Introduction:  
The Place of Diversity

Diversity is the great issue of our time: nationalism, religious sectarianism; a heightened consciousness of gender, race, and ethnicity; a greater assertiveness with respect to sexual orientation; and a reassertion of the religious voice in the public square are but a few of the forms of particularity that stubbornly refuse to yield to individualism and cosmopolitanism. Economic divisions remain important, but in the never-ending contest over what defines us as a nation, the focus has shifted to the politics of identity.

These striking historical developments have been accompanied by a rising insistence among many political observers that greater weight be given to what distinguishes particular groups from others. Traditional liberalism—with its demand that political power should be guided by public reasons and standards of justice that can be shared by all—is increasingly regarded as unfairly homogenizing, “hegemonic,” and exclusionary. Liberalism is held to be guilty of the cardinal sin of “denying difference” and is therefore condemned as outdated and unfair.¹

Many claims advanced under the banners of diversity, difference, and cultural pluralism are worth heeding, but we must heed them with an eye to liberal democratic principles and practices of liberty and equality that are more demanding than is often recognized. Talk of
diversity and difference too often proceeds without taking adequate account of the degree of moral convergence it takes to sustain a constitutional order that is liberal, democratic, and characterized by widespread bonds of civic friendship and cooperation. Not every form of cultural and religious diversity is to be celebrated, and not all forms of what can be labeled “marginalization” and “exclusion” are to be regretted or apologized for. Profound forms of sameness and convergence should not only be prayed for but planned for without embarrassment.

This book is motivated by the conviction that much thinking surrounding the themes of diversity and difference is misconceived. Not all talk of diversity is misguided, to be sure. Often when people invoke the value of diversity, they mean to signal their opposition to unfair forms of exclusion, prejudice, and discrimination. At the broadest level, the typical invocation of diversity embodies an insistence that no one should be excluded from the American dream of equal justice based on arbitrary and irrelevant differences of skin color, gender, ethnicity, or sexual orientation. Given that our world is shaped by the enduring legacies of various forms of unjust exclusion, we may need to explicitly take into account forms of difference that have been the bases for discrimination.

Taking account of certain kinds of difference and diversity is sometimes a way of better pursuing basic principles of justice. The American dream of equal justice, properly conceived, need not be a blunted insistence that the same rules apply to all, irrespective of differences of condition and circumstance. Whether or not one agrees that affirmative action policies, for example, do more good than harm, there is nothing wrong as a matter of fundamental justice with Supreme Court Justice Harry Blackmun’s insistence that “to get beyond racism, we must first take account of race . . . in order to treat some persons equally, we must treat them differently.” Blackmun’s statement only sounds paradoxical: the principle of equality will sometimes require something more than formally equal treatment. Equality of concern and respect, for example, requires some sort of special access for the disabled. In many other instances as well, as Ronald Dworkin pointed out long ago, treating people as moral equals is often not the same thing as treating them all the same way. Equal treatment—including a blindness to differences of color and other differences—may often be the best policy, but it is not required as a basic matter of justice. Even if our aim is the “expansion of individual opportunities and integrated inclusiveness within a common political culture” and not the “valorization of subgroup identities,” as Rogers M. Smith insists, we should sometimes recognize and take account of “group disadvantages” when designing remedies. Indeed, while fairness and other basic moral principles are color-blind, Amy Gutmann rightly argues that when we apply those principles to an imperfect world in which individuals bear unequal burdens due to past and present discrimination, we should often take racial differences into account. Distinctive cultural practices may merit special accommodations and exemptions in the name of equality of concern and respect. Equal justice for all means being sensitive to many forms of difference. Categorical prohibitions should not be extended automatically or thoughtlessly. A prohibition on the wearing of hats in the military or elsewhere should not automatically extend to yarmulkes or Sikh turbans: the purposes and justifiability of the prohibition and the nature of the distinctive religious imperatives first need to be considered. At its best, talk of diversity, difference, and multiculturalism reminds us of the extent to which the promise of freedom and equality for all remains a work in progress: only partially realized, only partially understood.

Many forms of diversity have an important place in a liberal democratic society, but the core claim of this book is that diversity needs to be kept in its place: diversity is not always a value and it should not, any more than other ideals, be accepted uncritically. Diversity is sometimes invoked as a way of taking liberal democratic principles more seriously, but at other times the invocation of diversity and multicultural ideals undermines the very possibility of a public morality. The way I propose to put diversity in its place is by emphasizing the importance and legitimacy of a liberal educative project that shapes diversity for civic purposes.

I want to pick an intellectual bone not simply with certain critics of liberalism, but indeed with those liberals who focus single-mindedly on particular liberal commitments at the expense of a larger liberal democratic agenda. The freedom to choose among diverse ways of life and to help fashion new options is central to liberalism, but the commitment to freedom should lead us to plan for a political community characterized by tolerably peaceful, respectful, enlightened, and responsible freedom. Not only forms of diversity and difference, but the patterns of choices that individuals make need to be shaped or consti-
tured for the sake of sustaining a liberal democratic political order that is civically healthy.

In part, what I want to do is make more explicit what is often already implicit when diversity is invoked. One often hears, for example, that America has become a much more diverse country. In many respects, however, we have become a much less diverse country over the past century and a half, and this is all to the good. We may talk about and celebrate many forms of diversity more than we once did, but we are no longer divided by profound regional differences, or by moral differences that threaten our nation’s unity in the way that slavery did. The supremacy of the national government is virtually unchallenged. The ideal of basic freedom and equality for all is much more of a reality than was the case not long ago. National ideals of toleration and respect for individual rights are much more widely and deeply entrenched than they once were. National media and communications link everyone to common sources of information. And although American religious communities may be more numerous and exotic than ever before, at a deeper level, one must be struck by the extent to which the major religions have embraced the basic commitments of liberal democratic life. Talk of a culture war is, as Alan Wolfe argues, exaggerated.

The fact is that from the standpoint of the great moral alternatives that humans have faced throughout history, or even over the course of the American republic, today’s celebrations of diversity and difference are often superficial, for they are often about celebrations of the broader extension of freedom and the fuller realization of equality. We would do well to be more conscious of the shared values that underlie much talk of diversity. We simply cannot say, in the abstract, whether “diversity” is to be lauded or not.

Aims and Plan of the Book

While social diversity is often a great asset, all political regimes, even pluralistic liberal ones such as ours, require a considerable measure of convergence on basic political values. Focusing too narrowly on today’s political controversies is liable to obscure what should be the extent of our ambitions with respect to shaping diversity. Planning for the preservation of the liberal public order requires that we constrain and channel people’s freedom, sometimes directly perhaps, but also in many indirect ways. We cannot avoid indirectly promoting some versions of the moral and religious life and discouraging others: indeed, we must do so in order to survive and prosper as a political community. Of course, we can avoid these troubling issues by making various unwarranted assumptions, as many commentators do. We can simply assume that people are good liberal democrats, or trust that they are led in the right direction by some sort of invisible hand, but then the edifice of our political thinking will rest on blind faith, sheer optimism, or some other variety of shallow thinking. In fact, I am all for making use of something like “invisible hand” mechanisms, but invisible hands need to be employed and directed by public policy, as Adam Smith recognized. Political order should not be understood, at base, as the product of an invisible hand, but rather as a construction for discernible collective ends and purposes, including the preservation of a broad swath of liberty.

I want to argue here for what will to some sound like an oxymoron: a tough-minded version of liberalism. We need to circumscribe liberalism’s aims appropriately, but then we need to take liberalism’s educative ambitions seriously and face up to the fact that no version of liberalism will make everyone happy. Liberty should be the core principle of our regime, yet we must recognize that a single-minded preoccupation with liberty could undermine our ability to perpetuate free institutions. A prudent solicitude for the system of individual liberty does not counsel a stance of laissez-faire, but rather a willingness to intervene (gently and indirectly where possible) to promote shared liberal values and civic virtues.

