

The Role of Conservatism in Securing and Maintaining Just Moral Constitutions Toward a Theory of Complex Normative Systems*

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“Now let us say that a society is well-ordered when it not only is designed to advance the good of its members but when it also is effectively regulated by a public conception of justice. That is, it is a society in which (1) everyone accepts and knows that the others accept the same principles of justice, and (2) the basic social institutions generally satisfy and are generally known to satisfy these principles.”

John Rawls, *A Theory of Justice*

“In politics, again, it is almost a commonplace, that a party of order or stability, and a party of progress or reform, are both necessary elements of a healthy state of political life; until the one or the other shall have so enlarged its mental grasp as to be a party equally of order and of progress, knowing and distinguishing what is fit to be preserved from what ought to be swept away. Each of these modes of thinking derives its utility from the deficiencies of the other; but it is in a great measure the opposition of the other that keeps each within the limits of reason and sanity.”

John Stuart Mill, *On Liberty*

1 TWO CONCEPTIONS OF A WELL-ORDERED SOCIETY

For the last forty years — since John Rawls’s *A Theory of Justice*¹ — The Holy Grail of mainstream political philosophy has been “the theory of justice.” Although political philosophers have paid lip service to diversity of ends and moral disagreement as the background for their quest, the aim has been to present *the* correct theory of justice that can provide *the* basis for the sort of moral homogeneity that Rawls

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¹ John Rawls, *A Theory of Justice*, revised edition (Cambridge, MA: Belknap Press of Harvard University Press), 1999.

described as “well-ordered.” In a just society, it has been thought, all would endorse the very same principles of justice, to which social institutions would conform. Typically, these principles are described as “liberal,” so a just liberal society is characterized by moral homogeneity about justice.² Given that the last forty years have witnessed the production of a plethora of such “liberal theories of justice” — Rawls’s own contribution, Lockean libertarianism, “left” libertarianism, “luck egalitarianism,” and on and on — the dominant vision of a liberal society is distinctly sectarian. If liberalism, or a liberal order, is identified with a specific “theory of justice” in this way, it must set itself up in opposition to competing “political theories” such as (the remnants of) socialism and conservatism, and of course with the plethora (minus one) of liberalisms. A successful, triumphant, just liberal order has no place for conservatism as a popular political program, for the conservative rejects “the liberal theory of justice” and so cannot be a part of a well-ordered society based on it. The existence of a viable conservative party must indicate an incomplete or imperfect “collective commitment to justice.”³ The enemy — a purveyor of injustice — has not yet been banished. Their electoral success would spell doom for a free and just order.

This philosophical project, I believe, has been worse than a dead-end — though it certainly has been a dead-end, if there was ever an aspiration that the fruits of this forty-year quest would be some sort of consensus on the nature of a just, well-ordered, society. Amartya Sen is quite right: no matter how well-informed and impartial we are, competent inquirers simply will not arrive at the same conclusions as to the most just social condition.⁴ Much worse, however, is that fixation on the ideal of a morally homogenous society committed to a sectarian conception of justice has rendered normative political philosophy itself a sectarian, ideological, activity. The argument for any specific “political vision”⁵ is at best only suggestive, the many alternatives remain morally and intellectually viable.

Contrast the pursuit of homogeneity to the analysis of a free order implied by the nineteenth-century doctrine of the parties of order and progress (or, to employ the

² The back cover of *Justice as Fairness* proclaims that Rawls theory is about “the meaning and theoretical viability of liberalism.” John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press 2001).

³ Again, the back cover of *Justice as Fairness*: “Rawls is well aware that since the publication of *A Theory of Justice* in 1971 American society has moved further away from the idea of justice as fairness. Yet his ideas retain their power and relevance to debates in a pluralistic society about the meaning and theoretical viability of liberalism. This book demonstrates that moral clarity can be achieved even when a collective commitment to justice is uncertain.”

⁴ Amartya Sen, *The Idea of Justice* (Cambridge, MA: Harvard University Press, 2009), pp. 12, 45, 56-8, 89, 103. See further my “Social Contract and Social Choice,” *Rutgers Law Journal*, forthcoming.

⁵ Ronald Dworkin, *Sovereign Virtue* (Cambridge, MA: Harvard University Press, 2000), p. 236.

other contrast Mill provides, of stability and reform), as described in the epigraph.⁶ In contrast to the currently dominant view, which identifies a successful liberalism with the victory of a sectarian theory of justice, this latter view depicts a free and just order as inherently one of deep moral and political diversity. Such a society could still be well-ordered, in the sense that its participants endorse as normative the basic terms of their common life and so achieve a justified and stable order, but the shared terms would be grounded on diverse normative commitments and they will not agree that these are the best or optimal terms. What is interesting about such moral and political systems is that their deep normative diversity, rather than being a barrier to a sustained public moral and political existence, is the grounds of it. A sustainable free order is not one that has banished the enemies of “liberalism,” but a complex system that requires diverse moral and political views for its maintenance.

