

Political Objectivity

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We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.

U.S. Declaration of Independence

We believe that it is the inalienable right of the Indian people, as of any other people, to have freedom and to enjoy the fruits of their toil and have the necessities of life, so that they may have full opportunities of growth. . . . We hold it to be a crime against man and God to submit any longer to a rule that has caused this fourfold disaster to our country.

Pledge taken on India's Independence Day,
January 26, 1930

Political constructivism doesn't use this idea of truth, adding that to assert or to deny a doctrine of this kind goes beyond the bounds of a political conception of justice framed so far as possible to be acceptable to all reasonable comprehensive doctrines.

John Rawls, *Political Liberalism*, 1993

I

THE SEARCH FOR OBJECTIVITY is pursued in many different contexts and can mean many different things. Often it is difficult to know what question is being asked, and with what the "objective" is being contrasted.

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Sometimes it is thought that what we are looking for when we look for “objectivity” or “objective truth” is a standpoint on the world from which we have access to the world as it is in itself, in no way mediated by either our human interests or even our mental structure. Like Plato’s souls in the *Phaedrus*, we march out to the rim of heaven and see being as it really is, with no interference from our faculties, bodily or even mental. The mind is a pure receiver of the world. In other words, objectivity requires the complete absence of subjectivity, the complete bracketing of anything our minds themselves contribute.

The search for such an unmediated access to the world of nature has a venerable history in Western philosophy.¹ The view that we can have such access, at least in principle, still has its strong defenders—for example, in Thomas Nagel, who, in *The Last Word*, mounts an ingenious defense of a type of Platonism in both ethics and science.² But many philosophers follow Kant in holding that unmediated access to reality is unavailable, that all our apprehension of the world is shaped by the structure of our cognitive apparatus. Some take this insight in a skeptical or idealistic direction, saying that we therefore cannot have knowledge, or that we have knowledge only of the constructs of our own minds. Others, again following Kant, hold that truth and objectivity are fully available within a world of things articulated and presented by mind. The contrast between objectivity and subjectivity³ remains, but becomes more subtle: it is the contrast, for example, between a merely personal or local take on the world and that which can be defended as valid for all. And that contrast, the followers of Kant hold, is fully available even to one who denies that the given is available as such. Some philosophers follow Kant in the area of scientific inquiry but deny that objectivity of this sort is available in ethics. Some, however, hold that a similar type of objectivity is available in both domains.

In more recent times, two further complications have disrupted the Kantian consensus (if such there ever was). First, it has been recognized that the ways in which human minds conceptualize and apprehend reality are plural and not single, and that culture and language appear to play a major role in shaping the categories we recognize. Therefore both ethical thinkers and philosophers of science focus increasingly on the relativity of all judgments to a conceptual scheme, and on the human and cultural-historical character of conceptual schemes. The rich inquiries of Nelson Goodman and W. V. O. Quine, the two giants of philosophy to whom I dedicate this essay, made it impossible simply to assert a Kantian line about even scientific concepts, without contending with their subtle relativist positions. Meanwhile ethical thinkers, increasingly aware of different conceptual schemes in the domain of value, have pressed questions about objectivity in the ethical realm, arguing

that if we cannot even get univocal understanding, it seems impossible that we should attain even a Kantian objectivity. We see the world from a particular cultural-historical perspective, and perspectives are in deep ways incommensurable.

It remains disputed exactly where these arguments leave us. There are disputes about descriptive matters: about, for example, how deep the alleged incommensurability of conceptual schemes is. There are also disputes about what these descriptive insights imply, if anything at all, for normative theorizing in both science and ethics. The fact that different groups of people see the world differently does not by itself show that a single way is not correct, or best. Goodman certainly came to espouse a form of relativism and perspectivism, both descriptive and normative, and in both science and ethics—a view with striking affinities to the thought of Nietzsche (as he acknowledged). Although he insisted that there were numerous criteria by which conceptual schemes could be assessed for rightness or appropriateness, he emphasized that many would pass these tests.⁴ On the other hand, such conclusions were resisted by many: by old-fashioned realists, such as Nagel, Israel Scheffler, and Richard Boyd; by “internal realists” such as (in some phases) Hilary Putnam, who stressed the possibility of a rather Kantian notion of objectivity even in an era of greater historical and cultural consciousness;⁵ by followers of the original American pragmatists, as Putnam has also come to be, who imagined inquiry as converging toward truth.⁶ In moral and political thought, relativisms of various types were resisted by all of the aforementioned, and, in addition, by Kantian constructivists, who conceived of objectivity in terms of the free operations of the human faculties.

None of these debates is settled. Both in the domain of science and in the domain of ethical value, we have a rich array of positions on offer, each with eloquent defenders. Many, at least, of the participants would still make room for a significant notion of objectivity, defined in terms of the most adequate and intersubjectively confirmed use of mental faculties—or, in ethics, in terms of that which we can reasonably recommend to all.

Our debates are further complicated by the fact that we have increasingly recognized the extent to which actual conceptual schemes can express very partial human interests, often the interests of powerful groups in society. Thus it is now recognized that conceptions of human nature, made up for the most part by males, have sometimes expressed male-biased ideas of what the normal human is. By reference to that norm, women have been denigrated. Again, we see instances in which European conceptions of morality have been seen as timelessly and universally valid, and used to denigrate other cultures and groups. (Even

the great John Stuart Mill did not make sensitive judgments about the culture of India.) Prejudice extends into the domain of "hard science": it is now perfectly clear that studies of such politically charged phenomena as sex difference and intelligence have been marred by biased work.⁷ So it is not only cultural difference we have to contend with, it is the interestedness of the search for truth.

Such observations might lead us to reject the concept of objectivity altogether, and to argue that the purported norms of truth and objectivity are never anything more than a mask worn by power for its own ends. Some postmodernist thinkers have taken this course. I agree with Satya Mohanty (and Noam Chomsky) that such a conclusion is both premature and pernicious. No good arguments lead us to jettison altogether the normative notion of objectivity; and we badly need to cling to such a norm, if we want to show why certain arguments, say, about sex difference or racial difference, are bad science. We need to cling to the norm in politics and ethics as well, if we want to show why certain views are justifiable and others (racism, sexism) are not. Even the norm of respect for difference and pluralism is itself, of course, a definite and controversial norm, and thus we cannot defend it against those who attack it if we embrace either cultural relativism or a Foucauldian view⁸ that there is nothing more to truth than local expressions of power.

