (p. 49). If I must seek to save my own soul first and follow God before the state, then I should follow my political leader only when that ruler agrees with my religious leader. A solution may be in Locke's view of conscientious objection. No one should follow the law if doing so would violate his conscience, yet he must accept any penalties such an infraction would incur (p. 48). While I agree with penalties for civil disobedience, the conscientious objector should be in a different category. Furthermore, this last view of Locke's does not justify his intolerance. There is something disingenuous about the statement Locke seems to be making: Tolerance is good, and each citizen should follow his or her God before the state, but if it is not the right God, you cannot live in this state.



(such as political parties, religious groups, or social movements) becomes lax and begins to decline in membership.<sup>32</sup>

Ancient and contemporary examples support Mill's view. In the second and third centuries, Christianity was counter-cultural and suffered several persecutions, some of them quite harsh. Yet the Church continued to grow in membership throughout the Roman Empire. As the Church gained political power during the end of the Roman Empire through the Middle Ages, membership skyrocketed until nearly every European called himself Christian. Not all, however, were committed to the ideals of Christianity, and corruption increased. With increased corruption came various reform movements, some of which worked within the Church (Clunaic monasteries, Franciscans, and Dominicans) and some from without (Cathars and Waldensians). The High Middle Ages and the early Renaissance saw the Church at its worst, and the Church splintered into many sects. It was the splintering, the pressure from the outside that led to the Catholic Reformation and its attempts to respond to Protestants and return to a purer, more authentic Christianity. In this century, sociologists have noted the decline in membership of mainline Protestant denominations and question whether the Roman Catholic Church will suffer the same fate. Rodney Starke and Roger Finke write, "No longer in tension with the surrounding culture, the church will generate less commitment from its membership and will gradually fail to compete with a new generation of upstart sects."<sup>33</sup> If Churches are not challenging their members, the members drift away. Their faith and fervor diminish. They may claim to be members of a particular church and hold the beliefs, but the beliefs no longer motivate the members to the degree they did in the past.

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<sup>32</sup> Mill (1978), pp. 15-20.

<sup>33</sup> Stark and Finke (*The Churching of America: 1776-1990*) quoted in Harris (2000), p. 11.

Mill argues that outside tension is needed, but Starke and Finke indicate that internal tension resulting from the external tension – the drive to be faithful to the tenets of the faith – must also exist. The community must challenge its members, reminding them of its ideals. This challenge forces the members to think about those ideals, evaluate them, and choose whether they really accept the ideals or not.

In short, Mill's argument for tolerance is that it directly benefits individuals and indirectly benefits society. The individual must critically assess his views and thereby recommit himself or begin a search for a better view. Those who recommit themselves reinvigorate the community to which they belong, and if they recommit to the ideals of the state (the political conception of justice), so much the better for the state.

Barber also argues that tolerance is self-serving: if everyone is tolerant, then I will not be silenced. Barber's criticism of this attitude towards tolerance is that there is no solid commitment to tolerance itself. He argues that this is why racial tolerance is lacking in the white majority: the majority does not see itself as being served by full equality and genuinely fair treatment of non-whites.<sup>34</sup> If liberalism values tolerance on prudential grounds, then there is no commitment to democracy or democratic values. When a better alternative is found, the liberal society can adopt it. After all, if it better serves what Barber calls the liberal values of privacy and self-interest, why not change?<sup>35</sup> What Barber calls "thin democracy" does not value tolerance in itself. It is this kind of liberalism that values privacy and self-interest over the good of the community itself.

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<sup>34</sup> Barber (1984), p. 18. The problem is much more complex than this. Alexis de Tocqueville thought racial equality would be difficult to achieve because of the history of slavery. "There is a natural prejudice that prompts men to despise whoever has been their inferior long after he has become their equal; and the real inequality that is produced by fortune or by law is always succeeded by an imaginary inequality that is implanted in the manners of the people . . . slavery recedes, but the prejudice to which it has given birth is immovable" (1994, pp. 357-359).

<sup>35</sup> Barber (1984), p. 24.

However, Barber's "thick democracy,"<sup>36</sup> which an ideal liberal democracy ought to be and what the virtue of solidarity is necessary to create, does value tolerance in itself. It upholds tolerance as a democratic virtue, without which a citizen cannot be an excellent citizen. Only with excellent citizens can the democracy itself be excellent. Tolerance is valuable in itself, but as with any virtue, achieving it has its rewards.

Tolerance is the virtue by which a person recognizes when he ought to suppress or allow behavior he deems morally objectionable. Furthermore, the decision must be based on good reasons. However, his reasons for objecting in the first place need not be rational (although it would suggest a higher or more perfect degree of virtue). If the virtue is common among citizens, the community as a whole benefits, and each individual can benefit, for individuality is protected. A proper understanding of solidarity fosters tolerance, and tolerance helps maintain an environment conducive to solidarity. Conflicts will arise, but the virtues of solidarity and tolerance help moderate the conflicts and increase the willingness to find a solution agreeable to both sides.

This reflexive relationship between solidarity and tolerance points to some degree of unity among the democratic virtues. The virtue of reflective obedience will further demonstrate this unity. A disposition of solidarity moves one to participate in society, helping to establish laws and policies. Thus, one has an initial obligation to obey the laws, yet some laws will be unacceptable. The virtue of tolerance aids one in sorting out which laws or policies one should accept and which must be opposed. However,

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<sup>36</sup> Barber (1984) describes the typical liberal, neutral democracy that upholds individualism as a goal is a thin democracy because there is little unity in the society. Rather than seeing themselves as a community, the citizens focus on benefiting themselves individually. A thick democracy, on the other hand, values political discussion, attempts to understand the problems individuals face as well as problems the community as a whole faces. The results of the political discussion are laws and policies that are not limited to helping individuals but to improving the society or community as a whole and thus helping individuals as well. For Barber, a thick democracy is the equivalent of a strong democracy. I use these terms interchangeably.

reflective obedience remains a unique virtue because it also explains why citizens have an obligation to obey the law and why there are times the obligation is waived.

## **Chapter Four**

### **Reflective Obedience**

There are many good reasons to obey the law. The police force may have adept investigators who rarely fail to find an offender. The punishments for crime may be so harsh that one dare not risk arrest, even if the chances of arrest and conviction are very low. Public opinion may be so negative that, despite light penalties imposed by the court, crime simply is not worth the social cost. But these are all prudential reasons not to break the law. A different kind of reason to obey the law is that what the law commands or forbids is consistent with the agent's moral beliefs. That is, the agent believes  $x$  is wrong, and  $x$  happens to be against the law; conversely, the agent believes one is morally obligated to do  $x$ , and  $x$  happens to be required by the law. In both cases, the agent is obeying the law, but only incidentally rather than because it is the law. In none of the cases mentioned does the agent recognize the *legitimate authority* of the government to command and the corresponding moral obligation to obey its laws; the agent recognizes only the prudence of obeying the law or its compatibility with his own moral beliefs. In a situation where a person could evade the investigators or could surely avoid conviction or in which the law requires or forbids an action on which his own moral views are silent, what might give an agent reason to obey rather than violate the law? Is there a moral obligation to obey the law simply because it is a law? Is breaking the law in itself an immoral action?

If there is a moral obligation to obey the law, then it is a virtue to do so. Because it is a virtue, there are extremes on either side of this obedience. I call this virtue or balance reflective obedience. One extreme is a blind obedience – following the law regardless of the moral implications; it leads to the excuse, “I was just following orders.” The opposite is a blind rebellion – an absolute refusal to obey any law; it is rebellion for rebellion’s sake. A person with this disposition breaks rules not because his way is easier but because the rule or the law exists. He makes no argument that the law is unjust, unfair, or unreasonable. His reason to break the law is that it is a law. Reflective obedience falls somewhere between these two extremes. A person with the virtue of reflective obedience values the law and recognizes (in a liberal democracy) a *prima facie* obligation to obey it precisely because it is a law, yet he realizes that some laws are unjust because they require immoral actions or prohibit one from performing other moral obligations.