I want here to defend a liberalism with spine. To preserve liberal toleration, we must do more than practice tolerance: we must recognize and respond to intolerance and other threats to liberal values. Of course, it is not always easy to say what constitutes a threat to justifiable civic values as opposed to a challenge to some reigning habit or opinion. In the face of this uncertainty, Americans have often veered in one direction or the other. We have sometimes been too ready to perceive as threats the behavior of immigrants, non-Protestants, or, more recently, all who fail to honor supposed “Judeo-Christian” values. By some measures at least, the American public remains remarkably intolerant. At other times, however, central aspects of our liberal public morality itself seem to encourage various camps—whether libertarians, cultural pluralists, or proponents of a
“politics of difference”—to ignore or deride the project of constituting diversity for the sake of the liberal political community as a whole. We have a history of nativism and of intense fear of diversity, as we shall see. But increasingly many of us tend to concentrate single-mindedly on choice, freedom from political interference, and indiscriminate difference and otherness. Our fears of disorder may lead to unjustified incursions on freedom. Yet an uncritical embrace of diversity may obscure the need to promote citizenship and the elements of a healthy civic life. While we must try to respect the free exercise of religion, for example, and listen to those who feel oppressed by the rules, norms, and expectations of our public life, we must also see it that the work that public schools are meant to do—of helping us negotiate our differences in the name of forging a public life—somehow is done, even if not by public schools as we know them. Of course, we should often seek to defuse or soften basic moral conflicts, and I will emphasize the importance of noncoercive, indirect means of civic education. Heavy-handed state interventions should often be put aside in favor of background statecraft that educates indirectly by shaping social norms and redefining the contours of the moral environment.

These large themes and problems will be explored here in contexts and episodes that are in some ways peculiarly American, though the larger lessons of this story are not limited to the United States. The central context to be examined is the institution of American public schooling, and the episodes are often conflicts between the asserted imperatives of civic education and the claims of families, churches, and other groups to be free to raise their own children in their own ways. On one side are the imperatives of civic education, on the other are a host of claims involving parental rights, the free exercise of religion, and the good of cultural and religious diversity. This book explores the question of how our deepest conflicts should be negotiated. Throughout, I insist that a steady eye be kept on the liberal civic ideals that are our best guarantee that diversity will remain a blessing rather than a curse.

Issues of diversity in modern liberal polities raise complex questions that call for a multifaceted inquiry. In Part One, I consider how our polity has confronted the challenge of normative diversity in the past and ask what we can learn from that experience. By looking to the past, we will not only see that many of today’s deepest conflicts are variations on much older themes, but we can also reexamine episodes that shape today’s attitudes and that are invoked on one side or another of today’s controversies. I focus on several of the major clashes that swirled around public schools, the institution charged most directly with fostering a common civic life. This inquiry clarifies the vast and deeply controversial ambitions of a modern liberal democracy with respect to normative diversity. I argue that while racism, xenophobia, and anti-Catholic nativism were important elements in shaping nineteenth-century ideas about civic education, the common schools were deeply controversial not in spite of, but because of legitimate civic purposes. Indeed, Catholics were at the forefront of opposition to common schools not simply because some school materials and practices were anti-Catholic, but because some in the Catholic hierarchy rejected legitimate civic ends. The great rapprochement that has taken place between the Catholic Church and liberal democracy is indeed a great event of world historical significance, but it was made possible by profound changes within Catholicism, as we shall see.

Having explored the nature and magnitude of the problem of normative diversity in the historical inquiry, I turn in Part Two to questions of moral justification. How should a liberal public morality, properly understood, respond to the challenge of diversity? I defend a form of liberalism robust enough to do the political work that we should want done: not just the protection of basic individual liberties, but the generation of a healthy civic life capable of sustaining free self-government over the course of generations.

In Part Three, I return to the institution of public schooling—America’s oldest and most extensive social welfare institution, and in many ways, the one that has generated the deepest and most persistent controversy. Today’s debate over school reform is often carried on in a manner that is oblivious to our deepest educative ambitions, but that need not be so. There is, in fact, a powerful case for reform that takes our civic aims seriously.

The shape of our social lives is educative, and the shape of our social lives is influenced deeply by public policy. We can gain leverage over civic education indirectly by thinking about ways to influence and shape patterns of social life that, in effect, educate people of all ages. Doing so will not be a matter, once again, of simply unleashing group and associational diversity, but of imparting a very definite shape to associations, whether “public” or “private.” That story, however, will be taken up elsewhere.
Civic Liberalism

My employment of the label “liberal” here is bound to cause confusion among many outside the academy, and no doubt some within it. In our politics, “liberalism” has come to be associated with faith in federal government activism and a set of progressive public policies growing out of the New Deal, the Great Society, and the Warren Court. So far as many ordinary Americans are concerned, there is no doubt that Jonathan Rieder is correct when he observes that by the late 1970s, the term “liberalism” was associated with “profligacy, spinelessness, malevolence, masochism, elitism, fantasy, anarchy, idealism, softness, irresponsibility, and sanctimoniousness.” At the extreme, many academics and nonacademics from across the political spectrum portray liberalism as a kind of anemic nonjudgmentalism, a position that is morally uninspired and uninspiring, incapable of pressing even its own core values in the face of disagreement. Needless to say, I want to disconnect the view I am defending from these unhappy associations.

In the face of such unflattering portrayals—not entirely unearned—it might seem prudent to simply surrender the label “liberal” to history. But that would be a profound mistake, for the great tradition of liberal political thinking deserves a better fate. It contains ample resources to respond to its critics, and I have no doubt that it deserves to weather the current academic and popular fashions.

I want to reject the view according to which “liberalism” is identified with an insistence that public policies be neutral with respect to conceptions of the good life. Liberalism properly understood is anything but neutral with respect to basic moral and political issues, and it does not stand for an ultimate commitment to fairness or impartiality. It is true enough that some contemporary versions of liberalism have tried to put these values at the center of our political morality, but this approach seems to me deeply mistaken.

In a sense, the basic point of this book is to emphasize the vital importance of not allowing the foremost liberal values to obscure others on which the regime also depends. The liberal foreground is composed, first, of the basic liberties for all that are familiar from bills of rights: freedoms of religious practice, rights of association, and personal privacy, as well as freedom to express your opinion, to travel, and, as Benjamin Constant put it, “to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will” of others. Closely connected with these basic liberties are the familiar defensive mechanisms designed to check abuses of power and safeguard basic individual liberties against the encroachments of government: constitutional devices to check and regularize political power that include the separation of powers, legislative bicameralism, and the rule of law. The liberal foreground is composed of what might be thought of as negative constitutionalism: a sphere of individual inviolability (which Isaiah Berlin called “negative liberty”) and the familiar constitutional mechanisms designed to ward off incursions on that sphere.

Liberal political thought has often, and perhaps especially in recent decades, kept somewhat in the background the more civic dimensions of political life that are also vital to the liberal tradition. We have good reason to regard respect for certain basic liberties as politically paramount; having done so, we will do well to join Berlin in insisting that “participation in self-government is, like justice, a basic human requirement, an end in itself.” The right to participate in the institutions of collective self-government is not only a safeguard of, but also a vital complement to, personal liberty.

Constant famously defended modern “private” liberty against those who sought to revive a “collective freedom” that entailed the “complete subjection of the individual to the authority of the community.” He recognized, nevertheless, the importance of tempering the potentially excessive privatism of modern liberty with a measure of civic spirit. The final lines of his famous speech are worth quoting:

The work of the legislator is not complete when he has simply brought peace to the people. Even when the people are satisfied, there is much left to do. Institutions must achieve the moral education of the citizens. By respecting their individual rights, securing their independence, refraining from troubling their work, they must nevertheless consecrate their influence over public affairs, call them to contribute by their votes to the exercise of power, grant them a right of control and supervision by expressing their opinions; and, by forming them through practice for these elevated functions, give them both the desire and the right to discharge these.

Modern liberalism counts on promoting certain kinds of civic character. All we know about modern politics suggests that under reasonably favorable conditions, opportunities for collective deliberation about
public affairs help secure and complement personal freedoms of self-direction.\textsuperscript{18}

Liberal political institutions and public policies should be concerned to promote not simply freedom, order, and prosperity, but the preconditions of active citizenship: the capacities and dispositions conducive to thoughtful participation in the activities of modern politics and civil society. A commitment to individual freedom as a paramount virtue is no warrant for neglecting the civic dimension of our lives: the character and capacities of free citizens are shaped by social and political institutions of various sorts. Liberal democrats need to think about the ways in which public policies and institutions of different kinds shape and educate in direct and indirect ways. The very fact that liberalism celebrates individual freedom above all creates a risk that other concerns will be allowed to slip out of the picture altogether. The success of the negative constitutional project of individual liberty depends on a more positive, transformative enterprise that aims to shape normative diversity in a basic way, to foster a civic life supportive of liberal citizenship.

