

PUBLIC JUSTIFICATION AND PUBLIC EDUCATION: AN INTEGRAL  
CONNECTION

Jamaal Erving Pitt

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Approved by:

Gerald Postema

Thomas Hill Jr.

Douglas MacLean

Bernard Boxill

Geoff Sayre-McCord

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## **ABSTRACT**

**JAMAAL ERVING PITT: Public Justification and Public Education: An Integral Connection.**

(Under the direction of Gerald Postema)

Public Reason Liberalism has proven to be a popular theory for explaining the legitimacy of political institutions that both protect classic liberties and individuals rights and establish democracy as the preferred form of government in many modern multicultural societies. The linchpin of Public Reason Liberalism is the idea of public justification; public justification entails that the political edifice is only legitimate to the extent that it can be freely endorsed by the reasons possessed by free and equal citizens. Political power, especially in the form of law, must be sensitive to the reasons of citizens, for it is in this way that the state shows proper respect for their freedom and equality. The question of how to characterize the reasons citizens possess has led to two radically different interpretations of the idea of public justification and so subsequently to different arguments for key uses of political power. One of the most important uses of political power in diverse societies is the institution of public schooling; such institutions exert a powerful influence over how children develop morally, socially and intellectually and are authorized to do so by coercive means in many cases, even in defiance of parental wishes. Given the diversity present in society, including among parents, whether or not a system of public education is justified is a highly controversial topic. Some parents embrace reasonable perspectives on the world which they wish to impart to their children and which they may judge a system of public education to be a hindrance to that goal rather than a help. Moreover, given that public justification aims at respecting citizens strongest reasons, it would seem that Public Reason Liberalism is bound to defer to parents wishes with regard to this use of political power.

Nevertheless, I argue in this dissertation that this appearance is deceiving; Public Reason Liberalism can maintain its foundational commitment to respecting citizens integrity yet at the same time provide a cogent argument for the existence and operation of public schools. These education institutions are justified, as I will show, when oriented around the aim of developing childrens autonomy.

*To Grandma and Ma'am. I wish you were here to see this; you both showed me so much  
love and encouragement!*

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## TABLE OF CONTENTS

1 PUBLIC JUSTIFICATION IN POLITICS AND INTEGRITY .....	1
1.1 Introduction .....	1
1.2 The Consensus View.....	6
1.3 The Integrity Objection.....	18
1.4 The Convergence View .....	27
1.5 Conclusion .....	36
2 THE CONSENSUS VIEW: THE FLAWED CASE FOR PUBLIC EDUCATION ..	38
2.1 Consensus and Citizenship .....	38
2.2 Consensus and Education .....	42
2.3 Reasonableness and the Strains of Commitment .....	45
2.4 Eberle vs. Macedo: Religious Commitment and Sustaining Liberalism.....	55
2.5 The Exposure Problem .....	57
2.6 Further Arguments Against the Exposure Problem .....	64
2.7 Conclusion .....	78
3 THE CONVERGENCE VIEW: THE FLAWED CASE AGAINST PUBLIC ED- UCATION.....	80
3.1 Convergence and Education .....	80
3.2 Vallier and Children’s Autonomy .....	89
3.3 Lomasky and Parental Rights to Educate Children .....	92
3.4 Lomasky and a ”Minimalist” Conception of Autonomy .....	95
3.5 Against the Minimalist Conception of Autonomy .....	99

3.6 Children and The Value of Autonomy .....	106
3.7 Integrity and Autonomy .....	113
3.8 Conclusion .....	116
4 RECONSIDERING CONVERGENCE: THE IMPROVED CASE FOR PUBLIC EDUCATION .....	118
4.1 Current State of the Discussion .....	119
4.2 Moral Freedom, Equality and Social Morality .....	121
4.3 Parenting, Moral Practices, and Internalization of Norms .....	125
4.4 The Proceduralist Conception of the Reasons One Has.....	131
4.5 Against the Proceduralist Conception .....	139
4.6 Children’s Autonomy and Public Schooling .....	154
4.7 Response to the Exposure Problem and Further Implications .....	161
4.8 Conclusion .....	169
REFERENCES .....	172

# 1 PUBLIC JUSTIFICATION IN POLITICS AND INTEGRITY

## 1.1 Introduction

In this dissertation, I shall defend the thesis that current interpretations of Public Reason Liberalism fail to provide successful justifications for a system of education for children. Both prominent interpretations in the literature, the Consensus and Convergence views, respectively, exhibit a key flaw in that neither does an adequate job of respecting the developing integrity of children. I believe this is a critical error, for it raises serious worries about the ability of Public Reason Liberalism to provide a coherent argument for a vital piece of political public policy. Given the importance of educational institutions as key pieces of political legislation and policy, theorists that embrace Public Reason liberalism should be dissatisfied with this state of affairs. However, I believe that a core value of Public Reason Liberalism, specifically the value of protecting the integrity of citizens, provides fertile ground for providing a cogent defense of public schooling. The value of protecting the integrity of citizens we will see gives us reason to prefer the convergence view over the consensus view of public justification; however, the convergence view will need to be reinterpreted in a significant way if it is to appropriately respect citizens integrity and I will show that this necessarily includes in the establishment of a system of public schooling.

Public Reason Liberalism (PRL)<sup>1</sup> is committed to a standard of political legitimacy that is premised upon publicly justified laws and policies. The idea of public justification, which is at the heart of PRL, seeks, in some way or another, to treat persons primarily in

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<sup>1</sup>This term was coined by both Gerald Gaus and Kevin Vallier.

their political role as citizens as free and equal by making all laws (or at least the legal edifice) answerable to each (reasonable) citizen. In striving to treat citizens as free and equal, PRL also manifests a deeper commitment to protecting citizens' integrity. We may define integrity here as Kevin Vallier, a prominent Public Reason Liberal, does by relying on an identity conception of integrity developed by Bernard Williams.<sup>2</sup> Williams conceives of integrity as "fidelity to those projects and principles that are constitutive of one's core identity."<sup>3</sup> Roughly, this amounts to a person conducting her life according to the values, aims, and guiding ideas applied to various areas of life that she holds are worthy of pursuit and adherence. Public Reason Liberals, then, would seem to seek publicly justified laws that allow citizens to act in precisely this manner, that is, with integrity in the sense just described. However, it is far from clear as it stands now that Public Reason Liberals of any stripe have successfully defended a version of PRL that adequately protects this type of integrity consistent with a justification of the role of education for children. I will ultimately argue that both interpretations of PRL are deficient in this respect, although the Convergence view does indeed trump its rival, and more popular, at least in the literature, interpretation, the Consensus view, when it comes to protecting the integrity of adult citizens. Nonetheless the best version of the Convergence view, as advanced by Kevin Vallier, still fails to protect the developing integrity of children as evidenced by his views on how primary educational institutions should operate within a liberal state. Nonetheless, I try to rehabilitate the convergence view to make it suitable both to the task of properly protecting the developing integrity of children (who of course will become full citizens) as well as to justifying public school education.

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<sup>2</sup>See Bernard Williams, "A Critique of Utilitarianism" pp. 108-118 and "Persons, Character and Morality" pp. 12-19.

<sup>3</sup>Kevin Vallier, *Liberal Politics and Public Faith*. pp. 57

This dissertation will proceed as follows. In this first chapter I will examine some common elements of PRL as well as discuss the distinctive elements of the Consensus and Convergence views. Additionally, I will argue that, at least for adult citizens, the Convergence view does a better job of protecting citizens integrity in a liberal democratic society. In the second chapter I will argue that the Consensus views failure to adequately protect the integrity of adults is compounded by its inadequate defense of the justification for the nature and aim of educational institutions for children. In the third chapter I will present an argument that the Convergence view also lacks a convincing rationale for a system of education. Finally, in the last chapter I will argue that as a result of my arguments in Chapters 2 and 3, Public Reason Liberals will have to embrace a revised version of the convergence view, one oriented around what I will call "self-creative autonomy". This type of autonomy, I contend, is vital to integrity in the sense relevant to our discussion. Only in this way can citizens be thought to not only act according to their deepest commitments and projects but to be capable of choosing these projects for themselves. This type of deep ownership of ones motivational set is the basis for a plausible idea of (political) integrity. Yet, the achievement of self-creative autonomy I believe is likely unattainable in the absence of educational institutions that aim at its development. It is for this reason that I will claim that public education is a necessary component of a political theory like Public Reason Liberalism that is takes public justification as its touchstone

Before we begin to look at the specific interpretations of PRL, we should first discuss the general assumptions behind it. As a concept, PRL is usually agreed to have been first formally articulated by John Rawls.<sup>4</sup> Rawls was inspired to formulate the idea of public reason as a basis for liberalism by observing that the basic principles of a liberal democracy seem to provide the seeds for its undoing. Such a regime, Rawls believed, is based on the

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<sup>4</sup>John Rawls, *Political Liberalism*. Lecture VI, also "The Idea of Public Reason Revisited" in *The Law of Peoples*

familiar and widely accepted idea that its citizens are to be considered as free and equal. The strong emphasis on the freedom and equality of citizens within the liberal tradition has been thought to establish certain fundamental liberties, including liberty of conscience and freedom of religion, that are thought to be unassailable by political processes and procedures.

However, the freedom that these liberties permit provide fertile ground for the citizens living under such a regime to embrace many different, yet apparently reasonable, creeds, moralities, ideas about what is good in life and much more. Due to this, Rawls believed that (modern) liberal democracies are permanently marked by this diversity that he called reasonable pluralism.<sup>5</sup> Not only do people develop and commit to different values, beliefs and evaluative standards regarding how to conduct themselves and the aims of life itself, their varied positions on these matters are considered to be a natural result of the exercise of their normal reasoning capabilities given the fact that each persons individual perspective is subject to the burdens of judgment. These burdens include a multiplicity of different experiences had by citizens, the difficulty of evaluating complex evidence, the difficulty of interpreting vague concepts, differences in the priority of the same values in different persons perspectives and the inability of actual institutions to accommodate the vast list of values that people may endorse.<sup>6</sup> In light of these burdens, Rawls claimed, one would be cruelly cynical to attribute the vast array of differences of opinion between citizens to either morally repugnant factors such as bias, prejudice, lust for power and the like or simple epistemological failures such as ignorance. The burdens of judgment suggest that one cannot dismiss other reasonable citizens differing perspectives out of hand simply because they conflict with ones own. Rather, these different perspectives must be respected

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<sup>5</sup>John Rawls, *Political Liberalism* pp. xviii, 36

<sup>6</sup>Ibid. pp. 56-57

as the outgrowth of the exercise of citizens free and equal status. Importantly, respect is not shown to citizens in a liberal society when the state (and, perhaps, other citizens) acts to ignore many citizens reasonable views by attempting to base political coercion in the form of laws and policies on reasons grounded solely in one of the many views held by the citizenry.<sup>7</sup> To do this would be tantamount to simply forcing citizens to conform to these state policies (even in cases where these policies were chosen by a majority) without providing a legitimate justification for these policies that all citizens (could) endorse.

In light of this problem of legitimate liberal governance, the question arises: how can even a liberal democratic state justify its exercise of power to its citizens? Public Reason Liberals, of which Rawls is perhaps the most prominent, answer that in order for laws in a liberal democratic state to be legitimate for citizens who reasonably disagree about many important matters in life, including political issues, they must be publicly justified. Formally, this idea can be represented by the following principle:

The Public Justification Principle (PJP): A (coercive) law L is wrong unless each and every member of the public P deliberating under conditions C would, given their reason(s) R, endorse L.<sup>8</sup>

The PJP is the centerpiece of Public Reason Liberalism as it sets the condition of legitimacy for a (liberal) political order. The basic idea is that a political order, erected and maintained

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<sup>7</sup>Robert Audi provides an illuminating distinction between "primary" and "secondary" coercion in Chapter 4 of his book *Religious Commitment and Secular Reason* on page 88. Roughly, primary coercion consists in requiring citizens to perform some action (Audi uses the example of paying taxes). Secondary coercion depends on primary coercion; it is invoked either on behalf of primary coercion or is conditional on some other voluntary act on the part of a citizen. In the former case, Audi imagines secondary coercion consists in how tax funds are directed *after* they have been obtained from citizens (primary coercion). In the latter case, an example of secondary coercion would be licensing laws, which are imposed on those who, for instance, purchase a car. Audi contends that primary coercion stands in greater need of justification than secondary coercion. For our purposes, when I refer to laws or policies I will be speaking of primary coercion unless otherwise specified.

<sup>8</sup>Gerald Gaus, "The Place of Religious Belief in Public Reason Liberalism" p. 4.

by laws L, can only be legitimate if the members of the constituency P over which it governs would endorse it given some specification of the appropriate reasons on the basis of which to do so, under specified conditions of deliberation or reasoning. Much of the discussion among public reason liberals has of course focused on how to properly interpret the PJP as a constraint on which laws count as publicly justified. It is this debate that has led to the formation of the two dominant interpretations of justificatory reasons that figure into a public justification (the variable R in the above formulation); these views, which I mentioned earlier, are called the Consensus<sup>9</sup> and Convergence<sup>10</sup> views, respectively. I will now briefly discuss the core tenets of the consensus view for two reasons. The first is that the consensus view is the initial interpretation of the idea of public justification within PRL and perhaps the most popular as well as the most developed. The second is that the consensus view is the interpretation that has drawn widespread criticism from various commentators based on its perceived inability to protect the integrity of citizens. Thus, we may view the convergence view as a response to the devastating integrity objection to the consensus view.

## 1.2 The Consensus View

The Consensus view was the initial interpretation of public justification and is still widely held and defended.<sup>11</sup> Kevin Vallier characterizes the consensus view as composed

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<sup>9</sup>Fred D'Agostino. "Some Modes of Public Justification". *Australasian Journal of Philosophy*. Vol. 69, No. 4. Dec 1991. p. 391. D'Agostino actually calls the consensus view the "consensual reading" of public justification here

<sup>10</sup>Kevin Vallier. *Liberal Politics and Public Faith*. Chapter 4

<sup>11</sup>See Rawls *Political Liberalism*, Charles Larmore "Public Reason" and also *The Autonomy of Morality*, Stephen Macedo "In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?" and *Diversity and Distrust*, Jonathan Quong *Liberalism Without Perfection*, Robert Audi *Religious Commitment and Secular Reason* and *Religion in the Public Square: The Place of Religious Convictions in Political Debate*.



of the following elements: an accessibility or a sharability conception of justificatory reasons, and both a symmetry and sincerity condition.<sup>12</sup> The accessibility and sharability conceptions of justificatory reasons form the core of the consensus view and so have received the most attention by consensus theorists. Rawls himself holds a sharability conception of justificatory reasons. This is evidenced by his liberal principle of legitimacy:

[O]ur exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as a justification for those actions.<sup>13</sup>

On Rawls's view, the only reasons that we, as citizens, may reasonably expect other citizens to accept as justification for our state's laws are those drawn from a political conception of justice whose foundational principles emerge from the public vantage point of the citizen conceived as free and equal.<sup>14</sup> For Rawls, since citizens widely disagree about what is good and what is right due to the fact of reasonable pluralism, the only refuge that we, as citizens, have from this disagreement in the realm of politics is located in political ideas

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<sup>12</sup>Kevin Vallier, *Liberal Politics and Public Faith*, pp.124.

<sup>13</sup>Rawls, *Political Liberalism* pp. xlvi; see also pp. 137, 217

<sup>14</sup>Ibid. p. 223-227 sees also Rawls, The Idea of Public Reason Revisited in *The Law of Peoples* pp. 140-148. Originally, in *Political Liberalism* Rawls presented his favored political conception of justice, "justice as fairness", as the unique political conception of justice that would emerge from his original position, now framed as an impartial decision procedure grounded in the political ideas of free and equal citizens who think of society as a fair system of cooperation choosing principles of justice. He later softens this stance to accommodate criticism that questions concerning political justice are as much in reasonable dispute as questions concerning morality in general and the good life. His more mature stance posited that there were a "family of liberal political conceptions of justice" all of which could be drawn on as a source of public reasons since each member of this family shared certain structural features that would ensure the establishment, protection and priority of familiar basic liberties as well as some mechanism to ensure their fair value (thus making all of these conceptions distinctly *liberal*). Additionally, each member of this family of political conceptions of justice could be seen as freestanding, that is, only dependent on the political values necessary to uphold and promote the status of each citizen conceived of as free and equal, as well as applying to the basic political structure and institutions of society, with the core ideas of democracy and the freedom and equality of each citizen derived from ideas implicitly in the society's political culture (thus making each of the political conceptions distinctly *political*).

and values he believes that we can reasonably expect others to share. Rawls thought the idea of citizens as free and equal was manifest in the political culture of the United States along with the idea of society as a system of fair cooperation and citizens recognition of the aforementioned burdens of judgment.<sup>15</sup> Because he posited that these ideas were implicit in the very idea of being a citizen living under liberal democratic institutions (at least in the US), and so constitutive of taking up the perspective of a citizen, these ideas form the margins of a shared cache of reasons capable of (partially)<sup>16</sup> legitimizing the use of political power (both by the state and other citizens) especially pertaining to the enactment and enforcement of laws.

The public perspective of a citizen, then, yields "public reasons" which should be compelling, accessible, and shared by all citizens. Rawls's view on public justification is premised on the existence of a set of public reasons drawn from a family of reasonable political conceptions of justice that all citizens, given their status and free and equal, could reasonably accept. His view counts as a consensus view because public reasons are shared reasons among free and equal citizens; based on their shared status (as citizens in a liberal democratic state with a certain political culture), they all grant that a certain set of political

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<sup>15</sup>And perhaps in most countries with a liberal democratic form of government.

<sup>16</sup>Rawls actually claims that arguments drawn from a political conception of justice, and thus from public reasons, are justificatory in a limited sense. Such arguments are "freestanding" in the sense that they only depend on the shared features of the conception of a citizen in a liberal democracy and so do not depend on any particular controversial comprehensive doctrine and so carry justificatory force for all. However, for Rawls, "full" public justification occurs not only when there are reasonable arguments for political positions available to citizens based on public reasons grounded in a political conception of justice, but when all reasonable people who hold reasonable comprehensive doctrines embrace a political conception of justice along with the idea of public reason from the perspective of each of the particular comprehensive doctrines held by these reasonable citizens. See Rawls *Political Liberalism* p. 388 and Samuel Freeman "Public Reason and Political Justification" in *Fordham Law Review*, Vol. 72 Issue 5 pp.2051-2052. However, this sense of "limited public justification" (also simply called political justification by Rawls) is arguably more important since it is this type of public justification that sets the condition of political legitimacy. Indeed, comprehensive doctrines and citizens themselves can be judged as more or less reasonable in accordance with their acceptance of public justifications that arise from public reasons grounded in a political conception of justice. See Gaus "A Tale of Two Sets: Public Reason in Equilibrium" pp. 9-15

values and only those values are relevant in political decision making (at minimum when this concerns constitutional essentials and matters of basic justice).<sup>17</sup>

Robert Audi is another well-known proponent of the consensus view. Audi frames his discussion in terms of the idea of keeping the state separate from religion to avoid the religious domination of citizens who, in a liberal democracy, of course have liberties that protect their ability to choose and practice whatever reasonable form of life they choose. Thus, he differs from Rawls in that he does not explicitly orient his theory within the idea of public justification. Nevertheless, he concludes that the way to achieve this separation, and so achieve legitimate government, is to base justified legislation on reasons that are in some sense accessible to all. While this sentiment is partially expressed in Audi's Institutional Separation Doctrine<sup>18</sup>, Audi's main defense of the principles that comprise this doctrine is grounded in properly protecting both the principle of freedom of religion and the freedom of conscience.<sup>19</sup> Audi believes that only adequate secular reasons provide the legitimate basis for a state's laws; such reasons help establish and maintain a principled separation between the realm of religion and that of politics. Audi defines a secular reason as "one whose normative force has status as a prima facie justificatory element, does not evidentially depend on the existence of God (or on denying it) or on theological considerations, or on the pronouncements of a person or institution qua religious authority."<sup>20</sup> In other words, a secular reason is one whose ability to justify some proposed law or policy can be completely divorced from knowledge or belief in the supernatural, from the statements of a religious official on behalf of her faith acting in her religious station, or from a

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<sup>17</sup>Rawls, *Political Liberalism*, pp. 213-215

<sup>18</sup>Robert Audi "The Separation of Church and State and the Obligations of Citizenship" pp. 261-268.

<sup>19</sup>Ibid p. 278.

<sup>20</sup>Robert Audi, *Religious Commitment and Secular Reason*, p.89.

commitment to any particular religion or religious practice. By "adequate" Audi refers to reasons that are (1) minimally sufficient to justify one's belief or action (if they are true) and (2) are appropriately accessible given the context in which justification is required. Thus, Audi contends that for a reason to be adequate in supporting a particular law or policy "either it or something it clearly implies will at least normally be intelligible to a normal adult with a good high school education."<sup>21</sup> In the case of politics, Audi contends that reasons of high complexity would fail to count as adequate for the purposes of justifying forms of political advocacy.

Both the secularity and adequacy requirements on justificatory reasons work to shrink the set of available reasons sufficient to support political actions to a manageable and shared pool of reasons. Audi makes the priority of adequate secular reasons in the activity of enacting legitimate law exceedingly clear in the following two principles:

The Principle of Secular Rationale (PSR): one has a prima facie obligation not to advocate or support any law or public policy that restricts human conduct, unless one has, and is willing to offer, adequate secular reason for this advocacy or support.<sup>22</sup>

The Principle of Secular Motivation (PSM): one has a (prima facie) obligation to abstain from advocacy or support of a law or public policy that restricts human conduct, unless in advocating or supporting it one is sufficiently motivated by (normatively) adequate secular reasons.<sup>23</sup>

Together the PSR and PSM state that appropriate political advocacy by individual citizens

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<sup>21</sup>Ibid. p. 90.

<sup>22</sup>Ibid. p. 86

<sup>23</sup>Ibid. p. 96.

is premised on their having an adequate secular rationale, that is a secular reason or reasons that are sufficient to justify the political action they wish to endorse, which at the same time is capable of motivating them to act on the basis of their secular rationale alone. PSM is intended to block insincere reason offering to other citizens or attempts at manipulating them in political deliberation. Although these principles obviously detail how citizens are to conduct themselves when engaging in official political deliberation and action, their so acting is directly related to enacting legitimate law. This is evident when Audi states that citizens that adhere to PSR and PSM will naturally embrace a "principle of secular resolution" which "requires that, particularly in discussing laws or policies that would restrict human conduct final resolution should be made along secular lines a final decision to adopt a policy should be fully warranted by secular considerations and promulgated in that light".<sup>24</sup> He expresses the same sentiment in the following:

Surely in a free society, questions of the scope of freedom should be settled mainly by secular arguments. Adherence to the principle of secular rationale helps ensure that, in determining the scope of freedom in a society, the decisive principles and considerations can be shared by people of differing religious views, or even no religious views at all.<sup>25</sup>

Audi intends the PSR (and the PSM) to focus citizens attention on the uniquely justificatory grounds for laws in a liberal democracy and thus allow these grounds prominence and priority in political decision-making.<sup>26</sup>

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<sup>24</sup>Robert Audi "The Separation of Church and State and the Obligations of Citizenship" pp. 280.

<sup>25</sup>Ibid p. 290.

<sup>26</sup>Audi is adamant that this is no way suggests that citizens cannot publicly acknowledge they also have religious grounds for supporting their favored laws in addition to their secular rationale as well as additional religious motivations. Religious considerations can also be instrumental in a citizens decision on what political issues to devote her attention to and may play an important role in her discovery of adequate secular

Why does Audi add the condition of secularity to reasons in addition to one of adequacy? First, Audi seems to believe that if religious grounds were regularly a part of justifications for political action then this would have significant negative effects on the states honoring of the free exercise and non-establishment of religion. If citizens were to regularly use their religious convictions as justifications for particular laws or policies in public deliberation, they may be tempted to vote on the basis of these same grounds and simply rely on the results of fair democratic voting procedures to establish the legitimacy of the results. In other words, religious citizens would likely vote their private religious conscience and let the democratic chips fall where they may. Should the result of their votes amount to policies that favor particular religious practices (like prayer in schools) or that privilege one religious sect over others (even if this does not involve explicit coercion or repression of other sects) these citizens might simply view these outcomes as the standard consequences of a fair democratic vote; to the victor goes the legislative spoils. However, Audi rejects the idea that policies or laws that favor one religion over others are legitimate, even those generated from a fair voting process. Moreover, Audi appears to think that arguments based on religious premises simply are incapable of garnering widespread rational support in diverse societies. He says

[i]f fully rational citizens in possession of the relevant facts cannot be persuaded of the necessity of coercion as is common where that coercion is based on an injunction grounded in someone else's religious scripture or revelation—then from the point of view of liberal democracy, the coercion lacks an adequate basis. As advocates for laws and public policies, then, and especially for those that are coercive, virtuous citizens will seek grounds of a kind that any

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reasons to support her positions. See "The Separation of Church and State and the Obligations of Citizenship" pp. 279, 293 and also *Religious Commitment and Secular Reason* pp. 87, 107, 112.

rational adult citizen can endorse as sufficient for this purpose.<sup>27</sup>

Thus, the criterion of secularity is thought to contribute to a way of civically framing political issues in order to guarantee that any citizens arguments for or against the use of coercive political power has normative resonance with all of her fellow citizens and are not simply self-serving justifications aimed at advancing her own interests or those of her favored religion. The condition of secularity provides shared access into the individual perspectives of ones fellow citizens. This feature aids both citizens and the state in discerning which laws are justified on the basis of "considerations that can be shared by people of differing religious views or no religious views at all."

In this way, Audi echoes Rawlss sentiment that political standards of justice enabling coercion must be arrived at through an independent civic perspective in which ones personal convictions are pushed to the periphery in favor of reasons that are thought to be universally or generally applicable to the citizenry at large. The thorough diversity in views, interests and values of individuals in liberal democracies must be circumvented (at least in the political realm) in order to generate principles that each can accept as legitimate and not just dictates to be followed as a result of a citizens (or group of citizens') vulnerable position as a minority with respect to a particular political decision.

There is an important difference, however, between the sense of the ideas of sharing and accessibility involved in Rawlss and Audis views, respectively. Remember that Rawlss public reasons are reasons drawn from a political conception of justice and that a political conception of justice is grounded in the perspective of a citizen in a liberal democracy. As such, Rawlss public reasons are shared in a substantive way; these reasons have some normative force *for all citizens*. The fact that a citizen uses reasons based on public political values gives his position some justificatory weight vis--vis his fellow citizens. Although

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<sup>27</sup>Robert Audi "Liberal Democracy and the Place of Religion in Politics", p. 16-17.

other citizens may not find his reasons the *most* compelling, they still must acknowledge that his reasons, being based on a political conception of justice, are not only relevant to them but have some normative draw on them *as* citizens. The situation is different in the case of Audi's adequate secular reasons. Adequate secular reasons, while required for the legitimacy of law and the correctness of individual citizens' political behavior, need not have justificatory force for *other* citizens even if one is convinced by his own particular secular rationale. Adequate secular reasons are privileged simply for their ability to be *evaluable* for all citizens; that is, the fact they do not depend on one's adoption of a religion or belief in the supernatural and that they can be understood by all normal rational adults means that all citizens can in some sense appreciate the purported justificatory force of these reasons.<sup>28</sup> However, adequate secular reasons are of course plentiful and not all of the grounds for such reasons need be viewed as either relevant or even significant by all members of the public (however characterized). It is in lieu of this difference that we can call Rawls's view of justificatory reasons a *shareability* consensus conception and Audi's view an *accessibility* consensus conception of justificatory reasons.<sup>29</sup>

This difference between Rawls's and Audi's views is of some significance; Audi's view permits a greater number of considerations and allows for legitimate legislation to be based on adequate secular reasons that bear on controversial moral issues. For example, in

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<sup>28</sup>Robert Audi, *Democratic Authority and the Separation of Church and State*. p. 70

<sup>29</sup>Even these distinctions admit of degrees. For instance, regarding the shareability conception of the consensus view, one may endorse a "strong consensus" conception whereby "everyone must accept a decision for the very same reasons" or alternatively a "weak consensus" conception which "merely requires that the reasons each person has for accepting a decision be public or shared reasons (i.e. acceptable to others as sound reasons), but different people may embrace a decision for different public reasons." See Jonathan Quong *Liberalism Without Perfection* p. 264. Moreover, while Audi seems to believe that all secular reasons as he defines them count as accessible to citizens, implying that religious considerations are not accessible, some have developed more specific accounts as to what should be classified as a nonaccessible reason. See Kent Greenawald's discussion on Thomas Nagel's position regarding political legitimacy in *Private Consciences and Public Reasons* Chapter 7.



his discussion on the moral and legal permissibility of abortion,<sup>30</sup> Audi is willing to canvas what he takes to be the prevailing secular arguments supporting anti-abortion policies. These arguments in particular seek to show that a fetus in fact enjoys the moral status of a person and as a result try to show that given the personhood of the fetus we have an obligation to protect the fetus from the harm of abortion (at least in some cases). One of the arguments, which he calls the genetic argument, claims that the fetus should be considered a person due to the fact that it possesses all of the genetic material required to grow into a mature adult. Since mature adults are correctly thought to enjoy the status of personhood, and the fetus's transition into an adult occurs through a natural process of development, the argument concludes that the fetus is a person. While Audi ultimately is not convinced that this argument can deliver on its conclusion, he believes that it is the right kind of argument to employ as a consideration in the legitimacy of a law regarding the permissibility of abortion. That is, this argument could figure into reasoning aimed at justifying a law restricting abortion. It is the kind of argument that is accessible to normal rational adult citizens with reasonable access to the relevant facts.

In contrast, Rawls would reject secular reasons aimed at showing that fetuses lack the moral status of a person as a legitimate element in justification for laws restricting abortion. Such secular reasons are highly controversial and may emerge from comprehensive doctrines which, of course, are not shared by all citizens. In Rawls's brief comments about political policies regarding abortions he emphasizes that the question turns only on a reasonable balance of political values; he explicitly mentions the values of due respect for human life,<sup>31</sup> the orderly reproduction of political society, and the equality of women

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<sup>30</sup>Audi, *Religious Commitment and Secular Reason*. pp. 187-190.

<sup>31</sup>Rawls, *Political Liberalism*. P. 243.

as equal citizens, though he admits that more political values may be relevant to the issue. The main point here is that these political values belong to the family of political conceptions of justice that emerge from the shared fundamental political ideas present in a liberal democratic society which marks the fundamental status of individuals as *citizens* not moral persons. As he says the relevant question for determining whether some law or public policy is legitimate concerns not some transcendent standard of morality but rather "whether legislative statutes forbidding [some act or activity] infringe the civil rights of free and equal democratic citizens."<sup>32</sup>

Nevertheless, a key similarity in both of these views is that religious reasons are ineligible as justificatory elements in a public justification of laws. To take an easy case, both would reject as a legitimate basis for denying the right to marriage to homosexual couples the reasoning that homosexuality is a sin and that the state has a duty to discourage sinful activities. For Rawls, the idea of a sin, as well as what constitutes one, belongs to religious comprehensive doctrines which are not shared universally by citizens nor implied by the idea of free and equal citizens willing to abide by fair terms of cooperation. Such considerations cannot be included in a proper political conception of justice. For Audi, such considerations are clearly evidentially predicated on either a belief in the supernatural or some sort of religious authority. As such, if they were allowed to serve as justificatory elements in enacting or defending laws or public policies, religious reasons might upset the separation of church and state, violate principles of freedom of religion, and also run afoul of basic notions of reciprocity between citizens. Although both authors give extended discussion to other ways in which religious reasons may be introduced in the political realm, both believe that they cannot serve a justificatory role when it comes to introducing

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<sup>32</sup>Rawls, "The Idea of Public Reason Revisited" p. 148.

or upholding laws and public policies.<sup>33</sup>

Many prominent contemporary political philosophers have endorsed either the sharability or accessibility conception of justificatory reasons. Concerning the sharability conception, Stephen Macedo believes "[l]iberal citizens should acknowledge the political authority of reasons and arguments that can be shared by their reasonable fellow citizens at the culmination of public discussion—at least when basic matters of justice are at stake—good citizens will invoke, and attest to the authority of, grounds that can be shared by a diverse community in public."<sup>34</sup> Micah Schwartzman opines in his discussion of how the idea of sincerity figures into public justifications that

I shall assume that a justification is public only if it is based on reasons drawn from a family of shared moral and political values, along with standards of evidence and methods of reasoning, which free and equal citizens could reasonably accept. Public justifications, then, are public in the sense of appealing to our shared or public reasons.<sup>35</sup>

Finally, Jonathan Quong, an ardent defender of Rawls's view of public reason, says:

To show that some political proposal, X, is publicly justified, we appeal to what reasonable people have in common: we appeal to their shared view of society as a fair system of social cooperation between free and equal citizens, and any further beliefs entailed by that ideal. You are not engaged in the practice of public reason unless you offer a reason or argument that will be acceptable to

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<sup>33</sup>See Rawls, "Idea of Public Reason Revisited" pp. 155-156, Audi "The Separation of Church and State and the Obligations of Citizens", pp. 293-295, *Religious Commitment and Secular Motivation* p. 112-114.

<sup>34</sup>Stephen Macedo, "In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?" p.22.

<sup>35</sup>Micah Schwartzman, "The Sincerity of Public Reason" pp. 378-379.

everyone in their capacity as free and equal citizens.<sup>36</sup>

All of these philosophers, in lieu of their endorsement of a Rawlsian style public reason, endorse some sort of sharability conception of public justification.

As for the accessibility conception, along with Audi, Jurgen Habermas appears to support the idea that public justification should take place based on secular considerations due to their accessibility. In Habermas's view

[i]n a secular state only those political decisions that are taken to be legitimate as can be impartially justified in the light of generally accessible reasons, in other words justified vis--vis religious and non-religious citizens. A rule that cannot be justified in an impartial manner is illegitimate as it reflects the fact that one party forces its will on another.<sup>37</sup>

Habermas, similar to Audi, believes that the justification of state actions, in particular enacting law, must rest on accessible reasons. Thus, he says, "all enforceable political decisions *must be formulated* in a language that is equally accessible to all citizens, and *it must be possible to justify* them in this language as well."<sup>38</sup>

### **1.3 The Integrity Objection**

Despite the popularity of the consensus view, many theorists have insisted that defining justificatory reasons, those reasons that serve to legitimate laws for citizens, according to either the sharability or the accessibility criterion would have far ranging and deeply negative effects on citizens ability to act with integrity. This claim is most forcefully pressed when considering how laws adhering to the consensus view might affect religious citizens.