Like tolerance, virtuous obedience is rooted in solidarity. Because one recognizes the mutuality of shared citizenship, he is willing to obey what the community has set as a standard. Also, as in the case of tolerance, he knows there are limits. Laws that transgress these limits through excessive restrictions or permissiveness, can justifiably be rejected, but he knows that he can be held accountable for violating these laws and that only a public accounting might relieve him of punishment. Recognizing this approach to law requires a reform of the usual justifications for the obligation to obey the law. In seeking a new understanding, I will examine (1) social contract theory, (2) authority itself, and (3) the nature of reflective obedience as a virtue. This virtue will be more fully developed by a discussion of autonomy and authority, the heart of the matter.

The social contract is a possible answer to the question raised above, whether there is an obligation to obey the law. The civil authority (government) enacted the law, and as a legitimate authority, it has a right to be obeyed. This authority was granted by the social contract. Social contract theories hold either that there was a real contract between the various persons who established a government or that there is a hypothetical contract to which all parties would consent if asked. Neither of these answers is sufficient. First, had there been a real contract between persons in the past, the contract cannot possibly bind those alive now, for they never consented to the contract. Even if the Mayflower Compact had been a true social contract,<sup>1</sup> how could the children of the signatories be bound to the contract once they reached the age of majority? The parents of a child can make many important decisions for him, but they are no longer binding once the child is legally permitted to act for himself. And if parents cannot bind adult children, how can our ancestors bind us?

Another possible example of a social contract would be the United States Constitution. Although it was ratified by each of the thirteen states, only a handful of people actually cast a vote in the state legislatures, and of those who voted, some of them voted against the Constitution.<sup>2</sup> In what way are those who voted against the social contract bound by it? It is not enough to say that because they remained in the community they tacitly accepted the new Constitution.

In these particular historical examples, one must take note that only men were allowed to vote, and in the case of the ratification of the Constitution, each state had its

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<sup>1</sup> Kent Greenawalt (1987; p. 275) argues that the Mayflower Compact was not a social contract in the strong sense because any agreement made between the men on the ship were still subject to all the laws of Great Britain.

<sup>2</sup> Greenawalt (1987), p. 275.

own laws setting voting eligibility requirements, some of which required land ownership. Not only were all women and slaves excluded, but some (more in some states than in others) free white men were excluded as well. This raises three further questions about social contracts. (1) How many members of the society were allowed to debate and vote on the contract itself? (2) How does the society respond to those who voted against the contract? (3) If a society's understanding of who can vote changes, how does this change affect the status of the original contract?<sup>3</sup>

It may be that these problems with social contract theory can be resolved by moving to a hypothetical contract rather than an actual one. In *A Theory of Justice*, John Rawls proposes an original position in which he believes everyone would adopt two principles of justice to serve as the foundation of the basic structures of society. The persons in the original position (OP) debate the principles upon which their government should be based. All are treated equally in OP; all are free to enter the discussion and be heard. Those in OP are bound by their decision because they were equal participants in the process that formulated the principles of the government they will have once they leave OP and return to the real world. However, the mechanism by which Rawls ensures the equality of those in OP creates serious problems.

To ensure equality, the persons in OP do not know their ethnicity, gender, intelligence, economic status, or social standing. Nor do they know their conception of the good. One does not even know the "economic and political situations" of one's own society. All that is permitted through the veil of ignorance is knowledge of *general*

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<sup>3</sup> The U.S. now recognizes that slavery is unjust and has granted suffrage to women and those who were enslaved. Should we continue living under the social contract adopted when half the population was denied the right to vote or were considered property or only three-fifths of a person when determining representation?



*principles* of economics, psychology, sociology, etc.<sup>4</sup> The persons in the original position are stripped of all differentiating characteristics and are virtually identical. This leads Rawls to conclude that although a debate could and should occur, any vote that might be taken would be unanimous. Given his description of the original position, it is hard to see how the vote could be anything but unanimous. After all, the motives of these individuals are the same: mutual disinterest, lack of envy, self-interest, and risk aversion (those in OP will not risk a loss for even a very large gain).<sup>5</sup> Each person in OP will choose the same thing for the same reason. Therefore, no vote is ever taken, but considering the situation, there is no debate either. In fact, if the decision of the parties in OP is not unanimous, Rawls suggests the conditions of OP must be redefined.<sup>6</sup> Rawls' hypothetical contract suffers from this serious defect, but even if Rawls revised his account, the contract would still be hypothetical, and hypothetical contracts are not contracts as Ronald Dworkin reminds us.<sup>7</sup>

An even stronger critique of Rawls can be made by appeal to the discussion of identity in Chapter Two. One must ask whether these figures in OP are human beings in any meaningful sense. If one's identity is derived from his culture and his comprehensive view, neither of which exist in OP, then one has no context in which he can understand himself, much less make decisions about the kind of world would be best to live in. Any description of a social system will appear alien and mysterious. Some arrangements may appear attractive, but could it be described in enough detail to enable

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<sup>4</sup> Rawls does not include gender or ethnicity in the first list of facts filtered by the veil of ignorance found in *A Theory of Justice* (1971; pp. 12, 137), but he does add them to the list in *Political Liberalism* (1996; pp. 24-25).

<sup>5</sup> Rawls (1971), pp. 150-160.

<sup>6</sup> Rawls (1971), p. 139.

<sup>7</sup> Dworkin (1973), pp. 17-18.

anyone to understand how it really works? These “persons” are not allowed to draw on real-life experiences *of any kind*. All of their discussions are in the abstract; the only knowledge they can use is of general principles. If they are allowed no genuine understanding of what any real life is like and they are unable to make good decisions as a result of that lack, then the veil of ignorance is thicker than Rawls intended.

However, there may be other ways to develop a social contract theory that supports an obligation to obey the law other than appealing to actual or hypothetical contracts. Kent Greenawalt investigates several ways a person may have made a promise to obey the laws of a government.<sup>8</sup> This promise may be express, tacit, or implied, but if one has promised to obey the laws, then he has more than just a *prima facie* obligation to do so. However, Greenawalt points out that few citizens of any government have made any kind of promise to obey the laws. Certain political positions as well as some professions (e.g., soldiers and lawyers) require oaths before a person can assume his duties. These oaths may be to uphold the constitution of the nation or to uphold the laws generally, but these are not enough to require the individual taking the oath to follow every law. If a person believes a law is unconstitutional and he has taken an oath to defend the constitution, then surely it would be consistent with the oath to disobey the law.<sup>9</sup> Or, consider a professional oath (such as that of a lawyer or a soldier) or an oath a politician takes upon assuming office; the oath only covers those actions as a lawyer, mayor, or president, not as a private citizen. The problem with explicit promises to obey

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<sup>8</sup> Greenawalt (1987).

<sup>9</sup> The State of Oklahoma requires all of its employees to sign an oath of loyalty to the U.S. and state constitutions. States also require one to sign an oath to uphold these constitutions when registering to vote. Although some may object to signing such an oath, one could interpret the oath to permit civil disobedience when one protests a law he believes to be unconstitutional. Therefore, one can use the oath to justify violating the law in certain circumstances. As such, the oath is not a promise to obey *all* the laws, only the highest law – the state and federal constitutions.

the law is that they are either too general (e.g., the promise to uphold and defend the constitution) or too specific (e.g., only binding the person when he acts in the capacity of his profession).

Although explicit promises to obey the law are not sufficient to provide a moral obligation to obey all laws in all cases, it seems that members of a state make an implicit promise to obey the laws. A common example of such a promise is the fact that they remain in the state. Whether or not many contemporary philosophers accept this view, many non-philosophers have and continue to hold it. As evidence, consider the popular phrases “America: Love it or leave it” and “My country, right or wrong” that were responses to anti-war protesters during the Vietnam War. The idea behind the slogan is that if one loves America or calls himself an American, one will follow its laws and support its government. Current letters to the editor continue to echo this view. Thus, the belief that staying in a state implies a promise to obey its laws merits attention. The most famous example of this view is, of course, that of Socrates, who argues in favor of this position in the *Crito*.

The Laws of Athens claim a right to Socrates’ obedience because he not only was born and raised in the city (he received everything he had from the city), but upon reaching adulthood he *chose* to remain in Athens. Athens has given so many good things to Socrates that he must submit to its laws or persuade them of their error even when the laws demand his life.<sup>10</sup> By remaining in the city after seeing what the laws are, Socrates argues, he is bound to obey them. There are two objections to this view.