On the question of objectivity in science and ethics, my sympathies (and arguments insofar as I have them) lie basically with Putnam: we do have available to us a quite robust conception of objectivity both in science and in ethics, and we do not need to rely, in articulating this notion, on any problematic notion of the given, or unmediated access to reality. Where interests are concerned, we may follow Putnam's pragmatist turn and suggest that though all truth may be in a sense interested, infused by human needs and projects and the way that those needs and projects shape theorizing and even observation, this does not mean that all interests are on a par and anything goes. We have plenty of room for a distinction between illegitimate bias and legitimate interests, both in science and in ethics, and thus for a distinction between the merely or illicitly or biasedly subjective and the objective. Allen Wood's essay in this issue offers one attractive account of that distinction in ethics.

But ethics is one thing and normative political thought is, or may be, another. And what interests me in this essay is the particular form the search for objectivity takes, or should take, when a pluralistic democratic society seeks to justify its basic political principles. Such societies contain many different comprehensive views of life, both religious and secular. People disagree about very basic matters of value, and many of these disagreements, at least, are reasonable; they persist at a very deep level,

because many matters in human life are deeply obscure. Respect for our fellow citizens seems to demand that we acknowledge this fact, refraining from building our basic political principles around any one of the contested comprehensive doctrines. I shall support the arguments of John Rawls and Charles Larmore, who claim that the fact of reasonable pluralism supports a type of regime that they call “political liberalism,” a regime, that is, that builds its principles around a partial moral conception that is “free-standing,” not provided with any particular set of metaphysical or epistemological foundations.⁹ In that way, we can hope that it will be the object of an “overlapping consensus” among citizens who have different comprehensive views.

But the project of political liberalism constrains the search for objectivity. One of the things about which people reasonably disagree is what type of objectivity we are able to attain in judgments about fundamental ethical/political matters. Different comprehensive doctrines give different verdicts on this matter. The comprehensive doctrine of Roman Catholic Christianity, for example, gives a very different answer from that supplied by postmodernism, Utilitarianism, Kantianism, and, even, Protestant Christianity. I shall explore the implications of this fact for the role a concept of objectivity can and should play in the political sphere. I shall argue that respect for pluralism indeed constrains us here. Although each of us in our ethical and scientific lives will have some view about the issues addressed in the present symposium, we ought not to build our fundamental political principles around a particular contested conception of objectivity, for example Allen Wood’s conception, or the conception of self-evident truth used in the U.S. Declaration of Independence. On the other hand, we are not entirely at a loss: for we can articulate and defend a specifically political conception of objectivity that can itself be the object of an overlapping consensus among comprehensive doctrines.

To indicate the direction of my argument very briefly, think what it would be like to live in a nation that built its fundamental political principles around the view that Allen Wood’s view of objectivity is correct, and that anyone who holds otherwise is simply mistaken. I admire Wood’s arguments. I think that something close to this is probably true. But still, to build basic political principles on Wood’s view¹⁰ seems problematic. Even if the doctrine did not have any specific consequences for political life, as it probably would, still its public recognition itself poses a problem. All those Americans who hold to some revealed religion, and ground their understanding of objectivity on the idea of revelation, as well as all those skeptical or relativist or neo-Humean Americans who think that Wood is wrong on other grounds, would be put in the position of second-class citizens.¹¹ Because they do

not share the true doctrine, their vision of truth and objectivity does not get to count in what shapes the polity, even though, let us suppose, it is a liberal regime and their freedom of speech would in no way be curtailed. We would not like such a way of proceeding even in the classroom: we philosophers think that all the major positions should be studied and debated, and treated with respect, and none should be an unexamined cornerstone for the entire enterprise. How much worse, then, if the foundations of a nation itself were built in ways that show disrespect for the views of many people about what truth is and where it lies. Although I disagree with more or less everything Richard Rorty says, and think that on the matters where he and Wood disagree Wood is right and Rorty is wrong, still, I would not like to live in a nation built around the denial of Rorty's epistemological and metaphysical view, any more than in one built around the denial of my own. He is a reasonable man, and a fellow citizen; the disagreements we have are reasonable disagreements. Political respect for his reason requires respecting his comprehensive doctrine, and that, in turn, requires not building the polity on the contradiction of that doctrine.¹²

II

Most human societies have contained, and have been aware that they contained, a plurality of views about what is ultimately true and good. Often these differences manifest themselves as differences of sect or creed within a dominant religion, and every world religion has had such deep disagreements. Sometimes, too, they manifest themselves as differences between a dominant religion and a dissident sect or sects, such as the various Eastern sects that made their way into ancient Greece and Rome. Greek religion itself understands itself as bearing, internally, the legacy of such differences: the Dionysian cult demands behavior that sits uneasily with the behavior demanded by mainstream Olympian religion, just as Aphrodite, within that mainstream religion, is frequently at odds with Demeter and Artemis. Dramas such as Euripides' *Bacchae* and *Hippolytus* testify to the Greeks' keen awareness of a plurality of ways in which life might possibly be ordered, and the profound tensions among them. And already in Greece, there is at least the dawning of the idea that all these diverse ways deserve their respect, that Dionysus ought to be received into the city rather than repudiated.

Often the Greeks seem to hold that respect means building reverence for each of these gods into a single human life to be recommended to all, whatever tension and tragedy these multiple allegiances occasionally involve. But by the Roman period, at least, we have the idea that a

plurality of different comprehensive doctrines, lived by different people, might possibly coexist respectfully within a polity.¹³ Cicero's friendship with Atticus is one fine example of this insight. Nobody personally dislikes the Epicurean view of life more than Cicero; and yet his friend's choice to lead that life (which Atticus took very seriously indeed), eschewing the life of political action prescribed by the Academic and Stoic doctrines beloved of Cicero, is always treated by Cicero with a caution and a gentleness rarely seen in his otherwise zealous and self-preoccupied personality. It is perfectly clear that Cicero's view of republican liberty includes the thought that Atticus's view should be treated with respect, whatever, more precisely, that would entail.

By the time we reach the Empire, leading politicians are acquainted with (and in some cases converting to) Judaism, Christianity, and a variety of pagan doctrines as well as the various Roman religious and philosophical doctrines. Although some do repudiate and denigrate, and on occasion persecute, there are many who do none of these.

Respect for difference was made an official political doctrine only much later in the West, perhaps not before the Enlightenment. But in India it emerges as early as the third century B.C. in the edicts of Ashoka, himself a convert from Hinduism to Buddhism. He decreed: "the sects of other people all deserve reverence for one reason or another. By thus acting, a man exalts his own sect, and at the same time does service to the sects of other people. By acting contrariwise, a man hurts his own sect, and does disservice to the sects of other people. For he who does reverence to his own sect while disparaging the sects of others wholly from attachment to his own, with intent to enhance the splendour of his own sect, in reality by such conduct inflicts the severest injury on his own sect."¹⁴ Much later, under the Moghul Empire of the sixteenth century, similar principles were elaborated formally and became again the basis for state doctrines.¹⁵ Thus it did not take the so-called modern era or the European Enlightenment to forge the twin principles of reasonable disagreement and respect for difference. However, the modern theorists whose articulation of these concepts I follow, Charles Larmore and John Rawls, focus on Euro-American modernity in their own thinking about the problem.