Diversity and difference, like all good or potentially good ideas, can be taken to an extreme or grasped in the wrong way. A liberal democratic political order is complex rather than simple. Liberals are not wrong to place freedom and equality in the foreground of politics, and to relegate somewhat to the background concerns with virtue, character, citizen education, and the like. Making the promotion of citizen’s virtue and personal excellence the overriding ends of our politics will overturn the liberties that we have good reason to prize.

Liberals cannot, however, leave aside altogether the project of moral education. A system of free self-government needs to encourage widespread convergence on certain shared attitudes and character traits, as well as the patterns of social life that support them. No liberal democracy can survive without citizens prepared to tolerate others, to act more or less responsibly, to take some part in public affairs, to stay informed, and to act for the good of the whole at least sometimes. For a liberal democracy to thrive and not only survive, many of its citizens should develop a shared commitment to a range of political values and virtues: tolerance, mutual respect, and active cooperation among fellow citizens of various races, creeds, and styles of life; a willingness to think critically about public affairs and participate ac-

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tively in the democratic process and in civil society; and a willingness to affirm the supreme political authority of principles that we can publicly justify along with all our reasonable fellow citizens.\textsuperscript{20} As Walter F. Murphy puts it,

The goal of a constitutional text must . . . be not simply to structure a government, but to construct a political system, one that can guide the formation of a larger constitution, a “way of life” that is conducive to constitutional democracy. If constitutional democracy is to flourish, its ideals must reach beyond formal governmental arrangements and help configure, though not necessarily in the same way or to the same extent, most aspects of its people’s lives.\textsuperscript{21}

In what follows I want to bring the positive constitutional project and the civic ideals it supports closer to the liberal foregound. Doing so should further the project of responding to that legion of critics who argue that the public philosophy of liberalism is incapable of realizing, or even articulating, civic ideals.

Liberal self-government and the institutions, practices, and character traits that support it—which I want to call civic liberalism—make up a distinctive (though not comprehensive) moral ideal, and one that is worth planning for. Of course, we want to avoid trying to promote moral ideals in ways that infringe on fundamental liberties: an overzealous concern to promote moral virtues may lead to infringements on individual freedom. But that is only an argument for guarding against excessive zeal. Civic liberalism, like all forms of moral life, needs not only options, but channels. Political institutions, social practices, and norms of all sorts encourage particular forms of behavior and discourage others: they help form the channels through which our lives flow. To respect freedom, we want to make sure that the channels are broad and not too deep, but there will always be channels, and we should try to make sure that they tend to promote our deepest shared values.

A final word about civic liberalism: I will refer frequently to liberal commitments, principles, and practices and the importance of designing policies and institutions to help promote them. This should not be taken to suggest that liberal principles are fully known and beyond contestation and criticism. Precisely the opposite is true: liberalism as I understand it is, at its core, committed to a self-critical process of
giving and demanding reasons, a process in which all substantive commitments are provisional and none are beyond political challenge. Even the “constitutional basics” are properly subject to ongoing political debate, criticism, reinterpretation, and revision, as I have argued at length elsewhere. Liberal citizens at their best know that they have a share in helping to direct the fearsome powers of the modern state, and they know that this fact behooves them to seek mutually acceptable reasons for the ways they would direct this power. To affirm this in no way undermines the importance of promoting the preconditions of political community: a liberal community of reason givers is a distinctive form of political community. The dispositions to question, criticize, and offer public reasons are among the distinctive virtues of liberal citizens.

We have no reason to take for granted either popular allegiance to liberal democratic principles or the skills and habits needed by good citizens. I will try to give both diversity and shared values their due by defending a reasonably confined but tough-minded liberalism: one determined to take reasonable measures to promote specifically political virtues but not ideals of life as a whole, one that would accept that doing so has unavoidable non-neutral consequences for the religious beliefs and ways of life that flourish in our regime.

My concern with issues of diversity lies not with this or that public policy, and I am not necessarily out to defend a larger federal government. Across the political spectrum, however, there is a tendency to take some of our deeper commitments for granted. Sometimes this tendency manifests itself in an unwillingness to look critically at claims advanced under the banners of diversity, but at other times the problem is a blind faith in market mechanisms. The common error, as I show in Chapter 1, is to focus on a part of the liberal political project at the expense of liberalism’s deeper and broader ambitions.

I hope that this book is written in a spirit that recognizes the great good of a world in which many differences of religion and culture, race, ethnicity, gender, and sexual orientation can be sources of enrichment and celebration for all. My main purpose, however, is to suggest that diversity and difference are not always to be celebrated: political work needs to be done to shape a world in which forms of diversity can be considered valuable rather than sources of fear and violence.

How can we, on the one hand, respect and protect the wide range of freedoms and the diverse patterns of religious and cultural life to which freedom naturally gives rise, while recognizing, on the other hand, that even a free society must act directly and indirectly to shape the ways that people use their freedom, in order to support and improve the civic life on which free self-government as a whole depends? Can we, in other words, imagine and devise an adequately civic liberalism: a political program that gives freedom its ample due while taking reasonable steps to promote good citizenship and thereby to preserve the social and political supports that freedom needs for future generations?

If our aim is to promote a political order that is characterized by a healthy measure of liberal democratic virtue, what are the implications for diversity? What is the relation between a liberal constitutional order, understood as a normative or moral structure, and the other normative structures that exist within a polity?

The main business of this book is to address these fundamental questions. First, however, I briefly consider some of the ways in which these questions have been derailed in recent discussions of diversity and education. In this chapter, I explore a series of retreats and evasions in the face of the need to shape and limit ultimate ideals and belief systems in order to support liberal democratic values. Liberal-
ism's aims are deep and pervasive, but not everyone is prepared to recognize this fact.

This detour will help make it clear just how tempting it is to ignore what should be recognized as the unfinished business of our political order: the positive constitutional project of shaping diversity toward the demands of a shared public life. The temptation is nonpartisan, as we shall see by considering evasions from across the political spectrum. Indeed, the temptation often grows out of certain core liberal commitments: to freedom, to equality, to markets and choice, to limited government, and to a distinction between public and private. All of these are values central to liberalism, but all can also be grasped in the wrong way or pushed to an extreme, and then the liberal democratic whole is obscured.

Negative Legalism

Typical of the negative view of liberal constitutionalism is the "rule of law" ideal of politics. This simple picture of liberal legalism is familiar enough. It is the view that law, properly understood, is a framework of impartial rules within which individuals and groups may pursue their own divergent ends and independently defined conceptions of what constitutes the good life. The law furnishes a set of "baselines" for individual conduct, as Lon Fuller put it, but otherwise should be "non-instrumental" or "purposeless," in the sense that it does not seek to impose purposes or ends on free citizens.1 Hobbes prefigured such a view, and so did Locke ("that ill deserves the Name of Confinement which hedges us in only from Bogs and Precipices").2

Government is necessary to enforce the law and regulate freedom. But it is also very important, according to this view, to ensure that political power is limited to the right sorts of purposes (to our "civil interests," as Locke put it), and is justified on the basis of reasons that we can share (as the social contract tradition hopes). So a vital task of constitutional law is to strike reasonable balances between private freedom and public power: to draw lines demarcating the proper spheres of conscience and religious association on the one side, and political authority on the other.

Liberal legalism helps sustain a set of familiar dichotomies: individual rights versus collective power, liberty versus coercion, private versus public. There are important debates about where to draw the lines, and I do not wish to deny the importance of the conflicts that these distinctions signify. At a certain level, these images are useful: law does help secure ordered liberty, and it does help individuals and groups know how they may go about pursuing their purposes under the law's protection. Thinking of the role of law in these terms alone, however, misses much of what is really interesting and important. It contributes to the erroneous idea that liberalism is based on a presocial conception of persons with interests that somehow preexist the constitutive effects of social practices and political institutions. Indeed, taking this view of law as the centerpiece of one's political philosophy—as many classical liberals and libertarians are apt to do—conceals some of the deepest ambitions of a liberal constitutional order. In much of what follows, I want to emphasize just how inadequate, even potentially misleading, is this simple picture of the social functions of law.

The rule of law and the distinction between public and private are, at one level, ways of directing and limiting political power. Yet at a deeper level, widespread acceptance of the rule of law and the distinction between public and private represent ways of constructing the world as a whole.