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<sup>36</sup>Jonathan Quong, *Liberalism Without Perfection* p. 261.

<sup>37</sup>Jurgen Habermas, "Religion in the Public Sphere" p. 5.

<sup>38</sup>Ibid. p.12 Habermas's emphasis.

In perhaps the best statement of this "integrity objection", Nicholas Wolterstorff perceptively details the deep problem faced by a theory of political legitimacy that attempts to prevent religious considerations from factoring into legitimate law:

It belongs to the religious convictions of a good many religious people in our society that they ought to base their decisions concerning fundamental issues of justice on their religious convictions. They do not view it as an option whether or not to do so. It is their conviction that they ought to strive for wholeness, integrity, integration, in their lives: that they ought to allow the Word of God, the teachings of the Torah, the command and example of Jesus, or whatever, to shape their existence as a whole, including, then, their social and political existence. Their religion is not, for them, about something other than their social and political existence; it is also about their social and political existence.<sup>39</sup>

Here Wolterstorff is taking aim at what have come to be called "principles of restraint". These principles of restraint, often a feature of consensus views of PRL<sup>40</sup>, suggest that religious citizens should neither advance religious justifications or considerations in their political speech nor rely (solely) on the same in their political decision-making. Wolterstorff here notes that such a restraint on the political conduct of a religious citizen is highly debilitating with regard to their ability to act with integrity in the political realm. Nonetheless, principles of restraint, no matter how strict, have always been proposed as a *political moral duty*; supporters of such principles acknowledge that they do not dissolve the right for citizens to act contrary to this duty and press their religious convictions in the political sphere, even if, from viewpoint of these theorists, these citizens fail to live up to the ideal

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<sup>39</sup>Nicholas Wolterstorff, "The Role of Religion in Decision and Discussion of Political Issues". pp. 104.

<sup>40</sup>See Christopher Eberle *Religious Convictions in Liberal Politics* Chapter 5 and Vallier *Liberal Politics and Public Faith* Chapter 2

of a citizen in a liberal democracy.<sup>41</sup>

However, as Kevin Vallier has shown, Wolterstorff's concerns about citizens' integrity have a greater import than simply regulating how citizens are expected to conduct themselves when discussing political issues amongst others in political contexts and deciding political issues for themselves. He believes that the integrity objection also applies to the question of which reasons count as part of a legitimate public justification of a law. In other words, Vallier contends that laws that are publicly justified according to either the sharability or accessibility standard can produce laws that restrict the religious behavior of citizens and so impose a great obstacle to their ability to act with integrity.<sup>42</sup> This, for Vallier, is just as troublesome an implication of the consensus view as principles of restraint on individual political behavior. The problem here no longer concerns what behavior citizens engage in when discussing political issues in public political forums or even when engaging in other political actions (such as campaigning); the political behavior of citizens is what principles of restraint are meant to regulate. Another problem, the one that will occupy the main focus of my thesis, concerns which considerations that the state is appropriately sensitive to in generating and defending publicly justified laws.

I believe an example will highlight the concerns articulated by Wolterstorff and Vallier. Consider the following case: in United States of America, Appellant in No. 89-1694, v. Board of Education for the School District of Philadelphia a teacher, Alima Delores Reardon, was disallowed from teaching in the Philadelphia School District because she insisted on wearing religious garb to public school when she taught. Reardon, who had been both a full time and substitute teacher since 1970, converted to Islam in 1982, and accordingly changed her dress in concert with her conversion. Reardon believed that based on

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<sup>41</sup>See Rawls, "The Idea of Public Reason Revisited", p. 136 and also Macedo, *Diversity and Distrust*, p. 172-173.

<sup>42</sup>Vallier. *Liberal Politics and Public Faith*. p. 198-221, Chapter 7.

her new religious commitments she was now required to cover her body, save for her face and hands, when in public. To that end, she began wearing a headscarf that left only her face exposed as well as a long, loose dress that only allowed her hands to be seen. Reardon did not encounter any issues with her dress while teaching until 1984 when, serving as a substitute teacher, school officials instructed her on three different teaching assignments that she was not allowed to teach wearing her religious garb. The basis for this refusal was the Pennsylvania Garb Statute which stated "no teacher in any public school shall wear in said school or while engaged in the performance of his duty as such teacher any dress, mark, emblem or insignia indicating the fact that such teacher is a member or adherent of any religious order, sect or denomination" and that teachers who violated the statute could be suspended and eventually fired or barred from teaching for repeated violations. Reardon's case was brought to court, and after a few appeals, the court eventually ruled against her. The rationale for rejecting Reardon's claims that the Board of Education discriminated against her based on her religion was the court's finding that the garb statute served to uphold a "compelling state interest"; they argued "that [Reardon's] appearance in religious garb may leave a conscious or unconscious impression among young people and their parents that the school endorses the particular religious commitment of the person whom it has assigned "the public role of teacher" and that this would impugn an "atmosphere of religious neutrality."<sup>43</sup>

This case illustrates, I believe, an obvious interference with the integrity of a citizen. Reardon believed that wearing a head scarf and a long dress to cover all of her body except her hands was a religious duty that she had to adhere to at all times when out in public. Her reason for her believing this, emanating from her religious commitment, is, although

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<sup>43</sup>United States of America, Appellant in No. 89-1694, v. Board of Education for the School District of Philadelphia, <http://law.justia.com/cases/federal/appellate-courts/F2/911/882/143984/>. The courts finding in this case is actually based on a very similar case in Oregon, which established that the state had a compelling interest in maintaining a religiously neutral environment in schools.

not necessarily shared by all other reasonable citizens or accessible to them, drawn directly from the basic values and principles that constitute who she takes herself to be as a person. In other words, her commitment to dressing in a particular way in public is part of her identity. As we will see in the next section, this means that Reardon possess an "integrity reason" that conclusively rejects the Pennsylvania Garb Statute. Integrity reasons are reasons grounded in the beliefs, values, and evaluative standards that organize and promote those aims and forms of conduct one believes are most worthy of pursuit.<sup>44</sup> Frustration of one's aims at this level is not tantamount to mere inconvenience or dissatisfaction; where one's ability to live according to one's integrity reasons is diminished there are significant moral costs.<sup>45</sup> I submit that the fact Ms.Reardon was barred from wearing religious garb while teaching certainly diminishes her ability to act with integrity. Since the source of the interference in her integrity is a law, it must be publicly justified.

Now, neither Rawls's nor Audi's positions are without resources here to argue against the garb statute and in favor of Ms. Reardon's religious choice of dress. Certainly both can appeal to the value of religious freedom in this case; I believe both would agree that whether or not one can dress in ways appropriate to one's religious beliefs is partially an issue of religious freedom relating to freedom to practice one's religion, and that in particular circumstances the violation of this principle would dictate that a particular policy be overturned (I have in mind a law that forbid citizens from wearing religious garb at all times when outside of their home or place of worship). Alternatively, both views have the resources to debate the best strategy to achieve religious neutrality in the public sphere; one might argue from either Rawls's or Audi's point of view that religious neutrality does

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<sup>44</sup>Vallier. *Liberal Politics and Public Faith*. pp. 59-60 and 89-90.

<sup>45</sup>Ibid. pp. 88-90.



not necessarily entail scrubbing all public institutions free of explicit signs of faith or adherence to a religion, especially if one is talking about individual dress (as opposed to, say, a huge Christian Cross in the front of a public school). One could argue that religious neutrality can be reached by allowing people of all faiths to wear religious garb even while working in a public institution, which might similarly ensure that no particular religion or sect appears to be favored by the state itself. Moreover, each view might consider issues of fairness; obviously the garb statute is aimed at a particular subset of the populace, specifically religious citizens. Although the garb statute technically applies to everyone, there may be good reasons to consider the disproportionate impact the statute has on religious citizens and to consider how such a clothing restriction differs from other secular clothing restrictions that also may be employed in public schools (for instance a policy against teachers wearing shorts while at work).

Though the sharability and accessibility conceptions of public justification may have resources to overturn the garb statute, it is also clear that they have resources that may support it. Their respective commitments to public reasons and adequate secular reasons exclude as part of a justification direct reference to the personal private considerations that some citizens might see as determinative of their views. Thus, at times there is significant tension in these conceptions between what kinds of reasons are to count as the basis of a public justification for a law and what ones integrity reasons conclusively commit one to in terms of which laws or policies are legitimate. The potential for sharable or accessible reasons to come apart from citizens' strongest personal reasons has long been a worry for the consensus view, though Rawls, Audi, and others have responded with different arguments concerning why, given the presence of reasonable pluralism, legislation must be backed only by reasons that are either public or secular and adequate to their purpose. Still, it might seem preferable to have a liberal democratic state where there is as much alignment as possible between citizens conclusive integrity reasons and the laws and policies issued

by the state, especially when these laws are coercive. The use of political power comes into greater harmony with the integrity of citizens to the extent that these citizens strongest reasons play a significant role its justification.

Of course in liberal views the alignment of one's personal perspective with the dictates of the state has always been limited to the extent that ones views impose restrictions or burdens on others who embrace different beliefs, values and evaluative standards which lead them to conflicting conclusions regarding political policies. This is idea figures importantly in the thought that legislation banning homosexual couples from marrying to be based on the idea of the sinfulness of homosexuality would be illegitimate. Such laws are worrisome not necessarily because their fundamental premises are not shared or inaccessible to others, but simply because these premises do not have decisive normative resonance with each citizen who would be subject to coercion to comply with this law should it be enacted. It may be that when premises are shared or when they are widely accessible this fact provides us with some reason to believe that the resulting law will respect each of our fellow citizens as free and equal, but this need not be the case in every instance, particularly given the vast diversity in citizens' constitutive commitments. The case above involving Ms. Reardon appears to possess this feature; she only wishes to show fidelity to her particular religious beliefs by wearing her religious garb a commitment that is certainly not universally shared nor is it accessible to all of her other reasonable citizens. Her conclusive religious reasons in this instance concern her own behavior, not the behavior of anyone else. Moreover, there is no indication in her case that she was any less effective as a teacher subsequent to her conversion to Islam or that she engaged in activities such as proselyting when at work. It is in cases like these where the appeal of public or adequate secular reasons as the sole basis for the justification of legitimate laws is at its weakest. The problem is not that arguments from within the consensus view cannot be made in favor of protecting citizens' integrity in this way, but that they cannot be counted on to consistently provide

due respect for citizens integrity because they cannot always employ citizens' strongest integrity reasons. This is most evident in cases where citizens either seek an accommodation from a particular law or seek to repeal it altogether. However, the consensus model cannot adequately capture the unjustified nature of the courts ruling because it cannot guarantee Ms. Reardon's personal religious commitment the role of a conclusive defeater reason to reject the law. This, to me, is a problematic feature of the consensus view.

One must not forget how constraining and constrictive laws and public policies can be. In Ms. Reardon's case the garb statute forces her to choose between her occupation and fidelity to the strictures of her faith even though in this case her practice of religion imposes no (significant) burden on anyone else. Some may balk at the claim that she is forced to choose anything as surely the garb statute does not bar her from gaining employment as a teacher elsewhere, at a private school for instance. However, there have always been alternatives available to those treated unjustly. For example, racist laws restricting African Americans from entering certain eating establishments deemed to be for "Whites Only" did not prevent them from attending other restaurants that lacked this dubious distinction. However, the illegitimacy of this law does not hang on the victimized party's ability to pursue her favored projects or activities by other means. The courts' ruling and reasoning for that ruling sends a message that those reasons that constitute Ms. Reardon's identity, the reasons that represent her deepest commitments and projects, cannot play a decisive role in resisting a policy that restricts her integrity even though it does not carry the attendant benefit of protecting the integrity of others. Yet, as I mentioned above, one might think that integrity restrictions under the PJP are only justified for the sake of protecting the integrity of others. In this instance, then, the consensus view does not adequate for the task of granting citizens, especially those who are deeply committed to certain religious views, the kind of protection of their integrity that one would hope for in a liberal democracy.

Nicholas Wolterstorff offers a more incisive critique of the consensus approach to public justification, essentially claiming that proponents of the consensus view use this approach to circumvent or mitigate the impact that the vast diversity among citizens has on the politics of the society. He says

[w]hat is striking about our contemporary proponents of the [consensus view] is that they are still looking for a politics that is the politics of a community with shared perspective. They see that that perspective cannot, in our societies, be a comprehensive perspective; and that that community cannot be a community which is which is the social embodiment of a comprehensive perspective. So they propose scaling down our expectations. Take a society that is more or less a liberal democracy, and then consider a single aspect of that society, a single dimension: the political. Think of that as constituting an *aspectual* community, a *dimensional* community. The perspective which it embodies will be the shared political culture of the society. That perspective will not be comprehensive it will be more like a shared perspective on social justice than a shared perspective on the good life in general, and more like a shared perspective on the nature of the political person than a shared perspective on human nature in general

So-called communitarians regularly accuse proponents of the [consensus view] of being against community. One can see what they're getting at. Nonetheless, this way of putting it seems to me imperceptive of what, at bottom, is going on. The liberal is not willing to live with a politics of multiple communities. He still wants communitarian politics. He is trying to discover, and to form, the relevant community. He thinks we need a shared political basis; he is trying to discover and nourish that basis I think that the attempt is hopeless and

misguided. We must learn to live with a politics of multiple communities.<sup>46</sup>

Wolterstorff's point here is that those that endorse the consensus view purchase a shared politics at the price of a genuine embrace of reasonable pluralism. To achieve a shared political perspective they minimize and dilute the different beliefs, values, and evaluative standards held by reasonable citizens. This attempt is "misguided" for a variety of reasons, not the least of which is that it unacceptably intrudes on the integrity of citizens, as I believe Ms. Reardon's case shows.

Moreover, the basis for the court's decision against Mr. Reardon shows us the another problem with the consensus view with respect to protecting the integrity of citizens that Wolterstorff and Vallier are at pains to point out. Maintaining "a religiously neutral atmosphere" is a position that, if not explicitly defended by consensus theorists, certainly can be well defended within the framework of their positions. Remember, both Rawls and Audi conspicuously leave religious considerations out of their set of justificatory reasons. The idea of religious neutrality at work in the courts findings seems eerily close to the kind of religious neutrality demanded by Rawls (in his principle of liberal legitimacy) and Audi (in his principle of secular resolution). Both positions silence the justificatory impact of religious considerations on crafting legitimate law and so may lead to policies like the Pennsylvania Garb Statute that, prima facie, appear to severely undermine (religious) citizens ability to act with integrity.

#### **1.4 The Convergence View**

The central motivation behind the consensus view is a notion of "public reasonableness" that is strongly centered on ideas of fairness, reciprocity, and shared principles.<sup>47</sup> Given the fact of reasonable pluralism, many, following Rawls, believed that it would not

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<sup>46</sup>Nicholas Wolterstorff. "The Role of Religion in Decision and Discussion of Political Issues", p. 109.

<sup>47</sup>Macedo, *Diversity and Distrust*, p. 171-172.

be fair for some citizens to bind others through laws based on reasons that, from these other citizens perspectives, were not at all compelling. Thus, the consensus view seeks, in a sense, a set of *impartial* reasons relative to the citizenry, reasons whose force does not derive solely from any citizen's adherence to a particular set of comprehensive beliefs about morality, the good life, ultimate truths, and so on. The consensus view arrives at this impartiality by more or less stripping all citizens of their reliance on their private beliefs and commitments or at least those that we cannot reasonably expect to be shared by others or that they are in a position to criticize given their own belief sets.

However, seeking impartiality regarding justificatory reasons in this way is highly problematic for two reasons. One reason is that some citizens adhere to comprehensive doctrines whose beliefs closely resemble the reasons admitted into the supposed impartial set of political reasons and so such citizens will feel that laws are responsive to their most pressing concerns in a way that those whose comprehensive doctrines rely on reasons regarded as not properly politically impartial will not. I believe this creates a perception among the latter that state actions in some cases represent less self-legislation on their part and more of a tenuous protection of their integrity. Consider the prevalence of reasons given by different liberal democracies around the world for bans on religious dress worn by women that reference values like public safety, equality between men and women, and promoting bonds of civility among citizens.<sup>48</sup> Why would the state consider this a reasonable requirement of all citizens realizing that part of its populace embraces varying degrees of religious devotion? While citizens who contest these measures may appeal to empirical data to contest the soundness of these arguments for the law, I believe that the availability of this strategy is beside the point. It may well be true that such a ban has a negligible effect on public safety, but this should not be the key consideration in this particular use of

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<sup>48</sup>See, for example, "Restrictions on Women's Religious Attire". <http://www.pewforum.org/2016/04/05/restrictions-on-womens-religious-attire/>

political power. A state predicated on a conception of legitimacy that is grounded in either sharability or accessibility will likely regard the political ethos of its society as (politically) secular and therefore tend to understate the integrity costs borne by its religious citizens when crafting policies. Again, we are reminded of Wolterstorff's charge of the aspirations of consensus liberals to try and form a singular community through a shared conception of social justice. At times the state's attitude in certain situations may come off as if it treats the wearing of religious (or cultural) dress as a luxury that its citizens are allowed to indulge in but that can be curtailed under more serious (secular) circumstances. This attitude must be off-putting to citizens who come to believe that constitutive elements of their identity could come under attack in ways that seem inconsistent with the guaranteed protection of liberty espoused by liberalism.

Second, and more importantly for us, the consensus method of achieving impartiality with regard to publicly justified law seems to sacrifice too much of citizens' integrity. Under consensus views, citizens are expected to prioritize ideas of fairness and impartiality above all else, including their most deeply held convictions (at least in the political realm) in regards to the legitimacy of laws and policies. Such a suggestion is deeply offensive to the integrity of some citizens, as it often marginalizes to some degree these citizens' strongest convictions in constructing laws, as is arguably the case with the Pennsylvania Garb Statute.

In contrast to the Consensus conception of public justification discussed above, some political philosophers, most notably Gerald Gaus and Kevin Vallier, have developed a Convergence conception of public justification. The convergence idea is actually included in Rawls' idea of full public justification, where citizens' limited public justifications (based on the shared political conception of justice) are affirmed individually by each (reasonable) citizen's private comprehensive doctrines.<sup>49</sup> However, while Rawls remained adamant that

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<sup>49</sup>See Gerald Gaus and Kevin Vallier, "The Roles of Religious Conviction in a Publicly Justified Polity" pp. 58-59 and Vallier, *Convergence and Consensus in Public Reason* pp. 265-267.

in terms of political justification, shared reasons based on a shared political conception of justice was necessary for the legitimacy of laws (or rather a legal order), Gaus and Vallier jettison any requirement that the public justification of laws relies at any point on citizens' reasons being either shared or accessible to each other. Thus, Gaus writes, "the Principle of Public Justification does not require that all laws be justified by shared reasons among citizens. If each persons (different) reasons converge on L, then coercing on the basis of L meets the test of public justification."<sup>50</sup>

This is not an objectionable interpretation of public justification because a convergence interpretation is "perfectly public and impartial: L is not partial to anyones reasons, but, instead, rests on everyones reasons."<sup>51</sup> According to Gaus, the convergence interpretation can allay the worries of both Rawls and Audi; Rawls, recall, was concerned that basing political actions or policies on any particular comprehensive doctrine (even liberal ones) would be seen as illegitimate to many citizen due to the fact of reasonable pluralism. Audi, on the other hand, is at pains to prevent the undue influence of religion and religious institutions in the operation of political institutions (and vice versa), seeking to maintain a robust sense of religious freedom and state neutrality with regard to the comprehensive doctrines endorsed by the citizenry. Both Rawls's and Audi's concerns can be seen to be grounded in a concern about the impartiality of state action regarding citizens perspectives. Gaus's main contention here is that the convergence conception of public justification does not compromise this worry. Although the justification of laws does not emerge from a privileged objective political perspective, such as the perspective of a free and equal citizen relying on putative political values that do not rely on any particular comprehensive doctrine for their justification, this does not entail that convergence justification would be

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<sup>50</sup>Gaus, "The Place of Religious Belief in Public Reason Liberalism" p. 9.

<sup>51</sup>Ibid. p. 9.



partial to any one citizen's particular comprehensive views.

Public justification in the latter case depends on *everyone's* perspective in the sense that each person's individual perspective must be suitably engaged before a law is justified and therefore legitimate and binding on the actions of citizens. The impartial nature of convergence justifications manifests itself in the fact that individual citizen's views (reasons) act to check each other's influence; given two citizens and their reasons, Jamaal and Camille, with reasons  $R_J$  and  $R_C$ , respectively, neither reason *by itself* is determinative of whether law L, which is endorsed by both, is publicly justified. In other words, the convergence view permits  $R_J$  and  $R_C$ , individually, to become part of a public justification; however,  $R_J$  and  $R_C$  only *jointly* make L publicly justified. Only if both Jamaal and Camille (in our two-person example) have a reason to endorse L does L become publicly justified. Each citizen's reasons factor equally and essentially in the public justification of L. Both citizens' reasons must be considered and both must support L before it is legitimate.<sup>52</sup> The law L does not cater objectionably to either Jamaal's or Camille's particular comprehensive perspective.

The convergence conception sheds allegiance to both the sharability and accessibility conception of justificatory reasons. However, it would prove to be a deficient view if it allowed any type of consideration whatsoever justificatory status within an individual's private perspective. Gaus and Vallier endeavor to capture the widest range of reasons and evaluative standards allowed by a genuine recognition of reasonable pluralism in modern liberal societies; still, they agree that the range of the reasons and evaluative standards included must be tempered by a minimal epistemic criterion on what counts as a justificatory reason. Thus, they replace sharability and acceptability with the notion of *intelligibility*.<sup>53</sup>

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<sup>52</sup>Ibid. p. 9, Gaus and Vallier "The Roles of Religious Conviction in a Publicly Justified Polity", pp.58-59

<sup>53</sup>See Gaus and Vallier The Roles of Religious Conviction in a Publicly Justified Polity pp.56-58, Gaus, *The Order of Public Reason*, pp.279-283, and Vallier, *Liberal Politics and Public Faith* p. 105

As Vallier succinctly puts it, Citizen A's reason  $R_A$  is intelligible "if and only if members of the public regard RA as epistemically justified for A according to As evaluative standards."<sup>54</sup> In other words, A's fellow citizens must see that her reason  $R_A$  to support law L proceeds in the right way from her comprehensive commitments. To borrow Gauss illustration of this point, A's fellow citizens could not count  $R_A$  as an intelligible reason if  $R_A$  was A's claim that a bird told her to endorse L.<sup>55</sup> In this case, A's fellow citizens would not be able to make sense of  $R_A$  even using As own private values, beliefs and evaluative standards and so would not be able view A's endorsement of L as grounded on his reasons. To count L as justified to A on the basis of this consideration would amount to disrespect on the part of A's fellow citizens; they would coerce A on the basis of L when they did not believe A had a reason to endorse L.

As Gaus insightfully notes, attributing reasons to others is inescapably an *interpretative* enterprise.<sup>56</sup> The fundamental concern of all public reason liberals is that all laws be justified to the citizens that are subject to them; but justification proceeds based on reasons. If a citizen fails to have a sufficient reason to support L, then L is unjustified to that citizen, and so illegitimate with regard to her. Fortunately, since intelligibility is indexed to A's own private (possibly comprehensive) perspective, Gaus and Vallier believe the intelligibility standard is relatively easy to clear and so a great many of citizens different reasons will be able to become part of a public justification. Indeed, both believe that the standard

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<sup>54</sup>Vallier, *Liberal Politics and Public Faith*, p. 10

<sup>55</sup>Gaus and Vallier, *The Roles of Religious Conviction* p.56-57. See also Gaus *The Order of Public Reason* pp. 281-283 to see Gauss discussion about how we might think about appropriate limits to the idea of what counts as an intelligible reason.

<sup>56</sup>Gaus, *The Order of Public Reason* p. 280

of intelligibility is entailed by the acceptance of the fact of reasonable pluralism.<sup>57</sup> This, for them, is a welcome revelation, for it makes laws and policies subject to the wide variation of reasons that citizens employ as the basis for their considered positions on political issues and countenances pluralistic ways of reasoning. Such an embrace of the fact of reasonable pluralism, they believe, is sorely lacking in consensus conceptions of public justification.<sup>58</sup> These views, according to Gaus, treat reasonable pluralism as an obstacle to surmount in order to produce a legitimate liberal political order, as opposed to a rich resource to be mined and utilized in the pursuit of this aim.<sup>59</sup> In other words, convergence views are able to draw on justificatory (and motivational) considerations that are off limits to consensus views.

One of the most striking features of the convergence view as developed by Vallier and Gaus is its "asymmetrical" nature.<sup>60</sup> By asymmetry, they mean that according to their view of public justification, while it is true that it is sufficient for a law to be publicly justified if all (reasonable) citizens reasons conclusively endorse it, it is not the case that all citizens must have reasons conclusively to *reject* a law for it to be unjustified. In the two-person example above, recall that law L is only publicly justified if both Jamaal and Camille have conclusive reason to endorse it. Should either Jamaal or Camille have a conclusive reason within their own belief set to reject the law, it will then not be justified to the party that lacks reasons to endorse it (and of course, both could have reasons to reject the law). Let

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<sup>57</sup>Gaus and Vallier, *The Roles of Religious Conviction* p.57, Vallier, *Liberal Politics and Public Faith*, pp. 106-107

<sup>58</sup>Gaus and Vallier, *The Roles of Religious Conviction* p. 58

<sup>59</sup>See also Nicholas Wolterstorff, "The Role of Religion in Decision and Discussion of Political Issues". pp. 109-110.

<sup>60</sup>Gaus and Vallier "The Roles of Religious Conviction in a Publicly Justified Polity" pp.62-64, Vallier, "In Defense of the Asymmetric Convergence Model of Public Justification: A Reply to Boettcher".

us assume that in this particular case that Jamaal indeed has a conclusive reason to reject L. In this case, Vallier argues that, all other things being equal, there are strong grounds to either modify L to accommodate Jamaal, since L as it stands is unjustified to him given his intelligible belief set, or to repeal L altogether.<sup>61</sup> In contrast, consensus views hold that in order for a law to be unjustified it must only be supportable by *non-public* or *non-accessible reasons*. For instance, in the case above involving Ms. Reardon, although she may disagree that the Pennsylvania Garb Statue is conclusively supported by public (Rawls) or accessible (Audi) reasons, her disagreement is not sufficient to make the law unjustified for her. The reason for this is, if we take the courts ruling at face value, that the rationale for barring her from teaching in religious garb is (or can be) supported by the right *kind* of reasons. That is to say, a concern for a religiously neutral atmosphere is (or can be) argued from a set of public reasons or could be argued from a set of adequate secular reasons, purportedly accessible to all. If ones political justification draws on the appropriate set of resources (either public or accessible reasons) on the consensus view, then one's political justification is in bounds, so to speak. Because it has been derived from the right source, it in fact is a reasonable political view and thus others are legitimately bound by laws supported by it given that they are enacted in the proper procedural fashion (often by democratic vote). Therefore, either a law is legitimate for all because it is (or could be) grounded in public or accessible reasons, or all citizens have reasons to reject it.

On the other hand, the convergence view would allow Ms. Reardon to reject the garb statue simply because she (we assume) has conclusive intelligible reasons, given her religious commitment, to reject the law. Because the convergence view draws a tight link between legitimate coercion in the form of law and citizens' individual consciences, it is superior to the consensus view in regard to the protection of citizens' integrity. The consensus view suffers in this respect due to the fact that it must posit a generic political point

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<sup>61</sup>Vallier, *Liberal Politics and Public Faith*, Chapter 6.

of view for the purposes of political justification. This perspective leaves open a significant space for laws to be in tension with citizens' fundamental commitments, even when these laws are only supported by public or accessible reasons. It does so because it manipulates the motivations of citizens in favor of generating a political consensus on the broad outlines of justice. However, reasonable pluralism dictates that these outlines are subject to constant change consonant with the diverse perspectives of citizens. To hold fast to the generic point of view of the citizen on consensus views is to estrange citizens from justificatory resources that inform who they are; this endangers their integrity. Such estrangement could possibly be justified in cases where certain groups of citizens wish to impose their will on others or to establish a condition of reciprocity in political practice. However, as we have seen, the convergence view sacrifices nothing in the way of impartiality or reciprocity while adding a tighter connection between legitimacy and integrity. Citizens remain unable to impose their will on others for the simple fact that others' possess different sets of reasons which are unlikely to provide them with compelling reasons to suffer political coercion. Impartiality is still achieved though the nexus for justified legislation has shifted from the generic political point of view to the specific, individual point of view of citizens. Citizens need look to none other than themselves for the locus of their obligations to comply with the political order and the laws that issue from it as opposed to trying to transcend their unique methods of reasoning, experiences and values to make political judgments from the generic point of view.

On the consensus view, Ms. Reardon must search for some political value or adequate secular reason embedded in the generic view to sanction her action of remaining true to her religious convictions about how to present herself in public. On the convergence view, no such disembodiment need take place; she can proceed directly from her deepest commitments to judgments about the legitimacy of laws. She need not "bracket" her religious convictions in her political identity for the sake of making political judgments; the

convergence view recognizes that her political identity may simply be an extension of her religious identity and that trying to draw an artificial line between her public and private self invites a violation of her integrity. For her integrity to remain intact, her own perspective must be able to dictate what is her own business and what is the business of the state. Her reasons must be allowed to arbitrate where law may be used to resolve political disputes and where it may not. This is what amounts to a strong protection of her integrity.

I conclude, then, that it would be wrong of the state to compel Mr. Reardon to comply with the garb statute, since it is unjustified to her and surely an acceptable accommodation is available in this instance. As we have observed, much of the convergence views robust ability to protect the integrity of citizens derives from its asymmetry condition.<sup>62</sup> This feature ties political legitimacy directly to citizens' individual intelligible belief sets and eschews reliance on any overarching shared or accessible political value, belief or set of evaluative standards. It permits citizens to stand before laws in their individuality and gives prominence to their integrity. Thus, the convergence view does better with respect to protecting the integrity of adult citizens than the consensus view.

## **1.5 Conclusion**

In this chapter, I have explained central shared assumptions of Public Reason Liberalism and the main two interpretations of it, the Consensus and the Convergence view. Moreover, I have argued for the superiority of the Convergence view over the Consensus view, at least as it relates to protecting the integrity of (adult) citizens. Worries about protecting citizens' integrity seem to strike a strong blow against the Consensus view. However, despite my argument against the Consensus view in this chapter, many Public Reason Liberals have supposed that it can provide a suitable defense of a system of public schooling. They argue that a reasonable political order based on a shared conception of citizenship

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<sup>62</sup>Vallier *Liberal Politics and Public Faith* pp. 198-221, Chapter 7 and "In Defense of the Asymmetric Convergence Model of Public Justification: A Reply to Boettcher".

yields the resources necessary to justify to parents political coercion aimed at educating their children in certain ways. Although it may suggest an unsatisfactory conception of what elements should be incorporated into a genuine public justification, perhaps it offers a convincing view of the justification behind public schooling, an ostensibly important public institution. In the next chapter I will explore arguments that suggest just this; however, I will show that here too, the Consensus view does not succeed. If Public Reason Liberalism is capable of providing a justification for public schools, as I believe it is, it is not to be found in consensus views.

## 2 THE CONSENSUS VIEW: THE FLAWED CASE FOR PUBLIC EDUCATION

### 2.1 Consensus and Citizenship

In this chapter I will show that justifications for public school education derived from the Consensus view of public justification are insufficient to justify this practice. While I ultimately believe there is a justification for this type of schooling, I do not think that the Consensus view can provide it. The following is the first half of the case I present to support the thesis that a system of education cannot be justified according to the current defense of this practice grounded in public reason liberalism. I will begin by setting out the contours of the leading justifications behind public schooling associated with the consensus view. These views have in common that they ascribe to public schooling a crucial role in helping to develop children into good future liberal citizens.

The Consensus view of education, particularly with regard to public schooling, primarily focuses on teaching children how to live up to the responsibilities and duties that they will face as adult citizens under a publicly justified liberal regime. Remember that both Rawls and Audi stress that legitimate laws (that is laws that are publicly justified) rely on reasons that are either public or secular, respectively. However, neither theorist believes that the task of discerning public reasons and constructing convincing arguments based on them falls solely on political officials, whether they are legislators or part of the judiciary. While these officials' roles certainly carry the bulk of the responsibility of enacting and defending publicly justified laws, both Rawls and Audi believe that ordinary citizens also play a proper role in the legitimation of political power vis--vis their fellow citizens.<sup>1</sup> Indeed,

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<sup>1</sup>Rawls, *Political Liberalism*, p. 217-18



the political relationship between citizens characteristic of a democracy where each wields an equal share of political power is a defining feature of a political liberal regime. Given this, according to consensus theorists, it is necessary, both in thought and action, for citizens to make use of either public or accessible reasons when dealing with political issues. To this end, Rawls introduces a "duty of civility" which obligates citizens "to be able to explain to one another on those [questions of legitimate law] how principles and policies they advocate and vote for can be supported by the political values of public reason."<sup>2</sup> This duty also entails that citizens display "a willingness to listen to others and a fair-mindedness in deciding when accommodations to their views should reasonably be made."<sup>3</sup> This duty is derived from an "ideal of citizenship" which aims to recognize that democratic citizens in a publicly justified polity have a duty not to misuse their political power by unjustifiably using their share of political power to coerce others through the device of the law; thus they have a responsibility to make sure that (their) power is exercised in a legitimate way.