III

Larmore and Rawls take their start from the fact of ongoing disagreement, in modern societies, about many fundamental matters. People belong to many different religions, and hold many different secular conceptions of the good life. These conceptions differ about many

matters: about the nature of death and the soul, about what human nature is, about the ultimate sources of knowledge and value, about freedom and determinism, about liberty and equality. We argue, but we do not resolve our disagreements, nor does this seem to be simply because we have misunderstood something or have not talked enough. For Larmore, the fact that reasonable people disagree is “the cardinal experience of modernity”; reason just does not appear to converge on single solutions. A reasonable disagreement is not just any disagreement: it is one among people who argue in good faith, applying as best they can “the general capacities of reason that belong to every domain of inquiry” (*MM* 168).

Reasonable disagreement does not look like a phenomenon that may soon pass away. It appears to be internal to the culture of modern democracies, as societies with free institutions. We have to acknowledge the presence not simply of a plurality of interest-based ideas, which we might see as expressive of a limited outlook on the world, but also of a plurality of *reasonable* conceptions.¹⁶

As I have already indicated, one of the matters on which our differences are most persuasively characterized as reasonable is the matter of objectivity itself. There are Americans who think that any believer in the afterlife, or the separable soul, is grossly unreasonable. But few would deny, once they got into it, that the positions on objectivity held by, say, Goodman and Quine, Putnam and Rorty, and, in ethics, by Rawls, Nagel, Blackburn, and Annette Baier all deserve respect—not to mention the related positions in the world’s major religions, which run the gamut from skepticism and illusionism to belief in natural law to belief in singular revelation. Objectivity is a puzzling matter indeed. We cannot imagine a symposium in *New Literary History* on whether the earth goes round the sun, or whether Aristotle’s doctrine of natural motions is correct. But the fact that a topic remains a part of philosophy is, I fear, a sufficient (though hardly a necessary¹⁷) condition for that topic’s being an object of ongoing unresolved disagreement among reasonable people. And indeed there is no better way to become convinced of the fact of reasonable pluralism than to study the history of philosophical arguments on central human matters.

IV

All this being the case, a shared understanding about basic metaphysical and epistemological matters, and matters of ultimate value, can be maintained in a modern society only by the oppressive use of state power. An enduring democratic regime, however, must be freely sup-

ported by a substantial majority of its citizens. So the public basis of justification in such a democracy must be one that can be endorsed by widely different and opposing though reasonable conceptions, and the basic principles of the polity itself must express respect for the deep differences people have. Thus, any oppressive use of state power to secure agreement is ruled out.

For both Rawls and Larmore, the solution lies in grounding the political conception in a “minimal moral conception” that is “free-standing” (*PL* 12 and *passim*), meaning that it does not contain any particular metaphysical or epistemological doctrine, and can be rendered compatible with the major ones that citizens may hold. The political conception is neither value-neutral nor uncontroversial; nonetheless, it is a “core morality that reasonable people can accept despite their natural tendency to disagree about comprehensive visions of the nature of value” (*MM* 167). People are to treat it as a “module” that they can attach to their comprehensive conception in whatever way seems to make sense for them, supplying it with the underlying metaphysical and epistemological basis that they derive from that conception (*PL* 12–13, 144–50). In this way, Rawls believes, even citizens who hold a religious belief based upon authority can endorse the liberal moral conception of *Political Liberalism*, understanding its core ideas in relation to their own ideas of divine command and revelation. Thus, the Rawlsian idea that politics provides support for moral powers of reasoning and life-planning may be understood in a free-standing secular way; in terms of religious ideas of human nature and the soul; in terms of Mill’s idea of the “permanent interests of man as a progressive being”; and in many other ways.

It is especially important to distinguish the idea of reasonable disagreement from the ideas of skepticism and relativism (*PL* 150–54). If the liberal project were based on either skepticism or relativism about value, it would of course be a doctrine that most religious citizens could not endorse, nor could many secular citizens. To return to my earlier discussion, such a relativist conception would rank Richard Rorty ahead of Allen Wood, and would show disrespect for Allen Wood’s patient and cogent arguments. Political liberalism, taking its start from the fact of reasonable disagreement, does not hold that there is no better position in this dispute, or that Rorty and Wood are on a par, or that we can never resolve the dispute between them. All these would themselves be contested metaphysical/epistemological positions. Instead, it says that whatever we think about the resolution of this dispute, we can agree that it is a tough one, and that the arguments on both sides deserve our respect. So, whatever we ourselves think about the matter, we want a polity that is fair and respectful to both Wood and Rorty, and to all the

many further views about this matter that our society contains, as many as are reasonable.¹⁸ The skeptic will go on to say that the reason we have such disagreements is that we can never know the truth. A nonskeptic will offer some account of why people continue to differ, despite the availability of a correct view. The political liberal takes sides with neither.

Both Rawls and Larmore conclude that the resulting regime must be liberal, because only a liberal regime, which protects religious freedom and freedom of expression, is sufficiently respectful of the spaces within which people live in accordance with their comprehensive doctrines. “[R]easonable persons see that the burdens of judgment set limits on what can be reasonably justified to others, and so they endorse some form of liberty of conscience and freedom of thought” (*PL* 61).

Rawls then argues that the core ideas of the liberal political conception he develops could be endorsed by all citizens, including those who believe in a religious doctrine that derives first principles from authority or revelation. The idea is that although their comprehensive doctrine is in that sense illiberal, they will see, as everyone else does, that their society contains a plurality of different doctrines with different metaphysical and epistemological views underlying them, and that there is no likelihood that any of them will prevail without force and repression. They reject the use of force and repression—perhaps in part because they regard it as highly uncertain whether their view will prevail. But Rawls believes that all the major religions by now have an idea of “free faith”—that is, that forcible conversions do not save souls (*PL* 145n). So they will repudiate the use of force for that reason as well, and give their support to a liberal political regime—not because they think that the ultimate meaning of life is to be found there, or because they believe that any comprehensive liberal doctrine of life (say, that of Kant or Mill) is correct. On comprehensive matters they cling to their authoritarian view. But they do agree that for political purposes the liberal doctrine is worthy of affirmation, because it protects spaces in which they, like everyone else, can live by what they hold deepest and most important.