The first objection to this argument is that not every society enjoys free

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<sup>10</sup> Plato (1997). Socrates’ imaginary conversation with the Laws of Athens comprises nearly half of the *Crito*. The relevant parts of the Laws’ argument can be found at 51c-52a.

emigration. While Socrates may be free to leave Athens upon reaching adulthood, the citizens of the former Soviet Union were not allowed to leave their country. The citizens of Cuba today have little to no opportunity to leave their nation if they object to the laws, and when they do, they must sacrifice their property (which, apparently, Athens allowed émigrés to keep) and put their lives at great risk. Should the opportunity arise, the personal risk is often too great, or a person may have to leave family and friends behind. The state might even take revenge on these people. Leaving is just not an option in many situations.

G.E.M. Anscombe approaches this problem from a slightly different angle. She argues that whoever wants to leave all societies will be frustrated, for leaving one society is to enter another. Furthermore, when it appeared that one could leave all forms of civil society (by following Thoreau's example and heading into the "wilderness"), "a legal maxim was invoked or invented" such that no one can divest himself of citizenship of all nations.<sup>11</sup> Leaving all civil societies behind is not permitted, plain and simple. In other words, I can leave my country and live in unclaimed territory, yet no nation would recognize me as a person without a country. Everyone would view me, as a matter of law, as a citizen of the United States regardless of how many well-publicized renunciations of my citizenship I make. Only by becoming the citizen of another nation do I lose whatever citizenship I have now.

The second objection to Socrates' view is that even if one is legally allowed to leave, he may not have anywhere to go. While some nations may impose harsh limits on travel to prevent defection, there are many nations (for example, most western democracies) that allow their citizens to travel to other countries even when their

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<sup>11</sup> Anscombe (1978), pp. 143, 148.

intention to become a citizen of another nation is well-known. If a person is a member of such a society, many would argue that his decision to stay in his nation can be taken as a promise to obey the laws. Greenawalt disagrees. Although permitted to emigrate, he may be culturally bound. This, of course, was not true of Socrates. He grew up in Athens, but he could have easily led a comfortable life in any one of the many Greek city-states or one of Athens' colonies because the entire region shared a common language and culture.<sup>12</sup> Similarly, a U.S. citizen troubled by the laws may move to Canada or Great Britain with little trouble. But what is the citizen of El Salvador to do? An El Salvadoran may find it easy to leave his country with his family, but where will he go? The economies and political situations may be better in Honduras or Guatemala, but will they be significantly better, that is, worth the risk of leaving behind what one has already worked for to start over again? With enough resources, one might try to leave Central America altogether, but the situation improves only marginally. One may find himself in a country where he does not speak the language and risks deportation if he cannot prove his need for asylum. Assuming he can demonstrate need or obtain a visa, he must make his way in a new culture with a language he does not speak. It is in this sense that he is bound culturally to his society.

Of course, one more assumption must be made: The nation to which he emigrates has a more just regime and better laws than his own nation. There may be no alternative for the person who lives in a nation with laws that are mostly just. Although there may be some unjust laws (even a few grossly unjust laws), there may not be any nation that is currently more just than his own. Must one obey even the unjust laws of this state because no state is better?

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<sup>12</sup> Greenawalt (1987), pp. 279, 296 (n. 26).

Many factors play a role in deciding whether one can leave one nation for another. One must determine whether or not his native country will allow him to flee as well as select a nation which does not suffer from the same political problems (i.e., laws he finds unacceptable). After finding a suitable nation, he has to be able to afford the cost of moving. The farther the nation, the more expensive such a move will be. Even if he has the political and cultural opportunities, he may not have the economic ability. A poor Mexican who finds his nation's laws unjust and refuses to obey may want to move to Guatemala, but if he lives in northern Mexico, he faces a long, arduous trip on foot. If he cannot afford transportation, can he really leave Mexico? The ability to leave his native country, the economies and political situations of neighboring nations, even his own wealth (the more liquid wealth he has, the wider selection he has of countries to which he can emigrate; on the other hand, if the wealth is not liquid, he might lose it if he emigrates) are all important factors in determining whether or not he will stay in his country.

That a person remains in his country after reaching adulthood is not a sufficient reason to assume he has agreed to obey the laws. Leaving that country may be impossible for any of several reasons. Remaining in a society is *at most* an affirmation that the laws of one's nation are more just than those of other societies. It does not mean that one believes the laws have reached an acceptable level of justice, much less an ideal state. Remaining rather than leaving can be, but is not obviously or always, an implicit promise to obey. Some other source for the moral obligation to obey the law must exist, if we have an obligation at all.

Social contract theory does not solve the problem of obligation. Perhaps recasting

the question will lead us in the right direction. If we want to know whether we have a moral obligation to obey the law, we must ask, “What *authority* does the law have over us?” A step backwards may be prudent here: what is “authority”? Joseph Raz and G.E.M. Anscombe agree that authority boils down to a right to be obeyed.<sup>13</sup> Whoever has authority has a right to be obeyed by those over whom he has authority. Another step backwards seems necessary: how does a person or group of persons obtain authority? Many people would agree that there is a fundamental difference between a government and a Mafia: one has the right to be obeyed while the other does not. In fact, the government can do more than issue laws; its authority also allows it to enforce those laws. This raises what Anscombe considers the fundamental question of political theory: what is the difference between the state and a Mafia if each uses force?<sup>14</sup>

Anscombe argues that there is a need for some control over a community. In a state of nature (if there ever was one), people are free to abuse each other in any way they can: rape, theft, murder, etc. There is a task then, that someone must perform, and this task is to prevent such abuses. Whoever has the right to perform this task also has the right to whatever means are necessary to perform the task.<sup>15</sup> A legitimate authority (a government) is grounded in the task of protecting those governed by the law. “Authority arises from the necessity of a task whose performance requires a certain sort and extent of

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<sup>13</sup> Raz (1985), p. 117; Anscombe (1978), p. 144.

<sup>14</sup> “No political theory can be worth a jot, that does not acknowledge the violence of the state, or force the problem of distinguishing between states and syndicates,” Anscombe (1978), p. 149. Although Anscombe compares governments to the Mafia (or syndicates), she does believe there is a difference. Robert Nozick expresses a similar concern in *Anarchy, State, & Utopia* in which he compares government to “the local Dominant Protection Agency” (1974). Nozick develops this concept in the second chapter but employs it throughout the book.

<sup>15</sup> Anscombe does use the qualifier “necessary.” I interpret her use of the term in this way: Many things may help the person in his task of keeping order in the community, but certain methods (such as execution for minor crimes) are clearly a gross violation of human dignity, and while they might be effective, they are not necessary to maintain order. The use of such measures by a government would be illegitimate.

obedience on the part of those for whom the task is supposed to be done.”<sup>16</sup> For Anscombe, then, government exists to perform the task of protection, and in order to perform this task, it must have the authority to command obedience. This task may be carried out through different forms of government. Rules that issue from one person (a monarch), elected representatives, or everyone (a direct democracy) must be obeyed as long as that one person, body of representatives, or the people as a whole are recognized as the government, which is the only proper authority. Government exists for and by the people, whether or not it exists of the people.

Anscombe points out that it is not good intentions that legitimate power and coercion.<sup>17</sup> Benevolent dictators may want to improve the conditions of their people, and a Mafia don may feel a *noblesse oblige* towards those living in the city he rules; nevertheless, they do not have authority over the people they rule. Only the government exists to protect the people. The Mafia exists for its own sake, and any good will it may have towards its subjects is secondary to its own well being. The Mafia don and benevolent dictator’s good intentions for me do not give their rules any right to use force against me. They do not have a right to be obeyed as does a government. Authority, the right to be obeyed, belongs to whoever has the right to perform the task of protection of the people from internal (and external) security threats. In other words, only the government has authority. For Anscombe, ‘government’ is synonymous with ‘wielder of authority,’ and authority, by definition, is legitimate. A regime or ruling party that does not have authority is not a government but a syndicate, dictator, warlord, or other unjust

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<sup>16</sup> Anscombe (1978), p. 147.

<sup>17</sup> Anscombe (1978), p. 146. There are cases in which one may use force to effect another person’s good. As Mill argues (1978; p. 95), if you see a person approaching a broken bridge and there is no time to persuade him to follow another course, you may use force to stop him.



and illegitimate ruler.