Rawls's duty of civility is offered in much the same spirit as Audi's Principle of Secular Rationale (PSR) and Principle of Secular Motivation (PSM). In the same manner, these principles prescribe to individual citizens how to conduct their political discussions and actions. For Audi, in order to properly act as a liberal citizen, one must have an adequate secular rationale capable of sufficiently motivating one's political actions or advocacy regardless of the support of other private reasons one may have. The possession of secular reasons as a basis for political action and the articulation of such reasons in political discussion serve to make one's use of their individual political power legitimate. Importantly, neither Rawls nor Audi mean for citizens individually and in isolation to try to discover what they take to be sufficient public or secular arguments and then merely present these to

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<sup>2</sup>Ibid p. 217

<sup>3</sup>Ibid p. 217

others in the course of their political actions or advocacy. A vital part of discharging one's proper duty as a liberal citizen is one's disposition to engage in deliberation with one's fellow citizens about political matters.<sup>4</sup> One must test one's public or secular arguments against those of others and be amenable to rational criticism of one's views in order to truly discharge one's duty as a liberal citizen. To paraphrase Kevin Vallier, on the Consensus view the idea of public reason in large part is predicated on a process of public reasoning.<sup>5</sup>

There seem to be three reasons for this duty. One reason concerns respect for one's fellow citizens. The idea here is that one shows respect for one's fellow citizens only by employing reasons that they share (public reasons) or that they can critically evaluate from a common perspective (accessible reasons).<sup>6</sup> By relying only on these reasons in one's political endeavors, citizens display due consideration for reasonable pluralism, the burdens of judgment and the importance of providing convincing justifications to fellow citizens who are potentially subject to the coercive powers of the state. The second reason involves the enactment of publicly justified legislation itself.<sup>7</sup> In this case citizens are called on to deliberate about their public (or secular) reasons, seeking the best publicly justified arguments, and voting on the basis of these to ensure that only publicly justified laws are put into practice. The thought is that deliberation about what is publicly justified is the best (perhaps only) way to discover, legislate, and correctly judge what in fact is publicly justified. The last reason is that by honoring the duty of civility, that is, being prepared to offer others reasons for one's support of laws that they can reasonably accept, citizens contribute

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<sup>4</sup>See both Rawls, "The Idea of Public Reason Revisited", pp. 138-139 and Audi, *Religious Convictions and Secular Reason*, pp. 86-99, 109-112.

<sup>5</sup>Vallier, *Liberal Politics and Public Faith*, p. 164

<sup>6</sup>Gaus, The Place of Religious Belief in Public Reason Liberalism, p. 9, Eberle, *Religious Convictions in Liberal Politics*, p. 54

<sup>7</sup>Rawls, *Political Liberalism*, p. 219, Audi, The Separation of Church and State, pp. 280, 290

to the stability of the liberal democratic regime.<sup>8</sup> Abiding by the duty of civility goes some way toward convincing other citizens that one takes himself to be in a cooperative political enterprise in which he is willing to do his fair share, which in turn motivates others to respond in kind.

It must be noted that this duty of civility appears to demand fairly high levels of attention and reasoning abilities from its citizens when acting in the political realm. Stephen Macedo writes that "[l]iberal citizens should be committed to honoring the public demands of liberal justice in all departments of their lives. They should be alert to the possibility that religious imperatives, or even inherited notions of what it means to be a good parent, spouse, or lover, might in fact run afoul of guarantees of equal freedom."<sup>9</sup> Moreover, even given Rawls' request that citizens "appeal only to presently accepted general beliefs and forms of reasoning found in common sense, and the methods and conclusion of science when these are not controversial" citizens still must deliberate about the relative strength and priority of political values in the context of a family of reasonable conceptions of political justice which do not necessarily arrive at the same conclusions on a particular political issue.<sup>10</sup> For example, take a relatively common political case where first citizens engage in public discussion with each other and then individually act: a presidential election. On this view, citizens' reasons for supporting (or voting for) any prospective candidate must be buoyed by a reasonable balance of public (or secular) reasons. Yet this will consist of an evaluation of where the candidate stands on multiple issues, each varying in importance with respect to the political conception of justice that each citizen considers the most reasonable. We add to this research and evidential evaluations of all of the information relevant

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<sup>8</sup>Rawls, *Political Liberalism*, p. 390, Macedo, *Diversity and Distrust*, pp. 26-27

<sup>9</sup>Stephen Macedo, *Diversity and Distrust*, p. 239

<sup>10</sup>Rawls, *Political Liberalism*, p. 224 and *The Idea of Public Reason Revisited* pp. 133, 169

to a particular issue that a citizen is aware of. And, of course, citizens are expected to subject their initial rankings to criticism by engaging in deliberation with their fellow citizens in collective pursuit of the most reasonable public reason arguments (although, of course citizens may not, nor are they expected to, reach a consensus about which arguments are the most justified from the political standpoint by the time a democratic decision must be made). The point is it is no simple task living up to the duty of civility. It appears to require an enhanced sensitivity the potential intersections between one's personal and political life as well as a concerted effort to ensure the propriety of one's political behavior as a citizen. As we will see later, this conception of liberal citizenship will prove worrisome for some citizens, namely those that adhere to certain religious beliefs who hold that the abilities and qualities required to discharge this role, which consensus theorists believe ground the justification of public schools, are hostile to their fundamental commitments.

## **2.2 Consensus and Education**

Many theorists have accepted, in a broad sense, Rawls's idea of political liberalism with its central focus on public justification as the linchpin of political legitimacy. However, some have thought that while a perpetually well-ordered society operating on publicly justified principles of justice and laws is the appropriate end of political practice, the means to reach this state of affairs were not sufficiently detailed by Rawls. For them, a vital part of the means to achieve such a society and maintain it is through a broad system of education. Authors like Stephen Macedo and Amy Gutmann claim that in order to reach a society in which citizens are disposed to publicly reason with one another through deliberation and use public reasons to decide political issues, key societal institutions must perform an educative function.<sup>11</sup> While both believe that many political institutions contribute at least in part to educating liberal citizens about their roles and responsibilities concerning one another and the state, it is specifically educational institutions like public schools which are

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<sup>11</sup>Macedo, *Diversity and Distrust*, Chapter 10, Gutmann, *Democratic Education*, pp. 50-52

the starting point for this type of learning.<sup>12</sup>

One of the first steps in providing a liberal education, according to Macedo and Gutmann, is the division of educational authority over children between parents and the state.<sup>13</sup> Gutmann adds a third party, professional educators, to share in this division of educational authority; however, since these educators often work in public schools, I shall assimilate them to the entity of the state for the purposes of this discussion.<sup>14</sup> This separation is thought to be necessary to prevent the educational domination of children by any one party. Further, Macedo and Gutmann believe that dividing educational authority in this way is justified by two reasons: children's claim to a substantive freedom due to their status as independent beings and their (eventual) membership in the political community.<sup>15</sup> Educational domination by either parents or the state is unjustified and undesirable. Educational domination by parents runs the risk of undermining political virtues necessary for children to be capable of growing up to be good liberal citizens such as mutual respect, a capacity and willingness to engage in deliberation, and toleration of others from different cultures which hold different beliefs from them.<sup>16</sup> Domination by the state could lead to educational policies which result in the total exclusion of parents from the educational process, policies which it seems parents can reasonably reject.<sup>17</sup> The aim of education is to allow for children to form identities, yet be able to both choose a conception of the good life

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<sup>12</sup>Macedo, *Diversity and Distrust*, p. 39

<sup>13</sup>Ibid p. 238, Gutmann, *Democratic Education*, p. 42.

<sup>14</sup>Gutmann, *Democratic Education*, p. 42

<sup>15</sup>Macedo, *Diversity and Distrust*, p. 239, Gutmann, *Democratic Education*, pp. 42-43

<sup>16</sup>Macedo, *Diversity and Distrust*, p. 233

<sup>17</sup>Gutmann, *Democratic Education*, pp. 26-28

for themselves while at the same time preparing to become and operate as free and equal citizens in a liberal democratic regime.

The division of educational authority seems to naturally lead to a system of public schooling. Such institutions are not completely outside of the influence of parents (owing to collective democratic determination of at least some features of educational institutions), yet, for the most part, they provide a protected space where children can distance themselves from the particular affinities, biases and prejudices held by their parents. Moreover, public schools can be specifically designed to facilitate liberal political aims in a variety of ways. First, public schools can teach political values like tolerance and respect for others by bringing together children from a myriad of different backgrounds, cultures and traditions.<sup>18</sup> In this way, the public school can serve as a more or less literal representation of the reasonable pluralism present in wider society. This exposes children to ways of life they are not familiar with, yet gives them the opportunity to learn about others in ways that may challenge their parents' perspectives. Additionally, they learn to cooperate and exist peacefully with each other despite the distinctions that separate them.

Public schooling is also thought to be an efficient way of giving students a civic education. As I mentioned, their constant interaction and cooperation with other children that are different from their engenders understanding, toleration and mutual respect. Moreover, public schools can orient themselves around teaching children the key skills necessary for successful deliberation with their peers.<sup>19</sup> Children will learn how to reflect on and defend their own positions, how to rationally criticize the positions of others, and how to conduct themselves in a respectful manner while doing so. Furthermore, children will get acquainted with the difficulty of convincing others of their preferred positions by arguing

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<sup>18</sup>Macedo, *Diversity and Distrust*, pp. 233-234

<sup>19</sup>Ibid p. 239

from premises not shared or well understood by their interlocutors. Experiences like these have the potential to impress on them the importance of finding mutual starting points from which discussions about particular issues can fruitfully advance. All of this mimics the civic activity, attitudes, and expectations that consensus theorists assert are associated with good liberal citizenship. Perhaps most significantly, this type of learning equips children with the ability to take full advantage of their civil and political liberties.<sup>20</sup>

Having discussed the consensus public justification interpretation of the purpose and grounding for a commitment to a public system of education, I will now examine some of the more particular arguments offered by Stephen Macedo and Amy Gutmann.

### **2.3 Reasonableness and the Strains of Commitment**

Stephen Macedo views public education as a linchpin in the constitutive aim of liberal institutions to mold citizens into people who will not feel constrained by the political view of the world called for by their membership in a liberal political society. In order for liberal institutions to endure Macedo believes that citizens must not simply begrudgingly accept ideas like toleration, mutual respect and reciprocal cooperation with others, but come to wholly embrace these ideas as worth honoring, at least in their political roles. He calls his view "civic liberalism"; civic liberalism is concerned with "the wider civic life of liberal democracy in practice, as well as liberalism's educative ambitions[it] includes an account of the political institutions and social structures that help promote a publicly reasonable liberal community."<sup>21</sup> Quite clearly a system of public education fits centrally with this particular vision of a liberal political culture where citizens are expected and willing to adjudicate their differences by deliberating with others using reasons they reasonably believe others share and could accept.

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<sup>20</sup>Ibid p. 240

<sup>21</sup>Ibid p.169

While it may be true that citizens must develop a certain character in order to sustain the viability of liberal institutions, I worry that the effort required to impart this type of character to citizens runs afoul of the concept of consensus public justification. What I hope to reveal is that Macedo's view provides only a weak claim to public justification due to the strong liberal transformative elements he advocates. While Macedo believes that public schools are the most appropriate instrument for constraining diversity within society such that citizens' diverse perspectives are congenial to wider political values and aims, this way of ensuring fidelity to the core ideas of political liberalism seems to ultimately cheapen the strength of the justification citizens have for endorsing such a regime. Consequently, I contend that the educative ambitions of his civic liberalism fail to be publicly justified. This means, ultimately, that his arguments for public schooling are similarly undermined.

Because Macedo imports much of John Rawls's political liberalism into his idea of civic liberalism, it is useful to examine some of Rawls's key ideas concerning his theory. Perhaps one of the most important ideas in the concept of political liberalism, and subsequently in Macedo's civic liberalism, is the idea of reasonableness. Reasonableness is a (political) moral trait that Rawls assumes that people, conceived of as citizens, possess and which enables them to voluntarily order their lives and aims according to liberal principles of justice, a political conception of justice and a culture of public reasoning. Reasonableness is an important concept in Rawls's political liberalism *because it lowers the standards of justification for political policies*. Reasonable people are to accept that 1) vigorously debating ultimate truths in order to provide justification to others for their favored political policies will most likely get them nowhere and 2) it is vitally important that there be a public political basis for morality if for no other reason than to avoid devastating conflict between those who adhere to radically different views and to promote beneficial cooperation between persons to better help all achieve their own personal aims. In light of this, reasonable people are counted on to renounce certain claims to truth, which may be



grounded in rigorous arguments and unique insights, as permissible justifications for the use of collective political power. On the consensus view, then, the cost of appealing to only those considerations that reasonable people share is lowering the justificatory threshold for the use of political power. The shared basis justifying the use of political power must be modest enough to be shared (or accessible) to citizens embracing widely different views of themselves the world.

In one way, this may not be obvious, as consensus theorists' emphasis on the use of shared reasons appears to narrow the range of justificatory reasons available to citizens in the pursuit of legitimate public justification. However, at the same time these theorists also typically insist that more or less any reason from within this restricted set can contribute to a legitimate public justification of a proposed law. This is where the lowering of the standards for political justification takes place; any public reason (or, more exactly, combination of public reasons) is to be prioritized over any balance of private reasons. Reasonable people must realize that reasons that emerge from our (allegedly) shared commitments and concerns are impartial in a way that forgoes a reliance on particular comprehensive doctrines that would make them objectionable to others that do not share one's personal perspective. Reasons of this sort all pass the test of fairness and reasonableness, and so must be accepted for the purposes of the legitimate use of political power.

Public justification, then, on consensus views, appeals to this trait of reasonableness in citizens. However, how can we judge which political policies will be amenable to reasonable citizens with diverse perspectives? Rawls's answer to this question is presented in the form of his "original position".<sup>22</sup> The original position serves as a thought experiment Rawls uses to model a reasonable public political perspective in which imaginary

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<sup>22</sup>Rawls, *A Theory of Justice: Revised Edition*, pp. 15-19, 102-170, and *Political Liberalism*, pp. 22-29

representatives of actual citizens choosing in the best interest of their constituents collaborate to select principles of justice under constraints designed to ensure fairness. Thus, these constraints represent the reasonableness of citizens and so facilitate the justness of the chosen terms of social cooperation; for example, representatives must choose the foundational principles of justice for their society behind a "veil of ignorance" that prevents bias or prejudice from social standing, race, gender or any other characteristics of the specific individuals they are representing from unduly influencing the selection of the best principles.<sup>23</sup> The veil of ignorance corresponds to the idea that reasonable citizens would most likely reject principles of justice that were skewed toward the advantage of citizens who possess those properties that are excluded by it. Moreover, each participant occupies a condition of equality insofar as all must agree to the selection of particular principles of justice for them to be valid. Finally, participants are rational in that they seek to claim the most they can by way of goods like freedoms and material wealth for those that they represent; to accomplish this in the absence of specific data about individuals they are to use general facts characterizing humanity including sociological and psychological information.

The principles that emerge from the original position are justified for all citizens, then, because they are the principles that reasonable people, using their individual rationality, would agree to. To this end, Rawls employs one of his strongest arguments for his two principles of justice which he calls the "strains of commitment". Originally, Rawls intended to use this argument to show that reasonable people would reject utilitarianism as the basis for public political principles (in other words utilitarianism would not be selected as the preferred basis of social cooperation from within the original position) and instead opt for his two principles of justice.<sup>24</sup> The argument is inspired by an intuitive feature of

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<sup>23</sup>Rawls, *A Theory of Justice: Revised Edition*, pp. 118-123.

<sup>24</sup>Ibid pp. 153-154.

legitimate contracts; this feature is relevant insofar as Rawls views the original position as a hypothetical contract situation appropriate for the fair and impartial discovery of the correct moral principles (of justice, in this particular case) which would come to guide political institutions. The strains of commitment argument is meant to embody the idea that one should not enter into an agreement the terms of which one knows one cannot live up to should circumstances relevant to upholding the agreement not work out in one's favor. Rawls's argument roughly goes as follows: suppose that liberal principles protecting rights and freedoms were publicly known to rest on a utilitarian view. While these liberal principles might receive strong support due to significant social and psychological facts about persons in tandem with specific historical conditions, it is always a conceptual possibility that within the society in question abandoning liberal principles in a particular instance with respect to particular individuals will present the best option in regards to promoting "the greater good", the supreme end of utilitarianism (however this greater good is characterized). In other words, liberal rights and freedoms are only indirectly supportive of the utilitarian end. Thus, in certain cases, utilitarianism might recommend the violation of the individual rights and freedoms of specific citizens that protect their separate, personal aims. Rawls claims that participants in the original position cannot know if they will be (or if they represent) the persons in society whose liberal rights might be violated due to utilitarian aims. Moreover, the violation of individual rights and (or) freedoms is a great loss since it jeopardizes citizens' most important commitments and way of life. As a result, Rawls argues that participants in the original position would not agree on utilitarianism as a basis for a liberal conception of justice, because they would not be able to abide by their commitment (that is, they would be unwilling or unable to endure restrictions on their basic liberties or violations of their basic rights) to the underlying principle of justice should they end up on the wrong side of a utilitarian calculation. In contrast, Rawls believes that these participants could reasonably remain committed to his two principles of justice since

liberal freedoms and rights on this conception are lexically prior to any concern with social or economic inequalities ("the greater good"). That is to say, on Rawls's conception of justice, individual rights are categorically weightier than concerns about economic or social prosperity. Under Rawls's two principles of justice, the overall welfare (economic or social) of a society cannot justify curtailing the liberties of particular citizens.

Rawls goes on to assert that, in addition to justifying his two principles of justice, the "strains of commitment" argument supports other substantive aspects of his political liberalism. One of the most prominent of these is his "liberal principle of legitimacy" which says

[O]ur exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as a justification for those actions.<sup>25</sup>

As we saw in Chapter 1, the liberal principle of legitimacy goes a long way toward establishing the practice of using public reasons based on a shared political conception of justice as the only considerations appropriately used in the justification of the use of political power. However, Christopher Eberle advances an argument against Rawls that he believes shows this feature of Rawls's project to be deficient. Eberle attacks the liberal principle of legitimacy insofar as it implies that it is a requirement of being a reasonable liberal citizen that one provide a public justification for one's use of one's own political power. The basic idea behind this account of legitimacy is that in order for political policies to be justified these policies must be supported by reasons which one can reasonably expect others to accept. Consensus theorists like Rawls understand "reasons which one can reasonably expect others to accept" as shared reasons emanating from political ideas embedded in the public culture and a shared political conception of justice.

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<sup>25</sup>Rawls, *Political Liberalism*, p. 137.

Eberle, however, argues against this criterion of political legitimacy by inverting Rawls's own "strains of commitment" argument.<sup>26</sup> Eberle employs this same style of argument to suggest that participants in the original position would reject a requirement that they secure a public justification for their political positions or else refrain from engaging in political action with respect to these (or, alternatively, that laws are only legitimate if they are based on public reasons). Eberle notes that participants in the original position will be aware that they (or those that they represent) might possibly be religious citizens once the veil of ignorance is lifted (that is, once the selected principles of justice are put into full effect in society). Given this, these participants will also have to recognize that their commitment to God or some other supernatural entity will be such that they will be compelled to abide by certain religious imperatives emerging from the particular religion they embrace. Moreover, these participants will have to acknowledge that, plausibly, at least some of these imperatives will be political in nature. That is, they will be required by their religious commitments to attempt to use their political power to fulfill their obligation to uphold God's will (or resist others' use of political power that conflicts with their religious commitments). However, a requirement to only act on those political positions which can be publicly justified to others will surely conflict with religious political imperatives in some cases. Remember, the set of public reasons excludes those reasons grounded solely in particular religious commitments since the latter are not shared among the diverse citizenry. Eberle reasons that participants in the original position would not be able to agree to terms that would restrict their ability to carry out their deepest religious imperatives should they require political action despite the fact that they reasonably believe that these motivations are not shared by other reasonable citizens. In other words, reasonable religious citizens would not be able to abide by their agreement on principles that require consensus public justification for legitimate political actions should a foreseeable worst case scenario

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<sup>26</sup>Eberle, *Religious Convictions in Liberal Politics*, pp. 140-148.

play out: a case in which they the justification they possess for supporting political policies or candidates fulfills their religious obligations, yet fails to be public according to the consensus view. Under this view, these religious citizens would be expected to back off of their political support in this instance. Nonetheless, Eberle reasons that in these situations, participants in the original position would want to allow religious citizens the opportunity to rely on their strongest religious obligations. Eberle concludes that the strains of commitment argument disqualifies the liberal principle of legitimacy, insofar as it recommends refraining from employing political power on the basis of unshared or inaccessible reasons, as being entailed by a liberal political idea of reasonableness and respect.

Eberle's argument against Rawls expresses the idea that the consensus view of public justification is an unreasonable demand on citizens. Just as prospective citizens would be unable (either morally or psychologically) to live under public principles of justice that could possibly sacrifice their individual rights and liberties for the sake of the collective good, so too would religious citizens be unable to hold to a commitment to a political principle that required them to forgo their obligations to God in the political realm. Participants to the agreement in the original position could not in good faith (with a sincere belief in their ability to uphold their political obligations) bind themselves to either set of principles as the foundation of their political society. This is a significant claim by Eberle; the idea that it is not reasonable to expect citizens to forgo the invocation of their comprehensive doctrines in the event that they are not able to provide others with a public justification for their political actions threatens to unravel Rawls's (and by extension, consensus theorists) entire project. Reasonableness is not meant to be a high demand (as it is to be a characteristic shared by citizens who embrace radically different comprehensive views on life), yet it is thought by consensus theorists to have a substantive and limiting content. It is substantive in the sense that it sets the foundation for political liberal principles of justice, but limiting in the fact that recognition of the burdens of judgment supposedly calls for citizens

to abandon the expectation that their particular comprehensive commitments can serve to justify legitimate political principles.

Can consensus theorists, and Rawls in particular, rebut this argument from Eberle? In making his version of the strains of commitment argument, one of Eberle's fundamental premises is that (some) religious citizens' views are both *overriding* and *totalizing*.<sup>27</sup> They are overriding in the sense that a religious citizen may take her religious commitment to obey God to be her most decisive commitment when she is contemplating how she should act. As a result, this citizen will reason that no other obligation, not even political obligations that she has as a citizen, should come before her duties as a faithful religious observer. Moreover, the same citizen may also see her religious commitments as totalizing. The totalizing nature of her religious commitments means that there is no area of her life to which her religious commitments do not extend. Whether it has to do with her familial, professional, political, or other phases of her life, she believes that she must first and foremost clear the threshold of her religious obligations before discharging additional duties that these roles may bring on.

Now, perhaps the fact that some religious citizens experience this type of commitment would fail to be problematic if the numbers of such adherents were small enough in a particular society. Although it is hard to see how the number of believers of this type influences the theoretical problem of public justification by way of a notion of reasonableness, one might be able to concede that due to their small numbers a practical policy of accommodation toward this minority group may be more prudent to resolve issues as they arise in a liberal democratic society. However, Eberle reinforces his claim about the overriding and totalizing nature of religious commitments by claiming that these are features of

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<sup>27</sup>Ibid pp. 145-146

”a common sort of theism”.<sup>28</sup> Eberle believes this fact may be obscured by the particular tenets and practices of many ”mainstream” religious traditions in the US.<sup>29</sup> A great many of these religious traditions seem to be consistent in large measure with or, have adjusted to accommodate, several core features of liberalism. This means that in practice liberal political procedures, principles and even some laws will line up satisfactorily with the deep commitments from these religions (or at least will not directly conflict with them). However, this does not mean that these religious citizens believe that liberal political principles hold a pride of place within their views. Their duties to God are still paramount within their personal perspectives; it simply may be the case that for some of them often God’s will prescribes something approaching the liberal political solutions to conflicts that we find, for example, in American society. Nevertheless, if religious citizens views regularly display the traits of being overriding and totalizing then for consensus public justification the theoretical problem is magnified and the practical problem is exacerbated. The overriding and totalizing dimensions of religious belief make it much harder to get around Eberle’s strains of commitment argument.

The strength of the strains of commitment argument for Rawls and his followers (and for Eberle) stems from the fact that the original position is thought by Rawls to be a reasonable public political point of view that models fairness. It is seemingly constructed on the basis of values and ideas we can reasonably expect others to share in a liberal democratic polity; ideas such as the freedom and equality of citizens and the need for political disputes to be adjudicated fairly using public principles of political morality. The fair terms of social cooperation to which reasonable people must be committed are the terms that emerge from

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<sup>28</sup>Ibid pp. 146.

<sup>29</sup>Ibid p. 149.



this political standpoint and establish the boundaries on reasonable behavior and expectations by citizens. To the contrary, however, Eberle's argument seems to show that a critical component of consensus public justification is not among these terms.

#### **2.4 Eberle vs. Macedo: Religious Commitment and Sustaining Liberalism**

One method of attack on Eberle's conclusion is advanced by Stephen Macedo. Macedo believes that those that support some form of liberalism in politics have been remiss in neglecting to articulate and draw out certain individual character traits and dispositions that he contends are necessary for a liberal political order to endure. In particular, he insists that what he observes to be widespread acceptance of a liberal political order by a diverse citizenry in countries like the US is not simply happenstance or a predestined outcome; although many people now take for granted the daily coexistence of citizens who hold vastly different comprehensive views on life, Macedo contends that history tells us that our current state of affairs is one that was far from a foregone conclusion. As a result, Macedo thinks that many of the underlying mechanisms that functioned to create the relatively stable liberal democratic societies that we observe now (specifically in the US) have been underappreciated. Nevertheless, he cautions proponents of liberalism that these mechanisms are both essential to the continued success of a liberal polity and that they are not as forgiving of pluralism as some commentators might have one believe.<sup>30</sup>

This is one of Macedo's central claims: although liberal protections regarding freedom of religion, speech, conscience, and so on open up political and personal space for a wide diversity of views, we cannot expect that all the perspectives that citizens choose to take up will be congenial to liberal institutions and (political) ways of life. To ensure the continued existence of the liberal polity, those comprehensive doctrines and ways of life that are least amiable to liberal political ideas must be brought in line with liberal norms and virtues. Liberal authority must have the power to condition citizens to take on liberal

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<sup>30</sup>Macedo, *Diversity and Distrust*, p. 15-16.

traits like practicing tolerance, respecting others' differing ways of life and a willingness to engage others in sincere debate about political matters. This is significant: Macedo contends that in a properly functioning liberal society citizens must be willing to accept that political decisions concern only civic matters, that is, matters of shared public concern and not private matters, or matters that concern their own personal and particular views of the good, morality and proper conduct. Citizens have to be willing to forgo discussing in the realm of politics highly contentious and divisive issues regarding the ultimate truth regarding human existence and purpose. These disputes are beyond the power of politics to resolve. Moreover, Macedo agrees with Rawls that the proper use of political power must be publicly justified, and, also like Rawls, that public justification can only proceed on the basis of shared considerations and standards of judgment and evidence.<sup>31</sup> In fact, the idea of political liberalism helps to demarcate what are public interests from those that are private. This is an upshot of the "freestanding" nature of political liberal principles.<sup>32</sup>

The priority of liberalism in politics for Macedo is predicated on his belief concerning citizens' (in the US) purportedly widespread acceptance of certain political ideas like freedom and equality and their embrace of basic liberties like freedom of religion. However, a successful and stable liberal polity is more than just a scheme of liberties and rights combined with democratic procedures. Macedo contends that such a regime also needs civically minded citizens who are reflective, politically engaged and who also accept the presence of persistent disagreement with others about important truths of life and so are willing to conduct political business on the basis of public reasons. Yet, we cannot expect citizens to achieve such dispositions from within their nonpolitical associations (for instance, from within their own particular religious community). While our participation

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<sup>31</sup>Ibid pp. 168-170

<sup>32</sup>Rawls, *Political Liberalism*, p. 10.

in nonpublic communities certainly yields valuable virtues and traits that serve people well in their capacity as citizens, these communities also incline citizens toward specific goals and ends, many of which could be a threat to the shared civic interests that are the proper subject of politics. Thus, Macedo reasons liberalism must have educative mechanisms to counteract these factional and self-interested tendencies possessed by citizens who are also members of various subpolitical groups. The most prominent of these mechanisms, of course, is the public school system.<sup>33</sup>

Macedo's argument against Eberle, then, would be that accommodating the overriding and totalizing traits of religious citizens in the selection of political principles of justice would disintegrate the very liberal institutions that allow them to flourish in a diverse society. On his view, abandoning the liberal principle of legitimacy in the way that Eberle recommends ultimately gives sanction to religious citizens to press forward with their political support of policies and candidates based only on their conclusive religious reasons. Yet, according to Macedo, this would lead to a deterioration of the liberal polity; laws might be passed favoring certain religious aims simply by way of democratic vote given that citizens are not bound by the requirement to secure public justifications based on public reasons for their political acts. Moreover, it is doubtful that citizens, especially in the case of future citizens like children, would be able to cultivate the kind of characteristics that Macedo believes are necessary for adult citizens with vastly different perspectives on life to coexist and help sustain a stable liberal society. In this regard, we must discuss how Eberle's conclusions affect Macedo's strong support of a system of public schooling.

## **2.5 The Exposure Problem**

If Eberle is right and his strains of commitment argument succeeds then it takes little imagination to see why some religious citizens would be prone to object to a state sponsored system of public schooling. Indeed, there is a long history in the US of religious

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<sup>33</sup>Macedo, *Diversity and Distrust*, p. 39.

citizens balking at the structure and operation of the public school system. Two cases prominent in the literature are *Mozert v. Hawkins Board of Education* (*Mozert*) and *Wisconsin v. Yoder* (*Yoder*).<sup>34</sup> Both cases involved religious citizens who complained against specific public school policies on the basis of what I will call the "exposure problem". The exposure problem says that children's exposure to ideas, ways of life, conduct and values outside of a particular religious community or practice can have devastating religious consequences for the child and his family (specifically, his parents). In the *Mozert* case, religious citizens (Fundamentalist Christians) served as plaintiffs and contended that a Hawkins County school board mandate that a particular reading series, the Holt reader, be read by all students in Grades 5-8 was objectionable.<sup>35</sup> The basis for this objection was primarily that themes, ideas, and values that repeatedly were on display in the reading series offended the religious beliefs of the plaintiffs. Moreover, the plaintiffs claimed that allowing their children to be exposed to such materials jeopardized the religious welfare of not only themselves, but their children as well. In the case of the parents, they reasoned that allowing their children to entertain ideas that might lead them away from the correct Christian way of living would represent their failure to lead their children to God, one of their foremost duties as Christian parents. As for their children, they claimed that certain ideas might lead their children astray from the right Christian path and therefore these children would later suffer spiritually as a result of either rejecting or failing to embrace God. Thus, the plaintiffs concluded that compulsion by the state (via public schooling) to force

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<sup>34</sup>For the *Mozert* case see "Mozert v. Hawkins Board of Education" [http://users.soc.umn.edu/~samaha/cases/mozert\\_v\\_hawkins\\_schools.html](http://users.soc.umn.edu/~samaha/cases/mozert_v_hawkins_schools.html). For the *Yoder* case see "Wisconsin v. Yoder." <https://supreme.justia.com/cases/federal/us/406/205/>. Both cases have been widely discussed in the literature addressing liberal justifications of public education. See Stephen Macedo, *Diversity and Distrust*, Chapters 6 and 8 and Amy Gutmann, *Democratic Education*, pp. 29, 294 and 298-299 for prominent discussion of these cases from the perspective of public reason liberals that endorse a version of the consensus view. To see how proponents of the convergence view would treat these cases proceed to the following chapter.

<sup>35</sup>"Mozert v. Hawkins Board of Education"

their children to read the objectionable material created an unfair dilemma: comply with the schools' demands to the detriment of their religious obligations or forgo their children's attendance at public schools incurring a financial burden in addition to taxes withheld from them in order to fund these schools. The mandate by the school board, according to the plaintiffs, was in violation of their first amendment free exercise rights.

In the *Yoder* case a similar theme revealed itself. Members of the Old Order Amish religion and Conservative Amish Mennonite Church removed their children from public schools after these children had completed the eighth grade; moreover, their parents did not enroll them in any other private or home school. School administrators in Green Country, Wisconsin, upon noticing the absence of these children in public school, charged that their Amish parents were in violation of a Wisconsin statute that required children to attend school until the age of 16. These parents were initially tried and found guilty of violating the Wisconsin statute; however, this decision was appealed and later on reversed. As defendants, these members of the Amish community argued that a high school education would imperil the salvation of both their children and themselves, just as the plaintiffs had argued in the *Mozert* case. In particular, the defendants held that the specific values both taught and embedded in the academic curriculum and culture of local public high schools were in direct conflict with core Amish values. As a result, they claimed that high school attendance by their children would seriously impede their children's ability to become proper members of their Amish communities and correctly live by the tenets of the Amish faith. As before in the *Mozert* case, the Amish defendants here also believed that the state's compulsion of their children to attend high school would constitute a violation of their first amendment rights specifically the freedom to practice their religion.

The exposure problem roughly cited by both plaintiffs and defendants in the *Mozert* and *Yoder* cases, respectively, is a direct result of the overriding and totalizing dimensions of religious commitment outlined by Eberle. Both aggrieved parties cited as their most

significant concern regarding what they considered to be objectionable school policies their fear of the consequences of their failing to abide by God's will. Moreover, both believed that their religious commitments were relevant and applicable to the case of how their children are to be educated. We must not understate the seriousness of these issues for the religious citizens in these cases. Both parties view the particular school policies that they were contesting in each respective case as dangerous to their children's (and their own) spiritual health and well-being; from their perspectives, the schools' actions are no different than a situation where the school maintained policies which posed a significant risk to their children's physical safety (say, for instance, by not having proper exits in case of a fire). This is evident by the parents' acts of removing their children from public school in both instances. Such actions indicate that the complainants in these cases are not arguing over mere preferences or tastes. Additionally, these citizens' reactions support Eberle's strains of commitment argument: they are not willing ultimately to forgo acting in accordance with their religious duties with respect to their kids even if they cannot justify these duties to others based on reasons shared among citizens with diverse viewpoints. These citizens were quite content to resort to their private reasons and reasoning in the first instance of conflict with public statutes, if not as more of a last resort as Eberle recommends.

Macedo believes that these cases go some way toward illuminating the proper liberal political ethic governing the maintenance of a liberal state and the requisite complementary attitudes and behavior its citizens should possess. For him public schools are important training grounds for the liberal political aim of generating good liberal citizens. This makes it of the utmost importance that he provides a successful defense of public schools in general and in particular the parts of the curriculum that are directed at preparing children for their future political status as full citizens who wield some measure of political power. Thus, Macedo must defuse the exposure problem and in doing so resist to some degree Eberle's claims about the nature of religious citizens commitments.