Thus in that way an “overlapping consensus” about the basic principles of the liberal regime comes into being. Comprehensive liberals who follow Mill’s or Kant’s view about human life and ethical ends will easily affirm liberal political principles, because they are a natural extension of their doctrine. But religious citizens can affirm a pluralistic doctrine as well, out of the respect they have for the freedom of the human being. Indeed, it is worthy of note that the first example of political liberalism in the Western tradition is probably the neo-Aristotelian Thomism of Jacques Maritain. In *Man and the State* he argues that a certain sort of respect for the dignity of the human person, and a corresponding recognition of a core set of human rights, should be at

the heart of the modern state—and that this view can be affirmed both by Catholics and other Christians, who derive it from their religious doctrines of the soul, and also by secular citizens, as many who believe that human beings are dignified creatures worthy of respect and who are averse to treating human beings as mere commodities.¹⁹ Although Maritain clearly himself prefers a theistic grounding for the ideas of human rights, he refrains from endorsing this grounding, because he is aware that it will not be shared by all his fellow citizens; respect for pluralism, together with the awareness of a substantial political common ground, calls for restraint.

In Rawls as in Maritain, the endorsement of the political doctrine is no mere instrumental move, and the agreement itself is no mere *modus vivendi*. If it were, it would easily prove unstable, as one group saw that it had the opportunity to dominate the others. It is, instead, a genuine affirmation of the doctrine, which is a module attachable in different ways to the different comprehensive doctrines.

One further contrast that will illuminate the robustness of the consensus Rawls has in mind is a contrast between overlapping consensus and the concept of “incompletely theorized agreements” used by legal theorist Cass Sunstein.²⁰ Sunstein’s view has similar motivations: in a democracy we notice that people have profound theoretical disagreements, and that it seems important, for reasons of both stability and respect, to leave many of these unresolved. But, he notes, people thus opposed to one another can quite often agree on a concrete set of recommendations for policy—if they refrain from spelling out the theoretical grounding for those recommendations in a controversial way. One of his examples concerns the Federal Sentencing Commission. Although it proved impossible to gain consensus on the correct theory of punishment—deterrence theories, retributive theories, expressive and educative theories, and still others held out against their rivals—the partisans of the opposed theoretical conceptions were surprisingly attuned with one another about what punishments should actually be recommended. Concrete cases were simply more tractable than high-level theoretical abstractions. Sunstein recommends focusing on the search for such agreements, deliberately abstaining from high-level theorizing.

Rawls’s overlapping consensus would be, for Sunstein, a kind of theory: for Rawls demands consensus on highly abstract political principles, which include a conception of fairness and how to arrive at fair results (the Original Position); they include, as well, the highly abstract principles of justice that will ultimately provide the grounding for the constitution. Of course the two views are not perfectly comparable: for Sunstein is operating within an established constitutional framework,

and his recent work shows that he would not advise a new nation to seek incompletely theorized agreements on concrete particulars in advance of fixing certain rather abstract matters in a Constitution.²¹ Nonetheless, the views do at least appear to point in different directions, Rawls insisting on nailing down the most abstract level of the political principles first, before proceeding to constitution-making and then to legislation, Sunstein preferring to forge ahead on the concrete while keeping divisive abstractions unaddressed in the background. To put things otherwise, Rawls's view, if a partial conception, is definitely a partial moral-theoretical conception and one at a high level of moral abstractness; Sunstein's agreements, while intended as considerably more than a mere *modus vivendi*, are no part of any moral theory, and thus can be attached far more easily to more or less any comprehensive doctrine one might have. One of the points of the notion is to avoid any divisive philosophical discussion, in order "to obtain a consensus on a concrete outcome among people who do not want to decide questions in political philosophy" (*LR* 48). By buying into such judgments one is not buying into anything that would very much constrain one with respect to one's comprehensive views of the good. Just as Rawls seeks agreement on moral issues while leaving metaphysics and epistemology unaddressed, so too, Sunstein argues, his view seeks concrete legal agreements while leaving political and moral philosophy unaddressed (*LR* 48).

IV

Where, in political liberalism, is objectivity? By now we can see that political liberalism cannot endorse any particular contested comprehensive metaphysical conception of objectivity. Its "principle of avoidance" dictates that it will remain silent on the matters that separate Wood and Rorty, and both of them from believers in a revealed religion. One might then suppose that a notion of objectivity would play no role in political liberalism. Such is not the case. It is important to Rawls to claim that a limited, specifically political and nonmetaphysical, notion of objectivity is available for use in political liberalism, in connection with the status of basic political principles, and that the principles of the Rawlsian liberal state can be rightly held to be objective in that sense.

The account of political objectivity begins from a simple insight. It is that if we are to live with others politically on terms of mutual respect and seek reasonable terms of cooperation with them, we must be able to distinguish between simply putting forward our own opinion and recommending principles that are reasonable for all. We must believe

that the principles that undergird our political order are the result of a reasoned search for a reasonable basis of a mutually respectful political life, and that, in their status and their content, they express respect for the reason of all citizens.

Beginning from this insight, Rawls sets out five requirements for a public conception of objectivity that will give an account of the status of the basic political principles. First, such a conception must elaborate a public framework of thought. This framework must be open to all, and it must be sufficiently robust to ground an idea of judgment “based upon reasons and evidence after discussion and due reflection” (*PL* 110). We need to be satisfied that when we debate basic political matters and try to reach agreement on principles we are engaging in genuine reflection, not simply voicing our private views or trying to influence others. But if we are to be satisfied of that, we need such a notion of judgment, and its corollary (Rawls’s second requirement), a concept of *correct* judgment. In political liberalism, this concept of correctness will not be elaborated in terms of the idea of truth, which Rawls understands throughout his career in intuitionist terms,²² but will instead use the notion of reasonableness: a correct judgment is “reasonable: that is, . . . supported by the preponderance of reasons specified by the principles of right and justice issuing from a procedure that correctly formulates the principles of practical reason in union with appropriate conceptions of society and person” (*PL* 111).²³

The third essential element in the concept of political objectivity is an idea of “an order of reasons,” a ranking according to the principles of the political notion of judgment, and an assignment of such reasons to agents, as reasons they are to weigh and from which they are to act. Agents are to act from those reasons, whether they personally like them or not.

Fourth, the political conception needs a distinction between “the objective point of view—as given, say, by the point of view of certain appropriately defined reasonable and rational agents” from the point of view of any particular agent or groups of agents. We never suppose that our merely thinking something right is sufficient to make it right, in the political domain.

Finally, the political conception needs “an account of agreement in judgment among reasonable agents”—about why and how they come into agreement. This account should give reasonable citizens enough to go on so that, if they rely on the same information and apply the principles and standards specified in this account correctly, they will reach “the same (or a similar) conclusion” (*PL* 112).

These five elements—a public framework of judgment, an account of correctness in judgment, a ranking or ordering of reasons, a distinction

between the merely local or personal and the politically objective, and, finally, an account of reasoning toward agreement—are necessary and sufficient, Rawls believes, for a conception of political objectivity. These five elements in place, we are able to distinguish mistaken from correct political claims; to distinguish sincere but misguided recommendations from genuinely reasonable recommendations, and so forth. Without these elements, Rawls believes, we have trouble distinguishing one person's sincerely held conviction from what may be reasonably recommended as a norm for all citizens. But any liberal political order must be able to make such a distinction, holding that its principles concerning basic rights and liberties are not merely this or that person's doctrine, but are reasonable principles to regulate public life for all, in the light of the recognition of a reasonable plurality of comprehensive doctrines.