Liberal constitutional institutions have a more deeply constitutive role than the rule of law ideal signifies: they must shape or constitute all forms of diversity over the course of time, so that people are satisfied leading lives of bounded individual freedom. It is, after all, a profoundly important achievement for a society to converge on the notion that religious values and practices belong in a private sphere that is distinguishable from the sphere of political power. It is an accomplishment to come to a rough agreement that there are distinctively public reasons and purposes, in contrast to other reasons and purposes not properly pursued via political means. Successful constitutional institutions must do more than help order the freedom of individuals prefabricated for life in a liberal political order: they must shape the way that people use their freedom, and mold people in a manner that helps ensure that liberal freedom is what they want. If a democratic constitutional regime is to thrive, it must constitute citizens willing to observe its limits and able to pursue its aspirations.

The simple picture of law's purposes misses the transformative dimension of liberalism and the positive ambitions of constitutionalism. The rule of law ideal of politics captures the liberal desire to regularize and limit political power. But it misses the breadth and depth of liber-
alism’s transformative aspirations. There is no reason to think that the dispositions that characterize good liberal citizens come about naturally: good citizens are not simply born that way, they must be educated by schools and a variety of other social and political institutions.

Libertarianism, Multiculturalism, and School Choice

The most ardent defenders of individual liberty and the most enthusiastic celebrators of free markets are often among those who neglect the positive, transformative ambitions of a liberal democratic political order. The common motivation often seems to be a profound distrust of politics. There is certainly good reason to doubt the success of many public policies, and greater use should often be made of market mechanisms. Nevertheless, it is hard to see how sentiments such as these entitle anyone to take civic education for granted. If society as it is constituted contains forces that shape citizen character and preserve civic habits, it behooves market advocates to spell these out, investigate their preconditions, and provide some assurance that we are doing what we must to preserve them. Instead, the problem of civic education is often simply ignored.

Increasingly, the celebration of markets and choice also seems to gain support from the language of multiculturalism or cultural pluralism. This trend is nowhere more striking than in debates over public educational policy. Here, perhaps more than anywhere else, greater reliance on market competition and choice speaks not only to the desire for greater efficiency and “improved performance,” but also to the embrace of normative diversity. There is every reason to pursue our purposes, whether public or private, efficiently. What is striking in debates over public school reform is that the emphasis on markets, choice, and cultural diversity often seems accompanied by a profound loss of faith in civic purposes.

Suspicion of political control in education comes in two varieties. On the one hand, observers from left and right decry what they see as the ideological hegemony and intellectual homogenization promoted by politically controlled schools. On the other hand, advocates of market competition charge that the public education monopoly needs to end if educational achievement is to improve. Both classes of critics converge on a common prescription: get rid of publicly controlled education—allow schools to compete and parents to choose with few government regulations.

There are observers at both ends of the political spectrum who liken government control over schooling to the establishment of an official state religion, and who see no end to ideological and moral conflict until the institution of common schooling is eliminated.  

Consider Stephen Arons, who decries the intellectual homogenization that public schools, in his view, often attempt to impose on families and local communities that disagree about their religious and moral convictions. Arons describes harrowing incidents of censorship and community conflict provoked by struggles to control public school curricula, libraries, and ideology. He argues that because public schools are educational institutions that, by political fiat, must serve families with radically different values and ideals, they inevitably furnish many occasions for deep and irresolvable normative conflicts. We should get rid of these conflicts by redrawing the boundaries and eliminating public schools as we know them, claims Arons, and by replacing them with a much more diverse range of publicly supported educational institutions.

Consider one of Arons’s most striking examples. In 1977–1978, Warsaw, Indiana, passed through what Arons describes as a “massive seizure of anti-intellectualism.” He writes, “By the time the crisis had passed, five books had been banned, three teachers had been fired, the student newspaper had been eliminated, nine literature courses had been cut from the curriculum, and local senior citizens had offered their ‘vote of thanks’ to the censors with a parking-lot bonfire fed by gasoline and high-school texts.”

The conflict erupted when an increasingly conservative local school board, influenced by Christian fundamentalism and anxieties about the erosion of “family values,” decided to try and root out the progressive, cosmopolitan cultural influences that had become increasingly prominent in Warsaw’s schools—as it had in many others—since the 1960s. Courses on black literature and science fiction were among those discontinued, books containing criticisms of “traditional roles for women” were among those banned, and forty copies of the textbook Values Clarification were burned.

Such conflicts, for Arons, are the consequence of political control
over schooling: public schools, which are meant to serve all children, implicate too many intellectual controversies over which there is no agreement. Cultural consensus cannot be forged by political control over schooling, any more than religious uniformity could be imposed by political fiat. Indeed, Arons argues, the wars over public school curricula—and over what will constitute cultural orthodoxy more broadly—are religious wars, and so he quotes a study by Dorothy Nelkin:

The recurrence of textbook disputes suggests that the truce between science and religion, based on the assumption that they deal with separate domains, may be a convenient but unrealistic myth. Religion as well as science purports to be a picture of reality, a means through which people render their lives and the world around them intelligible... It is clear that for many people science, often unrelated to their experience, does not serve as a satisfactory explanation of reality on which to base their values.7

The conflict over public schooling “centers on which explanation of reality shall be certified by the government as valid for the next generation.”8 But the government has no business certifying a particular vision of ultimate reality: to do so, Arons asserts, is to resurrect theocracy.

Rockne McCarthy and his coauthors similarly charge that the role of public schooling is to shape the worldview of students, and that this task invades the sphere of religion because “all of life is religion.” There is no such thing as a neutral or objective way of looking at the world: “We all wear perceptual glasses of some sort that shape our perspective of reality... The only question is, What kind of glasses shall we wear?” According to McCarthy and his coauthors, “That choice belongs freely to every community, for world-views always have a communal dimension... They are formed within the context of supporting communities of like-minded people, and are not individualistic or religiously neutral.”9 The essentially religious disputes that tear apart school districts cannot be settled, but only avoided, according to these critics. And avoiding them requires disestablishing educational orthodoxies by closing down the public schools.

Critics such as these insist that the First Amendment should be understood to protect not only the expression of beliefs and opinions but also their formation.10 Arons would eliminate public control over schools (beyond banning racial discrimination) and provide public support to poorer families, so that all will be equally free to determine their own beliefs and pass these along to their children by choosing among competing schools. We could thus avoid passionate conflicts while protecting “the formation of individual belief and... individual political sovereignty.”11

Michael McConnell similarly presses what he sees as the animating purpose of the First Amendment in order to argue against political control over schooling. The central problem for McConnell, as for Arons, McCarthy, and many others, is that the realms of religion and public morality overlap to a considerable degree. The Constitution’s framers cared most about “liberty of conscience,” according to McConnell, not civic virtue. Indeed, the fundamental radicalism of the Constitution was that by embracing an extended republic constituted by multiculturalism and religious diversity, the founders gave up on the idea of a nation united around a shared public morality.

McConnell insists that the “Religion Clauses of the First Amendment meant that we would not have a common civic culture at the most fundamental level. We would not have a common morality.” The Constitution, he admits, “thus left a dangerous void” because the various sects, when left to their own devices, “might propagate all manner of pernicious doctrines,” and the clergy might stir up antagonisms “making civic harmony virtually unattainable.” Yet the founders “took the risk” and trusted to “private institutions for the propagation of moral culture.” And so, according to McConnell, “[t]he principal purpose of the Religion Clauses is to ensure that decisions about religious practice, including education, are reserved to the private realm of individual conscience.”12

McConnell’s position seems to me astonishing, but he deserves credit for being clear-eyed and honest enough to state what so many others ignore: that the failure to take responsibility for creating a civic culture would open a “dangerous void” in our public life.

Multiculturalist critics of common schooling such as McConnell raise important questions. They rightly recognize that removing all religious exercises and teachings from the schools does not make the schools wholly nonpartisan with respect to religion: today’s public school curricula may have the effect of undermining some forms of religious faith, especially those that espouse moral values in tension with liberal democracy.
I return to these controversies later, but let me here note one thing about these proponents of educational diversity: their cramped view of the proper educative ambitions of a liberal democracy. These critics are so opposed to the notion of government-imposed orthodoxy that they ignore all other causes of concern. Arons, for example, conflates parental control with individual freedom: "where the individual is too young to make an informed and voluntary choice, his parents ought to control it." And yet shouldn't we worry about parental as well as governmental tyranny? Is it not also the case that religious communities may be deeply illiberal and anti-individualistic? Arons ignores the fact that all-encompassing private groups can be as oppressive as an overweening state. Simply curbing government control will not necessarily promote freedom—at least the freedom of the children involved—or does it necessarily promote children's capacities for citizenship or a stable and orderly system of liberal self-government.