Macedo's general argument against accommodating the complainants in these and similar cases is as follows:

1. A liberal political regime must employ mechanisms to transform people emerging from different backgrounds, faiths, experiences and so on into good liberal citizens in order to perpetuate itself.
2. Successful transformation requires the inculcation of certain values in citizens, such as toleration, respect for others despite deep differences in personal perspective, the disposition to rely only on a set of public reasons as the basis of one's political arguments and actions, the capacity to deliberate with others about what political justice requires and a willingness to rely on fair (democratic) procedures for resolving complicated and contentious political disputes.
3. Public schools are the best instrument that the liberal state has for imparting these values and capacities to citizens.
4. The liberal state is *prima facie* justified in designing public school policy in order to fulfill its transformative aims.

According to this argument, the exposure problem as I have construed it cannot present a legitimate criticism of the policies being contested in the *Mozert* and *Yoder* cases, respectively. Macedo holds that exposure to different people, their different beliefs, values and ways of life is critical to establishing in children the importance of toleration.<sup>36</sup> If the state has a justified interest in ensuring that its citizens embrace and practice tolerance toward others they may deeply disagree with, then Macedo is claiming there are strong competing considerations combating parents' requests for a more or less religiously pure education for their children. It is on this basis that Macedo suggests that in the *Mozert* case the plaintiff's

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<sup>36</sup>Macedo, *Diversity and Distrust*, p. 233-236.

strongest claims, those comprised about concerns of the grave dangers of exposing children from a religious background to different ideas about life and the ultimate good are immaterial. In examining the *Mozert* case, Macedo's suggestion is that "[w]e focus on shared public principles and leave the religious dimensions of the question aside. [School administrators and officials] would in this way avoid directly confronting or denying the *Mozert* families' contention that the Bible's authority should be accepted uncritically."<sup>37</sup> Macedo holds that children may not be compelled to show either acceptance and belief in or rejection and disbelief of any comprehensive ideas introduced by class materials. Children should be allowed to approach new ideas from their antecedent perspectives (in this case religious ones) and answer questions based on their particular personal interpretations of class material. The critical skills gained through these scholastic activities concerns more in the way of analysis of specific ideas, the ability to articulate one's views on a subject and the recognition that others embrace different views, yet are still to be respected equally to oneself. To this end, Macedo contends that public schools can still expose children to different ideas for the civic purpose of making them tolerant towards others.

However, I do not think this particular move by Macedo fully meets the concern generated by the exposure problem. For instance, Vicki Frost and Bob Mozert, two key plaintiffs in the *Mozert* case, expressed the claim that "the plaintiff parents objected to passages that expose their children to other forms of religion and to the feelings, attitudes and values of other students that contradict the plaintiffs' religious views without a statement that the other views are incorrect and that the plaintiffs' views are the correct ones." This is a much more stringent condition on the legitimacy of public school policies as it regards introducing various values and ideas to students. In the above assertion by the plaintiffs, merely having children read about an idea deemed to be either taboo or inconsistent with their religious background is objectionable. Therefore, whether or not school teachers press

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<sup>37</sup>Ibid p. 174.



students to comment on the truth of what they study, students in the course of their instruction encounter new possibilities regarding various areas of life that they are unlikely to have considered otherwise. Their minds have been afforded new avenues of thought that prior to their experience in a public school would have likely remained closed owing to their parents' discretion. Thus, the insistence by the plaintiffs that exposure to new ideas be accompanied with "a statement that the other [new to the children] views are incorrect and that the plaintiffs' views are the correct ones." These parents wanted a formal authority to shut down a natural process which occurs as the result of encountering novel ideas or experiences: wonder. The plaintiffs did not want their children wondering or thinking about ideas not consistent with or supportive of their religious upbringing *at all*. They were scared of a snowball effect that, in a worst case scenario, might lead to their children questioning them about key elements of their religious faith or dilute the attraction of the particular religious way of life that their parents embrace. Thus, the exposure problem makes the prospect of leaving the religious dimensions of the question to the side when debating the legitimacy of public school policy much more difficult than Macedo would have it appear.

Moreover, Eberle's strains of commitment argument seems to tell us that religious citizens can maintain their status as reasonable even if they reject Macedo's injunction to focus only on shared reasons and liberal political aims when debating school policy. Since Eberle's argument frames this requirement as unfair terms of cooperation when viewed from the original position, religious citizens can hardly be criticized for failing to live up to this standard. If public school policies could really leave religious dimensions to one side when educating children, then there might not be any harm in restricting talk about the aim of public schools to collective civic concerns. However, the exposure problem makes it the case that "leaving religion to one side" practically equates to "having no negative effect" on children's religious upbringing and practices. This obviously is not a consequence that

liberal institutions like public schools can avoid on Macedo's construal of their primary role and function in society.

## **2.6 Further Arguments Against the Exposure Problem**

If Macedo's attempt to side step religious controversy in the case of public school policy runs into difficulties due to the exposure problem, what other resources does he have to insist that good liberal citizens should support a system of public schooling that seeks to inculcate in children core liberal virtues and capacities? As it stands, Eberle's argument appears to give religious parents veto power over any liberal institutional arrangement that they reasonably believe will compromise their children's religious upbringing. From here we might infer that the state should remove itself from the business of trying to mold future liberal citizens by way of public schooling. Many have suggested just this solution<sup>38</sup>; they support the idea that parents should have *carte blanche* over decisions regarding their children's education. This solution would certainly go further toward ensuring that children have the best possible chance to be successfully raised according to the religious standards set by their parents' faith. However, Macedo stands in strong opposition to this idea for two reasons: 1) it removes the ability of the state to create good liberal citizens and thus sustain itself and 2) it fails to recognize the moral independence of children from their parents and community.<sup>39</sup> His strategy de-emphasizes the prominence of parents' comprehensive reasons for educating their children in one way or another and relocates the justification for public schools either in the liberal political society itself or children considered as separate entities from their parents. The justification from the perspective of liberal political society is expressed in the first reason, while the perspective representative of the child is taken up in the second.

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<sup>38</sup>See Vallier, *Liberal Politics and Public Faith*, Chapter 7 and Lomasky, *Persons, Rights, and the Moral Community*, Chapter 7

<sup>39</sup>Macedo, *Diversity and Distrust*, p. 243

The first reason, of course, is in danger of being undermined by Eberle's strains of commitment argument and the exposure problem. If religious citizens cannot reasonably be expected to comply with terms of social cooperation that might compromise their duties to God and merely being exposed to certain ideas from other ways of life compromise both parental and children's duties toward God (depending on the particular faith), then it would seem that religious citizens are perfectly reasonable in rejecting the state's attempt to inculcate certain liberal values in children which require they be introduced to different values, beliefs and moralities. In this case, it would not be a proper part of the liberal political ideal for the state to act in this manner. In other words, the reverse strains of commitment argument along with the exposure problem entail that the state would not be permitted to reproduce itself at the cost of coercing citizens in ways that threaten their religious sensibilities regarding their children. Liberal political public school education would not in this case be publicly justified on the consensus view if these claims are correct.

As for the second reason, while I believe that this consideration ultimately goes some way toward justifying public schools, I do not believe it can serve as a *public justification* for public schools on the consensus view. The reason for this is that the view that children are independent from their parents, in the sense needed to justify the state's compulsion of parents to have their children attend public schools aimed at exposing them to ideas and capacities possibly in tension with their parents' faith, is a substantive one. Macedo would argue that this belief is part and parcel of parents' reasonableness. According to him, it would be unreasonable for parents to expect the state to take no interest in a child's upbringing and education and, further, employ the necessary steps to play a part in fostering a (limited) sense of independence and autonomy in children.<sup>40</sup> He says "[c]hildren have basic well-being interests in food, shelter, affection and other aspects of well-being, including education governments and the democratic community recognize the moral independence

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<sup>40</sup>Ibid pp. 238-239.

of each individual and insist on due regard for that independence, even from parents.”<sup>41</sup>

On what grounds, however, does the state have the authority to recognize children as *morally* independent individuals? The best ground to establish this permission for Macedo must be that this type of recognition by the state is entailed in its viewing children as future citizens of the state. However, we must be careful here when we talk about children as future citizens. In certain respects they already count as citizens, such as when they are granted certain privileges such as being able to legally reside as well as enter and exit the US by virtue of their birth within its borders. In this vein, the state has justification to ensure that basic needs mentioned above are met for children. Additionally, these needs are a necessary condition of children becoming full citizens as adults later on in their lives. Nevertheless, the type of citizenship that Macedo refers to as a constitutive aim of public schooling revolves around the ability to use one’s political power to impact or influence political justice. This aspect of citizenship children, of course, are excluded from until the age of 18 (in the US). At this age we ascribe to these children-turned-adults political rights that should harness certain sensibilities and capacities that they have developed. These rights are denied to children under 18, however, on the opposite premise: that these capacities have not been successfully developed to a certain level by individuals who fall below this age designation. The broader point is that the moral independence we ascribe to children must be entailed by what is necessary for them to achieve political independence since on a consensus view the state is able to view individuals only as citizens not according to a comprehensive moral view. The problem is that, due to Eberle’s strains of commitment argument, the political independence of citizens on the consensus view cannot entail the robust aspects of moral independence that would be required for Macedo to reach his conclusions about the legitimacy of the transformative aims to be pursued by public schools on his view

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<sup>41</sup>Ibid p. 243.

Here I believe it is instructive to examine the key difference in Rawls's political theory between *A Theory of Justice* (TOJ) and *Political Liberalism* (PL), as this will shed light on the problem Macedo faces in trying to ground a justification of public schooling in the status of children as future citizens in a liberal democracy. As is well known, Rawls believes that there is a fatal flaw inherent in his view about the correct principles of justice regulating a well-ordered society that he offers in TOJ. This flaw is revealed in his arguments that a well-ordered society operating on his two principles of justice, which together help form a conception of justice he calls "justice as fairness", would be stable and self-sustaining over time. By stable and self-sustaining I mean that individuals within this well-ordered society would voluntarily adopt the attitudes, values, and behavior necessary to reproduce this society over time based on their public acceptance of the guiding political principles of the society and in light of their other desires, commitments and goals. The problem with his argument for this conclusion, Rawls notes, is that it rests

on a premise the realization of which its principles of justice rule out. This is the premise that in a well-ordered society of justice as fairness, citizens hold the *same* comprehensive doctrine, and this includes aspects of Kant's comprehensive liberalism, to which the principles of justice might belong. But given the fact of reasonable pluralism, this comprehensive view is not held by citizens generally, any more than a religious doctrine, or some form of utilitarianism.<sup>42</sup>

The problem that Rawls identified was that under liberal democratic institutions, which include protected liberties such as those of religion and conscience, it is implausible to believe that all citizens would come to embrace the same comprehensive idea of life with its component ideas. In particular, all people would not embrace the idea of themselves as free and equal, at least not in the sense that is wedded with deep ideas of moral autonomy

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<sup>42</sup>Rawls, *Political Liberalism*, p. xlii, my emphasis.

and moral freedom. These are the aspects of "Kant's comprehensive liberalism" that Rawls mentions in the quoted passage above. In particular, Rawls in TOJ argued that acting from his two principles of justice not only signaled that members of society were abiding by principles of right but that such action was an expression of *their nature*. Fundamentally, morally speaking, Rawls adopts Kant's idea of persons as free and equal rational beings. Rawls's congruence argument depends heavily on the idea that acting justly is not only right but good for us in the sense that acting justly allows us to express ourselves as free and equal rational beings. This is key as he believes the desire to act according to our true nature is regulative; in other words, this desire is our highest order desire, structuring all of our other desires (given one's nature as a free and equal rational being).<sup>43</sup>

Yet, if people do not embrace this comprehensive moral idea, what reason do we have to believe that they will continue to affirm a political society operating on the basis of Rawls's two principles of justice? More to the point, what reason do we have for thinking that people, under free institutions called for by the principles of justice themselves, will come to adopt this comprehensive perspective? Rawls was forced to admit that we should expect people under robust conditions of political freedom to embrace very different comprehensive ideas about life and, consequently, that we *cannot expect* that people under these conditions will exhibit agreement on one particular comprehensive doctrine as the sole basis for justice and political principles, as applied to the basic structure of society. And, of course, this seems to be obviously true; for example, there is no doubt that religious affiliation and participation has continued vigorously in modern liberal democratic societies like the US. Moreover, some religious citizens plausibly would not view acting on political principles of justice as ultimately expressing their true nature as free and equal rational beings, but, rather, as adhering to the commandments or teachings of their god.

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<sup>43</sup>Rawls, *A Theory of Justice: Revised Edition*, pp. 501-503.

The upshot of Rawls's view in TOJ is that he constructs a comprehensive moral view of personhood and what it entails and this view lays the foundation for principles of (political) justice that are to regulate society. Thus, the state is empowered to act on the basis of this comprehensive view of persons (expressed in Rawls conception of justice as fairness) for the purposes of upholding justice. For example, the state could plausibly claim that a system of public schooling would be necessary to achieve the aims of developing children's autonomy and recognition of their moral freedom as these aims are required in respecting their nature as free and equal rational beings, this being the *correct* moral conception of persons. The state's license to act in this way is legitimized by Rawls's assumption (which he comes to reject in the passage above) that this moral comprehensive view is both true and can come to be accepted by all people in the society; after all, it is this conception from which Rawls grounds the justification of his principles of justice as regulative of both political society and individuals.

Nonetheless, Rawls's view in PL has changed mightily; his recognition that his argument for stability in TOJ requires homogeneity with regards to individuals' comprehensive views leads him to the conclusion that he must reformulate his principles of justice in light of the obvious fact that people operating under free institutions will make up their own minds regarding their identities and their true nature. As a result, he shifts the philosophical foundation from his theory from the moral idea of persons conceived of as free and equal driven by their rational pursuit of their good yet capable of voluntarily abiding by rationally chosen reciprocal terms of cooperation to the idea of free and equal citizens within a liberal democratic regime. While the former foundation is plagued by deep disagreement among people living in a pluralistic society, Rawls believed that the latter was not only a less contentious idea, but one that would seemingly require less controversial assumptions and was already widely accepted. Whereas the state in a TOJ can always refer back to

the moral conception of persons as free and equal rational beings as the core rationale behind its policies, just as the maximization of happiness would serve this role in a liberal utilitarian political regime, in PL the state is beholden to the contents of the political idea of a citizen. Moral concerns, from the perspective of the state, must be confined to those that are necessary to ensure that citizens remain free and equal with respect to the use of political power. Rawls believes we can work out the detailed contents of the idea of a free and equal citizen by inhabiting a reformed original position; furthermore, he thought that part of the clarification of the idea of liberal citizenship entailed the exclusive use of public reasons by citizens in their political actions.

Yet, Eberle's strains of commitment argument reduces the normative force contained by the correct conception of a citizen. His argument challenges the priority of political goals as defined by a set of public reasons in the reasoning of citizens. Good liberal citizenship on Eberle's view is not predicated on acting on publicly shared reasons or using them as the foundation of arguments aimed at achieving political justice; his alternative claims that a good citizen is defined by his attempt to find common ground with other citizens' regarding one's favored policies, not the success of this endeavor. However, this is beside the point. The import of Eberle's argument is that it excises the requirement of public reasons from the idea of political legitimacy in a liberal democracy. As a result, Rawls' hope that the conception of a free and equal citizen would entail particular constraints on the involvement of individuals' reliance on private considerations in their political judgments seems to be imperiled. The strength of Eberle's argument is that it undermines the idea of public reason from *inside* of the original position as opposed to outside of it. We can observe this difference by referring back to the supposed failure of the congruence argument from TOJ. This argument is undone from outside of the original position, as Rawls observes the empirical reality of reasonable pluralism under free institutions mandated by his own principles of justice. However, he believes, it seems, that he can add this empirical



fact to other general facts about society that the participants in the original position take account of in choosing the appropriate principles of political justice and successfully derive principles of which a requirement of the use of public reasons is a part. Eberle shows that the inclusion of the fact of reasonable pluralism into the premises of the rational decision to be made in the political original position under constraints that model reasonableness cuts deeper than Rawls originally thought. The liberal principle of legitimacy turns out to be a risky proposition for those who, while they value liberal citizenship, believe that their political and moral obligations cannot wholly be accounted for by this conception.

Furthermore, this attitude by citizens is only problematic from the Rawlsian point of view if we believe that it is an unreasonable one to develop. Yet the proxy for whether or not citizens are reasonable is whether they could (or would) accept fair terms of social cooperation. If Eberle is correct, the liberal principle of legitimacy cannot be part of fair terms of cooperation, since it would not be a part of the principles that result from the original position. Therefore, citizens' failure to adhere to this principle should not be branded as unreasonable. Whatever else may be required of us as citizens, Eberle's view is that we cannot be required to rely strictly or primarily on shared or accessible considerations as the basis for our political participation.

The upshot is that Rawls's PL view provides little recourse for the state to appeal directly to moral considerations that are not entailed by the political idea of a citizen as a basis for action. Since it is this view, and not Rawls's TOJ view, that informs the consensus view in general, the state on a consensus view cannot make appeals to ideas of the moral independence of children except on grounds that relate to their future citizenship. However, Eberle's argument shows that the idea of liberal citizenship does not include a demand that citizens be disposed to use public reasons to settle political disputes. Thus, it seems doubtful that public schools could legitimately be used to try to develop children in a way that satisfies this goal, since this action is not entailed by the illuminated conception of free

and equal citizens derived from the political original position. Furthermore, the state lacks the authority to attempt to elevate the importance of liberal citizenship (at least a conception which depends on the use of public reasons) within anyone's comprehensive commitments. It cannot insist that it is necessary that people *become* good liberal citizens if these means citizens must always forgo politically acting in ways not based on shared or accessible civic considerations. The consensus view must be silent on how the value of good citizenship according to a liberal conception of government compares with ones other comprehensive commitments. Those that reasonably believe that the capacities, dispositions and attitudes associated with the consensus view's conception of citizenship will seriously conflict with their other important commitments might balk at the suggestion that this goal is worth pursuit above all else. As we have seen, religious parents might believe that the moral independence of children does not warrant subjecting them to circumstances under which their religious well-being is jeopardized. On a consensus view, the state cannot supersede citizens' views about the relative importance of some political values with respect to their other commitments.

Consensus theorists' hope is that most citizens' comprehensive views contain the resources to accept political liberalism as a package but also that this package includes the condition of finality with respect to political action. However, they accept a distinction between justice or legitimacy and stability. Although it is important for them to account for the stability of a politically just regime, these theorists maintain that it is possible that people can fail for a variety reasons to accept just terms of social cooperation. Instability in compliance with political principles and laws that are based on these does not necessarily translate into an unjustified regime. In this case, consensus theorists could still be licensed to insist that citizens have normative reasons to conform to their specific conception of citizenship. As I have said before, however, it is not just the stability of a society operating on principles that include requirements to abide by the use of public reasons in political

life that is at issue in this discussion. Eberle's argument calls into question the justice or legitimacy of political principles that include such a requirement and the exposure problem highlights an apparent instance of this injustice in practice. The vexing question is not simply *will* certain reasonable citizens comply with this proposed duty of citizenship but *should* they. The upshot is that the consensus theorist cannot escape the problems I raise by focusing on stability mechanisms rather than the justificatory concern. Even if citizens could be somehow influenced in such a way that they would forgo reliance on their private reasons, according to what I have said, consensus theorists cannot support the implementation of such a mechanism on behalf of those who stand to be substantially affected by it.

Remember that public justification proposes a conception of legitimacy which is predicated on political justification *to* its citizens. Given this, it seems to naturally follow that the final arbiters of the legitimacy of the coercion that involves children, like educational policy, are parents. This claim is supported by the thought that the only candidates which political justifications can be put to are parents (given their status as adults) and parents (usually) have a deep interest in their children's lives sufficient to plausibly say that parents represent them. However, suppose parents challenge the significance of a certain conception of citizenship for themselves and especially for their children. It would seem, on the consensus view, that the state has no real counter. It can provide no public reasons categorically weighty enough to overturn this conclusion drawn from citizens' comprehensive doctrines. Public reasons cannot address comprehensive claims to truth and goodness directly on this view. Even more troubling, as I have suggested, is that this view *also* cannot insist such a conclusion by parents represents a failure to live up to a reasonable ideal of citizenship. Eberle's strains of commitment argument along with the exposure problem undermine this political conclusion as well.

Moreover, even removing parents from the equation, children's future status as good citizens does not seem to depend on their adoption of those capacities governed by the conception of citizenship favored by consensus theorists. This too is due to Eberle's challenge. If there is no consensus component to the idea of citizenship (that is to say, no requirement to restrict oneself from acting on the basis of certain considerations when taking political action), then the state seems unable to require that children as future citizens be educated in ways that would lead to the realization of this specific conception of citizenship. Given that Macedo sees a robust civic education as a distinguishing feature between public and private school education, one might well wonder why public schooling is necessary in the absence of this purpose.

Another way to establish the moral independence of children would be to equate moral independence to moral consideration. The idea here would be that to the extent that children possess qualities that deserve separate moral consideration (such as a capacity to suffer) children count as morally independent from their parents. Their suffering cannot be simply counted as an extension of their parents' capacity to suffer and so the state must craft policies that take their suffering into account just as they do for adults. With regard to public school policy, the state's accounting of the potential distresses that it would be subjecting children to include placing them in unfamiliar environments, subjecting them to the criticism of people outside of their community that may not understand the traditions that they come from, and possibly creating tension between children and their parents pertaining to competing conceptions of morality and the correct way of life. In order for either citizens or the state to make a decision in favor of subjecting children to these distresses, these parties must conclude that they are outweighed by the benefits of transforming children into good liberal citizens. Yet, this calculation would presumably involve value-laden elements not available to citizens or state officials on the consensus view. Some considerations involved would be the value of a religiously unified life as well as the value of

exposure to alternative kinds of lives. A state restricted to making legitimate political decisions based on shared public reasons is hardly in a position to render this type of verdict in favor of using political power to compel children to attend public schools.

Additionally, Eberle's argument casts doubt on the idea that this kind of interference by the state is reasonable. For if, as I have discussed above, being educated via public schools necessarily means that some children run a significant risk of endangering their spiritual lives, parents cannot be reasonably expected to submit to this demand by the state. Eberle's strains of commitment view shows that the state has no legitimate authority to use its power in this way; such state action is not in accordance with fair principles of political justice as judged from the perspective of citizens conceived as free and equal in the original position. Moreover, the very view of political individuality endorsed by political liberalism and to be taught in school is at odds with some religious teachings that focus more on community and collectivity. Although Macedo and other consensus theorists try to situate this individuality as bounded within a person's political role as a citizen, it is doubtful that a line can be so sharply drawn between this role and other more "personal" ones within a person's life.<sup>44</sup> If religious commitments are generally overriding and totalizing in the way that Eberle suggests, then it would prove very difficult to separate out a political role for individuals that did not depend substantively on other various roles predicated on an individual's comprehensive reasons.

Thus, it seems that the state will encounter difficulties in attempting to appeal to the moral independence of children, at least on grounds that would be consistent with consensus public justification. It appears that to vindicate the state's actions in these cases it would have to go beyond public reasons generated by shared civic interests and shared political principles of the kind Macedo and Rawls rely on in their political liberalisms. One

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<sup>44</sup>Macedo, *Diversity and Distrust*, pp. 239-240.

last avenue of attack for Macedo is to contest Eberle's strains of commitment argument itself. If he could rebut this argument and establish the liberal principle of legitimacy as a fair term of social cooperation by way of the original position, then he would have a shared reason that it would be politically reasonable to insist all citizens to respect and abide by.

Macedo could try to deny that religious obligations in general are either overriding or totalizing or both. Remember, it is these features that drive participants in the original position to reject liberal principles that would subjugate personal religious commitments to public reasons when it comes to the justification of the use of political power. There are two approaches available to Macedo in taking this line of argument: an empirical one and a theoretical one. The empirical approach would consist of Macedo showing that, based on studies, religious citizens do not in fact conceive of their religious commitments in overriding and totalizing ways. However, this claim is belied by a history of political conflicts in society especially in the US. Many religious citizens have steadfastly resisted purported public policies on the basis that these policies conflicted with their religious obligations in all areas of their lives from child rearing to special days of reverence to particular rituals. Furthermore, it is well-documented that, at least for the three major religions, God is the supreme power to which all other power, including political power where it might conflict with God, must bend. Based on the structure of many religions and the history of liberal democracies like the US, it would prove difficult for Macedo to show that religious citizens do not conceive of their religious commitments as possessing the traits of being overriding or totalizing.

The theoretical approach offers Macedo little more success. On this approach, Macedo would have to argue that although many people do take their religious obligations to have highest priority in their decision-making in all areas of their life including political matters, religious citizens *should not* afford their religious convictions this type of significance. This type of argument would essentially deflate the importance of religious commitment

and elevate the goodness of being a good liberal citizen and, by extension, the goodness of liberalism. As should be clear by this point, however, the resources to argue this point are not present within consensus public justification. It is limited to arguing for the propriety of a liberal democratic regime on the basis of public reasons. Yet, as Macedo (and Rawls) are well aware, political liberalism cannot defend itself in this way; it vitally depends on citizens' *having already* developed beliefs and dispositions that uplift liberalism to a sacred place in one's personal perspective. This is why Rawls attempts to mine what he takes to be the prevalent political culture to discover its core ideas. His basic claim is that the ideas he extracts from this public culture are the ones that have long secured the assent of a variety of citizens (or else these particular ideas would not stand out in the political culture). However, to the extent that either the particular ideas Rawls identifies as important in the political culture or the conception that he (and other consensus theorists) endorse are challenged by citizens, political liberalism will not have an easy reply. Private comprehensive doctrines must on their own develop support for political principles of justice. More importantly, in this case even from within the political perspective given Eberle's argument there is reasonable suspicion about what political principles may require citizens to do with respect to how this discharge their political duties.

A second way Macedo could defeat Eberle's argument is to admit that religious commitments do indeed have these traits, but insist that religious citizens must actively violate these obligations in order to enjoy the massive benefits of living in a liberal democratic regime. Here, Macedo would not argue that it is *fair* or *reasonable* to insist that religious citizens to act in this way, but rather that it is *necessary* for the continued successful existence of a type of polity that affords religious citizens much in the way of their ability to freely practice their religion. The caveat here is that religious citizens would not be able to have it all in the sense of honoring every religious obligation that they recognize as binding on them. The overarching idea here is one of trade-off; religious citizens would have to

reach the conclusion that political liberal polities give them the most expansive opportunity to practice their faith without undue interference from others. While ideally these citizens would want to be in a situation where there were no obstacles in society to their living in complete accord with God's will, they nevertheless accept that life in a liberal regime is the best they can hope to do under conditions of reasonable pluralism and, further, that the best in this case gets them a great deal. I believe this idea, if attractive at all, would be most attractive to adults with their fully formed (for the most part) comprehensive ideas of life and experiences to draw on in making a conscious decision regarding how much to adjust their religious practice to the requirements of political liberalism. However, I think this idea is less attractive when we consider the subset of adults who are also parents. Macedo's type of public schooling possibly derails children's journeys into full members of their parents' religion. As a result, children's future decisions about how much of their religious commitment to concede to a political liberal lifestyle may be undercut early on in their lives. Parents would seem to want to prepare their children in the strongest possible way for this tug of war between one's religious commitments and the benefits of assimilating to some degree into the shared liberal political culture. Thus, even though religious citizens might opt for liberalism in general as far as politics go, this will not extend to policies for public schools which might seriously interfere with a child's opportunity to invest fully in the parents' religious views and community.

## **2.7 Conclusion**

The liberal education that Macedo believes should be delivered by public schools I contend cannot be justified on terms set out by consensus public justification without overcoming serious challenges. The shared fund of reasons that it entreats citizens to use for the justification of political power, it seems, cannot even be motivated from the privileged political perspective of the original position. Furthermore, the transformative aims of liberalism that Macedo thinks public schools are instrumental in accomplishing run afoul



of key religious obligations that some religious citizens have regarding the upbringing of their children. Religious citizens cannot be roped into the collective goal of preparing their children to be liberal citizens of the kind envisioned by Macedo if this process presents a significant threat to their children's religious salvation. Yet the exposure problem maintains that this is exactly what is being asked of certain religious parents when public schools attempt to present children with ideas from outside the teachings of their respective religious communities. Although political liberals like Macedo wish to claim that there are ways to mitigate the presentation of different ideas and ways of life such that children will not be expected or pressured to accept these ideas as true, the exposure problem is premised on the idea that the very presence of "foreign" ideas in the minds of children without declarations of their falsity is too much of a catalyst for wayward thinking and behavior. Religious citizens reasonably hold that, given the consensus view, this state of affairs appears to threaten both their children's and their own religious welfare and thus it seems unobjectionable, from the perspective of consensus public justification, that they reject such public policies.

If the preceding argument holds, consensus public justification may not be best equipped to justify a system of public schooling. What of the convergence interpretation of public justification? In its most well developed form as articulated by Kevin Vallier, it agrees with the conclusion of this chapter that public schooling is not publicly justified. As we will see, one of the prevailing considerations of this chapter, the idea that parents' religious obligations play a key role in the justification of their children's education, will play a central role in Vallier's argument. However, my overarching argument is that a system of public schools can be publicly justified, given the correct interpretation of this idea. This interpretation will be based on a modified understanding of the convergence view and how we should understand, and protect, citizens' integrity. This positive argument will be laid out in Chapter 4. However, my task in the next chapter is to show that Vallier's claim that the convergence view rejects the idea of a system of public schooling is not supported.

### **3 THE CONVERGENCE VIEW: THE FLAWED CASE AGAINST PUBLIC EDUCATION**

In this chapter I will argue against Vallier's claim that parents' integrity reasons are sufficient to grant parents rights against state interference in the education of their children. In the course of my argument I hope to reveal an even more crucial tension within the convergence view of public justification regarding the idea of personal autonomy. In light of this, I believe convergence public justification cannot provide a neat answer to the question of how children are to be educated that will gracefully align with all reasonable religious parents' wishes as Vallier believes it can.

#### **3.1 Convergence and Education**

Although I believe that the convergence view does indeed do better with respect to protecting the integrity of adults, as I argued in Chapter 1, I am concerned that the convergence view as it stands lacks the appropriate resources to protect the development of children's integrity. In making this argument I will discuss the most developed version of the convergence view as presented by Kevin Vallier. I will show that his view is insufficient to protect the developing integrity of children because it permits parents too much discretion in the education of their children all in the name of protecting parents' integrity.

In the last two chapters (Chapters 6 and 7) of his book *Liberal Politics and Public Faith: Beyond Separation*, Vallier almost exclusively discusses the issue of education in arguing that the convergence view is more faithful to the core tenets of Public Reason Liberalism, one of the most prominent of which is the protection of citizens integrity. In Chapter 6, entitled "Reconciliation in Law", two out of three cases in which Vallier argues religious citizens were due an exemption from a coercive law were cases involving an

educational policy.<sup>1</sup> Chapter 7, entitled "Reconciliation in Policy", is entirely devoted to demonstrating how the convergence view should be decisively preferred over consensus for the public reason liberal with respect to how we should reform the system of education in the United States.<sup>2</sup> As Vallier's argument in Chapter 7 gives us the fullest expression of his views, I will mainly concentrate on explicating and criticizing it; this argument provides a deeper basis for the conclusions that he reaches in Chapter 6.

The central problem, according to Vallier, is that educational choices, including school districts, schedules, and school curriculums, are made collectively through democratic means (by elected or appointed representatives at the federal or state level as well as local school boards); in this case he believes parents are coerced into supporting educational institutions that do not reflect their core commitments regarding how their children are to be instructed.<sup>3</sup> Moreover, given that opting out of unwanted public educational choices is not really a viable option, parents have no real recourse to have their children receive their preferred instruction without incurring unfair burdens on themselves. Vallier contends that this is manifestly unjustified. Moreover, the fact that the representatives that make educational decisions (or officials appointed by these elected officials) are elected democratically is insufficient to render state coercion regarding education publicly justified. Democratic procedures, Vallier asserts, are only legitimate when a policy is a *contested interpretation of a publicly justified law*.<sup>4</sup> However, Vallier contends that parents' integrity reasons will

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<sup>1</sup>These cases are *Wisconsin v. Yoder* and *Mozert v. Hawkins Board of Education*, respectively introduced in the previous chapter. Vallier discusses the application of his convergence theory of public justification to these cases at some length in *Liberal Politics and Public Faith* on pp. 208-211 and 213-216.

<sup>2</sup>I assume Vallier would press his line of argument against any liberal democratic society which employed a system of public schooling.

<sup>3</sup>Ibid pp. 244-245.

<sup>4</sup>Gerald Gaus, *Contemporary Theories of Liberalism*, p. 216

not converge on an educational policy that allows the state to institute a system of public schooling. Although parents may agree that their children need some level of education, a system of public schooling whose policies are collectively decided by democratic vote will fail to be among the eligible set of educational proposals that are publicly justified.

What is the nature of the integrity reasons that parents possess which is offended by a system of state controlled public education? Vallier quotes Loren Lomasky to answer this question:

[H]aving children is often an integral component of persons' projects. And having children in whom one invests one's devotion is to undertake a commitment that spans generations and creates personal value for the parent that transcends his or her own span of life. Few people can expect to produce a literary or artistic monument, redirect the life of a nation, garner honor and glory that lives after them. But it is open to almost everyone to stake a claim to long-term significance through having and raising a child.<sup>5</sup>

The main claim here is that parents have significant investments in raising their children that constitute some of their deepest commitments. Here Lomasky details the profound significance for (most) parents not only in having children, but also in raising them. Parenting is an enduring project which does not end except under tragic circumstances, such as where one's children die prematurely or when the parent's own life ends. Moreover, parenting requires extreme dedication, patience and awareness as well as a deep concern for the well-being of one's child. Parents are strongly motivated to guide their children toward an optimally safe and rewarding life and this centrally involves "putting them on the right path"; in other words, parents seek to give their children proper guidance when it comes to discerning the right values, conduct and perspective on the world and truth. In addition,

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<sup>5</sup>Lomasky, *Person, Rights, and the Moral Community*, p. 167

child-raising engenders a sense of pride and accomplishment in parents; in observing how their children grow and act they are able to see the fruits of their labor and admire the people that their children are becoming (or become).