The fact that political liberalism can rely only on this political notion of objectivity, and not on any more comprehensive or metaphysical notion, has some significant implications for the liberal state. Let us consider my first two epigraphs. The U.S. Declaration of Independence uses a notion of self-evident truth, as well as a reference to the Creator, to ground its claim of inalienable rights. Political liberalism must reject this sort of language as inappropriate for the political sphere. Not only must it reject John Ashcroft's extremely divisive statement, "We have no King but Jesus,"²⁴ it must reject, as well, the inclusive Deism of the founders. Nor can it say, even without reference to God, that all human beings are really metaphysically equal, or created equal. It must simply say, they are equal as citizens and have equal entitlements within the political conception.

By contrast to the confident eighteenth-century American text, the Indian Constitution exhibits Rawlsian restraint in its opening statement, speaking only of inalienable rights and refraining from saying where they come from or how they are grounded. (The Rawlsian next move would be to claim that these rights are supported by a public framework of reflection, but not by a comprehensive metaphysical doctrine of truth.) In the final sentence, however, a reference to God comes back in. (It is as if Nehru wrote the first bit and Gandhi the second.) One might ponder that reference to God, asking ourselves what it adds to the claims already made about inalienable rights, and, as well, what it takes away. In particular, we should ask what this reference meant to Muslims when uttered by Hindus (whose God is that anyway, and if it is mine as well as yours, who are you to tell me what God says?), and what it meant to nonreligious people of all sorts. The fact that Gandhi persisted in characterizing India as in some sense a Hindu nation has been the source of endless trouble ever since, and seeing where this trouble

began, we may begin to understand the wisdom of the method of avoidance. Rawls seems right to say that we can assert that our rights claims issue from a public framework of thought that includes a concept of correct judgment, and a distinction between that which is reasonable to all and that which is merely the opinion of some person or group, without indulging in metaphysics of this divisive sort.

Avoidance has other more controversial consequences as well. If we are trying to justify a particular right, for example a free speech right, we may no longer use arguments such as the argument made by John Stuart Mill in chapter 2 of *On Liberty*, which depends centrally on a concept of truth and on the role of public disagreement in promoting the discovery of truth. We must rely instead on arguments from respect for difference, and the reasonableness of principles that show such respect, taking no stand on whether truth, in any metaphysical sense, is available. In general, no argument that appeals to truth as a goal of public policy may be used to justify a specifically political doctrine.²⁵

V

This view of political objectivity will have to answer a number of serious objections. They fall into two groups. The first group of objectors charges that the notion of objectivity advanced here is too thick: more has been laid down here than is wise, or compatible with political stability. The second group charges that it is too thin: liberalism needs a more robust and metaphysical conception of objectivity.

The arguments of the “too thick” group can in turn be divided in two. The first such argument I shall call the Sunstein argument. Sunstein, as we have seen, is skeptical that we will often be able to gain a political consensus on abstract theoretical matters (although he does not deny that this sometimes happens). Moreover, when we try to seek such a consensus we may well make things worse, uncovering areas of deep disagreement that need not have troubled the political process, and creating a sense of a split culture, and of bad relations, where no such sense existed before. Thus, if the members of the Federal Sentencing Commission had insisted on getting an agreement about the purposes and justification of punishment, they would have fallen out and accomplished nothing. But they really did not need to get such an agreement, because they could arrive at a perfectly satisfactory agreement on concrete recommendations. The process of reaching those agreements would have been totally disrupted if they had persisted for very long in the divisive business of abstract theorizing. These considerations hold all

the more of the delicate matter of gaining agreement on a political conception of objectivity. We do not need to do it, and we should not trouble the political process by trying.

Sunstein's argument is essentially pragmatic. Another such argument goes deeper. This argument, which one might associate, for example, with legal theorist Stanley Fish,²⁶ says that the political conception of objectivity settles too much to be genuinely respectful of some reasonable comprehensive conceptions. The political conception of objectivity that I have supported here may be perfectly acceptable to a wide range of citizens: to Roman Catholics, to Kantians, to Utilitarians. But there are others who do not give objectivity, and rational argument aimed at objectivity, such a salient role in their comprehensive doctrine. Some such citizens believe in an authoritarian religious doctrine that has little place for rational argument. Such citizens may come to join the overlapping consensus simply out of respect for pluralism and the recognition that in a pluralistic society a political conception of objectivity plays a crucial role in cementing the overlapping consensus; presumably this is what Rawls thinks they will do. But won't they still think the demand that they support this conception of objectivity unfair to them and their comprehensive doctrine? They would be happier just affirming the content of the political conception and leaving things at that. They do not like to be asked to affirm its objective reasonableness.

Still worse is the situation of someone like Fish, who holds that all valuation, political and ethical, is mere rhetoric and an attempt to persuade. Fish seriously holds that there is no such thing as political objectivity—there is just politics, and politics is a series of attempts to win people over to your view. Rather like C. L. Stevenson, he will say that the claim that political values have even the limited kind of objectivity ascribed to them by Rawls is just wrong; it is in direct contradiction with his comprehensive conception. In that sense, Rawls shows disrespect for Fish and his doctrine. He does not permit it to join the overlapping consensus. And once again, it is the claim of objectivity that makes things particularly bad. Had Rawls just enunciated a set of political doctrines, Fish might possibly have joined the consensus. (Fish would probably be even happier, however, with the more limited kind of agreement required by Sunstein's incompletely theorized agreements.) As things are, however, Rawls has not pursued his "method of avoidance" far enough. He shows disrespect for those who think that there is no such thing as objectivity, of any kind.

On the other side are objectors who believe that the Rawlsian conception of objectivity is simply too thin. Without a more robust conception of the objectivity of our political values, we are stopping short of saying what full respect for our fellow citizens demands.

Consider the Declaration of Independence: it violates Rawls's strictures, but it says something very valuable. It says that the equality of human beings is *true*, and that its truth is evident to reason. In other words, men and women, black and white, we are all deeply and truly equal, and we can know for a fact that this is so. Moral and religious conceptions that deny this equality, sexist and racist conceptions, are just *wrong*. Rawls can at most say that the equality of men and women, of black and white, is a political fact, and is objective in just the limited sense given in the political conception. He cannot say that this political conception is in turn built upon a deeper truth about human beings. And this seems pretty thin gruel for someone who cares about equality. One way of thinking about this objector is to read through my three epigraphs: when you get to the third, you may feel an abrupt descent from the heights of lofty moral aspiration to a kind of tepid pussyfooting.