Arons ignores the potential conflicts between particular normative communities—families, religious communities, and other groups—and the liberal community as a whole: the great society of many communities. He expresses solicitude about the "search for community" among Protestant fundamentalists, and speaks of their desire to create a moral "cohesiveness or sense of shared belief" through Christian schooling. But the children of fundamentalists are also future citizens, and our shared political institutions are proper instruments to plan for the cohesiveness of our political community. Whether we merely tolerate religious schooling or join Arons, McConnell, and others in seeking to subsidize it, some account needs to be provided of how future citizens acquire the character traits, habits, and virtues they must have if the liberal political project is to survive and thrive.

It does no good simply to assume that people will disagree peacefully if only public schools can be gotten rid of, if only the proper lines can be drawn between private freedom and public power. Arons and McConnell provide no account of where this good temper comes from. Like many others of a libertarian bent, they take for granted a mutually respectful desire to live in peace with those one believes to be damned. This desire is, however, a political achievement and not an assumption to be taken for granted. We need to avoid making the libertarian mistake of assuming that liberal citizens—self-restrained, moderate, and reasonable—spring full-bloomed from the soil of private freedom. As we will see later, Adam Smith did not make these blithe assumptions, and neither should we. Harry Eckstein gets closer to the mark by suggesting that "stable governments . . . are the product of 'accidental' (extremely improbable) conjunctions of conditions which do sometimes, but rarely, occur in actual societies."

It may be that a greater reliance on educational choice and school competition makes sense from the point of view of educational policy. And it may be that we would do well to utilize the particular virtues and capacities of private groups and civil society institutions in the delivery of social services. The last thing we should do, however, is to simply ignore or assume away the civic ambitions that have been at the core of common schooling from the beginning.

It is one thing to disagree with particular means toward the end of creating a shared citizenship; it is quite another to altogether neglect the importance of that basic end. These critics may or may not be right to suggest the need for fundamental revision of public school policy, but no adequate judgment can be made on this score until we take account of the need to constitute citizens.

At their most radical, these critics seem to argue that the promotion of civic purposes in public schools is necessarily at odds with religious freedom. When the government mandates the teaching of science in schools, it certifies a particular "explanation of reality" as a whole and usurps the place of religious teachings. When government promotes a civic morality, it encroaches on the proper sphere of religious sects. The choice is a stark and simple one: either protect freedom or promote a common civic culture. The burden of much of this book is to argue that this choice is a false one. But to see that we will need to understand something of the history of the conflicts among civic purposes and religious communities in America, and we will need to reconsider how a public morality can be justified in the face of religious and philosophical diversity.

School Choice and Market Competition

First Amendment libertarians are at least attuned to the religious and political conflicts that surround school policy. Other proponents of parental choice and market-based school reform write as though the
only thing that citizens should want out of schools is “academic achievement”: good grades, low dropout rates, and high scores on standardized tests.\textsuperscript{16}

Recent years have witnessed an increasing number of challenges to the public school system. While many of these challenges strike at the foundations of what has long been the central political instrument of moral and civic education, reformers often say surprisingly little, or nothing at all, about the civic dimensions of reform. At the extreme, critics of public schooling seem to believe that public control serves no purpose except bureaucratic self-interest.

John E. Chubb and Terry M. Moe blame the problems of public schools on the institutions of democratic control, which transfer authority from school principals and the recipients of school services to the politically powerful. The keys to effective organization, they find, are school autonomy, a clear sense of purpose, school competition, and choice for parents and students. Give schools and their principals autonomy, assert Chubb and Moe—leave them “free to govern themselves as they want, specify their own goals and programs and methods, design their own organizations, select their own student bodies, and make their own personnel decisions.”\textsuperscript{17} Better schools can be generated by the market mechanisms of product differentiation, competition, and consumer choice.

Who could be against “better” schools? That is, schools that do what public schools do—only better? And yet Chubb and Moe also recognize that “[t]aken seriously, choice is not a system-preserving reform. It is a revolutionary reform that introduces a new system of public education.” Taking private authority over education seriously would not, then, give us a better version of what we have; it would give us something deeply new. Impressive as their study is, Chubb and Moe never describe this newness or discuss its merits. They claim to take institutions seriously, and in many ways they do, but they never address the civic dimension of public schools. Market incentives may be the key to reform, but we need to deploy categories of analysis rich enough to describe and assess the political and moral dimensions of those reforms.\textsuperscript{18}

Discussions of education reform are too often transfixed by dropout rates, test scores, and other indices of academic achievement. In a way, the very fact that these indices of success are taken for granted is enormously revealing. That it could be taken for granted that the overriding educational goal of parents and local communities is worldly achievement might be, I suppose, a way of paying implicit homage to the success of civic education in the American regime. Neglect of the most basic civic ends might imply that these are, after all, really quite unproblematic, so all that we need to think about are the best means.

Still, one would like to know how this successful convergence on ends was brought about, and what must be done to preserve it. Did public schools as an institution have a role in bringing about Arons’s peaceful religious coexistence, or the emphasis on “success” that Chubb and Moe assume? What is the plan for keeping America’s families happily preoccupied with sober and regime-supporting (or at least regime-compatible) interests such as high math scores and fewer dropouts?

As Arons’s account of intense intellectual conflict shows, any analysis of our political interests in the education of future generations that ignores passionate conflict is part fantasy. Parents do care about dropout rates, standardized test scores, and other indices of intellectual achievement, but those who think that Americans care only about academic achievement are far too sanguine. The work of constituting diversity is not complete; indeed, some worry that our shared political identity may be coming undone in important respects.\textsuperscript{19}

Ironically, the narrow focus of the policy debate is not explained by any overwhelming evidence that reform would bring academic improvement. Academic achievement is very difficult to compare across schools, which differ enormously in terms of student preparation, family background, and other crucial determinants of academic success. Schools differ so widely in what goes into them that it is hard to isolate the effects of the schools on what comes out. So even were we to accept the narrow measure of success (for example, academic achievement, as measured in standardized test scores), the advantages of private schooling over public schooling appear to be modest, perhaps even trivial.\textsuperscript{20} Were there reason to think that scrapping the current regime of public schooling would lead to truly remarkable advances in academic achievement, it might be more understandable to ignore other factors and conclude that “choice is a panacea.”\textsuperscript{21} As it is, crucial aspects of public educational policy are being ignored by many reformers in the name of perhaps only slight gains in academic achievement.
The Politics of Difference and the Distrust of Virtue

It is worth noting that while many seem to want to ignore issues of deep diversity, others seem to want to celebrate it uncritically. Invocations of diversity and difference are often used as critical levers against what some see as liberalism's unfair tendency to marginalize or homogenize social diversity. Many social practices need to opened up to greater criticism and contestation, and many public policies should be revised so as to be made much more respectful of those outside the cultural mainstream. As work by Michel Foucault and others demonstrates, deeply embedded structures of meaning may shape social and personal identities and limit freedom in subtle but profound ways. Uncovering and articulating these deep structures, contesting settled meanings, is important work. It is surely not the case, however, that all social structures are oppressive or equally worthy of contestation, or that any deep social formations that limit diversity or marginalize particular social groups must be rejected.

Iris Marion Young insists that politics should more carefully attend to the voices of those groups that have been unfairly pushed to the margins of society. This is an honorable and important project. But some groups have been pushed to the margins of society for good reason, and the last thing we want is a politics of indiscriminate inclusion.

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

A politics that does not, as Young puts it, “devalue or exclude any particular culture or way of life” is neither plausible nor attractive. Young champions certain constituencies (blacks, native people, women, gays, the disabled) and simply leaves aside the complaints of Nazis, fundamentalists, or even the Amish, all of whom could claim to be victims of oppression, at least as Young describes it.