This is by no means is an exhaustive description of the importance to parents of having and raising children, but I believe that it is sufficient to clarify Vallier's contention that "[i]f we recognize the obvious fact that citizens' reasons of integrity often involve raising children, then it is easy to see how citizens could have defeaters for state intervention in child development."<sup>6</sup> Vallier's argument aims on to show that the state's intrusion in children's education through the avenue of compulsory public schooling is unjustified due to the fact that the coercion utilized by the state in these circumstances runs afoul of parents' integrity reasons to raise their children as they see fit. Public school policy appears to require a number of forms of coercion. It calls for compulsory schooling for a specific length of time during the day and a period of days determined by the state in a restricted location also determined by the state. Moreover, it forcibly takes money (in the form of taxes) from all parents to provide public schools with the funding necessary to operate. Yet, it is unable to accommodate the educational wishes of each parent by providing a curriculum that teaches their preferred values to their respective children since educational content and structure choices are usually made by a democratically elected school board.<sup>7</sup> Vallier contends that the state has no compelling justification for this type of coercion; it is certainly not justified in coercing children to attend public schools for the sake of molding them to become good liberal citizens as some political liberals like Stephen Macedo suggest.<sup>8</sup> Convergence public justification vehemently rejects the idea that there are any

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<sup>6</sup>Ibid p. 232

<sup>7</sup>Ibid p. 237

<sup>8</sup>Macedo, *Diversity and Distrust*, Chapter 10

political obligations that all citizens are subject to which each citizen does not have a sufficient integrity reason to endorse. Since quite obviously all citizens do not prioritize the goal of being a good liberal citizen over all of their other constitutive commitments, Vallier believes that it is a subversion of these citizens' integrity to have the state compel their children to attend schools that are designed to train them for exactly this purpose.

Parents' investment in their children, according to Vallier, is sufficient to give parents integrity reasons powerful enough to reject any form of educational policy that fails to match up with their preferred curriculum, especially with regard to values education. School choice is a publicly justifiable educational option because the state is removed from the production of education; under such a scheme the production of education now is regulated by a competitive education market with parents becoming consumers who seek out schools that best fit their vision for how their children should be instructed. The state can still play two substantive roles in educational policy under these circumstances, however. The first is that the state can ensure that all schools observe some set of minimum educational standards by providing accreditation. The second is by securing the opportunity for all children to attend school by allocating state funds for this purpose. According to Vallier, school choice eliminates the possibility of some citizens being coerced by collective decisions regarding educational policy that they deeply disagree with and cannot (easily) opt out of.

That parents have integrity reasons in the raising their children and that these reasons are sufficient to reject the current system of public education is the central claim undergirding both Vallier's support of school choice and his conclusions in two court cases in Chapter 6 where he finds that accommodations are justified in favor of parents public school policy. Moreover, this claim tells against any type of uniform education of values, including the liberal values of toleration and respect or of producing fair-minded and impartial citizens capable of articulating and scrutinizing the justification behind their political support in

terms of shared or accessible reasons.

Vallier offers one illustration of his argument by discussing two potential elements of a given school curriculum: teaching Intelligent Design (ID) and sex education. In the former case, he imagines having ID taught not necessarily as a form of science disguised as a competitor to the theory of evolution, but as part of either a theology or philosophy course aimed at investigating the limits of scientific practice. The point of this class would be to present a foil for the naturalistic premises that might underlie the presentation of the theory of evolution in a science class (for instance, the idea that there is no supernatural force responsible for evolutionary mechanisms). Now, suppose that the local school board issued a mandate to have ID taught in a separate class as mentioned above. Vallier believes that some religious parents would have conclusive reasons to endorse this mandate to combat a tendency of biology teachers to present the theory of evolution as not dependent at all on a supernatural entity. On the other hand, some secular parents may have conclusive reason to reject this mandate regarding the teaching of ID on the basis that they believe the course is a covert attempt to sneak religious teachings into public schools. We must remember that these parties' conclusive reasons are generated from the standpoint of their respective personal perspectives and *not* from some purportedly objective perspective aimed at discovering an objective truth. Although the secular parent's conclusion rejecting the teaching of ID may appear to be unreasonably risk averse (he is not willing to subject his children to even a cursory exposure to religious themes in school), it is still possible that his own evaluative standards, values, and beliefs combine to give reasons that are sufficient to justify his opposition to this policy. Moreover, we might characterize this scenario as just another instance of the exposure problem, this time for the perspective of parents who embrace a secular, as opposed to religious, outlook on life. In this case secular parents are wary of their children being taken by, in their view, the foolish superstition of religion. Thus, they endeavor to spare their children introduction to religious content they believe

might be too seductive to their underdeveloped minds. The main point by Vallier is that given that both sets of parents are compelled to have their children attend the same school and that both must contribute monetarily to the school, the fact that some are being coerced into having their children receive an education which is rejected by their strongest reasons is problematic on the convergence view.<sup>9</sup>

Moreover, consider the issue of sex education. Here again, we can imagine some religious parents preferring, based on their conclusive integrity reasons, that their children receive abstinence only education based on their religious perspective. Such parents might believe that discussing sex in an open and scientific manner is sinful and thus wish their children not to be subject to attending such a course. Contrast this position with that of the same secular parents from before who believe that extensive education on safe sex is part of a reasonable conception of health and thus want their children to take part in such a class. The general message of these two examples is that there are bound to be a whole host of issues, primarily involving values education, which parents will sharply disagree about due to their deepest convictions. Given that under the convergence view the strongest reasons from one's comprehensive doctrine either contribute to genuine justification of policies or justified rejection of them, Vallier believes that no single curriculum would be publicly justified for public schooling. He contends that the two examples he presents are just the tip of the iceberg when considering the myriad of issues that parents will not see eye to eye on regarding their children's education.<sup>10</sup>

While the presence of deep disagreement over the curriculum taught at the school one's children are compelled to attend appears troubling, one might think that the solution lies in some practice of accommodation. One suggestion might be to have children opt

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<sup>9</sup>Vallier, *Liberal Politics and Public Faith*, pp. 236-243.

<sup>10</sup>Ibid. p. 243-244.



out of programs and courses that their parents do not wish them to take. However, the method of opting out is untenable here for a variety of reasons. First, opting out of certain classes to have one's children receive specific instruction can unfairly burden parents. One might think a potential solution to the problem raised by Vallier is to allow, in the example of sex education, a child to opt out of the safe sex course and pay for an extra course focused only on abstinence only sex education. This suggestion is problematic, however, because parents must now pay for this special course *in addition to* the money that they contribute to the school itself via taxes. This is even more clear when we consider that those parents who have no (or less) qualms about the curriculum as is can avoid paying extra for their preferred instruction.<sup>11</sup> Moreover, although it is open to parents to have their children attend private schools where the instruction they receive is more congenial to their wishes, much the same problem arises as before; this requires that parents incur an increased financial burden for their preferred education of their children. Additionally, this further assumes that parents are in a financial position with a certain amount of income to be able to afford these options in the first place. Second, opting out of specific courses within a school can have negative effects for a particular child that her parents may wish to avoid. Vallier details this when he says that children who opt of a class that teaches ID may "have to pay the social consequences of separating herself from the class, and her Christian classmates may ridicule her."<sup>12</sup> Furthermore, we can imagine this opt out measure being compromised or mitigated by the fact that a child who opts out of the class will still most likely interact with the children who do attend it, thus blunting the effect of her absence from the class from a parent's perspective. Lastly, the provision of opting out would seem to be impractical, at least when talking about this strategy on a class by class basis. We can imagine for the case of sex education that it would not be terribly hard to have two

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<sup>11</sup>Ibid. pp. 245-246.

<sup>12</sup>Vallier, *Liberal Politics and Public Faith*, p.239

instructors on hand to teach two different versions of the course; however, the need for more resources, including teachers, is bound to multiply based on the number of topics that parents are likely to find issue with given any specific curriculum. Feasibility is also at issue in the aforementioned case in which for some parents, due to their financial situation, sending their children to a private school may simply not be a viable option.

Therefore, in the case of an educational policy of public schooling in which parents are compelled to send their children to a state controlled school in a certain area, fund the school in question, and where their children are subject to instruction according to a curriculum which they have little to no control over and which they lack fair and effective means of opting out of, Vallier believes that parents possess integrity reasons arising from their deepest commitments that defeat this public system of education. By defeat, Vallier means that these parents would prefer *no state controlled system of education at all*. To honor their diverse conclusive reasons that their children are owed some form of education, parents would prefer either instructing their children on their own or choosing who is appropriate to teach them.<sup>13</sup> On Vallier's convergence view, in cases where a policy or law is defeated by some citizens' conclusive reasons, thus rendering the policy or law unjustified for those citizens, a democratic vote is unable to render any interpretation or specific conception of that policy justified. Moreover, since protection of citizens' integrity, understood as their ability to live according to their core commitments, is itself a fundamental tenet of public reason liberalism, Vallier holds that school choice is the only educational system that is publicly justified.

However, I contend that Vallier's core claim is mistaken. I believe that children cannot be thought of simply as another one of their parents' core "projects" that they deeply

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<sup>13</sup>Ibid. pp. 206-208.

desire to see fulfilled and that this is sufficient to give them exclusive discretion over educating their children in whatever manner they see fit consonant with the guiding principles, beliefs, and values of their chosen comprehensive doctrines. Children have always had an awkward status in social contract theories and theories of public justification due to their lack of rational capacity and fully formed personality. This holds even for theorists like Gerald Gaus and Vallier who emphasize more "realistic" conceptions of integrity and rationality.<sup>14</sup> I believe this status is complicated by the fact that children are continually in the process of *developing their own integrity reasons*. As a result, I think it is inconsistent with respecting their eventual integrity to grant parents an all-encompassing role in shaping their education; children must, to some extent, be empowered to decide for themselves what their core commitments will be. Public justification loses some of its luster if it countenances parents forcibly generating clones of themselves. Convergence public justification has great merit in being responsive to the myriad reasons that citizens reasonably endorse as adults as it concerns justifying coercion to them. Nevertheless, it cannot allow those that will one day come to have integrity reasons to be so narrowly shaped that they have precious little influence over what these reasons for them turn out to be. In this way, I side with the contention made by consensus theorists discussed in Chapter 2 that public schools are a place where children can enjoy some measure of normative distance from their parents' instruction and where they can be taught to some extent the tools necessary for forming their own views about the constitutive components of their identities.

### **3.2 Vallier and Children's Autonomy**

It is notable that Vallier frames the educational debate as principally involving two actors: parents (or families) and the state. It might strike one as odd that he does not directly address the implications of particular educational choices for *children themselves*.

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<sup>14</sup>See Gaus, *The Order of Public Reason*, Chapter 9 and 13 as well as Vallier, *Liberal Politics and Public Faith*, Chapter 5.

One reason for his exclusive focus on parents and the state could be that there is an apparent connection between these actors and the idea of public justification. The idea of public justification appears meant to set the conditions of legitimation necessary to justify coercive action to adult citizens (which, for our purposes, we will assume parents to be). Moreover, in this particular case, the state is obviously the source of the coercive actions that stand in need of justification to certain citizens (parents). Adult citizens possess the currency of legitimation in their integrity reasons; by respecting these reasons potential coercers like the state show due respect for these citizens' freedom and equality. In contrast, one might assume that in general children do not possess integrity reasons (either because they have not yet had time to form any constitutive commitments or because other adults do not have reason to take their constitutive commitments seriously at such a young age). Thus, children lack resources to legitimate the coercion that they face (particularly from the state) and so such resources must be provided by others (their parents) on their behalf.

Another reason Vallier may omit a sustained discussion on how children, as obviously independent beings, figure into the educational debate is that he believes that total parental discretion in this regard does not undermine the fundamental interests of children. Vallier suggests just this reading in the course of discussing the justified resolution of the *Yoder* case on his convergence view. While he acknowledges that how children are treated in his view of public justification is tricky because they lack integrity reasons yet will develop them later on in life, he thinks that by and large parental decisions regarding children's education will not compromise their eventual integrity reasons.<sup>15</sup> In particular, he considers a suspicion that being raised in an Amish community might be inimical to the development of a child's integrity when he writes:

Suppose that being raised Amish prevented children from developing their own

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<sup>15</sup>Vallier, *Liberal Politics and Public Faith*, pp. 280-209

projects and plans; if so, we might have reason to resist Amish parents' wishes. While this may be a genuine worry in cases where, say, parents deny their children basic medical care, I cannot see that it applies to *Yoder* (or *Mozert*), where the well-being of children is not at stake. Being raised Amish does not debilitate a child's ability to make autonomous choices (nor does being denied access to a particular textbook, as with *Mozert*). For this reason, I believe we can set worries about the integrity of children aside for our purposes, which is to illustrate the convergence approach to religious exemptions<sup>16</sup>.

What is of significance in this passage is the precise notion involved in children developing *their own* projects and plans and making *autonomous* choices. Depending on how we understand these ideas, we may be led to reject both the idea that total parental control over the educational choices of their children is consonant with the proper development of children's integrity and the idea that children lack sufficient integrity reasons capable of imposing further conditions on the legitimacy of educational decisions made for them by external parties.

I intend to argue that Vallier must employ a far more robust idea of autonomy for children than he appears to accept in the passage above. Public justification's strong injunction against coercion cannot be confined to adult actors facing the overwhelming power of the state; it also must extend to children potentially facing the overwhelming power of their parents. While the convergence conception's reliance on citizens' integrity reasons does best to save adults from unjustified coercion by the state, it is the development of children's capacity for autonomy that protects them from undue coercive influence by their parents. Children must be given the opportunity to develop their capacity for autonomy to plausibly be said to have developed *their own* projects and plans in adulthood (their own integrity

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<sup>16</sup>Ibid p. 209

reasons).

### 3.3 Lomasky and Parental Rights to Educate Children

I will proceed in this section by examining arguments laid out by Loren Lomasky who agrees with Vallier that state imposed public schooling is politically impermissible. I use Lomasky as a close substitute for Vallier because he is more explicit about the relationship between autonomy and wide parental discretion over children's educational choices. More importantly, his theory is predicated on respecting the personal values of parents, an idea that roughly mirrors Vallier's insistence on the state's respect for parents' integrity reasons. I hope to show that the arguments I use against Lomasky's view apply in a similar way to Vallier. Ultimately, I wish to show that Lomasky (and by proxy Vallier) is wrong to think that complete parental control over children's education does not compromise children's autonomy.

Loren Lomasky, like Vallier, believes that parents have rights against state interference in the education of their children and thus shares Vallier's views on the permissibility of public schooling. He is more explicit, however, about the connection between children's independence and parental authority.<sup>17</sup> Lomasky is quite adamant that children are to be considered as independent beings and so possess rights of their own that cannot be violated by anyone, including parents.<sup>18</sup> These rights, however, are not mostly comprised of negative protections, including basic liberties of freedom of conscience and association, for example, as are adult rights; rather, they mainly include welfare rights, for example, rights to a certain level of safety and subsistence.<sup>19</sup> That children have rights against others to provide them with the basic necessities of life, Lomasky believes, is grounded in the claim

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<sup>17</sup>Lomasky. *Person, Rights, and the Moral Community*, Chapter 7.

<sup>18</sup>Ibid p. 172

<sup>19</sup>Ibid pp. 163-164.

that they will one day be "independent project pursuers". An independent project pursuer is one who "lives a life structured by abiding commitments that determine what will count as motivation toward action for that person".<sup>20</sup> Independent project pursuers develop deep commitments to particular aims and goals and seek to accomplish these through intentional action. Moreover, a person's projects "provide him with a personalintimately personalstandard of value to choose his actions by". His central and enduring ends provide him reasons for action that are recognized as his own in the sense that "no one who is uncommitted to those ends will share the reasons for actions that he possesses."<sup>21</sup> For Lomasky, individuals' commitment to certain values, beliefs, ways of life, relationships and principles provides fertile ground for a conception of basic rights, which include the familiar basic liberties espoused in liberalism.<sup>22</sup>

Lomasky believes that in order for parents to provide for the well-being of their children, thus honoring children's rights as prospective project pursuers, parents themselves must have rights against the state's interference in their child rearing practices.<sup>23</sup> Parents can successfully satisfy the needs of their children only if they are not subject to constant interference (or the threat of such) by the state. The exception to this principle occurs in two cases: either in the case of extreme abuse of children by their parents or when parents, for some reason or other, are unable to provide their children with basic necessities owed to them by right. Under these circumstances the state may properly step in and aid (or rescue) children in a situation that would ostensibly have a tremendously negative impact on their ability to form and pursue projects in the future. While this caveat means that parents

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<sup>20</sup>Ibid. p. 42.

<sup>21</sup>Ibid p. 28.

<sup>22</sup>Ibid p. 52.

<sup>23</sup>Ibid p. 172.

have less than complete authority over their children, as it turns out, Lomasky believes that a vast majority of child-rearing practices clear this hurdle and so are not to be subject to intrusion by the government.<sup>24</sup> Lomasky's view is conservative in this sense; unless a family's manner of raising a child is designed and intended to indoctrinate her or induce servility through the use of physically and psychologically abusive methods, the state has no standing to try to shape the attitudes, values or beliefs of the child for any purpose.<sup>25</sup> The state's hands with regard to the upbringing of children are, for the most part, tied. It is not allowed to impress its power on families for the sake of some greater good or act paternalistically toward children even on their behalf by compelling parents to abide by policies aimed at offering them the best possible upbringing.<sup>26</sup>

Based on the premise that parental rights of noninterference against the state are predicated on the ability of parents to satisfy their children's welfare rights, Lomasky views compulsory public schooling as a severe violation of parental rights in much the same way as Vallier.<sup>27</sup> Lomasky accepts that education of some sort is a vital need for children to enable them to pursue their own projects in the future. However, as long as parents seek to educate their children in ways that do not amount to forcing their children to be mindless followers or servants, Lomasky contends that the state must not intrude upon parents' preferred manner of educating their children. However, we may ask: does not this degree of parental control over children's education compromise children's autonomy?

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<sup>24</sup>Ibid pp. 173-174.

<sup>25</sup>Ibid p. 184.

<sup>26</sup>Ibid pp. 173-174.

<sup>27</sup>Ibid p.174.



### 3.4 Lomasky and a "Minimalist" Conception of Autonomy

Lomasky answers in the negative. He makes it clear that his idea of a project pursuer does not depend on a robust view of autonomy. In Lomasky's view, a robust conception of autonomy entails the idea that "[o]ne acts autonomously only if one decides on a course of action through rational consideration of the prospects before one, *and* if one is unconstrained by external influences that make one behave in a manner that was not freely willed."<sup>28</sup> Lomasky names both J.S. Mill and John Rawls, two liberal exemplars, as prominent proponents of this idea. Nonetheless, he rejects the idea that mature project pursuers must consciously subject their deep commitments to deliberative scrutiny to make them their own. In addition, he does not believe that a project pursuer can (nor should they) attempt to entirely extricate herself from her experiences, traditions and values in an effort to evaluate the merits of different ways of life from an "objective" point of view based on some impersonal standard of value. Lomasky thus regards this particular conception of autonomy as impractical and undesirable as an attribute of a project pursuer. It is impractical because, due to one's prior experiences, upbringing and the like, certain nonrational factors will always influence one's judgments no matter how rigorously critical one tries to be when deliberating about one's beliefs or values.<sup>29</sup> There is no such thing as a completely unconditioned judgment. On the other hand, it is undesirable because the attempt to make such unconditioned judgments threatens to alienate one from her deepest commitments and call into question her most fundamental sentiments as if they stand in need of justification.<sup>30</sup> This last criticism is reminiscent of Bernard Williams's "one thought too

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<sup>28</sup>Ibid p.43.

<sup>29</sup>Ibid p. 44.

<sup>30</sup>Ibid p. 44.

many” objection.<sup>31</sup> Williams’s worry centered on the idea that it is inappropriate to always prioritize the dictates of an impartial morality over one’s deepest commitments. Although we should not dismiss out of hand moral reasons if they conflict with actions prescribed by our projects, we must realize that in some instances our projects themselves provide us with sufficient reasons for engaging in certain actions even if an impartial morality would prescribe otherwise.

Similarly, Lomasky is concerned about what it means to question one’s deepest commitments for the sake of autonomous choice in the sense described above. Does not such questioning make tenuous our commitments by either opening them up to serious revision or diluting our support for them by evaluating their worth from an unfamiliar perspective? Remember, on Lomasky’s view of this ”detached” conception of autonomy one chooses his commitments unencumbered by previous attachments or relationships. Stripped of these, how is one to make a rational decision about which way of life is best? Lomasky believes that in order to make autonomous decisions in this way in the absence of personal value (the particular values, beliefs and views of the good one comes to have primarily through ones experiences, relationships, and exposure to specific cultures and traditions) one must rely on impersonal (or impartial) value, as in a view like utilitarianism. However, both Williams and Lomasky believe that personal value is prior to impersonal (or moral) value as one’s personal commitments are what provide her with her richest sources of motivation and desire (and, consequently, what lead one into conflict with others giving rise to the need for moral rules in the first place). These commitments make her who she is and provide her life with meaning. In Lomasky’s view, respecting others’ pursuit of their personal projects offers proper recognition of the ”separateness of persons”.<sup>32</sup> Individuality is understood as

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<sup>31</sup>Bernard Williams, ”Persons, Character, and Morality”, p. 18.

<sup>32</sup>Lomasky, *Persons, Rights and the Moral Community*, p. 53.

a person's particular commitments and attachments and the reasons and actions these give rise to. These reasons of course have a normative scope limited to the commitments that they spring from; Person A's commitments give A reasons for action that do not hold for Person B if B does not have the same list and priority of commitments as A.

Project pursuers occupy a special place in Lomasky's view precisely to protect personal value. If liberal theory is to provide true protection for individuals by affording them basic rights and liberties, it must recognize this amounts to ensuring that they can pursue their projects relatively free of interference from other entities, particularly the state, for their pursuit of their projects is the manifestation of their individualism. Liberal theory, then, cannot be predicated on the detachment view of autonomy, because if it were then this would fundamentally threaten one's projects (and so one's individuality and identity) by subjecting them to appraisal by impersonal (and impartial) standards that are themselves not necessarily adopted by the person herself. In addition, and more importantly, impersonal values attempt to make all projects commensurate by applying the same standards to them for evaluation in order to provide a basis for making objective and rational choices. Lomasky applies this same critique to the question of whether the state has authority to impose on parents standards for child-rearing aimed at providing children with the "best upbringing": "if some particular standard of the proper exercise of parental authority is given official sanction, personal value is crushed. A socially imposed impersonal standard of value impermissibly coerces those who see their ends lying elsewhere."<sup>33</sup> The same is true of a metaphysical impersonal standard of value employed in making "autonomous" choices. Both severely imperil pluralistic identity and individuality.

Given the preceding, it appears that Lomasky embraces what I will call a "minimalist" conception of autonomy. The minimalist conception of autonomy says that an agent,

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<sup>33</sup>Ibid p. 174.

A, is autonomous if (1) she is capable of developing deep attachments and commitments, (2) she is reasonably capable of pursuing goals and aims she believes are set by these attachments, and (3) she does not suffer from indoctrination or a calculated effort to induce servility by some other agent. This conception of autonomy only requires that an agent be able to live a goal directed life based on her deepest commitments, beliefs and values. Some level of rationality is obviously required for her to both recognize and be able to form rough plans to achieve her particular goals and aims. I say recognize, because the agent should be able to distinguish between her stronger and weaker attachments. This does not mean, however, that the agent must understand either *why* certain commitments are felt so deeply or their origin. Moreover, this level is far below a level of rationality that would allow her to critically engage reasons for adopting or maintaining her deepest commitments themselves. This conception is silent on how these deepest commitments are formed, save for excluding repressive processes of indoctrination or externally induced servility. The minimalist conception of autonomy sets a relatively low bar for ascriptions of autonomy as we might expect. This is important for Lomasky, because he believes that such a thin conception of autonomy is crucial to protecting individual personal value.

Lomasky applies this minimalist conception of autonomy to *both* adults (independent project pursuers) and children (potential independent project pursuers). Thus, parents do not interfere with the autonomy of their children by exercising exclusive educational authority over them. As long as children come to have ends to which they are deeply attached and for which they are capable of forming reasonably pursuable plans of action to reach these ends, the minimalist conception of autonomy is satisfied. Furthermore, both the personal value of the constitutive commitments of both parents and children cannot be, for the most part, morally impugned by others who happen to take up different commitments, beliefs and values.

### 3.5 Against the Minimalist Conception of Autonomy

Lomasky's focus on personal value as the ultimate source of individual rights and characteristic liberal protections from interference in one's personal pursuits by others appears to mirror in significant ways Vallier's version of public reason liberalism. The convergence interpretation of the idea of public justification that Vallier endorses similarly rests on the importance of the state respecting each individual by recognizing that their decisive reasons for action are drawn from their deepest commitments, which are not necessarily shared with others. Vallier's emphasis on the idea of integrity serves the function of ensuring that personal value factors essentially into the legitimation of coercive state policies. One's personal values and constitutive commitments are the source of her integrity reasons which, on the convergence view, arbitrate whether or not particular state actions are justified to an individual. This being said, I do not believe Vallier can adopt the minimalist conception of autonomy at work in Lomasky's idea of an independent project pursuer to justify exclusive paternal control over childrens educational choices. The reason for this is that the minimalist conception provides an unacceptable interpretation of autonomy for Vallier's purposes. Lomasky is weary of the idea of autonomy because he believes it subverts personal value (or, in Vallier's terms, integrity reasons). He finds this particular idea of autonomy highly problematic because he believes it decimates the unique connection to commitments that makes a project one's own. To repeat, the sense of ownership here is that one's projects generate reasons that provide one with genuine motivation and consequently normative force that does not apply to others (who are not committed to the same goals). However, views based on the detachment conception of autonomy that is predicated on impersonal values

[presuppose] a radically different conception of the relation between an agent and his own ends. If it is rational for B to advance E1, then it is rational for any other person to be motivated by E1 to the same extent and for the same

reason. E1 is acknowledged to provide reason for action because of whatever standing it possesses on the impersonal standard of value, a standard that is equally binding on all individuals. It follows, then, that whatever relation E1 bears to B *as an end that thereby provides reason for its own advancement* it also bears to C, D, or any other being subject to the demands of morality. B has no reason to advance E1 that everyone else does not share equally.<sup>34</sup>

If this is true, then this means that B's commitments fail to give B special and personal reasons for preferring to act for the sake of a project that are limited to her private perspective. She has no justified point of objection when, from the standpoint of impersonal value, her projects are deemed unworthy (or less worthy) of pursuit. Moreover, everyone should adopt the same (worthy) projects because they all have virtually the same reasons to pursue these given that this is what the impersonal standard of value prescribes.<sup>35</sup>

The delegitimizing of personal values as genuine, independent reasons for action is evident, Lomasky believes, whenever theorists suggest that autonomous choices are more suggestive of ownership of one's ends than the mere possession of these ends. He has in mind here philosophical theories that equate autonomy with adherence to a particular set of values or beliefs (rather than, say, performance based conceptions that construe autonomy in terms of the exercise of one's rational faculties). When agents act autonomously on these views, they are simply acting according to the "correct" social, moral or political conception. These views claim that when agents are rational and astutely perceive their circumstances they will see that there is but one option that expresses their true nature or self. The particulars, on these views, of what actually constitutes an autonomous choice change given the theory at hand. Lomasky gives as an example Marxists who view the autonomous

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<sup>34</sup>Ibid p. 33.

<sup>35</sup>This claim can be qualified a bit since differences in the individual circumstances that agents find themselves in might affect the efficacy of their efforts to pursue a particular end.

self as one who rejects capitalistic values which generate alienation, unlimited greed and destructive individuality in favor of socialism. Along these lines he notes that some critics will balk at the idea of parents wielding complete dominance over their children's educational choices, especially when this is paired with the control that they will already wield over other aspects of their children's lives. These critics claim that children's adoption of their parents projects under such domination will not be genuine; in other words, their embrace of particular projects will be evidence of "false consciousness" where these children will in fact be motivated to pursue particular projects primarily because of the strong and repeated influence of factors external to them and not because of any freely internalized grasp or identification with these ends. Lomasky's imagines someone leveling this charge against his view when he says,

[m]ight it be said that contentment with such a life evinces false consciousness? Well, of course it can be *said*, but what is the conception of veridical consciousness to which false consciousness stands opposed? Such a judgment will typically presuppose an impersonal standard of value to which, allegedly, all "fully realized human beings" subscribe. If they do not subscribe, that stands as proof of their being in a muddle from which they need extrication.<sup>36</sup>

Lomasky's concern with this type of objection is the comparison he imagines the critic to be making between false and true consciousness. He is skeptical of the existence of a privileged standpoint that would reveal "true" consciousness. Consciousness, that is, the meaning and value of deep commitments, attachments, values, and beliefs, is to be judged from the perspective of the person who possesses these, not from a purportedly external objective one. Theorists err when trying to apply some universal impersonal standard by which to judge meaning and value for all possible personal attachments. Instead of objectively identifying some "real" source of value to which all human commitments must bend,

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<sup>36</sup>Ibid p. 185

Lomasky charges that theorists that insist on the detachment view of autonomy are really projecting their own personal, partial reasons onto others as the standard of impersonal evaluation. However, the minimalist conception of autonomy, as applied to both adults and children, shields the transmission of values from the former to the later from this type of objection.

This being said, I believe that Lomasky's minimalist conception of autonomy is an unsuitable conception of autonomy for children. For one thing, Lomasky's position on the relationship between autonomy and personal projects is severely deficient in two respects. The first is that autonomous choice does not require an agent to abandon her personal perspective in order to inhabit a perspective bereft of deep commitments relying only on some impersonal standard of value to judge which projects are worthy of being taken up. An agent may reflect on his projects by measuring them not against a standard of impersonal value, but by judging them against his other projects and commitments. These commitments may be ones that she already actually has or they may be prospective projects that she is considering taking on in light of revising those that she already has. This is only possible, however, if we follow Meira Levinson in asserting that autonomy requires agents to possess a plurality of constitutive desires and values.<sup>37</sup> One significant reason why this plurality of deep commitments is necessary for the exercise of autonomy is that it provides an agent the space to critically evaluate any of his commitments by viewing it in the context of the attitudes, values and beliefs of another of his commitments. For example, suppose that I wish to reflect on the import of my career as a philosopher. To do this, I need not attempt to calculate the absolute worth of this project as measured against all other possible projects by reference to some impersonal standard of value such as the utilitarian conception of happiness. Instead, I may begin to judge my project of being a philosopher from the viewpoint of my other constitutive values, like being a good husband or making

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<sup>37</sup>Meira Levinson, *The Demands of Liberal Education*, p. 33.



a lasting impact on the world and so on. By judging the value of a career in philosophy from the perspective of my desire to be a good husband, for instance, I avail myself of a set of standards that are sufficiently different from those included in the perspective of being a good professional philosopher as to grant me real critical space when deliberating about the worthiness of this project. Moreover, I may vacillate back and forth between (in this case) the two commitments of a career in philosophy and being a good husband, respectively, evaluating each from the perspective of the other to reach a settled (if only temporary) conclusion about the relative importance of each commitment, how I should revise or modify each in relation to the other, whether the case remains undetermined (perhaps leading me to view the project of being a philosopher from another of my constitutive commitments) or, finally, whether I wish to abandon one of the projects all together. It appears, then, that I have a great deal of deliberative space in which to make autonomous choices about my deepest commitments, where each may be reviewed and revised, while continuing only to evaluate these commitments from within my personal motivational set.

Lomasky mischaracterizes autonomy in assuming that one needs to abstract from all external factors in order to make an autonomous choice. Autonomy consists in the ability and willingness to examine one's commitments, however they are formed, and evaluate their worth and coherence in light of one's other constitutive commitments. Autonomy stands opposed not to deep commitment, but to unreflectiveness. Accounts of autonomy that deal in the extreme form of abstraction present in a philosophical device like Rawls's original position may be flawed due to the minimal consideration they give to individual personal commitments, but this is because the perspective from which persons are asked to reflect on their commitments is deficient, not because persons are asked to be reflective about that to which they are committed. A commitment to autonomy, then, need not lead to a worrisome detachment and alienation from one's commitments. Yet this is precisely what Lomasky suggests when he says the following:

Consider the individual who has schooled himself to ask, "Do I really have good reason to carry around this baggage of commitment to friends and family that has hitherto shaped so much of my activity?" Or: "Perhaps I ought to work to overcome my visceral repugnance toward the torture of innocent persons if I could thereby improve my score on the utilitarian calculus." One who has come to entertain these reflections may be a person whose capacity for autonomous choice has expanded wonderfully; he may also have become morally corrupted.<sup>38</sup>

For Lomasky, this way of thinking is simply the wrong way to approach one's constitutive commitments. One should not attempt to transcend these values in an effort to properly appraise their "real" role and importance in one's life through an exercise of one's autonomy. This type of activity obscures the personal and legitimately *partial* importance of one's commitments such as fidelity to one's friends and family and repulsion and moral outrage at the prospect of torture.

However, once we see that exercises of autonomy need not consist in a total abstraction from a recognizably human perspective, under which it is necessary to import some interpersonal standard of value in order to have grounds to choose among prospective projects, we are less prone to thinking of autonomy as a threat to personal reasons whose normative scope may not extend past the particular projects taken up by a given individual. The negotiation between constitutive commitments present in decisions about one's actions and values suggested by Levinson seems to be a familiar activity in the lives of agents. Facing conflicts in one's deepest motivations is commonplace in human life. While it is true that introduction to new values and beliefs may endanger our commitment to those that we currently hold, this decision process happens within the broad human horizon of

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<sup>38</sup>Lomasky, *Persons, Rights, and the Moral Community*, pp. 33-34

values, not outside of it.

The preceding considerations can also allay another of Lomasky's worries about how personal autonomy operates. Lomasky contends that actual people cannot completely distance themselves from the subtle and varied influences that accumulate throughout their lives and inevitably play a key role in shaping their character and commitments. There is no suitably "objective" view point free from the human condition. Thus, he believes that "the idea of autonomy, is, more often than not, covertly used to oppose influences that the theorist happens to disfavor".<sup>39</sup> In other words, theorists use the idea of autonomy as a Trojan horse to smuggle in their preferred comprehensive point of view as the standard from which one makes autonomous choices. Nevertheless, if we view autonomy as roughly the conscious reflection, revision and maintenance of one's identity (one's deepest commitments) then we need not think that being autonomous specifies a particular set of values, thought process or way of life. This idea of autonomy is no threat to Lomasky's view of personal value as the product of simply developing commitments to projects. Persons can certainly exercise their capacity for autonomy and yet come to adopt many different commitments and projects which then generate personal reasons for action for each individual. We can go beyond Lomasky's implicit minimalist account and yet not threaten the significance or normative force of personal value.