To summarize Anscombe's view: some person or some organization needs to provide protection to the members of a society from other members of the society. The body that provides this protection has the right to be obeyed and can legitimately expect to have others obey any directives it issues. The question now is: how does any person or group of persons obtain this right? After all, anyone who punishes someone for violating an authoritative directive commits an unjust act unless the one who punishes is performing his task by right. The vigilante works outside the laws to enforce the laws, but by working outside the laws (not being commissioned by the authority), the vigilante has no right to punish anyone. His actions are unjust and an affront to whoever wields authority (by usurping her right to perform the task of protection) and to the person he punishes.<sup>18</sup>

Anscombe avoids the pitfalls of social contract theory in her attempt to answer how any particular group assumes the right to the task of protection (the role of government). She does admit that several individuals may contractually agree to grant authority to a particular person or smaller group within the larger group, but once the terms of the contract are fulfilled, the contract and the authority both end.<sup>19</sup> The source of such authority is clear and merits little attention. "The interesting cases of authority

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<sup>18</sup> Anscombe (1978), p. 163.

<sup>19</sup> One might object that the terms of the contract will never be fulfilled because the authority is supposed to provide protection in perpetuity. However, once all the signatories of the contract have died (whether it be from natural causes or the failure of the authority to provide protection), the terms of the contract have been fulfilled, so to speak. The contractual authority may claim the right to provide protection for any minor children of the signatories, but the adult children, unless they explicitly entered the contract upon reaching their majority are not bound to the terms of the contract. The adult children have no obligation to obey an authority established by a contract their parents signed. On the other hand, it would seem these adult children owe something for the protection they have received as well as other benefits (not least among them is education) made possible by the authority.

are those where *the subjects of authority are so willy-nilly*,<sup>20</sup> those cases in which the subjects of authority have no choice in the matter. Since true contracts are voluntary, they do not fall into this category. Although authority can be grounded in a contract, custom and tasks are more common sources of the civil authority described above. Anscombe grounds authority in a task and justifies authority through the necessity of that task, but she also believes custom has an important role in establishing authority.

One should not misconstrue the role of custom by thinking that what we consider a Mafia today will be regarded as a legitimate government once we are used to it. Yet, how else does a government come into power? Consider Fidel Castro's revolution in Cuba. Certainly there were many Cubans who supported Castro, but many did not (some Cubans supported Batista while others opposed both). After Castro's victory, many of his opponents left the island, but not all of them could do so. Some Cubans who remained on the island viewed Castro as an illegitimate usurper, someone who had power but no *authority*. However, after forty years of being in control of the island, more Cubans on the island seem to favor reforms in the government (at most) rather than an election, much less a new revolution.<sup>21</sup> That is, they believe that while there may be some unfair or unjust laws, Castro is a legitimate authority and has a right to be obeyed. They want a reform of the current government, not a brand new regime. There are two generations of Cubans who were born and raised under Castro's reign, and many of them consider his government to be legitimate.

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<sup>20</sup> Anscombe (1978), p. 148, Anscombe's emphasis.

<sup>21</sup> The Cubans in exile, however, do want to see a new regime, one modeled on democratic and capitalist principles. Perhaps one reason (although a simplistic one) most Cubans in Cuba support Castro is that most dissenters fled shortly after the revolution, have been allowed to leave (or have escaped), or are in prison for their political views. Nevertheless, there is still a devotion to Fidel Castro, *El Líder*, as well as to his revolution.

Another example can be found in U.S. history. As stated above, not all members of the Constitutional Congress supported the proposed constitution, but those representatives who voted against it and the citizens who did not want their representatives to vote for it had to submit to the Constitution. Although they may have disliked the new government, they had to follow the new laws at least for prudential reasons. Some may have thought the new constitution was not only distasteful but also illegal for two reasons. First, the Constitutional Congress was not charged with drafting a new constitution but only to amend the Articles of Confederation. Second, the Articles of Confederation required the assent of every state to amend the Articles, but the Constitution required only three-quarters of the states to ratify it. The Constitution became the supreme law of the land after nine rather than thirteen states ratified it, and this constituted a revolution of sorts. Over time, the new constitution has become the familiar, the traditional rather than the new, form of government, so that those who disagree with some of its points still consider it the legitimate authority.

Custom grants at least an air of legitimacy to many institutions. However, that people accept a ruling party as a government is not a sufficient condition for the party to be a government, a legitimate authority. A solution to the problem of authority deriving from custom is that such authority is only apparent. A legitimate civil authority only belongs to the institution which has the task of protecting the citizens and does so in a just way. Because people pay homage to an institution such as a hereditary line of monarchs or elected officials does not in itself grant authority to that institution. Anscombe argues that a legitimate government exists and has authority only if there is an institution of law based on justice and the people consent to the government. The

institution of law is different from a set of rules established by the Mafia. The government does protect its citizens from force, but it also protects citizens from fraud and other non-violent infringements of their well being. Furthermore, the government does not only prescribe some actions and prohibit others; government, through its institution of laws, courts, and penal system seeks to determine who wronged whom. One would not be surprised if a Mafia don punished both the plaintiff and defendant, but such a practice by a government would be a violation of justice and an abrogation of its duty to protect its citizens.<sup>22</sup> In short, a government has authority only if it is recognized by the people and protects its citizens through an administration of justice rather than through brute force. Force is a tool of the government, a way to ensure that citizens obey its laws and directives, but force is also a tool of justice, not a replacement for it.

If we accept Anscombe's argument that authority is "the right to be obeyed," then not following the law of a government (which by definition has legitimate civil authority) would violate someone's rights (the rights of whoever holds the authority). Violating someone's rights is generally regarded as immoral (there may be exceptions in unusual circumstances). Therefore, we can formulate a general rule: *Failure to obey the laws of a government is immoral because it violates the rights of a person or group of persons.* If a government has a right to be obeyed, a citizen has a moral obligation to obey that government, and it can use force to ensure our compliance, then what room is left for autonomy? Given these conditions, the authority's order should be sufficient – a citizen needs no other reason to act. He need not consider reasons for following the law (such as, "Is it to my advantage to obey?", or "Do my moral convictions already require me to do what the law happens to say in this instance?") because the fact that the government

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<sup>22</sup> Anscombe, (1978), pp. 165-168.

has declared a person should perform a certain action is reason enough to do it. Submission to this degree is anathema to strong democracy, yet what else could follow from a right to be obeyed?

Joseph Raz defends a weaker version of this submission to authority by arguing for the “preemptive thesis.” In developing this thesis, Raz first argues that authority is a subset of justified use of coercive power. That is, there are different ways to justify force, and authority is only one type of justified force. Mill, as cited above, allows the use of force to prevent a person from walking over a broken bridge. Authority is justified because it makes “an appeal to compliance by the person(s) subject to the authority.”<sup>23</sup> Authority can still exist whether or not the subject freely and willingly complies, but one claiming authority must make a reasonable attempt to defend his claim to use force. Whether or not the subject accepts the argument, the person claiming to have authority must provide a good argument for his right to be obeyed.<sup>24</sup> Whoever claims to have authority must defend the claim not on the grounds that he is physically stronger or morally better than anyone else but is better at determining what should be done.

Raz explains “better at determining what should be done” through his “normal justification thesis:”

[T]he normal and primary way to establish that a person should be acknowledged to have authority over another person involves showing that the alleged subject is likely better to comply with reasons which apply to him (other than the alleged authoritative directives) if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons which apply to him directly.<sup>25</sup>

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<sup>23</sup> Raz (1985), p. 116.

<sup>24</sup> Raz (1985), p. 120. Subjects may not always understand an argument for one’s claim to authority, but as long as one makes a sincere effort to explain it and the argument is sound or inductively strong, then the claim is legitimate, and the party must be obeyed, according to Raz.

<sup>25</sup> Raz, (1985), p. 129.

To have authority one must be more adept than the subject at determining which factors are relevant to those situations over which one claims authority and which reasons apply to a decision. In short, one has authority only if he is better at figuring out which reasons apply to the subject and better at figuring out which action or course of actions those reasons require. Jane should have authority over John if Jane's directives regularly comply with the reasons relevant to John more often than John's decisions comply with the reasons relevant to him. John may recognize some relevant reasons, but if he includes too many irrelevant reasons in his decision, he cannot reliably reach the right conclusion.