The implicit selectiveness of Young’s solicitude for groups allows her to ignore a more basic political problem: how to promote convergence on the fundamental but no means uncontroversial goods of tolerance, openness to social diversity, equality of concern and respect, and free self-expression. Young in fact advances a very definite, and by no means uncontroversial, ideal of life as a whole: the modern, culturally pluralist city life. Young calls her ideal of city life “a vision of social relations affirming group difference,” and she characterizes the proper city-dweller attitude as “an openness to unassimilated otherness.” Like Young, I would much rather live in London, Sydney, or San Francisco than Russell, Kansas, or Hope, Arkansas. But the ideal of city life is far from equally hospitable to all ways of life. A healthy and vibrant city life requires more: a predominance of tolerance, mutual understanding and respect, cooperativeness and good will within groups and across group lines, a sense of ownership of public places, and a willingness to help the weak. Good citizenship in today’s cosmopolitan cities entails distinctive virtues, which Young herself implicitly recognizes in her praise for “openness” to “otherness.” The virtues that Young relies upon are not only distinctive but also controversial, for the peaceful patterns of urban interaction that they undergird will effectively “marginalize” and “silence” adherents of ways of life that do not thrive in cosmopolitan conditions—including orthodoxies that thrive only within narrowly circumscribed boundaries, closed societies, and tight social control. Of course, cities can tolerate (and perhaps in some ways benefit from) a certain measure of “deviance” from any and every norm. The point is not that every city dweller must live up to a strict code of conduct; it is rather that in lively and attractive cities, certain patterns of behavior and certain attitudes of civility prevail. The “otherness” that one encounters in a peaceful and tolerant, if unquiet, city square is assimilated to a common way of life.

Richard Flathman also sees the seeds of oppression in shared liberal ideals of justice and civic virtue; that is, in the hegemonic potential of liberal ideals themselves. Flathman criticizes those wrong-headed “virtue liberals” who are judgmental about some ways of life because these liberals are, as Flathman would have it, liable to permit “restriction and repression” of unhealthy and unreasonable ways of life. The problem that Flathman shares with Young is that he relies on an ac-
count of citizen virtue without articulating it, defending it, and describing how it can and should be promoted. While spurning “virtue liberalism,” Flathman alllw.ws—without making enough of the point—that his ideal of life depends upon a wider set of personal virtues, which include “[s]elf-control, moderation, magnanimity, respect for ‘forms’ and adverbal considerations, and conditions of life conducive to these”; all of these virtues and more are necessary or else “individuality disappears into herd behavior or deteriorates into self-indulgence and ‘letting-go.’”

Young, Flathman, and other proponents of “difference” and contestation have decided expectations about how people should behave: racists, nativists, sexists, homophobes, the corrupt, the violent, and no doubt many others will be marginalized in their favored regime. We must all hope that certain groups become and remain marginalized.

It is far from wrong to worry about the persistence of social prejudice and cultural expectations that constrain the free self-development of many people. Not all social norms are expressions of prejudice, however, and not all cultural expectations constrain freedom.

By all means, let us celebrate a mutually respectful liberal democratic diversity, let us approach settled social and political expectations in a critical spirit. But let us also recognize that the celebration of peaceful diversity behooves us to try and understand what must be done from a political standpoint to keep Sydney from becoming Sarajevo, or Boston from becoming Beirut. Our current notion of “difference” is far too thin and devoid of moral content to characterize what it takes to constitute the shared life of a reasonably stable, peaceful, and mutually respectful urban order. There are groups and ways of life that thrive on ignorance and the demonization of outsiders. Surely, a world in which such groups are marginalized is exactly what we want.

Diversity in Its Place

What is the common thread here? All of the foregoing celebrators of choice and diversity in fact presuppose orderings of moral values and accounts of political virtue without taking responsibility for articulating those civic values, defending them, and offering accounts of how these values should be promoted. Invocations of diversity and difference, market choice and freedom, cultural pluralism and multiculturalism are easy resorts: they represent the spirit of the age, and to invoke them against the forces of homogeneity is to play on some of the deepest chords of today’s political thinking on both the left and the right. The problem is not that cultural pluralists, libertarians, free market advocates, and other critics of virtue liberalism are altogether misguided. Each grasps a part of what any sensible liberal citizen will care deeply about: freedom, productivity, equality, and critical individuality. But each of these camps picks up a part of the liberal project and seems to want to make it the whole. The result is that these narrow partisans ignore imperatives that must also be given their place in a social order that hopes to sustain over generations a decent and orderly system of free self-government. What all of these inadequate views represent are variations on the same theme: a neglect of the civic dimensions of our liberal democratic political project.

Let me not be misunderstood: these partial perspectives have their uses. The keen sensitivity with respect to diversity represents, in certain respects, an advance in our political tradition. It is only in the last forty years, after all, that the American polity has begun to set its mind to delivering the oft-postponed promise of full political equality for black Americans. We have a long history of prejudice with respect to Native Americans, African Americans, Catholics, Jews, women, Asian Americans, and many others, as Rogers M. Smith has ably chronicled. No one nowadays could plausibly deny that the American political tradition has, for long stretches, unfairly marginalized and excluded particular groups. Gays, lesbians, and others continue to suffer unfair discrimination. Acknowledging the reality of unfair exclusion should not, however, lead us to make the opposite mistake of indiscriminate inclusion: the embrace of all differences, and a laissez-faire attitude to the civic dimensions of the project of liberal self-government.

Let me conclude this chapter, and this preliminary discussion, by going back to the beginning of the liberal tradition, when the transformative aims of liberalism stood out in sharper relief, perhaps because they were so far from being accomplished. This is one way of glimpsing what must be the positive agenda of liberal constitutionalism with respect to diversity.

It must be admitted, however, that once we glimpse the extent of the liberal transformative agenda it will become clearer why many commentators prefer to ignore it. In important respects, the scope of the liberal agenda seems to outrun the reach of liberal reasons. Whether
this is so, and how we can best address the problem of justification, is something to which we will need to return.

Religious Toleration and the Transformative Agenda

I have so far mainly emphasized unpaid debts of liberalism’s critics. It is time to consider the depth of liberalism’s transformative ambitions and the magnitude of the problem we face: How adequate are the reasons that liberalism offers for what it seeks to accomplish? And do liberalism’s transformative ambitions outrun these publicly stated reasons?

Our problems of diversity are, in certain respects at least, rooted in the founding documents of liberalism. The problem of normative diversity is the original problem of modern politics, and it is worth seeing just how difficult it is to address. To begin to think more adequately about what liberal ambitions mean with respect to diversity, we can consider a crucial founding document of the liberal tradition: Locke’s *Letter Concerning Toleration*. As Stanley Fish has pointedly suggested, the surprisingly problematic nature of Locke’s argument is a source of confusion to this very day.29

The aim of the *Letter* is nothing less than to settle the conflict between the concern with “men’s souls,” on the one hand, and “on the other side, a care of the commonwealth.” Locke writes, “I esteem it above all things necessary to distinguish exactly the business of civil government from that of religion, and to settle the just bounds that lie between the one and the other. If this be not done, there can be no end put to the controversies.”30

This, as Stanley Fish has pointed out, is an admirable expression of the “mission statement” of liberalism: to bring about a world in which conflicts over basic religious and philosophical commitments can be resolved in favor of mutual toleration and political freedom. Only thus, liberals have long believed, will there ever be an end to the religious controversies that have for so long plagued mankind.

What is Locke’s argument for limiting politics in the ways he suggests? He offers a complex array of arguments that to modern eyes seem misleadingly self-evident. Let us consider Locke’s argument and its limits.

Religious faith depends, Locke argues, on inward assent; religious belief is crucial and cannot be coerced: “I cannot be saved by a religion that I distrust, and by a worship that I abhor.” Locke calls this “the principal consideration . . . which absolutely determines this controversy.” It is simply irrational to engage in religious persecution: people cannot be saved against their will. This argument appears to land a “knock out” blow against intolerance, and it has been echoed by Jefferson, Madison, and many others.31

Still, Locke adds other arguments. “Every man,” Locke insists, is for himself the “supreme and absolute Authority” in matters of religion because “no body else is concerned in it, nor can receive any prejudice from his conduct therein.” It is, in other words, no harm to you if your neighbor goes to hell. Jefferson later emphasized the same point: “[I]t neither picks my pocket nor breaks my legs.”32

In addition, Locke argues that religious truth does not need the help of politics. Truth will, he insists, win out in free public argument: “[T]he business of law is not to provide for the truth of opinions, but for the safety and security of the commonwealth, and of every particular man’s goods and person. And so it should be. For truth certainly would do well enough if she were once left to shift for herself. She seldom has received, and I fear never will receive much assistance from the power of great men to whom she is but rarely known, and more rarely welcome.”33 As Mill would elaborate more fully later, the free clash of opinions is the best means to ensure the pursuit of truth.34

Locke adds still other arguments. Even if political persecution were efficacious, he writes, political leaders disagree about religion and have no special expertise in this realm, so they should not be trusted with the power to coerce uniformity. An expressed concern with saving men’s souls can, in any case, serve as a cloak for the self-interested pursuit of power. Finally, Locke denies that public religious uniformity is a prerequisite for peace: social conflict is more likely to result from the demand for religious uniformity than from the freedom to profess one’s beliefs.35

Locke’s battery of arguments for toleration seems irresistible today. The upshot is that political authority and religious authority are entirely different. The church, says Locke, is “absolutely separate and distinct from the Commonwealth. The boundaries on both sides are fixed and immovable. He jumbles heaven and earth together, the things most remote and opposite, who mix these two societies; which are in their original end, business, and every thing, perfectly distinct and infinitely different from each other.”36 Locke’s rendering is conclusive: a complete and utter separation of the spheres of religion and politics. These arguments were accepted by few in Locke’s day,
and it took a century and a half for Locke’s position to be accepted in Britain. The arguments were forceful, and in time they proved influential. A “wall of separation” has been erected between church and state, and it is believed to be erected on the solid foundations that Locke articulated.37

Locke’s arguments, however, are not nearly as conclusive as they appear. Indeed, Locke’s ambitions seem to outrun his political or civil reasons in important respects.