All of these objections are serious, and difficult to answer. Let me, however, deal with them as best I can. To Sunstein we should say, I think, that there are indeed many occasions in a liberal democracy when we should pursue incompletely theorized agreements of his type, and these alone. But when we are choosing the basic political principles on which the nation's constitutional structure will be built, we cannot be satisfied with this. We want principles that will be stable over time, and this means that they cannot simply be a set of agreements on particulars. They have to have a certain degree of abstractness and generality. Where objectivity is concerned, we have to say something about the standing we take these fundamental principles to have, in order to express our sense that they are not merely whims of the powerful, or a set of fortuitous agreements; they have been arrived at by a rational process, in a way that is respectful of all.

In this sense, there is a large difference between the task of the Federal Sentencing Commission and the task of constitution-making. The Sentencing Commission was charged with drawing up practical guidelines that the states might adopt, thus making sentencing more uniform. It really was not very important to that task to get an abstract theoretical agreement on the justification of punishment, and Sunstein is right to feel that such an excursus would have been both divisive and unnecessary. We can live with a criminal law that looks like, and often is, a hodgepodge of things agreed to, often for no particular reason except that it seemed politically possible to get an agreement in that place and not some other place. Where constitutional fundamentals and matters of basic justice are concerned, however, we need to know that there is a rationale for what we are doing, and that the principles we have chosen are reasonable. We need to be satisfied that the principles we have chosen are both coherent and respectful of the legitimate claims of

citizens who have many different comprehensive conceptions. And for this, I believe, we do in fact need a public framework of reasoning and a public conception of agreement. Sunstein's own interest in deliberative democracy, elsewhere expressed, should lead even him to have some sympathy with this proposal.

Fish's challenge is more difficult to meet, for it is couched in terms of the core insights of political liberalism itself. Rawls defends his "method of avoidance" on the grounds that he wants the resulting conception to be respectful of people who differ on epistemological and metaphysical matters. So hasn't he simply forgotten his own insight at this point, adopting an epistemological view that is not respectful of his skeptical opponent? Rawls defends himself by insisting that liberal democracy requires a public framework of thought and an idea of judgment: "If the idea of reasoning and judgment applies to our moral and political statements, as opposed simply to our voicing our psychological state, we must be able to make judgments and draw inferences on the basis of mutually recognized criteria and evidence; and in that way, and not in some other way, say by mere rhetoric or persuasion, reach agreement by the free exercise of our powers of judgment" (*PL* 110–11). This passage makes it plain that Rawls has indeed rejected Stanley Fish's conception of politics as mere rhetoric. The idea of political objectivity entails that Fish's conception, at least the part of it that deals with objectivity in the political realm, is unreasonable. And Fish will say that this is ridiculous: there is a perfectly recognizable tradition in the history of democracy of viewing politics as mere rhetoric, and it is perfectly evident that many modern democracies, including probably that of the United States, survive perfectly well without a public idea of reasoning and judgment. Moreover, the Rawlsian position, once again, is disrespectful: for it asks Fish to forgo his sincere epistemological insights as the price of joining the political consensus.

To respond, then, we should say first that the democracy we inhabit, insofar as it is correctly characterized by Fish, is not a very good one. We want something more than that from politics: we want reflection and deliberation. Moreover, without that we will not have a democracy that we can count on to respect persons and to protect their basic entitlements. Real stable respect for persons is not incompatible with but is actually predicated on a public framework of judgment of the sort Rawls defends. Fish's (hypothetical) appeal to American politics turns against him: for we can say that it is precisely the absence of a sufficiently deliberative public culture that is the source of so many of our political difficulties and shortcomings, including shortcomings in the area of respect for persons. Rawls, in short, is not doing sociology, he is doing normative (indeed ideal) theory. And it is perfectly plausible to think

that Rawls's conception correctly describes the norm, whereas Fish's describes a sad actuality. If the norm is attractive, then the price we will have to pay for it is to ask citizens such as Fish to forgo, for political purposes only, their conceptions of sophistry and rhetoric, which they are perfectly entitled to go on using outside the context of basic political principles. The Rawlsian claims that far from its being disrespectful to make this demand, the demand is a necessary condition of genuine respect. Only if we think that a rhetorical democracy can adequately fulfill the norm of respect for persons should we continue to be troubled by Fish's objection.

The third objector is the one with whom I myself have the greatest difficulty. For of course I do believe that men and women are truly metaphysically equal, that the equality of black and white is a *fact*, and so on. That is a deep part of the comprehensive moral conception that I would defend. Why, then, when it comes to political purposes, should we refrain from saying that these are facts, saying only that these matters are objectively reasonable for political purposes? Why shouldn't we say that this political judgment is grounded on deep facts about what human beings are? Isn't it cowardly to make such concessions to sexist and racist doctrines?

What we have on our hands here, of course, is the entire debate between political and comprehensive liberalism. Liberals such as Kant, Mill, and, today, Joseph Raz and Thomas Nagel,²⁷ see nothing wrong with basing politics on a whole series of metaphysical and normative claims—in fact, on a comprehensive liberal doctrine of autonomy and equality. Not only do they see nothing wrong in that, they think that human beings will only be treated with due respect if we do use such a comprehensive doctrine. Many will follow Mill and Raz here. I myself follow Rawls,²⁸ because I think that the many metaphysical and epistemological views attached to religious and other comprehensive doctrines deserve respect. Mill thought that nonliberal religious doctrines would die out pretty soon, but in fact they have not. And insofar as we make public claims about what is self-evident, what is true, and what is known, we impinge on matters that the religions (and other doctrines) settle for themselves, in a variety of different ways. I believe that the equality of male and female is a metaphysical fact, but if someone's religion says otherwise, I believe that this view should be respected, *provided that* this person is prepared to sign on to (and genuinely, not just grudgingly, affirm) the political doctrine that men and women are fully equal as citizens—with all that follows from that, including fully fair equality of opportunity,²⁹ guarantees of nondiscrimination even in private employment, equal access to the basic goods of life, and so forth. Consider my epigraph from India: remove the reference to God, and don't we have

enough here to ground a political order? Aren't inalienable rights all we need, without the epistemology of self-evidence? And isn't it helpful, in a nation religiously and metaphysically divided, that we should speak abstemiously in this way?

To take this further, imagine that the President of the United States visits the campus of a major religious university, and suppose that it is a religion that holds that women ought to be ethically subordinate to men, as the Southern Baptists today hold.³⁰ We may imagine two speeches that she might give. The comprehensive liberal President will say, "You hold a sexist doctrine, and that doctrine itself is unAmerican. We hold, as Americans, that it is self-evident and a deep metaphysical fact that men and women are equal and that this equality follows them wherever they are. If you persist in this doctrine we will not curtail your speech, and we respect you as persons in the sense that we respect all human beings; but we must let you know that we consider your doctrine unreasonable, not part of the group of doctrines that wins respect from our basic political order."