Consider, as an example, the difference between a police force and a group of vigilantes. The police force comprises uniformed officers, detectives, forensic specialists, and others. The uniformed officers are the first to respond to a complaint. They are specially trained in handling conflict if the crime is still in progress and how to begin protecting and gathering evidence (including witness' reports). Detectives eventually take over the case and, with the forensic specialists, gather more evidence and analyze it according to established protocols to determine the criminal's identity. A vigilante, on the other hand, requires no license or special training. The detective, because of his training, is more skilled at determining what counts as evidence in court and how to interpret the evidence. Therefore, the detective has authority over criminal investigations. He may direct others in an investigation because he can determine which reasons for arresting a suspect are appropriate. A vigilante may consider "a gut-feeling" sufficient for an arrest, but the detective knows that more evidence is necessary to turn

the arrest into an indictment and an indictment into a conviction.<sup>26</sup> Also, the vigilante may miss reliable evidence in an investigation because he does not know what counts as reliable evidence. Should a vigilante work under the direction of a trained detective and accept the detective's orders as authoritative, the vigilante is more likely to apprehend a suspect for the right reasons than if he acted alone. There may be times, however, when the detective is wrong and the vigilante is right. This does not change who has authority. The normal justification thesis only requires that whoever has authority is *more likely* than the subject to reach a better conclusion. The thesis does not guarantee success, nor does it require one to be perfect before earning the right to be obeyed.

The normal justification thesis is the basis of the preemptive thesis. If a person has authority because he is a better judge over what constitutes a good reason to do something, then that person's decision is itself a good reason to do something. Raz goes so far as to say that the decision of a person with authority preempts all of a subject's reasons to do something. The authoritative directive (the law or policy) is not one reason added to a list of reasons that tilts the balance in favor of the directive; rather, it replaces the other reasons. The reasons that the person with authority uses to reach his decision are no longer subject to appeal, according to Raz.<sup>27</sup>

In this account there is an obvious conflict between authority and autonomy, a trait liberal democracies are supposed to protect. Raz does try to make room for appeals to an authority's decisions, but he does not make enough room. The exceptions he makes

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<sup>26</sup> The vigilante's "gut-feeling" may be right. He may suspect the actual offender, but a "gut-feeling" is not sufficient grounds to deprive someone of his liberty. While a person may not be able to determine the relevant reasons to decide on a particular action, he may choose reasons which accidentally lead to the same conclusion as that of the authority. In such a case, all we have is a case of right opinion; the authority, on the other hand tends to act with knowledge.

<sup>27</sup> Raz (1985), pp. 121, 124.

to the preemptive thesis are not sufficient to protect the autonomy of the subjects. The preemptive thesis keeps subjects as subjects and does not let them become citizens, autonomous members of the society who consciously participate in constructing the society itself. Cases in which Raz allows subjects to challenge the rules or decisions of an authority are “if an emergency occurs, or if the directive violates fundamental human rights, or if the authority acted arbitrarily.”<sup>28</sup> These do not allow much autonomy to the citizens. Moreover, the preemptive and normal justification theses preclude a subject from passing judgment on at least one of these conditions. I will return to this problem shortly.

Although Raz insists that one must obey whoever has authority, he does not give the wielder of authority a claim upon one’s attitude towards obedience. As long as one obeys the laws, one may criticize the person or persons with authority for ignoring certain reasons or curse the laws for their stupidity.<sup>29</sup> One can disagree with a law for any reason, Raz argues, but not all reasons are grounds for disobedience. Whatever reasons the authority has used to reach its decision are not open to question by the subjects of that authority. One may disobey authority only under one of the three special circumstances listed above. Disobedience is acceptable at these times, according to Raz, because there is no challenge to the reasons the party with authority used to reach the decision. These circumstances provide new reasons that merit consideration, much like new evidence may warrant a new trial.

In an effort to preserve the subject’s autonomy, Raz allows the subject to disagree with an authority for *any* reason as long as only the *proper* reasons lead to actions.

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<sup>28</sup> Raz (1985), p. 125.

<sup>29</sup> Depending on the regime and its laws, one may be able to criticize the government openly, or one might have to remain silent. In either case, one is allowed to make judgments about the government’s decisions.



According to the preemptive thesis, no reason that the authority has used to reach a decision is a proper reason for the subject to act upon; rather, that the authority commands an action is the proper reason to perform the action. What does this really amount to in practice? If a subject should submit to an authority because he recognizes the authority is better at determining the reasons relevant to any particular problem, why should the subject constantly evaluate the authority's decisions? Even if the person in authority has made a bad decision, one can challenge him only if the decision meets one of the three conditions. That a law is unwise is not in itself a reason to disobey the law.

Raz only requires the wielder of authority to be better than the subject at determining relevant reasons (i.e., the authority is right more often than the subject). If I recognize that my friend is better at applying abstract mathematical principles to problems and regularly produces an accurate answer where I make mistakes, and she offers to solve such problems whenever I ask, then there appears to be no reason why I should ever try to solve the difficult problems myself. On those occasions when I ask for her help, I would be wasting my time checking her answers because she understands the process and the principles better than I do. To bring this back to the political arena, if I submit to an authority because I realize the authority is better at applying the relevant reasons to a problem, then whenever I disagree with the authority's rules in principle (that is, excluding cases of emergency), it may be because I have ignored relevant reasons or allowed irrelevant reasons to creep into my argument. My experience tells me that the authority has offered a sound argument for its laws more often than I have, so why should I keep checking the authority's arguments? Why not acquiesce in all future cases? I should realize that I am the one who is unable to reliably reach the right conclusion.

Given the normal justification thesis, there is no point in constantly questioning the reasons the authority used to reach its conclusion, yet Raz believes subjects do so anyway. Despite this questioning of authority's reasons, subjects cannot act on their doubts about the authority's reasons. It is reasonable to assume that a subject might conclude that the reasons he once believed are important but ignored by the authority are probably not important and are rejected by the authority as irrelevant to the problem. Because the authority tends to be correct more often than the subject, the subject has no business questioning the authority's reasons. If this is true, then the view must extend to not only the authority's reasons but also to the question of whether the authority is acting arbitrarily. What appears as an arbitrary decision to a subject may be the result of careful deliberation of an authority that recognizes as germane certain reasons that the subject does not. Because the subject already accepts that the authority is better at determining relevant reasons, it would be rational for the subject to assume whatever appears to be an arbitrary reason is actually a reason the relevance of which simply escapes her capacity to understand. The subject, recognizing the reliability of the authority, has no reason to question the decisions of the authority.

I do not mean to suggest that everyone is docile and readily submits to the authority. However, many subjects will acquiesce with only minor grumbles at best. Revolution tends to follow only gross abuses of freedom, and then only after some recognition of a violation of rights. The more rights a people believes it has, the less submissive to authority it becomes. That is, the more decisions people are allowed to make for themselves, the more decisions they want (and believe themselves capable) to make for themselves.

One might object that a subject does not have to recognize that the authority is better at determining relevant decisions than he is. However, in such a case, the subject will not recognize the legitimacy of the authority and will not allow the authority's rules or laws to govern his actions. Raz requires that any person or group who wants to have legitimate authority must ask to be accepted as an authority. If the subject recognizes or accepts the authority, then he will allow authoritative directives to govern his actions. If the subject does not recognize or accept the authority, he will not feel any sense of moral obligation to obey the laws as laws. In other words, a person who does not accept the authority of a government will not obey its laws as laws but only because the laws are prudent or consistent with his moral principles. For a subject to obey a law because it is a law, the subject must recognize the legitimate authority of the person or persons who make the laws and thereby recognize the authority's right to be obeyed.