One thing that is immediately striking is the extent to which, in spite of Locke’s insistence to the contrary, the boundaries between politics and religion are not “fixed and immovable.” Politics cannot in fact leave religion to one side: it cannot leave the soul alone and care only for the body, for our deepest moral and spiritual commitments need to be shaped in accordance with political imperatives. This fact is clear from the start of the Letter, for the argument does not begin with an account of rights or an appeal to political values but rather with an account of our religious duties: of what is right as a religious matter.

The very first sentence of the Letter insists that toleration is “the chief characteristic mark of the true church.” So toleration (the basic liberal virtue) is in the first instance defended as a religious mandate. And soon thereafter: “I appeal to the conscience of those that persecute . . . .”38 That Christ and the Gospels command toleration is, indeed, the principal theme of much of the Letter. All of this signals Locke’s dependence on the prevalence of religious sensibilities that support toleration: toleration needs the support of private beliefs and practices; it depends on a certain ordering of the soul.

Perhaps most importantly, Locke’s insistence that the spheres of politics and religion are “perfectly distinct and infinitely different” is belied by the fact that both spheres are concerned with a variety of forms of “moral actions.” Locke seems to be thinking of laws against vices at odds with the public good, such as drunkenness and transgressions against prevailing sexual morality. These moral actions can be regulated by the state not to promote particular religious views, but for the sake of the public welfare.39 Of course, religious authorities will also have an interest in the way these moral activities are regulated.

In addition, many public activities will directly impinge upon or indirectly affect religious life and religious practices, and vice versa. We cannot shield religious life from all these effects; indeed, Locke never guarantees that we can or should. So the impassable boundary between our civil and religious lives seems to be rather a broad and important swath of overlapping jurisdictions: actions that are relevant to religion can be regulated by the state for the sake of civil interests.

Locke’s “impassable” wall turns out to be a remarkably narrow guarantee that government will not act for the sake of religious reasons. He never denies that public policies may burden religious practices as a collateral matter, or as a consequence of pursuing a legitimate public purpose. He never guarantees that government and public policy will be neutral in their effects on religion and other private ways of life. Ruling out religious reasons as a basis of lawmaking still means that the political and religious spheres will overlap—that is, there will be conflicts between political imperatives and individual consciences and religious communities.

Locke mentions examples of conflicts. Government cannot ban the sacrifice of calves (a religious ceremony), but it can ban the slaughtering of calves in the event of a famine. The government cannot require children to be baptized, but it can require them to be washed for health reasons. Just because public authorities act for only public purposes does not mean that there will be no conflict among those purposes, religious interests, and the conscientious scruples of citizens. Locke’s hypotheticals can easily be multiplied, as demonstrated by real life cases:

- Quakers and other conscientious objectors seek exemptions from military service on the grounds that their religious beliefs forbid them from participating in combat.
- Christian Scientist parents withhold medical treatment from their children because they believe in the power of prayer to cure diseases, but public officials may regard this as an act of criminal negligence.
- The government prosecutes a “war on drugs,” and Native Americans complain that they have a right to use peyote as part of their traditional religious ceremonies.
- The government decides a new highway is needed through a remote area, but it turns out that the ground is sacred to Native Americans.40

What happens when legitimate public purposes and private religious values conflict? Religious people might well think that public impera-
atives in any given case are trivial compared with the religious burdens that they suffer. Religious people might also suspect hidden motives: the government may ban the slaughtering of calves for health reasons or on account of a food shortage, but is this only a pretext? On the other side, public officials worry that making exceptions to generally applicable laws will unleash a torrent of conscientious objections.

What happens when clashes such as these occur? Locke’s answer appears to be simple. Public authorities judge what the public good requires, and so long as the judgment is about a political matter and based on the public good, a citizen will have no right to be exempted based on reasons of conscience, which are private. “For the private judgment of any person concerning a law enacted in political matters, for the publick good, does no: take away the obligation of that law, nor deserve a dispensation.” At the same time, Locke also allows that if a private person sincerely judges that a law requires some act that is “unlawful” to his conscience, he should abstain from the action and take his punishment, “which it is not unlawful for him to bear.” Indeed, Locke goes further and allows that “[t]he principal and chief care of every one ought to be of his own soul first, and in the next place of the publick peace.” This implies the possibility of active resistance to the law, not only passive submission, when it is believed that the public good is being used as a pretext to cloak religious oppression.41

So if there is a conflict between perceived public and religious imperatives, basic religious duties will come first for many individuals, but political leaders will look first to the public good. Conflicts of interest are to be expected, especially when public officials and religious people have different experiences, worldviews, and values. And if political authorities and religious citizens disagree, Locke explains that there is no judge on earth between them: only God can judge, which is to say that they will fight it out on earth, and look to divine judgment in the next life. (We should not foreclose the question of “dispensations”—or religiously based exemptions and exceptions to generally applicable public policies—in the peremptory manner that Locke seems to embrace, but for now let us follow the deeper logic of Locke’s position.)

The “clear and immovable” boundary between civil and religious spheres guarantees only that public authorities will not pursue a specifically religious agenda. This leaves us with an extensive overlap of public and religious concerns, which has important implications for political stability. The overlap suggests that absent a degree of compatibility and convergence among public and private purposes, public authority will be fragile, and conflict among public bodies and private communities will be frequent.

As liberal democrats, we want more than bare toleration and peace: we want citizens to be able to deliberate respectfully about shared concerns and to cooperate in formal institutions and less formal social settings. The subtext of the Locke position—especially when transposed onto more explicitly democratic institutions—is that the civic health of liberal democracies depends not simply on a clear division of spheres, but on a deeper convergence of public and private values: a convergence of individual consciences and the public good powerful enough to ensure the political supremacy of public values and institutions against competing imperatives.

Perhaps the most dramatic evidence that the boundaries between politics and religion are not as sharp and “immovable” as Locke sometimes asserts is found where Locke describes the duties of Christian preachers:

It is not enough thatecclesiastical men abstain from violence and rapine, and all manner of persecution. He that pretends to be a successor of the apostles, and takes upon him the office of teaching, is obliged also to admonish his hearers of the duties of peace, and good-will toward all men; as well as towards the erroneous as the orthodox; towards those that differ from them in faith and worship, as well as towards those that agree with them therein: and he ought industriously to exhort all men, whether private persons or magistrates, (if any such there be in his church) to charity, meekness, and toleration; and diligently endeavor to allay and temper all that heat, and unreasonable averseness of mind, which either any man’s fiery zeal for his own sect, or the craft of others, has kindled against dissenters.42

Locke’s political order counts on religious teachers and institutions to foster the virtues of civility and self-restraint on which the survival of the political order depends. Locke here acknowledges in effect that a good deal of moral education takes place in the norm-generating communities of the private sphere. The civic virtues of “charity, meekness, and toleration,” among others, must gain the support of religious communities if a liberal social settlement is to survive and prosper. Indeed, Locke clearly hopes that the practice of religious toleration will drain the religious sphere of hostility and transform churches into
schools of liberty. Accusations of church-based sedition would soon cease, he says, "if the law of toleration were once so settled, that all churches were obliged to lay down toleration as the foundation of their own liberty; and teach that liberty of conscience is every man's natural right, equally belonging to dissenters as to themselves." The peaceful coexistence of religious pluralism would, Locke hoped, itself be educative.  