In this essay I explore this latter conception of a moral and political order, and how political philosophy may study and evaluate it. In section 2, following a different idea of Rawls, I sketch a conception of a truly diversity-based normative political philosophy as a search for a “moral constitution” that can be endorsed by a variety of normative commitments. I then (§3), show how our current focus, American conservatives, are well-placed to be “wholehearted members” of this moral order.⁷ However, conservatives are not simply committed to this order; in section 4 I argue that the conservative tradition has insights into the nature of such an order that are often resisted by liberal political philosophers, and so an adequate political philosophy of normatively diverse systems coheres with basic conservative ideas. Section 5 then turns directly to the way that diversity is required for a sustainable, justified moral constitution; I maintain that a division between conservatives and what I shall “left-leaning-liberals”⁸ is conducive to a just and sustainable moral constitution. I conclude with a few remarks on the idea of a political theory for complex normative systems.

⁶ Cf. Mill’s discussion in *Considerations on Representative Government* in *The Collected Works of John Stuart Mill*, edited by J. M. Robson (Toronto: University of Toronto Press, 1977), vol. 19, chap. 3.

⁷ See Rawls, *Political Liberalism*, paperback edn. (New York: Columbia University Press, 1996), p. xl.

⁸ To stress that this is a sectarian, ideological, position. I shall contrast this to simple “liberalism” which is a wider tradition in political thought and to “academic-liberalism” (or “liberal political philosophy”), which refers to a variety of political philosophy. I apologize for these awkward locutions, but it is required by the tendency in America for “liberalism” to refer to (i) a type of philosophy (what Michael Freeden, the leading contemporary scholar of ideologies, calls “American philosophical liberalism”), (ii) a wide tradition in political thought that stresses the moral freedom and equality of individuals, individual freedom and the rule of law and (iii) a political ideology that tends to the left. Freeden [*Ideologies and Political Theory: A Conceptual Approach* (Oxford: Clarendon Press, 1996), chap. 6] argues that “American philosophical liberalism” is itself ideological; I question his analysis in “Ideology, Political Philosophy, and the Interpretive Enterprise: A View from the Other Side” in *Liberalism as Ideology: Essays for Michael Freeden*, edited by Ben Jackson and Marc Stears (Oxford: Oxford University Press, 2012): 178-98.

2 RETHINKING MORAL LIFE UNDER CONDITIONS OF DIVERSITY

2.1 Moral Theory and Moral Constitutions

Although I have pointed to Rawls's *Theory of Justice* as the fountainhead of the contemporary obsession with producing "the liberal theory of justice,"⁹ there is good reason to think that Rawls was less enamored with this project than were his followers, and became increasingly skeptical as his work developed in the 1980s and 1990s. He came to stress that our society is confronted by irreconcilable conflicts of "absolute depth."¹⁰ Thus his regulative question became: "How is it possible for there to be a just and stable society of free and equal citizens who remain profoundly divided by reasonable religious, philosophical, and moral doctrines?"¹¹ Of the utmost importance is that, in contrast to his earlier work, Rawls did not restrict these deep conflicts to matters of "the good" — he explicitly recognized that the free use of reason among good-willed and reasonable people leads them to disagree about morality and the principles of political right.¹² Given this enduring and pervasive disagreement, the "real task" of "justifying a conception of justice" involves

[t]he search for reasonable grounds for reaching agreement rooted in our conception of ourselves and our relation to society [which] replaces the search for moral truth interpreted as fixed by a prior and independent order of objects and relations, whether natural or divine, an order apart and distinct from how we conceive of ourselves. *The task is to articulate a public conception of justice that all can live with. . . .* What justifies a conception of justice is not its being true to an antecedent order to and given us, but its congruence with our deepest understanding of ourselves and our aspirations, and our realization that, given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us. *We can find no better basic charter for our social world.*¹³

Rawls advanced a fruitful and radical proposal: we can conceive of the justification of a liberal conception of justice as the search for a "public moral constitution" that we all can live with.¹⁴ Just as a political constitution is the basis of

⁹ The name Brian Barry gave to Rawls's theory: *The Liberal Theory of Justice: A Critical Examination of the Principal Doctrines in A Theory of Justice by John Rawls* (Oxford: Oxford University Press, 1973). Although in 1973 Barry sought to distance himself from liberal justice, by the end of his career he seems to relent, and offers his own theory of liberal justice. *Justice as Impartiality* (Oxford: Oxford University Press, 1995).