Let us consider again Raz' exceptions. Raz argues that the only grounds on which a subject can act against an authoritative directive are 1) the directive is arbitrary, 2) the directive violates fundamental rights, or 3) there is an emergency in which the directive should not apply. Since a subject is less capable of determining what are relevant reasons, he is not a reliable judge of when an authority acts arbitrarily. Even in the case of an emergency, the authority itself investigates the circumstances after the fact to decide whether a true emergency existed or not. For example, if a person kills someone who invaded his home, he must demonstrate that he had reason to fear for his own or another's immediate safety. Although one may use deadly force to protect himself, shooting someone in the back while he is moving away is not justifiable homicide. The subject may believe he is in an emergency situation, but whoever has

authority is the final judge of what constitutes an emergency. In other words, even in an emergency there is a presumption that one should follow the law. The same holds true if the subject suspects a law violates fundamental human rights. A subject who violates the law will be punished.<sup>30</sup> Finally, as stated above, a subject may not be a reliable judge of which reasons are arbitrary. How can he be sure that the authority (who he agrees is more reliable) acted arbitrarily? The three exceptions Raz allows are insufficient for subjects of the authority to exercise genuine autonomy. The subject must submit his judgment to that of the authority, and in the few cases where he may judge a situation for himself, it is subject to review and punishment by the authority.

This strict view of authority is surprising from someone who is a strong advocate for autonomy elsewhere. That Raz allows a subject to harbor whatever negative judgments he has concerning the government and its use of authority (even if he allows the subject to voice those views in public - a concern he never address in "Authority and Justification" [1990]) is not the same as giving the subject true autonomy. Furthermore, Raz believes autonomy requires a wide range of options in important and trivial matters. This implies an ability to act. Allowing subjects to have whatever opinion they may have is a step *towards* autonomy, but not allowing them to voice that opinion or otherwise act on it (a prohibition consistent with Raz' view) hinders rather than fosters autonomy.<sup>31</sup>

In his defense, I must point out that Raz believes that a government may exercise its authority only in a limited way.

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<sup>30</sup> In a constitutional regime that allows judicial review, the courts may decide that the fundamental human rights violated by the law are protected by the constitution. In such a case, the subject will not suffer further punishment and no crime will be on record because the subject, in violating an unconstitutional law, violated no law at all and deserves no punishment. In other regimes, there is no guarantee one will be legally vindicated for breaking the law.

<sup>31</sup> In *The Morality of Freedom* (1986) Raz argues that a liberal society should *foster*, not merely allow, autonomy among its citizens. See especially chapter 15.

For example, a directive may determine that from the economic point of view a certain action is required. It will then replace economic considerations but no others. Or the authority may direct that the final decision must be based on economic considerations only, thus replacing all but the economic factors.<sup>32</sup>

If the government (or whoever wields authority) limits itself in this way, the subject does have more authority than if the government places no limits on itself. However, why should the government limit itself? The theory of authority Raz has proposed allows the government to make decisions and issue directives on any topic on which it can determine the relevant reasons better than the subjects. Only when the government is not more competent than the subject can it not legitimately give an order. But in what areas is the government competent? A carefully written constitution could create a government whose offices must be filled with certain experts to ensure a high degree of competence in a staggeringly wide range of fields. If the government refrains from issuing a directive when it is not competent, this is not a gift of autonomy from the government to the people but an awareness of the limits of its legitimate authority. If the government can legitimately issue an order but leaves the decision to the individual subjects, then we might conclude the government is allowing the subjects more freedom than justice or fairness requires, but there is no reason to believe the government will ever allow such freedom.<sup>33</sup>

Raz' normal justification and preemptive theses may provide an excellent way of

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<sup>32</sup> Raz (1985), P. 125.

<sup>33</sup> Curiously enough, some people might object that the government fails to perform its duties if it does not exercise its authority to the fullest. If the government can make better decisions than the subjects, then not making those decisions is a disservice to the people. Traditional liberals do not share this view, which defines government not as a protector of rights or defender of justice but a Great Protector who will relieve the people of the burden of difficult but meaningful decisions. Consider The Grand Inquisitor in Dostoyevsky's *The Brothers Karamazov*. The Grand Inquisitor believed that he served the people by feeding them and making all their decisions for them. To allow them to make their own decisions condemns them to misery.

determining who should be an authority and how that authority should function in matters of knowledge (such as philosophy or mathematics), but it does not allow enough autonomy to human beings when applied to questions of governmental or civil authority. When a person completely (or very nearly so) surrenders his actions to an authority, regardless of one's considered judgments concerning the value of the rule or law, he sacrifices autonomy. Making judgments yet never acting on them out of fear of punishment is not consistent with the liberal democratic ideal. If Raz' theory of authority is correct, then humans are subjects of governments and not citizens in a civil society.<sup>34</sup> Only if I want to improve my skills in mathematics or in making laws should I try to solve the math problems mentioned above or make political decisions. With Raz' account, there is no motivation to improve my political skills. A strong theory of participatory democracy with active citizens who jointly rule the community (share authority) requires citizens who can make good decisions. Improving one's political skills serves the interests of each individual citizen as well as the interests of the community as a whole.

This distinction between subjects and citizens is crucial, as seen in the previous chapters. A minimal definition of autonomy is that a person has autonomy only if he can act on his own thoughts and judgments. Of course, there are degrees of autonomy, and some authorities (governments included) allow more autonomy than others, but a liberal democratic state should foster autonomy whenever possible. Respect for autonomy is the

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<sup>34</sup> Raz' theory could apply to strong democratic governments. My criticism of Raz is that his theory also justifies regimes that allow no participation by citizens in a wide range of issues. As pointed out above, an authority may restrict itself to a subset of the issues about which it may legitimately (according to Raz) issue directives. That a government can make better decisions (from a rational point of view) about certain aspects of life does not mean it is better for a person that anyone else, including the government, make those decisions. A standard liberal view is that although a person may make a bad choice, that he made the choice himself makes the choice valuable. That is, it is better to make a bad decision on one's own than to have another impose a good decision on him.

hallmark of liberal states. Edward Sankowski offers another definition of autonomy: “[A]utonomy is a capacity or tendency to regulate oneself freely on the basis of good reasons” which are deemed so by an “authoritative community of judgment about autonomy.”<sup>35</sup> Some communities are “better able to judge what autonomy is (including what...are good reasons),” and which community is a better judge depends, in part, on its form of social organization.<sup>36</sup> A liberal democratic regime that encourages citizenship and participation is a better judge of autonomy than a totalitarian regime because its citizens *are* more autonomous. Its citizens can make better judgments about what constitutes a good reason for acting because they must make decisions after evaluating the arguments of fellow citizens. They have learned what Raz believes whoever has authority must know: how to determine the relevant reasons and apply them correctly.

A government that makes decisions for its subjects whenever it is better at determining the relevant reasons denies the people an opportunity to exercise their autonomy or even to learn how to make better decisions. However, by adopting the practice of what Stephen Macedo calls “public justification,”<sup>37</sup> the liberal democratic state can address two problems: (1) participation by citizens, and (2) political education of citizens. Through public justification, individuals have an opportunity to voice their views on the issue at hand, thereby allowing them to take part in the decision-making process. They no longer submit to an authority but become part of the body that has authority. Furthermore, the citizens, after hearing various views about what should be done, are better suited to make a decision about which reasons are relevant. Each side can and should present its reasons for pursuing a particular course of action.

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<sup>35</sup> Sankowski (1992), pp. 291-292.

<sup>36</sup> Sankowski (1992), p. 292.

<sup>37</sup> Macedo (1991), Chapter Two.

Furthermore, each side should present its arguments in as accessible a way as possible. The point of public justification is to reach a consensus among the people, not to mystify them. Of course, there is no guarantee that the best reasons will be recognized by a group of people (all the citizens) who are not experts, but they will be making their own decisions as a group. With the virtue of solidarity prevalent among the citizens, the effort will be to make decisions that benefit the group as a whole rather than each voter choosing what is best for him regardless of effects on others. Of course, not all the decisions will be the best, but the citizens will have to live with the consequences and learn from them.

Public justification is an essential part of strong democracy and plays an important role in making a liberal democratic government a legitimate authority. By making the subjects into citizens, the members of a society begin to make their own laws. This is not the simple argument that because John voted in an election he must abide by the outcome. Rather, because he participated in the decision-making process at every level, his thoughts and judgments have helped to shape the final outcome. A strong democracy requires more of its citizens than merely voting for elected officials. The citizens must actively participate in political discussions at the local, state, and federal levels. Political discussion can take the form of friends discussing issues among themselves, town meetings, and political organizations. Letters to the editor, working for ballot initiatives and referenda, and running for office (this includes all public service positions from dog catcher to president) are also ways to participate in the decision-making process. All of these ways engage the individual person in debate and discussion so that when he casts his vote for an elected official or for a ballot question (such as a



state question, referendum, etc.), he not only makes an informed vote but has played a role in determining what questions must be answered on the ballot or the issues the elected official must face. A citizen has a moral obligation to obey the law because he has had a significant role in shaping the law.