Lockean politics cannot, any more than our own, leave private moral beliefs altogether to one side; it cannot leave the soul alone to care only for the body. It counts on a convergence of public and private, for a good deal of publicly relevant moral education is bound to be done by private communities. Civic education, in the broadest sense of that phrase, obviously becomes a central concern under these political conditions. Normative convergence must be fostered, but given the conviction that religious imperatives in certain respects transcend political concerns, this enterprise must be one fraught with controversy.  

How might we ensure this convergence? How can we make certain that private consciences and religious communities do not deviate too far from what is supportive of the regime? How might we narrow the gaps between the shared political good and what various churches and individuals profess and promote? May the government do anything to bring about a convergence of public and private views, or would that be objectionable and dangerous: a trampling in the most private of spheres that could only offend religious sensibilities? It is hard to see what the explicit mechanisms of soulcraft are in the Letter, but it is worth noticing that what sometimes look like exercises in line drawing and boundary marking can also be seen as implicit attempts to reconstitute the private realm in a manner that will make it compatible with and supportive of the public.  

First and most obviously, there are limits to the right to toleration in Locke, and those limits are marked out in accordance with the imperatives of the social compact itself. Members of sects that profess that "faith is not to be kept with heretics" forfeit a right to toleration, according to Locke, for this would mean that religious authorities could dissolve the political compact by excommunicating the sovereign. The limits of a right to toleration are reached, for Locke, when religious doctrines are advanced that deny the grounds and integrity of the social compact itself.  

If the price of full citizenship and, more broadly, full public acceptance is that religious communities honor the integrity of the social compact, then citizens have important incentives to circumscribe their religious convictions to respect civic aims.  

Locke asserts that it will be rare for churches to teach "doctrines of religion" at odds with "the foundations of society," because in doing so "their own interest, peace, reputation, every thing, would be thereby endangered." This, from the point of view of Locke's day, seems like a bit of wishful thinking. He could, of course, hope for a future in which all churches would conceive of "their own interest" in terms of favoring, and being known to favor, freedom and peace. The important point is that what is in one's interests, and what makes for a good reputation, depend on the nature of the society in which one lives: its political institutions, its norms, and the beliefs of other citizens. Living in a political society that is based on tolerance and a social contract of shared civil interests would encourage religious communities to think about "interest, peace, and reputation" in terms supportive of the regime—at least as long as liberal norms succeed in determining the public grounds of respect.  

Liberal politics itself may be educative in a variety of ways. In this regime, churches themselves must accept the political framework and mimic it to some degree, for they themselves must be voluntary associations with no coercive powers, in which individuals have a right of exit. As citizens, religious believers acknowledge a fundamental duty to persuade rather than coerce those believed to be in error over religion and other matters. So churches themselves must respect basic individual freedom and accommodate themselves to it.  

The political role of citizenship should also be educative. As members of a political community, Locke's citizens would put their religious differences to one side for the sake of shared civil interests. They would be required to honor the equal political rights and equal political standing of fellow citizens of different faiths. According to this new political dispensation, religious differences (within limits) are not obstacles to political unity. In our political relations as fellow citizens, our religious differences are of secondary importance as compared with our shared concerns with peace, the security of rights, prosperity, democratic deliberation, and equal individual freedom.  

This liberal democratic political order, which Locke only partially prefigures, counts on being more than just a set of limits on prepoliti-
Conclusion

Today, Locke’s arguments for toleration appear self-evidently true. That is misleading, for these arguments depend on premises that were contested by most believers for centuries, and that are rejected by some even now. Those premises importantly include the conviction that there is no religious duty to impose uniformity, and that the central religious duty is to look to your own conduct and salvation. The appearance of conclusiveness represents the extent to which religious and philosophical beliefs, at least in the United States and some other societies, now generally support liberal principles of toleration. This convergence is a very good thing from a liberal political point of view. But our shared political reasons can only partially justify this religious transformation, for we do not claim, as a polity, to have a public account of religious truth: we have only a shared account of basic civic values that impose limits on what can be true in the religious sphere.

It may seem hard for members of modern liberal democratic societies to see why people persecute others over religious matters. Yet the decline of religious intolerance is in no way foreordained. Intolerance of religious error may bespeak a seriousness with regard to religion and a concern with the well-being of others that is, according to some, missing in some modern liberal societies. Is part of the liberal settlement that people must not take religion too seriously? Is the watering down of religion and its relegation to the margins of life part of the liberal agenda? Many observers now charge that American public life has become a “naked public square,” and that our public policies foster a “culture of disbelief.” The religious voice is increasingly defensive and outspoken on this point. No less a figure than Pope John Paul II warned on his first trip back to Poland after the collapse of Communism: “We must take into account that, as time has passed, especially in the so-called modern age, Christ—as the creator of the soul of Europe, the creator of this freedom that has its roots in him—has been placed in parentheses and a new mentality has begun to form, a mentality which could be expressed by the following phrase: Let us think, let us act, as if God did not exist.”

It is, I believe, a profound mistake to identify religious seriousness with illiberal religiosity. We do not, however, have public arguments to show that a concern with eternity is best expressed in ways that accord with liberal democratic political institutions. There is some-
thing frightening in the reminder that on the religious side of the ledger are reflections such as those heard during the “Promise Keepers” rally in Washington, D.C.: “[W]e are only on earth temporarily, those who are born again will live together in heaven for ever.” Statements like these remind us that the reconciliation of religion and liberalism is still precarious and not to be taken for granted.

The basic problematic for modern society with respect to deep normative diversity is glimpsed in Locke’s effort to divide the spheres of religion and politics. This division depends upon the support of religious reasons and religious communities—a support that can be encouraged by a liberal public philosophy but not altogether justified by it.

Liberalism is dependent on religion in two important ways. First, it depends on the reasons, norms, and moral convictions generated by religious communities. Jeremy Waldron has noticed the extent to which Locke’s argument depends on supportive religious premises and implies that this is a weakness in Locke’s argument: the last thing we want, Waldron suggests, is to have to come up with a new argument for toleration in response to every version of religious orthodoxy. The problem, however, is that we cannot show that political aims and values override competing religious imperatives on the basis of political argument alone: the case for toleration and other civic values is, for religious people, bound to depend in part on how they construe their religious views. In justifying a liberal public philosophy, we cannot avoid setting certain boundaries as to what can be true as a religious matter, but we should avoid positing a particular view of religious truth. Indeed, as I argue in Part Two, today it is best to say even less about religious truth than Locke does. Even so, the convincingness and popular appeal of the public argument for toleration will depend upon the religious beliefs that people form and act upon. Liberal transformative ambitions outrun liberal public reasons.

Liberalism is dependent on religious and other nonpublic communities in a second, more positive way. To the extent that communities and associations of various sorts are important moral educators within a liberal democratic political order, then clearly the political order is dependent on the type of moral and political education promoted by religious and other normative communities. And indeed, Sidney Verba, Kay Lehman Schlozman, and Henry E. Brady provide evidence showing that religious communities are important civic educators. Moreover, we live in an era, as I discuss elsewhere, in which increasing emphasis is placed on the importance of civil society to the civic health of the polity. Different people sometimes mean different things by “civil society,” but in general it designates those associations and communities (other than economic enterprises) between the individual and the state. Active participation in associations and groups is seen as conducive to the habits and character of good citizenship. This renewed concern with civil society highlights the extent to which modern mass societies depend upon the quality of the moral and political education provided by the intermediate associations and communities, including churches.

Public and private institutions are mutually dependent. This interdependence sets much of the problem for what follows: How can we justify and realize liberal values consistent with the freedom of individuals and communities? That is, how can we constitute, in the positive, transformative sense, a liberal civic order?

As I explain next, anxiety about the popular capacity for responsible and reasoned self-government in the new American republic was intensely felt and at least partly understandable. This anxiety gave rise to a public institution designed to do what Locke, in the Letter, counts on private preachers doing. Horace Mann and others saw the common school as the fit instrument for pursuing the transformative purpose that must underlie any project of free self-government: a fit instrument because if the public ends are important, then adequate public means should be found.

American public schools have been, in many ways, where the tension between diversity and the felt need to promote shared values has played out most dramatically. This institution has, from its inception, been the principal direct public instrument for creating a shared political culture amid religious, racial, ethnic, and class diversity. Public schools are where what purports to be a liberal state has intervened between children and their parents and communities of birth to shape the deepest beliefs and commitments of “private” communities and future generations. The objections raised against the public schools allow us to examine critically some of the deepest divisions and most intractable conflicts that characterize the public lives of modern states.