Although I have pointed out some worries about the minimalist account of autonomy employed by Lomasky, I have not yet provided reasons why we should discard it in favor of a more substantive view of autonomy. The problem we must address now is this: why should we privilege commitments formed autonomously on this thicker view, that is, commitments chosen through a conscious process of reflection, deliberation, imagination, empathy and critical thinking? If simply being committed to projects is sufficient

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<sup>39</sup>Ibid p. 182.

to generate personal value and personal value is the linchpin of individuality, what special significance does a heightened capacity of autonomy have for individual project pursuers? Why should we attach significance to an agent's acting autonomously that goes beyond her personal attachment to guiding her behavior and belief formation in this way?

### **3.6 Children and The Value of Autonomy**

The minimalist account of autonomy may suffice for how the state should regard the value of autonomy with respect to adults; it seems obviously true that it would be wrong for the state to attempt to investigate each adult citizen's degree of autonomy before taking their personal values (integrity reasons) seriously when considering the legitimacy of prospective laws. Such actions by the state would undoubtedly undermine personal value if it proceeded in this fashion. However, this is *not* the case with children. I believe, following Meira Levinson, that the value of autonomy holds special and universal promise for children because it empowers them as adults to resist the domination they faced as children at the hands of their parents (or other authority figures). Children are dominated to the extent that they are not able to make virtually any choices for themselves in their formative years. Part of this degree of control is by and large necessary in order to inculcate in them basic principles of conduct and a system of values and motivations, as well as foundational beliefs. Nevertheless, because they are dominated by their parents, these gifts are received under an imbalance of power that they normally cannot resist. To tilt the balance in their favor in order that they may truly identify with the impulses, attitudes, feelings, actions and beliefs that they hold as adults, children must be given an opportunity to develop their capacity for autonomy. A thicker conception of autonomy is an essential value for children, then, because it is crucial in "giving individuals the ability in their adult lives to do what they could not do as children specifically, to determine their own values and to adopt a conception of the good with which they identify".<sup>40</sup>

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<sup>40</sup>Levinson, *The Demands of Liberal Education*, p. 48

I believe that Lomasky's embrace of the minimalist conception of autonomy, which functions to protect personal value and individuality, can be interpreted as elevating pluralism to a privileged position within liberalism. Lomasky's attacks on the detachment view of autonomy as he understands it are essentially against the unnecessary and inappropriate narrowing of plural choices regarding projects by judging their worthiness through a singular perspective rooted in an impersonal value. Anchoring an individual's evaluative vantage point in a theory like utilitarianism, for example, eliminates *real* plural choice of values, as the "right" option (in this instance) is simply a foregone calculation according to the central value of happiness (or preference) maximization, at least metaphysically, if not epistemically. Lomasky protects pluralism by imbuing a wide range of individual's prospective commitments with conclusive normative force; he strongly discourages interference, especially by the state, in the actions of individuals based on the premise that a general hands off approach will allow individuals to pursue and achieve their projects employing beliefs, values, and evaluative standards that are internal to their individual perspectives. Lomasky wants to ensure that there exists an expansive plurality of projects to which individuals may take up without the prospect of intrusion from others. The minimalist conception of autonomy helps with this aim, as it focuses mainly on goal-directedness and leaves little room for criticism or judgment from others about the merits of the goals or commitments that one develops. Widespread coercion by others, especially the state, as a result is undercut.

However, the problem with Lomasky's position is that serious coercive threats to personal value, identity and pluralism occur at much earlier stages in an individual's life than when she is a mature adult subject to the coercive power of the state.<sup>41</sup> His misunderstanding of this point is evident in his "Wilderness" example. In this example, Lomasky asks us to

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<sup>41</sup>Of course children are also subject to the power of the state as well as their parents.

[s]uppose that a group of adults goes off into the wilderness to establish a community where they can be true to the Word of their God. Years go by and children are born to them. The new generation is sedulously raised to be witnesses to this Word. Corrupting influences such as cinemas, saloons, the collected works of Marquis de Sade, philosophy departments, automobiles, and MasterCard are not permitted within the environs of the community. The children hear one voice and learn to intone it themselves. In due course they come to represent with full fidelity the beliefs and attitudes of their forebears. Children are then born to them, and the process of inculcation is repeated. Is this a morally permissible scenario?<sup>42</sup>

Lomasky contends that this indeed *is* a morally permissible scenario provided that the adults do not seek to inculcate their preferred values in children in ways that utilize physically, mentally, and emotionally abusive techniques. In other words, as long as they do not seek to induce a disposition of servility in their children, there is nothing objectionable about removing them from society in general and living secluded lives structured by the values and beliefs taken up by their parents and the community at large.

Moreover, Lomasky's strongest reason for this position appears to be that "outsiders" are in no position to authoritatively judge the relative merits of the upbringing of the children in this particular community. He believes that if we say that the adults in this case are not morally permitted to erect such a community free from external influences then "we thereby deny to this community of faith entitlement to give effect to that which most profoundly matters to them."<sup>43</sup> Those on the outside of this community effectively remove the choice of its founders to live as they see fit if they seek to judge and interfere with

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<sup>42</sup>Ibid p. 181.

<sup>43</sup>Ibid. p. 182.

the practices of this community based on the conclusions that they reach from within their own individual perspectives. In other words, there is no substantive objective (autonomous) view which outsiders can inhabit which would give them moral authority to interfere in any significant way with the operation of the community. To safeguard personal value, as well as plural ways of life, noninterference should be practiced, then, not only with respect to the actions of the adults in the community, but also the children as well. We must honor the minimalist rather than the detachment conception of autonomy.

However, as mentioned above, we need not use the idea of autonomy to level a perfectionist critique on the lives of others (through the detachment view), especially when we are considering the upbringing of their children. An assessment that there exists an obligation that children be afforded the opportunity to develop their capacity for autonomy need not be an indictment of the particular values and principles that parents seek to imbue in them, but rather can serve as an observation regarding the degree of their independence and individuality. This, to me, seems to be a more appropriate source of validation for their personal projects as opposed to their mere commitment to them. Equipping children with the capacity to overcome the coercion that they are subject to as children is not an aim covertly intended to direct the child in favor of particular projects over others. The development and exercise of a child's capacity for autonomy does not make her subsequently chosen projects *better*, in the sense of some conception of the good, it makes them *freer*. It is perfectly possible that children may, through the employment of critical reflection, comparative experience, and empathy, still remain committed to the same values and ways of life as their parents (though perhaps not in the same ways that their parents are committed to them). Nonetheless, the opportunity to develop their capacity for autonomy at a level above the minimalist conception is required to assert in any meaningful sense that children have come to "adopt" certain ideas or that their subsequent commitments in their adult lives are "theirs".

In this context, we must note that Lomasky misrepresents the extent and nature of parental coercion in his comments regarding the Wilderness example. The very structure of the parent-child relationship is replete with coercive pressures. To suggest that these pressures are only worrisome if they take the form of conscious attempts to indoctrinate children through extreme methods obscures the more subtle and sometimes more effective and far reaching ways in which parents exert high degrees of control over children. Consider for instance, the possibility that parents within a community might frequently employ "authority reasons" as justification for a child to take up a particular belief or value or to perform some action. I adapt Andrew March in defining an authority reason, at least in a religious context, as "a command based on a revealed text or religious authority."<sup>44</sup> March identifies this type of reason when forming a typology of religious arguments that are employed as political justifications. For March, these types of religious reasons are the most troubling when used as political justifications because they are "given in an authoritarian manner."<sup>45</sup> What does he mean by this? I believe that March's interpretation of these kinds of reasons is that they are of a type for which the speaker believes that there is no reasonable rejoinder. A person who offers reasons of this kind is not seeking to enter a deliberative discussion about the epistemological merits of her claim; rather, these types of claims are presented as indubitable. According to March, the attitude expressed by such a speaker is roughly "[o]ur revealed text has laid this down and we are not concerned about what effect this has on others or what they think about it."<sup>46</sup>

I contend that the use of these types of reasons by parents (and other authorities in an isolated community) is subversive of children's autonomy under circumstances in which

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<sup>44</sup>Andrew F. March. *Rethinking Religious Reasons in Public Justification*. p. 527.

<sup>45</sup>Ibid p. 530.

<sup>46</sup>Ibid. p. 530.



educational authority over children is not sufficiently divided. The problem with these kinds of reasons when issued by parents toward children is that they are doubly authoritative; they are authoritative practically as well as epistemologically. Practically, parents issue such reasons as directives to be followed, whether that means children taking on certain beliefs or performing certain actions. Given the general dynamic of the parent-child relationship, children are not at liberty to ignore or otherwise fail to comply with their parents' commands. They may face direct punishment if they do not act in concert with their parents' wishes or indirect punishment in the form of ostracism from their parents' favor and good graces. Epistemically, these reasons are treated as foundational; in the parent's view there is nothing left to question about their claims. Importantly, the questioning of such premises by children may be treated either as a form of ignorance or an outright moral failure. Moreover, children, who lack significant experience and knowledge, have little more interest than curiosity to motivate their queries. In such a situation, however, they quickly learn that their interest in satisfying that curiosity pales in comparison to their interest in being close to and accepted by their parents. This can lead to an "unnatural" acceptance of and acquiescence to (prompted by fear of parental rejection or admonishment) the values and ideas entailed by or that follow from these authority reasons. Additionally, parents undoubtedly enjoy a high degree of credibility in the minds of their children. Their testimony is often already taken at face value; and if it is not, they usually can stamp out continued questioning by their children by insisting on the veracity of the claims that make. This phenomenon is much more worrisome when parents enjoy full control over their children's education. Parents that employ such reasons are not likely to risk that others who exercise some modicum of authority over their children challenge their teachings. These parents have strong reason to choose educational institutions that replicate this same dynamic.

Furthermore, apparently benign actions of praise and encouragement can take on a coercive undercurrent under conditions where parents are the only or primary source for a child's self-esteem and worth. The coercion involved in parenting admits of degrees, but it is not always simply a function of parents' intent with respect to their children. To the extent that this is true, I believe we cannot be extremely confident in the "independence" of project pursuers who are raised in contexts where parents are not required to share educational authority over their children. Their children may well be capable of living and leading goal directed lives, structuring their discrete actions according to plans or patterns designed to achieve aims to which they are deeply attached. However, ignoring the formative conditions of these deep attachments is to turn a blind eye to potentially subversive and coercive circumstances in a way that is unjustifiably inconsistent with the attention that we pay, and the justification we require for, coercive conditions that adults encounter.

I conclude that Vallier may not adopt Lomasky's minimalist idea of autonomy to grant parents strong rights over the education of their children. Lomasky's view is deficient in that it does not acknowledge the coercive conditions inherent in parent-child relationships that often accompany the transmission of values and beliefs from the former to the latter. These conditions can compromise the integrity of children when they reach adulthood and thus to some extent undermine the spirit of the state's protection of "individual" personal projects. Vallier, for the same reasons, cannot employ the minimalist conception of autonomy to grant parents' integrity reasons ultimate priority in granting educational authority over children. Just like in Lomasky's view, children face the same coercive threats to their autonomy under Vallier's view. Vallier, too, must accept the conclusion that children are owed an opportunity to develop their autonomy in order to release them from their dominated state during childhood as adults.

It is worth repeating that Vallier's emphasis on protecting individual integrity in the process of generating legitimate law is very similar to Lomasky's commitment to the protection of personal value. On Vallier's view, integrity reasons are the components of the patchwork of conclusive considerations necessary for public justifications and also are capable of singularly delegitimizing coercive policies with respect to particular individuals (or the populace in general if enough citizens have conclusive reasons to reject a law). Their power to perform these functions stems directly from the fact that they represent the deepest motivations and attachments of citizens. Yet it seems wrong for a theory of public justification like Vallier's convergence view to tout its success in protecting the integrity of citizens while at the same time taking no substantive interest in how citizens' deepest commitments come to be, as would be the case where parents enjoyed virtually complete control over their children, including strong rights to choose their children's education.

### **3.7 Integrity and Autonomy**

This sentiment leads me to believe that there is a substantive relationship between integrity and autonomy. Integrity, as it has thus far been construed, concerns acting in accordance with one's deepest commitments. Thus, integrity is tied to a person's identity; one's deepest commitments inform one's character, beliefs, values and actions. They are what provide meaning and structure in one's life. However, as Cheshire Calhoun suggests, one does not act with integrity simply by acting in accordance with deeply felt impulses or desires. A critical part of acting with integrity, on her view, involves acting according to those desires and impulses one *endorses*.<sup>47</sup> Thus, acts undertaken based on deep commitments that one has failed to endorse do not indicate acts done with integrity. Endorsement is necessary for proper ownership of a commitment; it is a type of engagement with your strongest motivations that make them your motivations instead of alien motivations that you happen to act upon. What do I mean here by endorsement? For starters, endorsement

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<sup>47</sup>Cheshire Calhoun *Standing for Something*, p. 244.

is more than a positive self-appraisal of one's beliefs, values, or actions. I submit that endorsement here is nothing other than the acceptance, revision or discarding of certain deep commitments, attachments and projects based on one's critical reflection on them. In other words, endorsement occurs when one exercises one's autonomy. Otherwise, endorsement relies too much on attitudes, biases and prejudices given to an agent rather than *generated* by her. This type of non-critical endorsement invalidates her claim to *ownership* of the particular aims and projects she possesses.

Consider the following scenario: a male child who happens to be a member of a devoutly religious family develops a homosexual orientation. Let us assume that part of the comprehensive religious beliefs that the family at large endorses includes a total repudiation of homosexuality. Let us further assume that the child's most basic welfare needs are adequately met and that his family regularly communicates and demonstrates a profound love for him. Nevertheless, lacking the mental, emotional and economic independence characteristic of most adults, the child is constantly confronted by his family's strongly unfavorable views concerning homosexuality, including their repugnance at the very thought of being around persons who are gay or lesbian. On Vallier's view regarding parental rights over the educational choices of their children, the child in question would likely be made to attend educational institutions that reinforce his family's views. It is clear that in this case the child has little recourse to challenge either the opinions or the decisions of his family, even though these decisions are directly in tension with an impulse that most likely will coalesce into one of his deepest commitments, regardless of whether he eventually embraces a viewpoint similar to his parents or one that embraces a more positive view concerning homosexuality. The problem is neither that the child's parents have a negative view of homosexuality nor is it that his parents will exert some measure of influence over his own attitude towards his current disposition. The problem is that under conditions where parents enjoy both primary responsibility over the welfare of their child *and* exclusive discretion

over their children's education, children are subject to their parents' perspectives under extremely coercive conditions that have far reaching ramifications for children's identity and integrity. For instance, suppose that in this case the child grows into an adult loathing his felt desire to participate in homosexual relationships. Such an attitude induces a situation where this adult man is now warring against himself and possibly engaging in methods to attempt to rid himself of volitions he judges to be inappropriate. This in and of itself is not objectionable. What is objectionable is the idea that this man has been led to such an attitude by being confined to a certain set of experiences, values and beliefs under the direction of his parents when this attitude quite clearly is an integral part of his identity (those deep commitments that he endorses). To claim that this man is acting with integrity by embracing his felt desire to eliminate his homosexual feelings I believe is misleading. He has not been afforded the opportunity to decide for himself that his deep desires are unworthy of embrace.

The same veto that an adult would wield against the state imposing a particular set of beliefs on him the child lacks against his parents on Vallier's view; yet what is the justification for this asymmetry? If, in the first instance, a theory of public justification in politics is meant to protect one's identity from overwhelming coercive forces, why do we assume a child's family is less dangerous to her than the state is to an adult? It cannot simply be that it is part of this child's parents' projects to have their children become adults with particular qualities and beliefs. The parents' interest in their children having certain attributes should not outweigh their children's more fundamental interest in developing deep commitments of their choosing, commitments that will form the motivational basis and structure for much of their lives' most important decisions and actions. A principle that grants parents sole discretion over educational choices gives them the ability to control their children's potentially fundamental commitments while undermining their children's ability to later give their endorsement. This seems inconsistent with the sensitivity paid to

integrity reasons in the relationship between adults and the state in the convergence view.

### **3.8 Conclusion**

If the preceding argument is correct, then not only is Vallier wrong to believe that parents' enjoy exclusive rights to dictate their children's education, he must embrace the idea that children have a right to develop their capacity for autonomy so that they may have the chance to choose their deepest commitments. The integrity reasons yielded by these commitments are reasons the state will then be bound to observe in its wielding of political power when they reach adulthood. I must note at this point that this conclusion seems to strike a critical blow to Vallier's desire to fully "reconcile" the views of religious citizens with a theory of public justification. Vallier's hope is that the proper conception of public justification, on his view the convergence interpretation, will bring the views of religious citizens into complete harmony with the conclusions of a theory of public justification. In particular, he happily claims his stance that citizens' integrity reasons can repel coercive legislation is friendly to those with deep religious convictions and who take themselves to have conclusive reasons stemming from these to reject state policies with which they come into conflict. Locating the fulcrum for justification within individual citizens' comprehensive perspectives, rather than in purportedly shared principles of justice as consensus theorists like Rawls and Macedo do, certainly appears to give his theory of public justification greater sensitivity to reasons that are strong, yet whose normative reach may not extend to the entire citizenry. However, as mentioned above, the principal demonstration of the reconciliation between the views of religious citizens and convergence public justification comes by way of Vallier's arguments that parents should enjoy exclusive control over the education of their children. If this claim is unsupported, as I have tried to show, then the prospects for harmony between a theory of public justification and the views of religious citizens seem much bleaker. Such citizens may in some sense remain in perpetual conflict with the idea of public justification if it insists on giving children

the opportunity and resources to make up their own minds about their own lives, as they anticipate that the development of their children's autonomy will lead them astray from certain religious practices, teachings and traditions. Nevertheless, parents with religious convictions stand roughly in the same relation with their children as they do with other adults in the wider society; just as they do not have justification to exert overwhelming coercive influence over others' beliefs, values and actions, they are not entitled to dominate their children in ways that compromise their children's ability to form their own identity.

This observation leads to a more serious question: does the presence of a substantive commitment to autonomy on behalf of children compromise the central premise of public reason liberalism? For instance, if the state is empowered to educate children to enhance their ability to be autonomous then a whole range of policy decisions which many citizens seemed poised to reject would at the same time appear to be legitimate at least with respect to the issue of public education. However, the idea of public justification is surely aimed at lessening or eliminating vast schisms between citizens' private views and appropriate state policy. Perhaps distressingly, at this point in my discussion I have argued for an apparent widening of the chasm between the integrity reasons of some citizens and public policy. Religious citizens who are parents are not likely to look kindly upon coercive laws that are designed to develop their children's autonomy in ways that may cause these children to rebel against their parents' teachings. Nevertheless, I will show in the next chapter that parents have no legitimate quarrel with public education policies which are implemented to foster their children's autonomy. Though these citizens may not be thrilled with the results of such policies, I contend that these policies are consistent with a faithful commitment to the idea of public justification in politics.

#### 4 RECONSIDERING CONVERGENCE: THE IMPROVED CASE FOR PUBLIC EDUCATION

In this chapter I will tie up loose ends that I left dangling from previous chapters as well as try to correct what I see as a critical flaw in the approaches to justifying a system of education for children present in my discussions of the consensus and convergence view with respect to this topic. In particular, I will confront the exposure problem from Chapter 2 in regards to justifying a public school education. In the course of doing so I will draw on considerations from Chapter 3 concerning the importance of the value of autonomy for children. This argument will reinforce the idea that a system of public education in a reasonably pluralistic liberal democratic regime cannot be publicly justified with respect to versions of this idea that we have thus far considered. The justification for public schooling is based on the idea of what I call "self-creative" autonomy and its role in allowing children to choose their own identities. This kind of autonomy is what allows the commitments and values that they come to adopt later as adults to be properly described as *theirs*. This is crucial, because it is these commitments that will become the foundation of their integrity reasons pertinent to their future justified use of their political power as well as their legitimate political obligations. The detailed accounts of Public Reason Liberalism I have examined so far are deficient in that they ignore the significance of creating and maintaining conditions where children not only develop into self-directing citizens (or moral agents) but also can claim ownership over their deep commitments that give rise to the laws which they legitimately can be expected to follow. Protecting integrity, on my view, includes protection for avenues of developing both senses of autonomy. Since protecting the integrity of citizens is of paramount value in Public Reason Liberalism, I argue that



parents have reason to support the development of children's self-creative autonomy and that ultimately this reason undermines any justified moral opposition to a system of public schooling.

#### **4.1 Current State of the Discussion**

In Chapter 2, I argued that the consensus interpretation of public justification faces significant obstacles in publicly justifying a system of public schooling. One of the main reasons that I took this stance was due to what I called the exposure problem. To recap, the exposure problem concerned religious citizens' claim that a coercive state policy requiring their children's attendance in public schools is illegitimate. These citizens reasoned that their children's (prolonged) exposure to ideas, values, and ways of life contrary to their own without an attendant denunciation of these ways of life would violate their rights as free and equal citizens. The crucial claim behind this conclusion is that this exposure could lead to serious violations of both parents' and children's (eventual) religious obligations and (or) welfare. From this claim, and Eberle's strains of commitment argument, (which held that participants in the original position would choose against principles that required them only to rely on public reasons to establish the legitimacy of the use of political power and obligations) I concluded that consensus public justification cannot easily support public schooling.

This conclusion would seem to give those that support a total abolition of a system of public schooling in favor of only private schools an advantage. And indeed, we saw that Vallier embraced the convergence theory of public justification to argue just this point. The apparent absence of a sufficiently deep agreement on common aims and values seemingly requisite for a system of public schooling sets the stage for parents' educational preferences for their children, rooted in their fundamental commitments and beliefs, to take prominence in shaping the structure and content of children's education. However, against this claim I argued that this level of control by parents over their children's education would too

severely imperil their children's ability to become autonomous. The sense of autonomy that I outlined, which I call the "self-creative" sense, would require children to be able to engage in significant reflection and deliberation about their motivations, values and beliefs. Only in this way, I suggested, would children be able to define their own identities as adults and mitigate the coercion to which children are regularly subject to as a result of their undeveloped rational capacity and powerlessness.

Nonetheless, we are left at a crossroads. The exposure problem makes it unclear how a system of public school education could count as publicly justified to diverse sets of parents. However, at the same time, the value of self-creative autonomy to children in enabling them to develop the capacity to choose their future identities seems to suggest that, ultimately, parents can only press their educational claims based on their perceived religious obligations so far vis-a-vis their children. In other words, these religious obligations cannot undergird total parental control of a child's educational options. However, the question before us now is does this claim impugn parents' integrity? If by integrity we mean the ability to act from one's deepest commitments that she endorse, many believe that parental integrity will include wide discretion to make virtually all decisions involving their children, with decisions regarding their children's education foremost among these. Parents, so the claim goes, in the midst of choosing, revising, and adhering to their own commitments, must also be given the right to determine to a significant degree their childrens upbringing and that of course centrally involves what their children learn. The consensus view attempts to wed the idea of integrity with the idea of being a good liberal citizen. However, I argued that this strategy could not succeed, especially if it relies on the device of the original position to generate political principles of justice. Still, my argument in Chapter 3 appears to undermine the permissibility of allowing for total parental control of education by positing reasons related to the autonomy of their children.

The problem with my positive proposal as it stands is that one might think parents have no reason to accept considerations related to the robust development of their children's autonomy. State compulsion of parents to comply with a public system of education must seem unjustified from the perspective of parents who believe that their and their children's religious fortunes are threatened by educational policy designed to serve this purpose. Is the use of political power in this manner simply a naked use of force in service of a controversial view of the good for children? Or can religious parents legitimately be called to account for trying to shield and isolate their children from experiences and education that may significantly decrease the possibility that they embrace their parents' religious beliefs and ways of life yet empowers them to be the architects of their own motivational sets?

#### **4.2 Moral Freedom, Equality and Social Morality**

Although the questions of integrity and the permissibility of public schooling have so far been conceived as political questions, I believe the answer to these questions relies on a deeper understanding of what grounds our concern for integrity and public justification. To investigate this question I will rely on elements of Gaus's conception of social morality. A key component to this conception is how we should understand moral agents as free and equal. As we have seen, the notions of freedom and equality are paramount in the idea of public justification. So far these ideas have manifested themselves in the form of the integrity of citizens: the idea that each citizen should be free to act on their reasons emanating from their deepest commitments. The Principle of Public Justification serves to ensure that this condition is met by coercive laws requiring that these laws are justified to each citizen that is subject to them on the basis of reasons grounded in her personal perspective. However, so far we have taken the idea of citizens as free and equal at face value, as simply a familiar presumption that must be granted regarding citizens in a modern liberal democracy. Nevertheless, Gaus provides an account of the deeper foundations for

conceiving citizens as free and equal and by examining this account, I believe we can connect the dots regarding why parents must cede (some) authority when it comes to making educational decisions on behalf of their children.

The crux of Gaus's account rests on the premise that moral freedom and equality are presumed by our social moral practice(s) which centrally involves moral emotions like resentment and indignation.<sup>1</sup> Gaus believes that observation of how social morality works reveals the significance of the moral emotions to its operation; morality is not simply about reasoning from certain premises to certain conclusions, but, rather, is characterized by certain attitudes that moral agents take toward each other. When others violate what I see as a moral norm, my judgment that this norm has been violated gives rise to feelings like resentment and blame.<sup>2</sup> For Gaus, morality is as much *affective* as it is *cognitive*.<sup>3</sup> There is an indelible link between my judgment that some agent, J, has violated a moral requirement and the manifestation of negative moral emotions like resentment toward J. However, for my resentment to be appropriate toward J, certain conditions must obtain. In other words, there are constraints on my judgment that J has violated a moral requirement. For instance, suppose I judge that J has violated a moral requirement by failing to go to church on Sundays. I believe, given my personal set of commitments and values, that everyone has been obligation to go to church on Sundays to properly honor God. When I learn that J has not gone, I seek to morally criticize him, offering him what I take to be reasons to comply with a rule that he should go to church on Sunday. J, however, does not acknowledge his failure to go on church as an abrogation of a duty. He disagrees that he should or can be held *morally* accountable for not going to church on Sunday as I claim.

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<sup>1</sup>Gerald Gaus, *The Order of Public Reason*, pp. 223-224.

<sup>2</sup>Ibid pp 190-191.

<sup>3</sup>Ibid p. 218.

Now, further suppose, based on J's reaction to my moral criticism, I develop resentment toward J. Are my feelings of resentment valid?

As mentioned earlier, Gaus believe that there are appropriateness conditions for moral emotions like resentment. He contends that these attitudes entail that a justificatory structure holds between myself and those whom I would direct my resentment (and indignation and blame). That justificatory structure is the following: my moral emotion of resentment is only appropriate to the extent that I believe that J *has reason* to comply with the rule which I judge him to have violated. Thus, my resentment is predicated on a belief that J has flouted a requirement which he has reason to endorse. If J *does not* have reason to endorse the rule in question, then Gaus believes I have no grounds to morally criticize him or make a moral demand that he conform to the rule of attending church on Sundays. Thus, my feelings of resentment toward J would not be appropriate. I may be disappointed or dissatisfied with J, but I have no basis for morally condemning him or demanding that he act according to a rule which I view as having some propriety.

The justificatory structure of moral emotions, then, reveals the way in which we should understand both moral freedom and moral equality. We are morally free insofar as our actions are to be guided by *our own reasons*; J is morally free to not attend church according to my demand given that he has no reason to endorse this rule. Moreover, we are morally equal insofar as the reasons of each agent are determinative of what they are morally required to do. My resentment toward J is not legitimate if he fails to have reason to comply with a rule (or principle) that my purportedly moral demand is based on. The reason for this is the nature of moral authority. If I claim to make a moral demand on J's actions I am making a very weighty claim: I am claiming that J has reason to conform his action to a rule which overrides his rational pursuit of whatever desires, values and goals are included in his motivational set. I am saying he should set all of his other concerns aside and act in the way that I am prescribing. In other words, I am claiming authority to direct

his actions in accordance with some norm (in this case, the norm of attending church on Sundays). But how do I obtain this authority over J? This is a puzzling question, especially given the fact that we have supposed that J and I are moral equals. Gaus answers that the only way I can legitimately exercise moral authority over J, yet still treat J as an equal (that is, not override J's authority over himself) is if J endorses the rule on the basis of which I make my moral demands. If J has reason to endorse this rule, then even though I am the one making a moral demand, I am simply asking J to obey *himself*. It is he who has committed himself to following the rule *from his own perspective*, not me from my own. In this way, Gaus asserts, J remains morally autonomous over himself, yet I also gain standing to demand that J follow those rules to which he has rationally committed himself (given the total set of his reasons). J remains morally free in that his actions are only directed on the basis of his own reasons which ground a "sense of obligation" and he remains morally equal to me in that his reasons are determinative of his moral obligations as my reasons are determinative of mine. J gives me the standing to morally demand his compliance through his own reasons to endorse a rule when I (correctly) judge that he has violated this rule.

Thus, the proper way to interpret moral agents as free and equal is embedded in the moral emotions which constitute our social moral practices. More specifically, our moral emotions suggest the following principle must be met in order to appropriately develop feelings like resentment toward others:

The Principle of Moral Autonomy: A moral prescription is appropriately addressed to [another moral agent] only if she is capable of caring for a moral rule even when it does not promote her wants, ends, or goals and she has sufficient reasons to endorse the relevant rule.<sup>4</sup>

The Principle of Moral Autonomy (PMA) sets the condition on which I may legitimately

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<sup>4</sup>Ibid p. 223.

make moral demands of other moral agents. Before seeing how this discussion bears on the social moral relationship between parents and children, I want to say a little more about the affective aspect of legitimate moral claims as expressed in the PMA. As seen above, the PMA includes two conditions: (1) that a moral agent "is capable of caring for a moral rule even when it does not promote her wants, ends, or goals" and (2) "she has sufficient reasons to endorse the relevant rule". So far I have highlighted in Gaus's account the importance of a moral agent's reasons to the establishment of valid moral obligations he bears. However, as important as it is for him to see that there are reasons *for him* to comply with a moral rule it is similarly important for him to see this rule *as his own*. That is to say, he must *internalize* the rule in question.<sup>5</sup> He must be capable of feeling an "internal ought" that compels him to follow the rule which is based in his reasons for doing so. This internal ought is an emotional attachment to a rule such that our violation of it, if it is endorsed by our reasons, evokes guilt within a moral agent. This is the sense of "caring" referred to in the PMA. This is necessary, on Gaus's account, for moral agents to adopt rules as their own such that moral demands made by others (or themselves) are accorded the proper authority to direct their actions in spite of potential costs to their strategic pursuit of other things they may want. This aspect of moral autonomy, I will argue, is instrumental in showing that parents have reason within their own perspective to support the development of their children's autonomy.

### **4.3 Parenting, Moral Practices, and Internalization of Norms**

Parents, we may assume for the purposes of this discussion, by and large judge the primary function of child-raising to be that of teaching children what is good and how to live. Most often these parents' beliefs concerning both of these ideas derive from their own settled judgments on these matters which rely on their experiences, values, interests, and

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<sup>5</sup>For some of Gaus's discussion of the necessity of internalizing rules for the practice of (social) morality see pp. 204, 212, 214 and 217.

aims. They seek methods to cater their children's upbringing so as to ease the process in which children come to adopt their judgments about what is good and bad, what is right and wrong. On Vallier's view, as I discussed in Chapter 3, parents' integrity reasons are rightly determinative not only of their own actions with respect to their conduct regarding themselves and others, but is authoritative over how their children are to be raised, including the particular type of education they are afforded as well as the educational institutions they are to attend. In other words, using Gaus's framework, other moral agents lack the standing to demand that children's parents educate their children in ways that parents judge as inconsistent with the commitments and values that they see as appropriate for child-raising. In particular, it is a violation of parents rights for the state to demand (and coerce) parents in order to get their children to attend public institutions of learning which operate on the basis of curriculums parents believe will be harmful to their children's attainment of (their interpretation of) the correct conception of goodness or rightness. Vallier claims legal (moral) demands to this effect simply do not hold any authority over parents who purportedly do not have reasons to endorse such laws. Following Gaus, Vallier believes insisting that parents comply with such laws equates to simply forcing them to conform to an authority (the state) without justification from their perspective.

Nonetheless, I believe parents have reason to (1) allow their children to experience ways of life, values, and commitments that are not straightforwardly supportive of what they judge to be good or right and (2) to support a public school system aimed at developing their capacity for autonomy. Presently I will defend (1); I shall attend to (2) later on in the chapter. Concerning (1), the question is this: what reason do we have for thinking that parents, given their particular set of commitments, have reason to educate their children in ways outside of, and sometimes contrary to, conclusions about the world that they wish their children to adopt. It is here that we must return to ideas regarding our social moral practices and the proper structure of moral authority. Given Gaus's account, parents are



not, strictly speaking, in a relationship of moral equality with their children; remember, moral equality consists of each moral agent binding themselves only according to their own reasons. Moral equals are morally autonomous: they can both care for rules such that they are willing to follow these rules despite the fact that these rules may conflict with their other interests as well as recognize that they have sufficient reason to endorse these particular rules. As we might expect children, especially young children, do not seem to qualify as morally autonomous. While they can be adept at recognizing reasoning aimed at providing a justification for this or that rule, they seem to be incapable of internalizing rules in the sense of coming to care for them as the Principle of Moral Autonomy deems as necessary.<sup>6</sup> They cannot form a sense of obligation to rules in which they feel an internal ought that tells them that failure to comply with a certain rule counts as a failure of their (self-imposed) duty. Consequently, the moral emotions are undercut in relation to (young) children. In lieu of their affective deficiencies regarding internalizing rules, it is inappropriate for mature moral agents (adults) to feel resentful or indignant toward them or, in the same vein, for children to feel guilty for failing to abide by rules given to them by their parents.