Should he fail to participate in political discussion and sharing authority, it is from a lack of solidarity. That is, he sees no common enterprise or mutuality to pull him into the political discussion. This does not absolve him of legal obligations, however. Solidarity is a virtue, an excellence of citizenship. If a person wants to be a citizen, he must try to develop this virtue. Failure to live up to the demands of the virtue is no excuse to violate the law. Just as an employee who refuses to participate in company surveys and panel discussions to reform the company policies must abide by any changes that are made, so too must a citizen abide by the laws he had a responsibility (not merely a right) to participate in forming.

Each citizen can and should engage in political discussion so that his views are heard and considered before a decision is made. We no longer have a subject who submits to an authority, but a citizen who participates in authority. He helps determine the laws and imposes them on himself.<sup>38</sup> Even if the law significantly differs from what a citizen would like, he need not be silent in the political arena. Strong democracy allows citizens to keep old questions alive by protesting the law and raising awareness of his concerns. Because political discussion should never end, he always has an opportunity to bring the question back to center-stage. A case in point is Prohibition. Years of

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<sup>38</sup> This has a Kantian flavor, but I do not consider this view Kantian or derived from Kant. The citizen participates in the formation of laws; therefore, a person exercises autonomy by being a citizen. The citizen is autonomous because he exercises authority over himself. This autonomy is not complete. Kant would argue that a citizen acts heteronomously because his goal is to serve the good of the community as a whole, not just the moral law.

campaigning resulted in the Eighteenth Amendment to the U.S. Constitution, and it banned the production, transportation, and sale of alcohol. When citizens saw the ban was not effective and even had dire consequences (an increase in organized crime), they repealed Prohibition by adopting the Twenty-First Amendment. The laws of a democracy are constantly subject to review for amendment or repeal.

This appeal to citizenship and strong democracy eliminates the concerns raised by Raz' preemptive thesis. The citizen does not allow an independent authority to replace his judgments; rather, he is part of the authority so that the authoritative directives (laws, rules, and policies of the government) are a reflection (to a degree) of his own judgments. He can accept the authority of the state because he constitutes, in part, that authority. In short, the most legitimate governmental authority is found in strong democracies – not simple majoritarian democracies, but systems in which each citizen is encouraged and enabled to speak and participate and whose views are considered by other citizens. Only in such systems do citizens have a genuine role in forming laws and policies. Thus, the virtue of solidarity is the basis for obeying the laws of a liberal democracy.

Raz' theory of authority is defective because, if valid, it justifies nearly any form of government; there is simply no accounting for autonomy. Anscombe, however, hints at what types of regimes qualify as a legitimate government, but she does not elaborate. She believes that all governments are legitimate because they have authority, but she never tells us which regimes qualify as governments rather than local Mafias. The only clue she gives us is that a government exists only in civil society and must have an administration of justice.<sup>39</sup>

A just regime is one that respects the autonomy of the people by allowing them to

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<sup>39</sup> Anscombe (1978), pp. 162-164.

be citizens rather than mere subjects. If a government has legitimate authority because it administers justice, then it must treat those it governs justly, and that means the government must respect the autonomy of the people as individuals. Any regime that ignores or limits unfairly the people's individual autonomy is not just and has no legitimate authority. If such a regime has no legitimate authority, then it no longer has the right to be obeyed. Therefore, the subjects of an unjust regime have no moral obligation to obey the laws as laws; they can only have prudential or coincidental reasons (e.g.,  $x$  happens to be required by the law and one believes  $x$  is morally obligatory) to obey the laws. The citizen of a strong democracy has an obligation to obey the law because he helped create the law. Even if the law was created before he was able to participate politically (before he was born or reached the age of majority), he can attempt to repeal or reform the laws he finds questionable. In a dictatorship, even a benevolent one, the dictator does not have enough respect for the autonomy of those over whom he rules to allow them to participate as citizens. They have no power to affect the laws; therefore, the people are not bound to obey them. In a liberal democracy, however, the government *is* the people as a whole. Thus, as pointed out in Chapter Two, the community exists *for* the people, responding to what they think is best for the community as a whole.

Some citizens will face a dilemma, unfortunately. While they recognize their obligation to obey the law, they also recognize that what the law demands is immoral. Despite their best efforts, a law they believe is unjust is on the books. As stated in Chapter Two, one must not give up his individuality or his comprehensive doctrine of the good when he enters political society. If he can find no way to resolve the conflict

between his comprehensive view and the society's political conception of the good (e.g., there is no conscientious objector status for a particular law or policy), he must choose between violating his conscience or his state's law. The latter, if done in a certain way, is civil disobedience.

This is not the forum for a full account of civil disobedience.<sup>40</sup> However, it is important to point out that a citizen of a strong democracy is not morally bound to obey every law all the time. Of course, he is legally obliged to uphold the law, but he must act on his conscience. Should there be a law that he has opposed and tried to change but has failed, he may decide to violate the law. However, as a member of the community with a general respect for the rule of law, he must acknowledge that violating the law will result in punishment and be willing to accept that punishment. Refusal to accept this punishment would be a rejection of law altogether.

According to Martin Luther King, Jr., an important step in preparing for civil disobedience is to decide whether one can accept the punishment that may follow. If a person decides the punishment is too costly (jail time would result in the loss of pay and support for his children), then he must choose a legal way to protest the unjust law. Not to accept punishment for breaking a law while expecting others to obey laws is hypocritical, something King did not want to be. He respected the rule of law and wanted it to govern society, but he wanted those laws to be just. Therefore, even when breaking a law, he respected the right of the government to punish him for violating the law while protesting injustice.<sup>41</sup>

Because a government is legitimate only insofar as it tries to protect citizens

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<sup>40</sup> For my views on civil disobedience see my *Civil Disobedience: A Definition and Method* (M.A. Thesis, University of Oklahoma, 1994).

<sup>41</sup> King (1986b), pp. 290-291.

through an administration of justice, any law it issues that violates one's sense of justice can be rejected. However, as a citizen one is bound to work for just laws, and that is where the moral obligation is found. If one fails to convince one's fellow citizens of the injustice of their law or policy, and that injustice is great, then one need not obey the law. One's sense of justice and other moral obligations can outweigh one's moral obligation to obey the law, yet one must also face the consequences.

One does have a moral obligation to obey the law when one is a citizen of the society that created the law. The obligation stems from the facts that 1) the citizen helped create the law and 2) that the law is part of an administration of justice. This obligation, then, is a moral obligation not because of what the law requires or prohibits, but because it is a law. A subject of an unjust regime has no obligation to obey the law; however, one may find it in one's best interest to obey. One may also obey the law to protect others; one may even feel a moral obligation to obey because disobedience will result in harm to others. In this case, however, one is not obeying the law as a law but for other moral concerns.

The virtue of obedience lies in reflection. A virtuous act is done out of habit but also for the right reasons, at the right times, and in the right way. Thus, a person has the virtue of reflective obedience when he obeys or disobeys for good reasons, as well as at the right time and in the right way. One can judge these conditions best when he also enjoys the virtue of solidarity. In recognizing the value other citizens have as citizens, he will pay more attention to and give more respect to their political opinions. Of course, he is not more likely to agree with them, only more likely to work to understand their positions. In doing so, he will be interested in making laws that serve not only his own

interests but those of the entire community. This recalls the sublime beauty of solidarity: working for the good of the community should benefit the individuals. Violating just laws is an infringement upon the rights of whoever has authority. In the case of a liberal democracy, it is the people as a whole that holds authority. Therefore, violating a just law in a liberal democracy violates the rights of the people, of which the lawbreaker is a member. In a way, he has rejected his own laws.