The political liberal President will say, "You hold a doctrine that women are subordinate to men, and yet you have also agreed to affirm our political doctrine, that women as citizens are fully equal. You affirm that doctrine, I shall assume, not just grudgingly, as a *modus vivendi*, but as a reasonable basis for political life. Supporting this political doctrine entails supporting full legal equality for women and an end to all forms of sex discrimination, including discrimination by private employers and including sexual harassment in the workplace. So I want you to stop forthwith your opposition to sexual harassment laws and policies, to antidiscrimination laws, even when these deal with private employers,³¹ and to laws and policies dealing with domestic violence, child sexual abuse, and marital rape, all of which protect rights that women have as citizens, rights that follow them wherever they are. Insofar as you oppose basic rights that are entailed by the basic structure of the political conception, you will not be persecuted, but your proposals, being unconstitutional and in the political sense unreasonable, will never come up for a simple majority vote. I also put you on notice that any education that will be accredited will include teachings about the full equality of women as citizens, and about the fact that their rights are fully equal to those of men and follow them wherever they are, even when the threat to those rights is in the bosom of the family.³²

"If, however, you agree to affirm and respect all these basic rights that follow from the basic structure of the political conception, we will treat your comprehensive metaphysical doctrine with respect, and we will never say that it is a second-class or an unreasonable doctrine. This means that we will not only protect your speech—this we do for

unreasonable doctrines as well³³—but we will also treat you as holding a doctrine that supports the overlapping consensus that regulates our political conception, and that in that sense respects the equal worth of your fellow citizens. How you square your membership in the overlapping consensus with aspects of your comprehensive doctrine is your business. I expect that you will encounter some strain there, and that some of your members will come to doubt that your doctrine about women can in fact be squared satisfactorily with the political doctrine that you also affirm as a part of your moral comprehensive conception. But political liberalism does not need to show that its core ideas put no strain on any comprehensive doctrine. Indeed, it is likely that some such doctrines will fail to gain adherents over time.”

To the comprehensive liberal, the first speech says what ought to be said, what is true and right; the second pussyfoots around, and flirts with falsity, even with evil. To the political liberal (to me), the latter speech is nuanced and qualified in a morally appropriate manner: it is more genuinely respectful of human freedom and the human search for the meaning of life than the former. The test of our liberalism lies not in the way we deal with views that we like, but in the way we deal with what makes us uncomfortable or even angry. Much as we citizens who affirm a comprehensive liberal doctrine in our personal lives would like to say “We hold these truths to be self-evident,” and much though that is what I myself do say as a person with such a comprehensive doctrine, for political purposes it is more respectful of our fellow citizens to stick with the limited but still admirable norm of political objectivity.

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NOTES

1 Some of that history is traced in Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton, 1979). The debate between Platonist and anti-Platonist positions has its analogue in Indian philosophy: see Bimal Krishna Matilal, *Perception: An Essay on Classical Indian Theories of Knowledge* (Oxford, 1986).

2 Thomas Nagel, *The Last Word* (New York, 1997).

3 Here I do not follow, or even characterize, any particular thinker’s use of the language of subjectivity.

4 See, above all, Nelson Goodman, *The Ways of Worldmaking* (Indianapolis, 1978); a memorable symposium on the book was held at the American Philosophical Association, 28 December 1979; Israel Scheffler defended traditional realism, while Hilary Putnam supported many of Goodman’s claims. Goodman’s reply is published as “On Starmaking,” *Synthese*, 45 (1980), 211–15; see also his essay “Realism, Relativism, and Reality,” *New Literary History*, 14 (1983), 269–72. A fuller reply to Scheffler can be found in a paper called “On Some Worldly Worries” that Goodman published privately in 1988, stating that it had been accepted by the *Journal of Philosophy* but was withdrawn by the *Journal* at the last minute “because of a dispute over rights.”

Goodman's view was not very closely related to traditional cultural relativism, because he insisted that individuals or creative groups could make a version of the world that would pass the tests of rightness. Particularly interested in the arts, he insisted on making room for the idea that a creative artist's vision of the world has equal validity with the world-version of physics. Indeed, in later years he criticized Quine for (alleged) philistinism, holding that Quine's preference for scientific accounts was reductionist and hostile to the arts: see his letter of 17 May 1979 responding to Quine's (friendly) review of *Ways* in *The New York Review of Books*, 23 November 1978.

5 See, for example, Hilary Putnam, "Objectivity and the Science-Ethics Distinction," in *The Quality of Life*, ed. Martha Nussbaum and Amartya Sen (Oxford, 1993), pp.143–57.

6 Putnam's pragmatist turn is evident already in the works that develop his internal realism, such as *Reason, Truth and History* (New York, 1981); for an explicit discussion of the contribution of the pragmatists to current political debates, see his "Pragmatism and Moral Objectivity," in *Women, Culture, and Development: A Study of Human Capabilities*, ed. Martha Nussbaum and Jonathan Glover (Oxford, 1995), reprinted (along with other essays dealing with Putnam's pragmatism) in Hilary Putnam, *Words and Life*, ed. James Conant (Cambridge, Mass., 1994). I write "followers of the original American pragmatists" because the term "pragmatism" is frequently associated today with the views of Richard Rorty, which I take to be very different in these respects from the views of Peirce and Dewey.

7 See, for example, Anne Fausto-Sterling, *Myths of Gender: Biological Theories about Women and Men* (New York, 1985).

8 I make no claims about the correct reading of Foucault, which would be a much more complicated matter.

9 John Rawls, *Political Liberalism* (New York, 1996); hereafter cited in text as *PL*. Charles Larmore, *Patterns of Moral Complexity* (New York, 1987) and *The Morals of Modernity* (New York, 1996); hereafter cited in text as *MM*.

10 As Allen Wood does not propose doing. He advances his view, clearly, as a metaethical and ethical doctrine, not as a political doctrine. Indeed, far from thinking that Wood proposes his doctrine as the basis for a political order, I would hope to convince him, by my arguments in the present paper, that he would actually not want to live a nation whose political order was built on his comprehensive doctrine.

11 This, of course, need not mean that they will encounter any specific political disability; but if the political doctrine states that certain metaphysical views are true and others are false, this by itself ranks the holders of the "false" views below the holders of the "true."

12 For one example of what such "building" might involve, consider chapter 3 of J. S. Mill's *On Liberty* which severely disparages the type of obedience promoted (allegedly) by Calvinism. Imagine these statements being made by a public official (as Mill then was) in a public capacity, even without any legal consequences, and you have an idea of what Rawls is worried about.