However, despite this moral inequality, parents put a great deal of effort into inculcating their children with certain beliefs, values, conduct and attitudes. Though they might not be capable of making moral demands on their children, they often attempt to shape their children in ways which would make them susceptible to acknowledge certain rules as moral requirements later on in their lives. They present them with what they take to be moral rules, as well as introduce to them (eventually) to what they take to be the best justifications for these rules. Moreover, they also have a hand in crafting their children's affective responses to acting in accordance with, or violating, rules they wish their children to follow. Combined with their proximity to their children as well as natural affection that

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<sup>6</sup>Ibid pp. 214-217

manifests between parents and children, parents have a great capability of creating significant parts or aspects of their children's identities. They contribute much to the conditions making up the Principle of Moral Autonomy regarding their children: it is primarily their emotional responses, especially early in children's lives, that children will likely come to mimic and intone with regard to specific rules and conduct. Additionally, it is parents' commitments and values that (at least initially) children absorb and take to count in favor of directing their own behavior.

The influence that parents can have cannot be overstated in preparing children to be morally autonomous in the way that is captured by Gaus's principle. However, the depth of their influence on children's lives reveals that it can be potentially problematic under certain conditions. Those conditions include a state of affairs where parents are granted the authority to make all the decisions for their children, including educational ones, as Vallier suggests. The problem is that given this type of authority over their children, parents have too great a measure of control over the constituent parts of their children's moral autonomy. This control infects the notion of self-ownership that is present in Gaus's principle of autonomy: the sense that an agent *himself* cares for a rule or that he sees that he has sufficient reasons for complying with a rule.

Gaus alludes to this conclusion when discussing an extreme abuse of the kind of control that parents wield when given the type of authority over their children that Vallier recommends: this of course are cases in which a person is indoctrinated.<sup>7</sup> Indoctrination (or "systematic perversion" as Gaus calls it) can 1) completely undermine a (moral) agent's capacity to evaluate her reasons or 2) significantly reduce the range of concepts that she can access when evaluating whether or not one has a moral requirement to act in some way. The consequences of indoctrination are certainly harmful to the moral autonomy of moral

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<sup>7</sup>Ibid p. 218.

agents; it renders agents unable to meet the Principle of Moral Autonomy. As a result, the (public) justification of some moral rules may be absent with regard to these agents. They cannot see reasons, from their own point of view, that would cause them to endorse a rule and come to care for it in ways characteristic of the moral emotions requisite for our normal practice of social morality. However, the problem with indoctrination, of course, is that, as Gaus says, it represents a "perversion" of the agent's reasons. The diminished range of evaluative capability or diversity of commitments is *externally imposed*; they are not the result of a genuinely free series of choices or reflections made by the agent in question. It is also worth noting that the methods used to indoctrinate an agent need not be severely cruel or abusive. No doubt that some persons have chosen such methods to achieve their goals of hijacking the psyches of others whom they sought obedience from. Yet gentler methods, like hypnosis for example, are just as worrisome if not just as impactful. The possibility of indoctrination highlights a larger concern with the process in which agents adopt their constitutive commitments which become the foundation of ability to act autonomous (and, as I will argue, with integrity). While Gaus makes the point that, in the end, indoctrinated agents and normal agents who simply possess different moral sets can have reasons that invalidate moral demands we attempt to make on them, there is a clear difference between the cases that arouses a moral concern. We may lament those that simply have formed, through their own freedom, motivational sets that contain personal goals, values, and beliefs that, from our perspective, fail to yield reasons for compliance with rule which we think should have moral force. However, our reaction is appropriately different toward those who lack reasons to comply with moral demands we attempt to make on them, yet who we believe lacked sufficient freedom to generate their set of commitments, and the reasons that arise from them, on their own. The strong presence of external interference looms large in the indoctrination case and it is this interference, rather than the result of it (inability to make certain moral demands of indoctrinated moral agents) that calls for our moral

attention. In order to respect agent's moral autonomy, their ability to freely act from *their own* constitutive commitments, we should condemn practices of indoctrination and seek to eliminate them as best we can.

While I balk at calling the practice of parenting a straightforward case of indoctrination, I do believe that a state of affairs in which parents are given total control over their children's educational decisions too closely approximates some of the more worrying features of a process of indoctrination. Under such conditions, parents can have too high a degree of logistical, emotional, and rational power over their children as to either erode or completely nullify their ability to choose their own identity in any significant way. Parents can principally control where their children go, who they spend time with and often the manner in which this time is spent, the range and depth of emotional attachments and responses to which their children will be exposed to and often imitate, as well as the sets of considerations that their children consider to be worthy and relevant to making evaluations about the world and the actions and beliefs of other agents. Moreover, none of this need be done through the use of harsh corporeal punishment or other abusive techniques. Parents may satisfy all of their children's sustenance needs and refrain from physically harming them, yet still critically interfere with their children's development of autonomy. Again, it is not necessarily *what* set of ideals, values, and beliefs children, as adults later in life come to embrace as their deepest motivations and reasons for action that calls for attention; it is the process by which they come by these that presents the problem. This is especially the case as those principally driven to adopt their motivational sets under conditions that undermine their freedom to choose its contents using their own capacity for autonomy will usually be unable to see them themselves as unfree in the way that others will.

I want to emphasize that the intent of parents regarding their child-raising practices is mostly irrelevant if I am correct about the extent of parent's control over the various dimensions of their children's development under a condition in which they have the right

to reject interference by an external party like the state with respect to how their children are educated. Even given the fact that parents wish only to bring their children up in a way that reflects (what they take to be) the best way to live, only introducing their children to those ways of life and considerations which (they take) to be worthy of adoption, this is still insufficient to yield to children sufficient ownership over their identities in a way that I am proposing is requisite for the proper protection of their integrity. While damage to children's developing autonomy may occur in degrees, depending on the precise content of what their parents try to instill in them and the manner in which they do this, children's ability to freely develop their autonomy remains in peril in a state of affairs where their parents have the moral authority to choose alone how, where and to what extent their children receive education.

#### **4.4 The Proceduralist Conception of the Reasons One Has**

So far I have relied on Gaus's conception of the foundation of the freedom and equality of moral agents as grounded in the moral emotions which are constitutive of our normal social morality. Embedded within the moral emotions and attitudes that form these practices is a justificatory structure which at the same time appoints an agent as a moral authority and at the same time renders him a moral subject. The condition for both roles is that he is able to internalize rules or laws that he has sufficient reason to endorse given his personal perspective. If this condition is met then these rules are moral rules, with all the force that morality is thought to bring to bear on the appropriateness of our actions in a given situation. However, I have suggested that children, while perhaps incapable of employing these roles, and thus not able to recognize moral requirements or have moral demands directed at them, still draw our moral concern from the standpoint of our social moral practices given that others actually occupy positions which can critically influence how they, later on, embrace their moral authority. The Principle of Public Justification, which emphasizes the idea that justification is owed to each citizen given their (reasonably)

unique perspective that is subject to a coercive law, is an implication of this prior structure of moral justification. It replicates at the political level the idea that to be subject to a moral requirement which claims the authority to direct their actions a moral agent must have sufficient reason to comply with this requirement. In both cases, the moral and the political, it is only through the rational and affective endorsement by citizens or moral agents that we can sensibly assert that these agents are directing themselves and yet still obliged to act politically or morally. However, I believe we must expand this idea to get the proper conception of the "self" at play here. My proposal has been that only the development of children's capacity to be autonomous gives them the control over themselves and their future identities in a way that fits with the initial political concern of protecting their integrity by way of protecting their ability to act according to the deepest commitments that they endorse.

The next step on our way to this conclusion is to show that parents have reason to support this development, or at least do not have the moral (and hence political) standing to demand that external parties refrain from interfering with educating their children. Now, even if one is convinced about the dangers of complete parental control over their children and its similarities with to the dangers of indoctrination, it still may not be clear how parents themselves can be taken as having a reason that obliges them not to contest coercive attempts to develop their children's autonomy. As I have stated, according to Gaus, social morality emerges from the presence of social rules that all agents that are subject to them care about and have reason to endorse. Agents are morally required to comply with social rules insofar as they come to internalize these rules and have sufficient reason to endorse them. This requires that they prioritize acting according to these rules instead of instrumental dictates aimed at achieving their own ends.

However, as noted in the previous section, children cannot be a part of this social morality, for they lack important affective abilities required to care of social rules and thus

oblige themselves to act in ways required by the rule and which can be insisted on by other moral agents similarly constrained by it. Further, parents' rational appeal to children's rudimentary motivational sets also seems to be a faulty proposition. Given this, it is not apparent how parents can be conceived of as having reasons that obligate them to treat their children in the way I have suggested regarding how they are to be educated. The structure behind the legitimacy of moral demands, that one takes others to be morally autonomous and capable of seeing a rule as a requirement for which they can be accountable for acting in accordance with, disappears when we are talking about children. Thus, it can be hard to see how parents' own perspectives can support a principle that undermines their sole moral authority over their children. Still, I believe this reason is *present* within parents' perspectives and this claim that gives the development of children's self-creative autonomy moral force for parents. It is for this reason that they do not have moral permission to dictate their children's education.

To get a better idea of how my argument goes I will first discuss the "normal" way that moral agents draw on their reasons within the convergence view. While in the following I will be speaking about "moral agents", we can easily substitute them for "citizens". The conception in question aligns well with Public Reason Liberalism's claim that the legitimacy of political policies is grounded in justification to individual citizens (as opposed to say a justification derived from a purportedly universal truth of which some people may fail to acknowledge given their immediately personal perspectives). Justification to individual citizens puts their individual perspectives at the forefront of the question of which considerations may appropriately be taken into account in when considering their political obligations. The fact of reasonable pluralism reveals gaps in between the perspectives of individual free and equal citizens. The consensus and convergence views both arose to attempt to deal with these discontinuities in ways that still made possible legitimate public principles capable of adjudicating political disputes among citizens while respecting each

citizen's freedom and equality.

Much of the appeal of the convergence view lies in its recognition of and respect for the diverse reasons that individual citizens rely on in the formation and identification of publicly justified policies. However, as we have seen, this idea is simply an extension of the conditions for genuine moral authority as expressed in social moral practices. Thus, the concept of what it means to have a reason is paramount for convergence theorists like Gaus (in the case of morality) and Vallier (in the case of politics); law being a special kind of moral requirement, backed by coercive threat and action, rather than social disapprobation. Neither can be justified if those subject to them cannot be said to have reasons to endorse them. For a person to have a reason, on their view, requires that a particular consideration is rationally reachable from the particular beliefs, values, evaluative standards, relationships and so on that comprise her comprehensive perspective. This idea relates the possession of reasons to rational agency. Gaus defines a rational agent as "one who is competent at following a set of norms about how to go about reasoning epistemic norms".<sup>8</sup> Thus, Gaus believes that in order to ascribe a reason R to a citizen (as a rational agent) it must be the case that R can be arrived at within her particular perspective through an application of her rationality (through her successful employment of epistemic norms in her deliberation about R). For her to have a reason R, then, it must be possible for her to arrive at it as the result of her rational deliberative performance. Some have called this a "proceduralist" view of reasons.<sup>9</sup> For example, Gaus presents his principle of having a reason as the following:

The Reasons One (provisionally) Has: Alf has (provisionally) a sufficient reason R if and only if a "respectable amount" of good reasoning by Alf would

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<sup>8</sup>Ibid pp.244-245.

<sup>9</sup>Brad Hooker and Bart Steumer, "Procedural and Substantive Practical Rationality", pp. 59-60.



conclude that R is an undefeated reason (to act or believe).<sup>10</sup>

Given this conception of what it means to have a reason, Gaus stresses that what is important in an agent having a reason is not its content. What makes it the case that a consideration counts as a genuine reason for a person is that it is rationally within an agent's grasp given the commitments and beliefs she holds. In Gaus's particular formulation, this relationship consists of reasoning correctly according to a set of basic epistemic norms as well as some reasonable duration of deliberation. The set of epistemic norms that Gaus refers to he believes are foundational and universally shared among humans due to psychological, sociological and evolutionary evidence. Among the relevant epistemic norms are principles of contradiction, modus ponens, and modest principles of consistency and coherency. Additionally, Gaus claims that what we determine to be a "respectable amount" of reasoning is contextual; that is, how much it is reasonable to expect others to deliberate, including demands on information gathering and processing, depends on what they are deliberating about. For instance, in buying a house a respectable amount of reasoning probably would require me to do due diligence concerning reports about the history of repairs to the house, how much other houses of a similar kind sell for, the amount of land taxes I should expect to pay and much else. In contrast, it would be unreasonable to expect this same type of deliberation and procurement of information for, say, a decision on what internet provider to use in my new house.<sup>11</sup> The point is that a consideration only becomes a reason for a person by being the result of a good reasoning process performed from within the perspective of the person in question. The requirement of good reasoning helps idealize away common epistemological errors that actual normal rational agents are subject to. The injunction to complete a respectable amount of reasoning is meant to block not only

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<sup>10</sup>Gaus, *The Order of Public Reason* p. 250.

<sup>11</sup>Ibid p. 254.

epistemological laziness but also epistemological complacency; Gaus believes one can be said to have reasons that one, although they have reasoned well initially, has not realized they have simply by failing to do a reasonable amount of due diligence regarding the topic of their deliberation. Finally, the reasoning is to be carried out by the individual in question in the sense that it is her commitments, goals, and beliefs which provide the substantive elements of deliberation along with her own level of reasoning capacity.<sup>12</sup>

The proceduralist conception fits nicely with Vallier's conception of integrity reasons. As we have seen, integrity reasons are one's strongest reasons for acting emanating from our deepest commitments. The proceduralist conception of reasons one possesses helps illuminate why these reasons are unassailable by considerations that do not similarly emanate from one's deep commitments. So, for example, despite the grand success that medicine, medical technology and medical techniques have apparently achieved over time with respect to healing human injuries, it still may be the case on the convergence view that citizens like the members of the religious sect The Followers of Christ have no reason to accept modern medical treatments should they happen to be physically harmed. The conclusion "I should accept modern medical help" is not rationally reachable from the perspective of the members of this sect given their belief in "divine healing" and the importance of this belief to their religious commitments.<sup>13</sup> More specifically, it could be the case that a respectable amount of good reasoning using these religious citizens' commitments

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<sup>12</sup>Gaus's conception of the reasons one has is complex in that it not only accommodates differences between people's (citizens') motivational sets, but also in their differential abilities to reason. Thus, a lay person (for lack of a better term) may legitimately have different reasons than a professional philosopher even assuming that they possess the very same motivational set. This is due to the requirement that reasons are rationally reachable from within the perspective of the individual in question. The requirement to perform a respectable amount of reasoning does not impose a burden of all to complete expert levels of investigation regarding one's actions or beliefs.

<sup>13</sup>"Doctor to Legislators: Refusing Medical Care Isnt Religious Freedom", <http://www.nbcnews.com/health/kids-health/doctor-legislators-refusing-medical-care-isnt-religious-freedom-n320031>.

and beliefs would yield sufficient reason for them to reject modern medical treatment. Obviously, this may strike many people as absurd; given the current state of medicine in, say, the US, today it seems irrational to refuse to rely on healthcare professionals in general for cures and avenues of healing for the vast majority of ailments that people face. Nonetheless, the proceduralist view of reasons one has accords favorably with public justification's recognition of reasonable pluralism along with its emphasis on self-rule. No one is able to claim that reason R is unequivocally a reason that all people possess simply in light of the proposition or claim represented by R. The positive record of medical care in the US, need not, on a proceduralist account, count in favor toward what a member of the Followers of Christ should do regarding a devastating injury or illness that they have incurred.

Vallier's proposal regarding private education uses this same logic about the possession of reasons. His argument is that parents' integrity reasons are conclusive reasons regarding where and how their children are educated. This view is based on the same proceduralist view of reasons. Given religious (or any) citizens' deepest commitments regarding the inculcation of certain religious values in their children, the inability for state sponsored schools to accommodate all of these diverse educational preferences in a particular area, and the extra burdens incurred by parents who attempt to withdraw from the public school system, Vallier concluded that public schooling is not publicly justified on the convergence account of justification. Moreover, the proceduralist view seems immune to arguments purporting to point to some "objective" truth or reason for acting in a certain way or believing a specific proposition. Thus, those who disagree with Vallier's proposal on behalf of children's interests in choosing their way of life and values would seem to have little recourse to counter the wishes of these religious parents. On the proceduralist view, unless there are sound deliberative routes from religious citizens' sets of motivations to conclusions favored by their opponents, these opponents cannot claim to act with justification to shape the education of children in a liberal democratic regime like the US.

The appeal of the proceduralist conception of reasons that one has can be illuminated not just by recognizing its positive effects on maintaining pluralism and self-rule, but also in relation to our moral emotions. As we have seen, the central idea of the proceduralist view is that in order for a consideration to count as a reason for a person, it must be in one's "grasp". That is, it must be the case that a person, given her beliefs, values, evaluative standards and so on, can reach a conclusion through some amount of deliberation that counts in favor of either performing some action or believing some proposition. Gaus believes that this idea is essential for our moral emotions, especially in the case of human attributions of resentment, indignation and blameworthiness in social moral practices as it provides a basis for criticism of others (and oneself) that is consistent with each person's moral or political autonomy. As we have seen according to Gaus, the foundation of our moral emotions like resentment is the thought that others *have* reasons to act otherwise than to violate a moral rule. He contends that it is counterintuitive and disrespectful (and also probably impractical) to try to hold someone responsible (that is, resent or blame them) for acting or believing on the basis of reasons that cannot be arrived at by them through a successful process of their reasoning from their other constitutive beliefs to a reason to conform to a specific policy or rule. In the same vein, Vallier believes it disrespectful to coerce citizens who similarly lack sufficient reason to endorse laws on which the coercion is based. On this view, whether or not a person has a reason is an epistemological matter rather than a metaphysical one. While in one sense there may seem to be considerations that are compelling in and of themselves, Gaus holds that a person may lack deliberative access to these considerations. Given one's personal perspective, they may not count as reason for him. In this case, the mere existence of this consideration is not enough to ascribe to an individual a reason for or against acting or believing in some way.

In the previous chapter I suggested that the capacity for self-creative autonomy is paramount for children because it offers them the ability to reconcile their values and commitments with the coercion that they experience in their progression to becoming adults. But how does this consideration figure into parents' reason regarding how to educate their children? Surely not all reasonable citizens in the US, for instance, prioritize such development of autonomy in the upbringing of their children, especially as I have construed this idea in Chapter 3. Moreover, it is plausible that many religious citizens appear to lack a sufficient reason to so prioritize autonomy for their children on a proceduralist view of reasons. Nevertheless, I wish to argue that the proceduralist view of reasons is deficient in determining all of the reasons that parents have. We can, in fact, ascribe to all parents reason to promote the development of self-creative autonomy for their children. So far I have claimed that both conceptions of Public Reason Liberalism, as they have been defended, fail to generate a public justification for a system of public schooling. I will argue, however, a justification for public schooling does exist. The state does not violate the rights of parents when they take political measures to establish and operate public schools aimed at developing the autonomy of children. This conclusion rests entirely on my earlier discussion concerning children, their relation to our normal social moral practices, and the prospect of protecting their integrity.

#### **4.5 Against the Proceduralist Conception**

The insularity of personal networks of reasons as understood by the proceduralist view of reasons can seem intuitive. This idea can account for the normative force of considerations that depend on the particular relationships we belong to, associations we choose to be a part of, occupations we choose to pursue and so on. Take a simple example: Camille may have a reason to go to church on Sunday as a result of being a Baptist Christian while Jamaal may fail to have a reason to go church on Sunday on account of his atheism. It seems obvious that our reasons must have some sensitivity to our identities; claiming that

Jamaal has a reason to go to church (at least on the basis of a religious obligation) would seem to many of us puzzling given his commitments.<sup>14</sup> Yet my discussion in Chapter 3 points to a counterintuitive application of the insularity of personal reasons. Here I argued against Vallier's claim that insular personal networks of reasons license parents in dominating their children's education. So what separates these two cases? I suggested that it is the value of autonomy for children, but how is this consideration related to parents' strong reasons concerning what their children learn and how they are brought up? Is this a reason that parents can be expected to have in a Gaussian sense or is it one that religious parents have despite the fact they may lack the deliberative access to appreciate it under the modestly idealized conditions that Gaus includes in his proceduralist conception?

Much hangs on the answer to this question. If I am correct, then the value of autonomy to children forms the basis of a justification for a system of public schooling. However, this consideration plausibly would not count as a reason (or at least not a conclusive one) for parent's to yield control over their children's education on the proceduralist view. Gaus holds that engaging in the coercion of others on the basis of considerations that they cannot see as reasons is effectively to step outside of our regular moral practices (with respect to the particular moral rule or political policy under consideration). Under these circumstances these others fail to be participants in a practice of reason-exchange that lies at the heart of social and political morality. For instance, religious parents, absent a justification from within their personal perspective, would confront state coercion in this case as simply *de facto* instead of *de jure* authority. The state could communicate expectations to them, detail consequence for failing to live up to these expectations and so forth; however, it could not claim to be respecting parents' integrity under these circumstances. It would not be exercising legitimate authority that satisfies the Principle of Moral Autonomy. Thus,

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<sup>14</sup>Jamaal could of course have non-religious reasons for going to church, such as the prospect of being ostracized from his family for his failure to attend.

coercion based on public school policy would count as unjustified with respect to these parents; the state would be coercing them in significant ways without the expectation that they could ever rationally voluntarily accede to the rule or policy motivating this action. This would be a most unwelcome result. We should hope that either the case can be made that the value of autonomy for children can be established on the proceduralist view as a reason that all parents have or that the value of autonomy for children turns out to be such a powerful consideration that it outweighs the loss of agency parents experience, similar to cases in which society enforces laws to protect itself from those who, on the proceduralist view, have no reason overriding reason to follow basic social morality.

My task is to argue that there can be legitimate reasons for individuals to act or believe that are not the result of their sound deliberation from their current set of commitments. At first blush, one may be tempted to avoid this strategy and simply expand the idea of the insularity of personal reasons to include children. On this conception the parent-child relationship can be viewed as similar to the relationship of an individual adult to another adult. Here we retain the epistemic notion of the insularity of reasons; what it means for A to have a reason is that if A reasons well given a respectable amount reflection he would arrive at an undefeated conclusion, R. And similarly, as before, morally and politically one's reasons for a rule or policy by themselves fail to bind others who, on the proceduralist view, do not have reasons to endorse the particular rule or policy in question. This is simply convergence public justification. Now, moving to the parent-child case, the view would be that we have to treat the parent's and child's perspectives, respectively, as both epistemically and morally equal. That is, the child only has reasons that result from a respectable amount of good reasoning grounded in his belief and value set, and that his reasons cannot be overridden in the sanctioning of some policy or rule by his parents' conflicting reasons. The child must have a reason for parents' proposed rule or policy in order for it to be legitimately binding on him.

One obvious drawback of this view concerns both a child's motivational set as well as their deliberative and affective capabilities. It is simply not the case that a child's beliefs or values are developed to the point that they should count as suitable elements in determining what his reasons are. Moreover, since, as Gaus says, epistemic norms themselves can differ from one person's individual perspective to the next, it is not clear on his proceduralist view which epistemic norms can be used to evaluate whether or not certain deliberative paths represent "good" reasoning by the child.<sup>15</sup> If this is correct, then it seems we must go outside of the particular perspective of a child in order to determine what considerations count as reasons for him. However, stepping outside of the child's personal perspective (in the sense of his presently held commitments and beliefs) is an abandonment of the insularity of personal reasons conception of what it is to have a reason. It appears that we may have to appeal to some other source to appreciate what reasons there are for treating him in certain ways. Finally, we have assumed that children do not have the affective capacity to stand as an equal moral authority to parents who are conceived of as mature moral agents. Because they lack the ability to care for rules (or laws) in the ways specified by the Principle of Moral Autonomy, the reasons others offer to demand their compliance with a rule (or law) are unable to generate the binding force needed to establish a genuine moral obligation on them.

I believe it is apparent how the development of autonomy in children in the sense I have defended is an integral part of the formation of their identity and accompanying integrity reasons. However, what reasons do *parents* have for acknowledging the priority of the value of autonomy for their children over their own commitments (like their religious obligations)? I claim that the value of autonomy is substantively forceful for parents (as a subset of all adults at least in the US) due to its *presence* within their motivational set. I

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<sup>15</sup>Gaus, *Justificatory Liberalism: An Essay on Epistemology and Political Theory*, p. 42-43.



contrast this idea of presence with that of *access*; as I see it, access is the key concept undergirding the proceduralist view of reasons that one has. Access refers to the idea of a reason being within one's "grasp". At first glance, access appears to be both a suitable and the lone basis for ascribing reasons to others. Access eliminates many problems of interference with *adult* integrity; at least as construed by Gaus and Vallier, the epistemic idea of access helps shield individuals from gross violations of their integrity by rendering considerations that are motivationally inert for the individual in question inaccessible in the relevant sense. This conception of accessibility is facilitated by some degree of sound deliberation from within a single person's motivational set to a particular conclusion. Included in this process are flexible constraints on information gathering, deliberative duration, depending on contextual considerations, and the inclusion of some basic epistemic norms of reasoning (like *modus ponens*). Still this access conception does not cover all of the reasons that parents have.

The development of children's self-creative autonomy counts as a reason that parents have due to its role in our practice of social morality along with parents' recognition of this capacity in their children. I believe that presence is a distinct and more involved concept than simple awareness. That being said, parents are certainly aware of at least the potential for their children to develop varying degrees of self-creative autonomy. Every parent that is raising a child must confront the prospect of their children acting autonomously in the sense of forming their own opinions about the world and making their own choices about how they wish to live. However, parents' awareness of this potential is not inconsequential; their recognition of children's emerging capacity to form their own interpretation of their surroundings forces upon them a choice. They can help facilitate the growth of this capacity in their children, attempting to help them inform their own perspectives as freely as possible, they can seek to restrict and curtail this capacity in their children or they can do nothing. While doing nothing is a conceptual possibility, I do not believe we should

concern ourselves with this option. Foremost, I believe we can assume that parents as we have been discussing them take a strong interest in the raising of their children and so the prospect of doing nothing with regard to how their children develop their identities would be unappealing. Parents interested in helping their children develop their autonomy will almost certainly judge other avenues of guidance as preferable to inaction, while parents who wish to constrain their children's autonomy will view doing nothing as a recipe for disaster regarding their children's welfare. Parents' decision on what to do about their children's developing autonomy would seem to be naturally dictated by their particular commitments, beliefs and values. We would expect this to be the case on the procedural view of reasons that one has. Using Gaus's particular formulation, we would say that parents, despite their particular choices regarding the value of autonomy for their children, have conclusive reasons to raise their children as they see fit even after they have completed a respectable amount of good reasoning based on their own commitments, values and beliefs.

However, on closer examination, I believe there are significant problems with this conclusion. First, it is hard to believe that parents have authority to treat their children in certain ways despite the fact that there may be sound deliberative routes from their prior commitments to a specific course (or range of) action. For instance, parents who believe that severe corporeal punishment is necessary to raise morally upright children as a result of their prior commitments should not be given the latitude to engage in this sort of child raising practice. One way to support this claim would be to suggest that given the available relevant information in conjunction with the right epistemic norms, moderately idealized parents would see that empirical evidence suggests at best a tenuous relationship between harsh punishment and good moral behavior. Nevertheless, I am wary of appealing to purported empirical fact as a basis for objection in this case. Part of the reason for my reticence derives from the depth of reasonable pluralism manifested by members of the public. Gaus

details at length the diversity not only in the reasons that citizens have but also between the evaluative standards they apply in a given case, the weight they accord to a particular standard, and also how that standard filters relevant from non-relevant information. The last point is crucial: empirical data that seemingly disconfirms a link between harsh corporeal punishment and good moral conduct might be attacked on interpretive grounds (such as the method of punishment investigated was not carried out carefully according to specific procedures as specified by God.) It is within the realm of reasonable pluralism for citizens to heavily dispute matters of empirical investigation. Moreover, it is not clear that all of the relevant empirical information on this topic can be included without violating realistic restrictions on information gathering and processing. Studies regarding possible links between corporeal punishment and proper conduct are variously complex and, as per the proceduralist view, it must be the case that agents can access certain conclusions through a relatively normal use of their powers of deliberation.<sup>16</sup> However, it is not obvious that all parents could incorporate into their deliberations the information yielded by this expansive field of study in a way that does not place too heavy an epistemic burden on them. For these reasons, I do not want to rely simply on interpreting empirical evidence to settle the matter at hand.

Furthermore, I think a more promising result presents itself if we attend to Gaus's idea concerning how our normal moral practices entail a justificatory framework in which each member that is subject to moral demands must be given sufficient reason to comply with them. The reasons that parents have for promoting the autonomy of their children come for their disproportionate ability to shape their children's identities, thus critically influencing their future ability to participate in our normal social moral practices as well

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<sup>16</sup>On the other hand, perhaps we could deal with this problem by holding that a "respectable amount" of reasoning in this case demands a wider field of inquiry and information accumulation than more trivial matters. I believe that this would be in keeping with Gaus's acknowledgement of the contextual nature of our ascriptions as to what counts as a respectable amount of reasoning on a topic and would seem to be appropriate given the morally serious child raising practices.

as their integrity reasons. The authority to delimit the development of their children's autonomy compromises the motivational set that they eventually come to form along with the attendant affective capacities requisite of morally autonomous individuals. It denigrates the sense in which their reasons and reactions are *their own*, which, I contend, is a violation of their integrity on par with coercive actions that restrict a moral agent's conduct in the absence of a justification verified by his unique reasons. The proceduralist conception of reasons agents has cannot capture this consideration because parents do not confront children as equals engaged in a social moral practice which parents' reasons endorse; the proceduralist conception is out of place in this relationship, because the justificatory structure embedded in the legitimate formation of the moral emotions between moral equals (mature moral agents) is absent. However, if we believe that integrity is more than simply being able to act on the affective ties and considerations emerging from the commitments, values, and aims one happens to have and further includes an element that focuses on the manner in which an agent comes to form his motivational set, we recognize that parental influence, if unchecked, presents a significant danger to this latter element of integrity. However, given that the protection of integrity of this case extends to agents who are not yet part of our social moral practices, and hence fall outside of the realm of those to which moral demands can be addressed, we cannot refer to the reasons of either these non (full) moral agents nor those of full moral agents to confirm this principle. Thus, we should not expect this requirement to be an outcome of a rational deliberative process carried out by moderately idealized adults (in this case, parents). Still, since parents can play such a monumental role in the development of their children into moral agents, parents can be said to have reason to endorse a moral requirement to comply with laws aimed at developing the autonomy of their children. In other words, the reason justifying the development of their children's autonomy is *present* to parents on account of our social moral practices and the necessity (and inevitability) of transitioning children into them. Parents' non-neutral

interest and capability in setting up their children's perspective on the world and how they come to interpret social morality threatens the integrity of maturing moral agents.

Given this, we can now answer the question: is the claim that parents' should have sole epistemic and moral authority over their children, which would give them the ability to either neglect or oppose the development of children's capacity for autonomy, justified? I believe it is not. Consider the case in which parents believe that the development of their child's autonomy (in the sense of developing their reasoning capabilities and expanding their perspective through contact with different people, values, and beliefs) is at odds with their own duties and obligations as well as those they believe the child to have (or will have). I hold that this case is similar is roughly similar to those we have encountered in the *Mozert* and *Yoder* cases. One claim regards a purported religious (moral) obligation and the other a claim about what would be good for a agent or agents (a welfare claim). Taking these in turn, let us first focus on the obligation claim. Again, there are two obligations at play here: one that parents have to obey God by way of raising their children in a way that would lead them to embrace a similar religious perspective on life and one that supposedly their children have due to the existence of God. To undermine parents' authority claims at issue here I return to the justificatory framework provided by our normal moral practices as offered by Gaus. I must make one caveat: children should not be seen as full members of our normal moral practices but as *proto members*. Proto members of our normal moral practices do not yet possess a rich enough set of commitments, evaluative standards, beliefs and deliberative patterns sufficient for us draw their reasons from these sources. They cannot be said to have stable commitments or reasonably secure priorities among their desires and values and this hinders our (and their) ability to discover what reasons they have at any given moment. Moreover, as we have seen, their ability to internalize rules, that is, to care for rules for their own sake in such a way as to feel obligated to comply with these rules, has not yet fully developed. However, parents (as well as other adults)

do try to internalize norms and rules within children, especially moral ones, as well as provide children with what they take to be the most salient reasons for adopting these rules. Parents are not simply content with their children following their directives while under their supervision or solely out of deference to threats of punishment; they want their children to want, for themselves, to follow certain moral rules for particular reasons. I believe this gives us reason to take up a limited perspective from their children's point of view; from this perspective we can simulate children as moral agents in our normal moral practices, although to a lesser degree than normal fully grown adults. Additionally, if we follow Gaus on the conditions for internalizing rules (or principles), we must hold that they can only be internalized to the extent that an agent has reasons to adopt it as regulative of his actions (or beliefs). Thus, I submit that parents are not released from the task of providing reasons to children to justify their various intrusions and coercive interference in children's lives. The justificatory framework established by our normal moral practices to some extent remains intact between parents and children in a similar way to how it does between two or more adults. The difficulty that lies before us is in identifying considerations that plausibly can count as reasons that children have that are not directly derived from a more or less stable motivational set, which I have argued that they lack.

Some candidates for the basis of children's reasons seem to readily present themselves. Considerations of their health and physical well-being are foremost among these. Adults typically take children to have strong reasons to receive nutritious food, shelter, clothing, and to be protected from physical abuse. Such reasons underwrite justified moral requirements as well as legal protections children have against parents who would subject their children to conditions in which children are left to starve or are under constant threat of physical harm. The strength of such considerations is surely on display in the controversial issue concerning religious parents withholding medical support for their sick children. I believe we can interpret those who criticize parental behavior in this instance as holding

that while it may be perfectly fine for parents themselves to refuse medical care for their own injuries, given their personal reasons, these same reasons do not suffice to justify this behavior *to their children* who should be taken to have their own personal, if rudimentary, reasons.

Another candidate class of reasons for children has to do with their family. It is plausible to suggest that children have reasons supporting their inclusion into a relatively stable and secure family structure. Here children experience some of their deepest formative connections built out of deeply loving relationships. Such connections provide both rich emotional support and recognition necessary for children to grow and understand various ways to relate to others. Some suggest that the family is a necessary precursor for entrance into our normal moral practices.<sup>17</sup> Given this, and other virtues which I will not list here, it seems that children have reasons to be included in and participate in a familial structure.