## **Chapter Five**

### **A Problem Resolved?**

Plato warns that a democracy will sooner or later become a tyranny, and there are troubling signs that in the U.S., many citizens have such a distorted understanding of freedom and equality that we risk devolving into a tyranny. The virtues described in the preceding chapters should strengthen a democracy in two ways. First, they can make the government stable, preventing the slide to tyranny. Second, they can transform a thin democracy into a strong democracy in which the people truly share in the authority and rule, that the people are the government. But several questions remain, including how a state should teach these virtues.

After reviewing the definition of each virtue, I will explain their relationship to each other. Then, I will offer an explanation of how the three together resolve Plato's problem as presented in Chapter One. Finally, I will briefly look into the question of whether a liberal state should teach or foster these virtues.

Solidarity is the fundamental democratic virtue. It is that attitude of mutuality and fellow-feeling that exists between people who are not legally or morally required yet still feel an obligation to assist one another. Granted, this assistance is supererogatory, for the obligation is subjective and unenforceable by any outside authority. While the mutuality can be based on different relationships, solidarity as a democratic (political) virtue

depends on the recognition of the mutual relationship of citizens. In a democracy, citizens depend on cooperation for a just regime.

As a virtue, solidarity lies between the extremes of individualism and collectivism. A citizen is allowed his own projects and pursuits and his own comprehensive doctrine of the good, yet he cannot be out to serve only himself. Out of a sense of unity, he is willing to sacrifice *some* of his personal interests for the sake of the community, but he is never required to sacrifice all of them. He holds onto his comprehensive view, but in the interest of the community, he is willing to allow a political conception of justice to guide the community's laws and policies. Of course, his comprehensive view and those of other citizens provide the source material for the political conception, and it is his comprehensive doctrine that motivates his own actions.

This mutuality, especially as it leads to cooperation in forming a political conception, is a good example of tolerance at work. In creating this common view of justice, a person must be willing to allow some things of which he disapproves. The virtue of tolerance is necessary because it is the ability to control, when appropriate and for the right reasons, the desire to suppress or prohibit ideas and conduct that one finds objectionable. Through solidarity, one recognizes the equality of citizenship, and tolerance allows that equality to affect public policy. Differences are inevitable in a liberal democracy, and solidarity provides a tool for the citizens to work out differences, not so much to find a final solution to questions of right and wrong but to find a workable solution.<sup>1</sup> Without tolerance, no such solution is possible. Yet, tolerance does not mean

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<sup>1</sup> Isaiah Berlin, in "Two Concepts of Liberty" warns that if we believe that a final decision can be reached concerning goals (i.e., we all accept one comprehensive view of the good), then there are no more questions for political or moral philosophy. Problems would require only technical expertise rather than



one must allow everything. Not all ideas or goals are equal, and some may rightly be prohibited from being acted upon. Such a limit is inherent to the notion of tolerance. Even steel has a tolerance level. Any stress beyond this level will break the metal. Society, too, has a tolerance level; allowing what goes beyond this level will place so much stress on society that it collapses.<sup>2</sup>

The third virtue, reflective obedience, stretches the term “virtue”, perhaps even beyond its tolerance level. I call it a virtue because it does require an excellence of practical wisdom, and it is rooted in both solidarity and tolerance. If it is not a virtue in its own right, then it is a virtue by analogy. It certainly is a balance between two extremes: blind obedience and stubborn rebellion. A citizen who is reflectively obedient understands why he has an initial obligation to obey the law but always reserves to himself the final judgment to obey or not. This obligation to obey exists in a liberal democracy in which the people exercise a genuine authority. This condition exists in a democracy with a majority of citizens who have achieved the virtues of solidarity and tolerance. By reserving this right of judgment to the individual, reflective obedience reinforces the balance solidarity seeks because it reasserts the right of the individual to determine his comprehensive doctrine of the good and let it – rather than the political conception – guide his actions.

These three character traits provide a counter to the devolutionary forces Plato fears. They foster a realistic and sensible understanding of both freedom and equality. Solidarity helps one understand the equality of the citizens. As a citizen, no one is greater or lesser than any other citizen. Yet, this does not mean all citizens’ ideas have

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philosophical acumen. No such agreement is on the horizon; consequently, the citizens must formulate a political conception of justice to address the problems they will face.

<sup>2</sup> I would like to thank Tom Boyd for this analogy.

equal value. Some ideas and actions are objectionable to other people, but under certain conditions these ideas can be acted on. But some actions may rightly be prohibited. When it is one's own desires that are frustrated by the law, one must evaluate whether the restriction is just. If one still feels bound by conscience to act, he may reject the law and violate it and accept any punishments that ensue. Solidarity does not require one to violate his conscience. It may move him to further moral reflection and a reassessment of his values, but solidarity cannot be invoked to compel him to do what he believes is wrong. If this happens, there is no virtue but an excess of collectivism. When each virtue is a part of enough citizens' characters, the democracy as a whole values freedom and equality properly and not distorted versions of these democratic goals.

The final topic to address is whether a liberal democracy should foster any specific virtues. Traditionally considered to seek neutrality on moral issues, liberalism is often criticized by communitarians. They argue that liberalism's fault is not promoting virtues or other moral values. Whatever the goal of liberalism in this regard, it is not possible for a liberal state to remain neutral. Just as a school promotes the virtue of honesty by punishing cheating, so too a state promotes some version of morality through its laws. In order to function even at the basic level of self-interest (a thin democracy), a state must have some laws. To function as a healthy, strong democracy, the community must develop a political conception of justice. This is not a comprehensive view addressing all aspects of life. It addresses those issues that involve the larger community. The state will at least passively promote this political conception through its laws (punishing transgressions), but it can be more active through various programs.

While communitarians criticize liberals for neutrality, liberals rightly fear

indoctrination. If a liberal state sticks to pushing the *political conception* as opposed to any *comprehensive doctrine*, the state engages in moral education, not indoctrination. After all, the political conception develops from the various comprehensive doctrines found in the society; therefore, it is not forcing foreign ideas or values upon its citizens. Furthermore, solidarity, tolerance, and reflective obedience are (or ought to be) part of the political conception. The very fact that a variety of people with differing comprehensive doctrines have created a political conception is a sign of their willingness to work together and tolerate differences. Developing a sense of reflective obedience should not be a stretch for such a group. If a state fosters ideals a majority of its citizens hold valuable (even if they rarely live up to them), then there is no indoctrination. Instead, there is reinforcement of what has already been judged valuable and desirable.

Other questions remain, but I will only raise them here. *How* should a state foster these virtues? A state could be relatively passive, as suggested above, by punishing those who do not show some degree of the virtues. Or, it could be somewhat more aggressive by encouraging virtuous behavior through benefits. For example, the U.S. encourages marriage by providing tax benefits, and a bundle of other rights for married couples.<sup>3</sup> An even more aggressive promotion of virtues would be the moral education discussed above, actually addressing it in public schools and universities. What would be the most effective method of teaching these virtues, while certainly related, is another problem and is not in the scope of this dissertation.

The erosion of freedom and equality that turns a democracy into a tyranny is not

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<sup>3</sup> This bundle of rights depends on the individual states, but they often include inheritance rights (some states prohibit a person from excluding a spouse from a will) and the right to make crucial medical decisions. Recent welfare reform measures also act to encourage marriage by cutting benefits to single parents.

inevitable. Some degree of promotion of the virtues of solidarity, tolerance, and reflective obedience are necessary, though. Whether it be through specific classes in public schools or other means, the liberal democracy is served by having citizens who possess these virtues. The citizens themselves will benefit because the virtues enhance the freedom and equality they enjoy by ensuring a proper understanding of what these words mean, helping to eliminate the exaggerated definitions that endanger others (most people will understand their freedom does not include placing a car on a bonfire amidst apartment buildings). Yet, these virtues should not be pursued out of self-interest. Like any other virtue, they ought to be chosen for their own sakes.

Positive results are inherent to virtue, which must be sought for its own sake. Certainly, Plato and Aristotle encourage the pursuit of virtue and promise a pay-off of happiness, but each also understands that the attitude of the one pursuing virtue must undergo a change. At some point, the person must realize that the virtue is good in itself and that the benefits are fully realized only when the virtues are sought for their own sake. The same is true of these democratic virtues. As long as they are sought for their instrumental value, there is no genuine commitment to the virtues, and the individuals as individuals and as a community will reap fewer benefits. A strong democracy requires a commitment to the virtues themselves.

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