13 On these two varieties of pluralism, see my "Reply" in *Quinnipiac Law Review*, 19 (2000), 349–70, especially 350–53.

14 Edict XII, in translation cited by Amartya Sen, see n. 18. On the edicts in general, see Romila Thapar, *A History of India*, vol. 1 (London, 1990), pp. 85–88.

15 See Amartya Sen, "Human Rights and Asian Values," *The New Republic*, 14/21 July 1997, 33–41.

16 In the new Preface to the expanded 1996 edition of *Political Liberalism* (pp. xxxix–xli), Rawls says that for him the serious issue is not clashes among basically liberal doctrines; it is the clash between liberal and authority-based doctrines. If there is disagreement between the comprehensive doctrines of Kant and Mill, nonetheless, both can in different ways affirm a just democratic/liberal regime, and there is no difficulty in seeing how they can do that. The sharp problem comes when there are comprehensive religious concep-

tions based on authority, and the question is, how can people who hold one of these conceptions “also hold a reasonable political conception that supports a just democratic regime” (p. xxxix)? Because not all comprehensive doctrines are liberal doctrines, we must ask whether any support they can give to liberal political institutions can be more than a *modus vivendi*. So: “how is it possible for citizens of faith to be wholehearted members of a democratic society when they endorse an institutional structure satisfying a liberal political conception of justice with its own intrinsic political ideals and values, and when they are not simply going along with it in view of the balance of political and social forces?” (p. xl)

17 I mean by this that some matters in science that philosophy no longer treats—the origin of the universe, for example, or the precise version of evolutionary theory that we ought to endorse—remain objects of reasonable disagreement.

18 I refrain from demarcating this idea further here. Rawls clearly has in mind the major religions and major secular conceptions, particularly philosophical ones. It is particularly important to him to draw a line between all these and certain conceptions that cannot accept, for political purposes, the equal worth of persons. There are many doctrines that real Americans hold on which he does not comment. In *Political Liberalism* he articulates some criteria of reasonableness that may imply, for example, that a belief in astrology would not count as a reasonable comprehensive doctrine (p. 59). (A reasonable doctrine has to have a “more or less consistent and coherent” account of the major aspects of human life.) But for present purposes we may leave these matters to one side; I shall return to some of them in my conclusion.

19 See Jacques Maritain, *Man and the State* (Chicago, 1951), especially the chapter 4 subsection entitled “Men Mutually Opposed in Their Theoretical Conceptions Can Come to a Merely Practical Agreement Regarding a List of Human Rights” (pp. 76–84). Similar material is found in his *The Rights of Man and Natural Law* (New York, 1953). Early in his career Maritain was a follower of right-wing antiliberal thinker Charles Maurras and the “Action française”; it was only gradually that he worked his way laboriously to a liberal position.

20 Cass Sunstein, *Legal Reasoning and Political Conflict* (Cambridge, Mass., 1996), esp. pp. 35–61; hereafter cited in text as *LR*. On the relationship to Rawls’s idea, see pp. 46–48.

21 On p. 48 of *Legal Reasoning*, Sunstein recognizes that constitutionalism often proceeds by seeking an abstract agreement.

22 In other words, he consistently understands the idea of truth as entailing an idea of correspondence to an order of facts: in ethics, a nonnatural order of ethical facts.

23 Most of the judgments that are “reasonable” in this sense will also be objects of “reasonable agreement” in the overlapping consensus. But an obvious question arises about the status of the basic principle of respect for persons that underlies and motivates the whole idea of overlapping consensus: it cannot be “reasonable” just in the sense that it is an “object of reasonable agreement.” Rawls devotes insufficient attention to this matter, but I think we can say that “reasonable” admits of a broader and more flexible definition (in connection with the methodological norms suggested by the idea of reflective equilibrium). If Rawls were not committed to defining “true” in intuitionistic terms, and allowed himself to consider other (holistic and pragmatist) notions, he would have no reason to deny that this principle is in some sense true. On this point see Charles Larmore, “The Moral Basis of Political Liberalism,” *The Journal of Philosophy*, 96 (1999), 599–625.

24 For non-American readers: Ashcroft, President George W. Bush’s nominee for Attorney General, made this statement in a 1999 commencement address given at Bob Jones University, a fundamentalist Christian university that, until very recently, forbade interracial dating and that still denounces other religious doctrines, including those of Roman Catholic Christianity.

25 Rawls appears content to appeal to settled scientific truths in the context of argument for political principles; but certainly moral truth—which is among Mill's central concerns—would be a topic to be avoided.

26 See for example, the general position taken in Stanley Fish, *There's No Such Thing as Free Speech: And It's a Good Thing, Too* (New York, 1994), and, more recently, in *The Trouble With Principle* (Cambridge, Mass., 1999).

27 Joseph Raz, *The Morality of Freedom* (Oxford, 1986); Thomas Nagel, *Equality and Partiality* (New York, 1991).

28 See my discussions of this question in *Women and Human Development: The Capabilities Approach* (Cambridge, 2000), ch. 1, and in my reply to Susan Moller Okin in *Is Multiculturalism Bad For Women?*, ed. Joshua Cohen, Matthew Adler, and Martha C. Nussbaum (Princeton, 1999).

29 Rawls defines this in a way that would appear to require affirmative action, in the current state of things, for a nation with our history.

30 In fact, all the Baptist universities in the United States with which I am familiar have by now severed their ties to the Southern Baptist Convention, partly on account of the doctrines I mention here. (This is true, for example, of Furman, Baylor, and Belmont.)

31 This is controversial: someone sympathetic to my basic argument might argue that nondiscrimination in employment does not follow from equality as citizens. Richard Posner notes that fat people are equal as citizens, but no laws protect them from employment discrimination. My response to that is that, insofar as we can show that there is pervasive discrimination in employment against any citizen based upon a morally irrelevant characteristic, we ought to make laws protecting that group against discrimination.

32 See Rawls, *Political Liberalism*, p. 200, on education focused on perpetuating the political conception. I express doubts about whether Rawls has gone far enough in criticizing sexist doctrines taught within the family, in "The Future of Feminist Liberalism," *Proceedings and Addresses of the American Philosophical Association*, 74 (2000), 49–79.

33 See Rawls, *Political Liberalism*, pp. 340–71, a point much misunderstood. Although Rawls does hold that rather stringent moral norms govern the expression of religious doctrines in certain political contexts (discussing constitutional fundamentals and issues of basic justice), he is very clear that those who violate these norms, whether their comprehensive doctrines are reasonable or unreasonable, will not be subject to any legal penalty unless their speech directly threatens to produce immediate public disorder, and this only in a time of severe constitutional crisis. I discuss this issue with regard to sexism in reasonable and unreasonable comprehensive doctrines in my "Rawls and Feminism," in the *Cambridge Companion to Rawls*, ed. Samuel Freeman (New York, forthcoming).