The last set of considerations that serve as a viable candidate for reasons that children have that I will discuss are a byproduct of children's status as proto members (who will later become full members) in our normal moral practices. These reasons have to do with integrity. The centrality of integrity to a theory of public justification I hope has been made apparent in the previous three chapters. In Chapter 3 I argued against Vallier that total parental discretion over their children's education threatens their children's self-creative autonomy. Yet this threat is significant because threats to autonomy in my view are simultaneously threats to integrity. Vallier's conception of integrity I judge to be overly narrow; it is confined to agents having the ability to make choices about their beliefs and behavior based on fundamental elements of their motivational sets. Since different motivational sets can reasonably be comprised of many different components, the result is that there is a diversity of reasons arising from each individual agents perspective. To maintain each

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<sup>17</sup>Lomasky, *Persons, Rights, and the Moral Community* p. 171.

agent's integrity, then, Vallier embraces the convergence view which gives every agent's set of diverse reasons an equal role in arbitrating which laws (rules) count as justified to them. What he fails to address, however, is *how* these motivational sets come about. My claim has been that integrity is as much about how one forms her motivational set as it is her ability to act from it. According to Vallier's conception of integrity, an external party can more or less exert a dominating control over the commitments a developing moral agent comes to form and the reasons that she comes to believe have force for her (as in the case with the Amish parents in *Yoder*). Surely there is something wrong with this state of affairs. Of course, Vallier supports the seemingly benign case of parents simply raising their children as they see fit without oversight from any external party. However, if we follow Vallier in deferring to parents' integrity reasons as the basis for their complete discretion over the educational choices for their children we allow for circumstances under which parents have the ability to interfere to an inappropriate degree with the integrity of their children. Their attempt to internalize norms and principles in their children becomes problematic in this instance for the simple fact that they are not only appealing to reasons but at the same time supplying the very commitments that those reasons are predicated on all as well as the template for the affective attachments and reactions they wish their children to have. They can carry out this entire plan without sufficient substantive engagement from the perspective of the child. Public Reason Liberalism's commitment to protecting integrity must include some measure to regulate the process by which agents' commitments are formed not simply the resulting commitments themselves. As things stand, the most important process of forming commitments occurs throughout childhood. It is here that much of our identity is shaped, where we often are our most pliable and curious, where we are our most receptive and charitable. Therefore, children have reasons to develop their autonomy for the sake of their integrity and such reasons should take priority over the reasons of parents given the strong commitment to protecting integrity in Public Reason Liberalism.



Returning to the claims mentioned earlier as potential bases for sole parental authority over the educational choices of children, we can now see that they are insufficient to support this conclusion. In the case where parents claim that they have an obligation to raise their children in a certain way, which can include heavy regulation and monitoring of their children's experiences and lifestyle, it is apparent that this claim is a non-starter in terms of establishing the kind of educational authority over their children that they seek. This claim is put forward as a reason for other agents to refrain from interfering with parents' child raising practices due to the contention that such interference would be without justification from the parents' point of view given their own commitments. However, this is the wrong way of framing the issue. The parental point of view in this case is not the only one which must be considered; given that they seek to internalize norms in their children, parents bring children (in a limited way) into the justificatory structure of our normal moral practices. When we treat children in accordance with this structure we see that obligations that parents take themselves to have matter little in providing reasons *to children* for unchecked parental interference in their lives. The same is true of religious citizens who claim they are obligated to restrict the behavior of other citizens who do not share reasons which ground this obligation. In neither case, I submit, is there a justification to the party which is to suffer interference or restriction on their conduct. Neither other citizens nor children, at least in the case where parents seek complete control their children's educational access, have reasons to internalize rules derived from moral obligations that stem from commitments that they do not themselves hold.

What about the case in which parents' claims about they are to raise their children are due to obligations that children are under? This is a different claim than the one in the previous paragraph; it is not parents who risk violating a duty in this case but children themselves. Due to lack of maturity or an inability to attend to salient reasons on the part of their child, so the claim goes, parents must step in and guide children to correct

ways of acting and believing so that they do not fail to live up to their obligations. Yet to establish this claim parents must show that children have conclusive reasons from their own perspective that make this obligation binding on them and for granting parents the ability to do whatever they see fit to ensure that live up to their own obligation. I contend, to the contrary, that children do not have conclusive reasons for either claim. Given the constant flux of their motivational set as well as their developing ability to shape it, I submit that children do not have obligations of this sort. In other words, they are not yet in a position to "give" themselves substantive obligations of the sort envisioned by religious parents in our example. This kind of commitment relies on a relatively stable motivational set as well as a degree of autonomy (in the form of reflective comparison and deliberation) that children do not possess. Moreover, children similarly do not have conclusive reasons to turn over complete control of their early lives to their parents. Parents' motivations, values and beliefs can run afoul of children's integrity which includes their ability to be fully self-directing and self-creating moral agents. For this reason, parents cannot claim that complete educational discretion over their children can be justified to their children and so attempts to wield such authority, or demands that others not interfere with this authority, would be unjustified.

Claims basing total parental authority on the welfare of either parents or their children fare no better. While it may be true that parents' welfare, in particular their spiritual welfare given our example, would be improved or perhaps maximized if their children were brought up in a certain way facilitated by their complete educational control over them, this fact does not have the requisite justificatory resonance within the perspective of the child to grant parental authority of this sort. To compare it again to a case of two adult citizens, the fact that Citizen A, who is religious, would be better off spiritually if the entire society in which he lived reflected his religious upbringing and traditions does not give Citizen B, who is not does not share A's religious beliefs or practices, reason to endorse policies aimed at

bringing about the state of affairs that would improve B's welfare. Thus, complete authority over children's upbringing cannot be granted on the basis of purported improvements of parents' welfare.

As for the claim that children's own welfare (again, in a spiritual sense) is better served when parents have total control over the decisions regarding them, it also fails to be convincing. Here, parents claim to have a definitive grasp of what would be in their children's best interests and seek the ability to pursue the means to achieve these interests unhindered by others. However, parents are not justified in their proclamations about what would be in their *childrens* best interests. For as proto members of our normal moral practices, what is in a chil's best interests is partially a function of their set of commitments. Due to the fact that this set of commitments is not stable at this point in their lives, we do best to protect their integrity by giving them the resources to discover for themselves what commitments they wish to adopt. No particular set of welfare claims concerning children can take precedence over the development of their faculties that are necessary to afford them as much control as possible over their identity and actions. Parents, then, cannot provide reasons that they reasonably think are conclusive *from their children's point of view* that license their complete discretion to structure their children's lives around a specific conception of the good and attempt to internalize in children norms aimed at its realization. As I will argue, this conclusion does not undermine the basis for parents having a privileged place of influence over their children; however, this is far different from Vallier's suggestion that parents have reasons to reject any external interference in how they raise their children (at least as regards their education).

Given the preceding, I believe I have grounds for dissolving the exposure problem. Neither claims based on (spiritual) obligations that parents and children purportedly have nor claims regarding the (spiritual) welfare of parents and children are sufficient grounds for respecting a parental right of complete discretion over children's educational options.

Moreover, should it be the case that exposure to different commitments, values and beliefs is requisite for children to develop their self-creative autonomy, which in turn secures their integrity, then parents have reason, based on their recognition of children as proto members of our normal moral practices in whom they seek to internalize moral rules and principles, to not interfere with this development. The remaining case to be made is that the development of children's autonomy cannot be left only to parents. Public schools should serve as the primary device to develop children's autonomy and this thereby gives the state moral permission to enact policies to bring such institutions about.

#### **4.6 Children's Autonomy and Public Schooling**

In the previous section, I contended that parents have reasons for promoting (or at least not to reject measures designed to) develop the autonomy of their children. To be sure, I have been working with two senses of "autonomy" in my discussion: one is in the "self-creation" sense of which I detailed at the end of Chapter 3. This sense of autonomy is what gives moral agents *ownership* of the motivational set that they eventually settle on (though they still may make changes and revisions to it as necessary). This conception of autonomy gives moral agents control of what their deepest commitments and values are, which are the foundations of their reasons for action, and so their moral obligations. The strongest of these reasons, as Vallier notes, constitute integrity reasons for agents. The second sense of autonomy we have discussed is the "self-directing" sense; this is the sense captured in Gaus's Principle of Moral Autonomy. It includes developed affective capacities capable for recognizing an internal ought that obliges one to act counter to what would promote an agent's personal goals as well as a more or less settled motivational set which yields sufficient reasons to endorse some moral rule or law. These two senses are, of course, connected, though it is the former sense that I believe is more prominent in the defense of a system of public schooling. At this point I will take up the final step in my argument and show that the self-creation sense of autonomy, which is properly thought to be part of

protecting an agent's integrity, is sufficient to justify state intervention in the education of children via the device of public schooling.

At this juncture, a critic might maintain that all I have shown is that parents have reason to regard themselves as being bound by a moral requirement to develop their children's autonomy in the self-creation sense. While parents may think that their child-raising practices should primarily incorporate their personal sense of right and wrong, good and bad, truth and falsity, in fact they have a duty to let their children make up their own minds about these ideas and to aid in their children's development of the capacity to do just this. However, even in this case, parents might still have the moral authority to reject interference from external parties in fulfilling this obligation, and certainly from a bureaucratic entity like the state. Parents, the critic contends, should seek methods to develop their children's autonomy, but this is a personal obligation which others are not in a position to enforce.

It is my view, however, that this claim is false. First, the moral requirement that parents support the development of their children's autonomy must be backed by some sort of protective mechanism given that failure to conform to this requirement significantly harms a defenseless party. Children have little recourse to protest or resist their parents' decisions regarding their upbringing in the absence of aid from others. The absence of protective mechanisms in this case puts children at too high a risk of having their (eventual) integrity violated by parents who do not honor this particular moral duty. Moreover, I believe that the desire to tailor children's experiences and education to mirror parents' ideas of what is good and right presents too strong of a temptation for parents to overcome, in general, without sufficient safeguards. Even parents that can acknowledge the importance of both the self-creating and self-directing senses of autonomy, and their connection to their children's developing integrity, will find it hard to prioritize the development of capacities in their children that threaten to undermine this goal. Parents, like other normal moral agents, will both feel and believe that they have sufficient reason for adopting the commitments,

values and beliefs that they do and this will incline them towards passing on their settled convictions and views on to their children as a way to improve their well-being. This compulsion in and of itself, I believe, is not problematic; however, when paired with a moral right to demand that others not interfere with one's child-raising practices, this temptation is a significant threat to the development of children's integrity.

Perhaps the most powerful reason for denying parents the singular authority to promote the development of their children's autonomy derives from the fact that even parents who endeavor to pursue this aim lack vital resources necessary to achieve it. The self-creation sense of autonomy calls for a quite substantive use of a moral agent's deliberative and affective capacities. It calls for rich practices of reasoning and reflection, diverse experiences, as well as introduction to and assessment of different ways of life. Only being empowered in this way can moral agents be thought to be operating on their own reasons and (moral) emotions. They must be equipped to evaluate and re-evaluate their deepest commitments (or at least whether they even wish to engage in this practice) and their strongest reasons in a given context and subsequently be guided by these to recognize and abide by their moral obligations. Immediate families are not fit to fulfill this responsibility. First, immediate families are discreet social units which, while children are certainly constitutive members of them, do not operate for the sake of children alone. Families flourish due to a combination of factors which include the individual well-being of its members along with collective aims of love, fraternity, aid and the like. Parents, in particular, have multiple responsibilities including providing economically for the family, maintenance of their romantic relationships, ensuring their well-being as individuals, in addition to caring for and educating their children. These responsibilities are far from easy to balance and, even in the best circumstances, many of the elements needed to develop children's capacity to develop self-creative autonomy will either be lacking or present to an insufficient degree.

Consider the extensive, yet partial, description offered by Meira Levinson of the scope of the aptitudes, skills and competencies needed to for children to develop what I term self-creative autonomy. In particular, they should

gain sufficient self-esteem and confidence to feel comfortable articulating their views in public and laying themselves and their views open to challenge but also possess enough humility to take challenges to their positions seriously; learn to express themselves in terms others will understand, and listen to others' responses; be imaginative, possessing the ability to step into other people's shoes and to see perspectives other than their own; be creative observant, and sensitive to subtlety; learn to think critically and to use reason effectively and judiciously; be willing to subject their own arguments and intuitions to the demand for proof; gain the skills and knowledge to put their beliefs and values into practice, including vocational and personal skills, manual and technical competency, and social skills, among others; be exposed to and interact with people from different backgrounds, and in different contexts; learn how to read and write, and to do basic mathematics; learn about their political rights and obligations, and learn as well the history of their locality, nation, and the world; and be initiated into the social meaning of the community in order to participate as members in the cultural conversation.<sup>18</sup>

This is a very imposing list of attributes, yet they are vital to fostering within children an ability to claim stewardship over their own motivational sets and affective attachments. It is doubtful that children could satisfactorily be exposed to these attributes in the normal course of family life without pointed attention being given to their adoption.

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<sup>18</sup>Levinson, *The Demands of Liberal Education*, p. 60.

Some sort of external schooling, then, would seem to be called for in this instance. One might think that private schools would strike the best balance between parental preference and the justification for the development for children's self-creative capacities. On the contrary, however, the prospect of only private school choice effectively establishes sole authority for parents to direct the education of their children. In doing so, it leaves children's educational options subject to the biases and partialities that reflect their parents' perspectives. Such biases certainly can curtail the range of self-creative attributes children are able to cultivate and to that extent degrade the degree of autonomy, and hence integrity, these children can achieve later as adults. Again, this result may be unintentional on the part of parents. They may be pursuing what they take to be the best avenues to ensure the best future for their children. Still, as we have seen, parents have reason not to restrict the self-creative autonomy of their children as it is needed for them to be properly self-directing (and hence to be able to act with integrity). This gives parents (and other adults) reason to embrace an educational solution that does an adequate job of exposing children to educational institutions that foster their self-creative abilities.

It is for these reasons that a system of public schooling appears to be a better solution to the question of how to adequately promote children's self-creative autonomy. As both Macedo and Levinson observe, state sponsored public schools are an attractive device for fulfilling this goal in the sense that they can be constructed for the sole purpose of achieving it.<sup>19</sup> One of the prerequisites of the development of this kind of autonomy, as we as seen in Chapter 3, is the existence of a community of diverse individuals with which to learn about perspectives on the world different from the one that an individual is initially brought up in. The confrontation of different ideas, values and beliefs from this social interaction gives occasion for both self-reflection and the critical examination of one's own, as well as others, way of life. Public schools can quite easily provide a community of diverse individuals of

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<sup>19</sup>Macedo, *Diversity and Distrust*, pp. 238-240 and Levinson, *The Demands of Liberal Education*, p. 61.



this kind and in fact already do so in many parts of the United States. Dealing with others who are disposed to practice different customs and behaviors also fosters the virtues of tolerance and mutual respect among children. These traits are essential for them to be able to carry out cooperative activities with their peers. Additionally, this exposure to different cultures, races, and traditions can help combat biases and prejudices children may be subject to both from within their families as well as other associations that they are a part of.

Simply placing children in a context where they are faced with other children who embrace different lifestyles and ways of viewing the world goes a long way toward challenging their prior ideas of themselves and how they should view and interact with the world around them. However, the institution of public schooling can do much more with respect to developing their autonomy. Public schools can also operate on the basis of curriculums that emphasize the sharpening of children's critical thinking and evaluative skills and provide an arena for children to frequently employ these skills in beneficial ways.<sup>20</sup> Self-creative autonomy requires a disposition of inquiry and careful examination of alternatives which public schools can gradually build throughout a child's academic career. Moreover, public schools provide an opportunity for children to be able to critically explore the implication of different ways of thinking under circumstances where they will receive encouragement and positive feedback from engaging in this type of investigation and analysis; such activities may be discouraged in other settings children inhabit such as associations like the church or their own family for various reasons.

Additionally, interactions with diverse others and the development of their ability to critically evaluate reasons within public schools serves to enhance children's affective capacities as well. Building off of the emotional growth provided through their membership

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<sup>20</sup>Levinson, *The Demands of Liberal Education*, p. 62.

in a family, children in a well-designed public school environment can begin to develop a sharper sense of when it is and is not appropriate to internalize rules. They can learn to decipher which rules give rise to strong feelings of obligation, of the kind that are included in the moral emotions, and which ones, though important to themselves, should not manifest strong emotional responses. We should expect that children's emotional responses to purported rules violations will be tempered both by the varied perspectives that their peers take up and also by their own growing appreciation of what matters to them. In these ways, I believe that public schools afford children an opportunity to develop self-creative autonomy in the process of becoming autonomous in a self-directing sense.

I must hasten to add, however, that my argument does not commit me to undervalue the significant place that parents (or the family in general) occupy in the lives of their children. Public schools are necessary insofar as they give children the ability during their growth and development to engage the (moral) world around them in a substantive way. Public schools that are designed to empower children with self-creative autonomy attempt to equip them with the tools to form themselves from the raw materials provided them: those various commitments, aims, values and beliefs that they encounter in the process of growth and maturity. Undoubtedly, included in these raw materials is their experience as members of a family. The culture, traditions, and values that accompany their inclusion in this social unit are bound, especially early on in their lives, to play a significant role in their developing outlook on life. Moreover, this initial set of commitments and considerations is requisite for their appreciation of key concepts which their evaluative abilities will later on scrutinize. Their experience with familial norms and ideas of value and worthiness establish the ground work for their investigation of these ideas both in and of themselves and when they are confronted with alternative norms and values introduced by others. Parents occupying the role of primary care-givers who present their case to their children for the adoption of those ideas and ways of life that they believe to be best in no way conflicts

with my position so long as children can attend public schools. Children's opportunity to develop the self-creative sense of autonomy serves as a proper check on the influence of parents (and others) such that their deep involvement in the lives of their children is permissible. Despite their lack of total control over their children's education, parents still retain a tremendous ability to provide guidance to their children regarding what life choices are best for them both morally and prudentially. As such, parents still exert a great deal of influence over their children's actions, beliefs, and values. Parents, then, should take comfort in the fact that their child-rearing practices still serve an essential function in the lives of their children. However, to empower parents beyond this, in the sense of giving them complete power to dictate the educational choices of their children, gives parents recourse to do much more than guide their children; it gives them the ability to determine to an inappropriate degree their children identities, to shape and mold them in ways that might conflict not only with the natural individual propensities of their children (like their disposition, talents, sexual orientation and so on) but with the very idea of their children having *their own* identity. It is of the utmost importance, given what we have said about the centrality of integrity and identity, to justifying moral rules and laws that children as adults are afforded the best opportunities to form and embrace identities that they voluntarily and reflectively embrace as their own.

#### **4.7 Response to the Exposure Problem and Further Implications**

Public schools seem to be an adequate instrument for developing self-creative autonomy in children given they operate with the explicit intention to develop this capacity. A state of affairs in which these self-creative abilities are not fostered, as in cases where parents have moral authority to reject external interference in their choice of how to educate their children, undermines children's self-directive autonomy and hence their integrity (later in life as mature adults). It is evident that granted such authority parents' own experiences and identities are likely to skew their perspectives on what their children should

and should not experience; the *Mozert* and *Yoder* cases are surely examples of this. Nevertheless, children have to live their own lives, make their own decisions and live with the consequences of these decisions. Genetics, talent, sexual orientation and other factors can incline children to resist early on in their lives certain elements of their upbringing and they should be afforded the opportunity to decide for themselves whether or not these impulses are worthy of their embrace or not. Parents should not have the unchecked ability to internalize within children moral rules for conduct which children are for the most part unable to verify and endorse by way of their self-creative capacities. Though parents' concern for their children cannot be summarily dismissed, it is unsuitable as the sole basis for decisions regarding children's lives, most especially their education.

At this point it is natural to ask: how does my view deal with the exposure problem? If my view is correct that reason to promote children's self-creative autonomy is manifestly present in parents' belief and motivational set, then the exposure problem largely dissipates. What made the exposure problem problematic for the consensus and convergence views of public justification was their reliance on the proceduralist conception of having a reason. That the consensus view incorporates this idea may at first be obscure, but I believe it becomes clear once one recognizes that 1) the principles of justice that undergird political liberalism on this view are the result of a refinement of ideas consensus theorists (especially Rawls) believe are *in fact* held by a majority of citizens in the US and 2) how the overlapping consensus operates. Both of these aspects of the consensus view are rooted in the idea that our actions can only be justified to others on the basis of reasons that they could reasonably accept; however, reasonable acceptance here, as in the convergence view, is essentially based on considerations that are generated from their own particular commitments, values and beliefs. Returning to the exposure problem, once dependence on the proceduralist view of having a reason is removed, there is no longer overriding reason to prioritize parents' commitments and values in the education of children (as in the case

of convergence theorists) or bootstrap the value of autonomy to the goal of creating good liberal citizens (as in the consensus view).

Abstracting from the particularities of the judicial machinery and precedents operating at the time of the actual rulings in *Mozert* and *Yoder*, it follows from my view that neither set of parents should be granted exemption for their children from public schooling based on their complaints. Insofar as their resistance to the prospect of their children attending public schools is based on the exposure problem, neither group has a convincing rationale for preventing their children from attending public schools. The crux of the matter has nothing to do with the propriety of the particular lifestyle and child-rearing practices employed by a child's parents; thus, the fact that Amish communities are relatively free of crime, hardworking, and display a deep commitment to their traditional values and way of life cannot be cited as a reason, as it was by Justice Burger in the *Yoder* case, for accommodating the Amish defendants' wishes in this instance.<sup>21</sup> The goodness of parents' comprehensive beliefs, values, and commitments is beside the point; children are not their parents and they deserve the ability to forge their own paths given their own unique features and experiences. That exposure to the techniques, tools, and environment necessary for developing their autonomy could result in children later rejecting their parents' preferred way of life is not a sufficient consideration to prevent their access to institutions that will help them actualize this capacity. In point of fact, this type of exposure is a precondition of children's ability to shape their own identities in ways that provide the foundation for their moral and legal obligations.

A further point that is at odds with current practice in the US, but appears to be a straightforward implication of the view I have discussed here, is that homeschooling (especially for an extended period of time) is not a permissible avenue for educating children.

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<sup>21</sup>Macedo, *Diversity and Distrust*, p. 154.

The reason why this is so is that the practice of homeschooling simply cannot replicate the type of community that we have seen to be necessary for the effective development of children's autonomy. This may not seem like a significant point, but current statistics show a rise in homeschooling in the US; currently, the number of children homeschooled in the US is roughly 1.77 million as recorded in 2012 up from 1.5 million in 2007.<sup>22</sup> While this amounts to only around 3.4 percent of the total student population as of 2012, children subject to this practice would seem to be at a great disadvantage with regard to developing their autonomy in fruitful ways. Homeschooling, then, would seem woefully lacking in a key ingredient needed to aid in the development of children's autonomy. For this reason alone it seems that homeschooling should be discouraged. Even those instructors who are open minded enough to try to supply their pupils with various reading materials and activities representing different points of view, commitments and values would lack the wealth of rational, affective and experiential elements inherent in a public school setting. The presence of actual people who perceive and interpret the world differently is needed to fully illuminate for children the depth and content of alternative ways of conceiving of oneself and the world. A diverse community of individuals with which to interact and be vulnerable to challenge regarding one's beliefs, values and commitments is an inescapable aspect of the promotion of the capacity of self-creative autonomy in children.

What about situations where, a critic may ask, homeschooled children are indeed made to socialize with others outside of their homes as part of their learning experience? Does this not preserve some measure of the diverse experiences needed to facilitate the development of their autonomy, yet in a way which is more comfortable to the proclivities of their parents given their preferred method of child raising? The problem with this objection is that this strategy of developing children's autonomy is precisely along the path

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<sup>22</sup>"Digest of Education Statistics 2016", National Center for Education Statistics, [https://nces.ed.gov/programs/digest/d15/tables/dt15\\_206.10.asp?current=yes](https://nces.ed.gov/programs/digest/d15/tables/dt15_206.10.asp?current=yes)

which is called for by the idea of self-creative autonomy but to a lesser extent than could be afforded by public schooling. In this instance we have to ask, why should we forgo the better device for affording children the chance to be autonomous? The critic's answer is that homeschooling is more congenial to parents' wishes. It is supposed to represent a happy middle ground; children to some extent can develop their autonomy, yet parents still have some measure of significant influence over how that process proceeds. However, we have already seen that parents' preferences for their children's education alone are insufficient to justify prioritizing these wishes in deciding how children ultimately are to be educated. So the inferiority of homeschooling as compared with public schooling with regard to the prospect of developing children's autonomy in light of the more limited community of interaction it can afford students, as well as its more limited provision of resources, looms large in the case for preferring the latter system of education. Parental visions of how their children should end up in terms of the commitments they embrace may well be jeopardized by the development of these children's autonomy; however, these visions were never to be afforded a greater probability of adoption by children in the first place. Parents' privileged position in their children's lives gives them a de facto advantage in presenting and impressing certain values and commitments to their children, but this luxury is not grounded in a moral right held by parents. The existence of a system of public education aimed at developing the self-creative and self-directive autonomy of children is what enables parents' disproportionate influence in their children's lives to be fully legitimate. In other words, the moral permissibility of parents as primary caretakers of their children, a role in which they have significant capability to try and direct the identity of their children, exists only in cases where there are institutional structures in place that give children a real chance to assess and defect from the views pushed by their parents. Parental claims that educational institutions should bend more favorably toward their preferences despite the fact that these institutions would do worse concerning the development of their children's autonomy are

therefore baseless.

Critics of my view may find this result unsettling. They might claim that it effectively ignores the legitimate fears of parents regarding the moral and spiritual health of their children. My view is a far cry from the optimism expressed by Vallier that Public Reason Liberalism and the judgments of religious citizens about policies in a liberal society can be fully reconciled.<sup>23</sup> However, the prospect of the liberal state failing to honor religious citizens' concerns about their children's exposure to different ideas and ways of life in public schools should be no different than their anxiety concerning the refusal of the liberal state to enact laws that conform to the beliefs of their chosen religious sect. In other words, most religious citizens have accepted that free religious practice must exclude the power to force others to abide by the tenets of one's religious views *regardless* of the troubling state of affairs that religious citizens believe might result from the absence of this ability. In the same vein, despite the greater attachment that parents who choose to raise their children often feel toward them, with respect to their children's education, they stand in much the same relationship to their children as they would to other adults. They simply do not have a license to control the lives of children in ways that delimit their children's ability to create themselves, an ability that has strong implications for the moral and legal demands others can legitimately make on them as mature moral agents and citizens.

As I think I have made clear, I believe that Public Reason Liberalism is the appropriate view of legitimate political justification for coercive laws. With respect to adult citizens that have more or less fully formed identities with associated integrity reasons, the correct conception of this idea stresses that laws that restrict and restrain citizens' actions must be justified to them given the personal perspective of each. In this case true political autonomy can be achieved by striving for publicly justified laws on the convergence view.

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<sup>23</sup>Vallier, *Liberal Politics and Public Faith*, pp. 90-98.



Politics can proceed on the basis of shared policies among citizens, not (necessarily) on the basis of shared reasons they have for supporting these principles or policies. It is important to note, as Vallier astutely points out, that convergence public justification need not conflict with consensus public justification in the sense that the consensus conception is actually a special subset of the convergence conception.<sup>24</sup> Consensus on a particular law or policy by citizens who each embrace the same reasons for enacting this law is simply a unique (and likely rare) instance of the convergence view. The main difference between the two views is that in the convergence view this type of sharing neither can be assumed from the outset of our political theorizing nor can it be assumed to hold a certain priority within the political edifice absent detailed investigation into the diverse reasons held by a particular citizenry. While it is true that much of the work of political legitimacy occurs outside of the confines of political philosophy on this view (in other words, on this view we have to wait and see what policies and rules citizens' diverse reasons converge on), this makes the community more like an organic, living, breathing and evolving entity. In a reasonably pluralistic society, at least when it comes to coercion directed toward adult citizens, we should expect shifting attitudes and ideas concerning what issues and topics are appropriate items on the political agenda and to what extent political power can be used to arrive at a resolution of these conflicts. This practice honors the freedom and equality of citizens by putting their strongest reasons at the forefront of political decision-making with a central aim of preserving citizens' integrity.

However, we cannot ignore the fact that also on my view the political perspective changes drastically when it comes to issues concerning children, principally, as I have argued, on the subject of their education. Here the bigger concern is not that laws reflect the diverse reasons of agents, but that these agents have the ability to choose the considerations

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<sup>24</sup>See Vallier, *Liberal Politics and Public Faith*, p. 136 and "Consensus and Convergence in Public Reason" pp. 273-274.

which will become the bases of their reasons. The result is achieved by splitting the educational authority over children between parents and a system of public schools designed for the express purpose of developing their self-creative and self-directing capacities. The state should tolerate much less in the way of opposition to particular laws that seek to establish such a system of education, especially when objections aim at discouraging to the harnessing of children's critical faculties or introducing them to ideas, values, and experiences that fall outside that which their parents believe is necessary to fulfill their own preferred paths for their children. Though parents may feel strongly and passionately advocate for educational institutions that favor their own particular views with respect to their children, the state may legitimately ignore these pleas in favor of constructing public schools around the goal of developing children's autonomy. The use of political power in this manner does not constitute a violation of the integrity of these citizens.

How, then, are decisions about public school policy to be made under my view? The decision-making process here should not be sensitive to the integrity reasons of adults as is the case in other areas of law. Instead the state must, as best it can, seek experts to shape the structure and operation of public schools. The operation and academic aims of schools should be oriented around children's acquisition and use of the various abilities and faculties necessary for them to build their own identities as they gradually transition into adulthood. In light of this, it may be the case that the installation of educational officials should not be determined by direct democratic processes. Procedures for appointment of those with the proper credentials seem preferable to elections in light of the goal of staffing schools with experts as opposed to catering to the particular preferences of parents. Thus, I believe that in significant respects the primary school system should resemble that of universities or colleges with respect to the selection of administrative officials and professional educators. These individuals' placement at the university level is not subject to democratic choice by a local general population, but instead is directed by various panels

of experts in their respective areas of specialization. This practice would do best to employ persons with the requisite skills and attitudes most conducive to public school's central aim of developing the autonomy of children.

#### **4.8 Conclusion**

I believe I have shown that Public Reason Liberalism (PRL), on the convergence view, is an attractive idea for the generation of legitimate law in a society marked by reasonable pluralism. PRL provides important political protections for the integrity of diverse individuals both in thought and in action. The convergence interpretation of PRL strongly supports this claim. However, PRL's central concern about guarding against the violation of individuals' integrity also motivates a concern about the conditions under which citizen identities, which serve as the foundation of their integrity, are formed. This naturally shifts our focus to children, given that their identities are not fully formed and for who others, in most cases their parents, make crucial decisions for them that go a long way to shaping the formative conditions of their subsequent identities and thus their integrity. It is here we are led to a discussion about the proper justification for children's education; the presence or absence of political policies aimed at directing children's education must play a vital role in our investigation into children's development of their integrity. However, when we examine this particular issue, we see that PRL, as it had been expounded and defended, fails to present a proper account of the aims of children's education; the consensus view insists on a communal view of citizenship where children are viewed as partial wards of the state as the foundation for public schooling, whereas Vallier's version of the convergence view eschews this approach in favor of fully empowering parents to choose how their children are educated, largely excluding the state from these decisions. Nonetheless, neither of these approaches is sufficient to yield the correct basis for the education of children (and, further, for legitimate education policy) which I have argued must revolve around the development of their self-creative autonomy. Only in this way can children be said to have

their own identities and integrity when they come to be adults given that their capacity for autonomy works to resist, embrace or modify the commitments, values, beliefs and ways of life impressed on them as children under coercive conditions.

I have tried to offer a new version of the convergence view, one that offers a broader but, I think, more plausible interpretation of the integrity of citizens. On my view, nothing much changes when considering which legitimate legal demands can be made of adult citizens. However, the same motivating concerns that underwrite this conception of legitimacy reveal a complicated picture when considering what legal demands can be placed on parents on behalf of their children. If we follow Gaus in thinking that justifiable legal demands roughly parallel genuine moral requirements based on rules, we are led to the idea that integrity of action requires autonomy both in the self-directive and self-creative senses. The self-creative sense is crucial when discussing children as it is this sense of autonomy that allows them to properly distinguish themselves as moral individuals. Self-creative autonomy empowers them to develop their motivational sets as they see fit; they maintain in a substantive sense their own commitments and values. The upshot of this view is that the self-directive sense of autonomy is not undermined; the internal obligation that children as mature moral agents (and as citizens) feel toward certain rules (or laws) and the reasons they have to endorse these rules (or laws) are thoroughly their own. The consensus view endorses important elements of this expanded sense of autonomy in its conception of a good liberal citizen. The consensus view falters, however, in thinking that good liberal citizenship is a legitimate aim for all citizens. This is not necessarily the case, as citizens equipped with self-creative autonomy may eschew the types of commitments that would justify to them deep involvement in political processes like public political discussion, advocacy, and voting. This, I think, is the result of the convergence view's superior protections for the integrity of citizens. As Vallier notes, good citizenship should not only

be predicated on direct political action such as campaigning, advocating, or voting.<sup>25</sup> There are many respects in which someone might be a good citizen in a liberal state and the convergence view allows for this kind of flexibility in our judgments. Still, the choice to be politically involved or disengaged, to live a life founded on a deep religious faith or a steady commitment to science and empirically tested information and theories, or any one of the seemingly limitless commitments one can embrace must be up to the individual citizen herself. The way to facilitate this is not to give parents carte blanche in how to educate their children, as Vallier, a prominent convergence theorist, suggests, but to from public institutions of education that give children the ability as adults to make these choices for themselves.

Those who wish to continue to endorse PRL will no doubt probably feel uneasy with my view. As I have defended it, this view discards the elegant simplicity of applying political remedies that would appear to suffice for adults directly to children. In that sense, my view is more complex and, as I have mentioned before, we can readily imagine certain parents outright rejecting its conclusions given their own integrity reasons. However, I maintain that this is no reason for the state to back off of its duty toward children under its purview; the liberal state should be poised to protect them from the overreach of political power just as they are prepared to do so when the potential victims of this overreach are not children, but adults. A wide plurality of conflicting views may be of the utmost import to legislation regarding rights, duties, and privileges for the political relationship between adult citizens and the state; however, the ability to choose on which terms an individual enters this contest of reasons that structures their political society is one that can only be achieved with the backing of the state through uniquely designed autonomy promoting public schools.

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<sup>25</sup>Vallier, *Liberal Politics and Public Faith*, p. 230

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