¹⁰ Rawls, *Political Liberalism*, p. xxviii.

¹¹ *Ibid.*, p. xxxix. Emphasis added.

¹² I stress this point in "The Turn to a Political Liberalism" in *The Blackwell Companion to Rawls*, edited by David Reidy and Jon Mandle. New York: Wiley-Blackwell, forthcoming.

¹³ Rawls, "Kantian Constructivism in Moral Theory" in *John Rawls: Collected Papers*, edited by Samuel Freeman (Cambridge, MA: Harvard University Press, 1999), pp. 306-7. Emphasis added.

¹⁴ *Ibid.*, p. 326. This idea is explored in more depth in my "On the Appropriate Mode of Justifying a Public Moral Constitution," *The Harvard Review*, forthcoming.

legitimate and mutually recognized political authority among those who favor competing political views — conservatives, democratic socialists, liberal egalitarians, greens, feminists, libertarians and so on — a justified moral constitution articulates a shared, public, moral framework that all can live with. Now to say that all can live with a certain moral constitution is not to say that it is (in some deep sense) the true, or morally best, constitution as judged from any particular moral, religious or metaphysical perspective. In his American Philosophical Association presidential address, Rawls identifies a form of moral inquiry that he calls “moral theory,” which is distinct from moral philosophy:

Moral theory is the study of substantive moral conceptions, that is, the study of how basic notions of the right, the good, and moral worth may be arranged to form different moral structures. Moral theory tries to identify the chief similarities and differences between these structures and to characterize the way that they are related to our moral sensibilities and natural attitudes, and to determine the conditions they must satisfy if they are to play their expected role in human life.¹⁵

Rawls explicitly stressed that the perspective of the moral theorist must be divorced from that of one committed to a particular moral conception.¹⁶ “One thinks of the moral theorist,” wrote Rawls, “as an observer, so to speak, who seeks to set out the principles of *other people’s* moral conceptions and attitudes.”¹⁷ As moral theorists, Rawls writes, “we are investigating an aspect of human psychology, the structure of our moral sensibility.” Moreover, moral theory is necessarily concerned with social theory, and the feasibility of the sort of society a moral conception instructs us to seek.¹⁸ In contrast, when taking up the perspective of one devoted to a moral conception, one may regard it as the correct theory, as that which provides the definitive account of normativity, justice, or the nature of objective right and wrong.¹⁹ When advocating a moral conception one may find it puzzling that others can fail to grasp its insights, whereas Rawls repeatedly and approvingly cites Sidgwick’s remark in the preface to the first edition of *The Methods of Ethics* that he sought “to put aside temporarily the urgent need which we all feel of finding and adopting the true method of determining what we ought to do; and to consider simply what conclusions can be rationally reached if we start with certain ethical

¹⁵ John Rawls, “The Independence of Moral Theory” in *John Rawls: Collected Papers*, p. 286.

¹⁶ *Ibid.*, p. 288.

¹⁷ *Ibid.* Emphasis added.

¹⁸ *Ibid.*, p. 296.

¹⁹ *Ibid.*, p. 288.

premises.” The aim, said Sidgwick, is to adopt “a neutral position” when evaluating the various methods of ethics.²⁰

The moral theorist, then, stands back from his own deepest (sectarian) normative commitments, and seeks to discover a moral framework we all can live with — a framework that is socially feasible, psychologically workable, and resonates with each person’s deepest normative commitments. Many are uncomfortable with this project (which perhaps explains why it has not been taken up). As many see it, it hovers uneasily between the normative and descriptive. If we take the normative as that which concerns what is, in some sense, truly and really moral and valuable, moral theory is agnostic about such normativity. And if, as some would have it, any concern with social and psychological feasibility, and what is warranted given bounded deliberation, are mere social scientific matters that lie outside the realm of the moral, then again moral theory will seem to be non-normative. Rawls challenges these narrow understandings of the normative realm. The moral constitution identifies an enduring framework that each of us, exercising her reason within the bounds of normal human competency, can reflectively endorse as providing moral grounds for interpersonal demands and the adjudication of claims. That is, it provides a shared conception of justice.

2.2 Deep Diversity and the Non-optimizing Stance

Here, then, is our problem: a cooperative social life that treats all as free and equal moral persons — one that is liberal in the widest sense — requires a common moral constitution. In far-flung cooperative social and economic orders, one needs to have a firm idea as to the terms of intercourse with the undefined stranger. To know what you can expect — indeed, morally demand — of others, and what they can require of you is indispensable for social life. Within small like-minded groups we may share a local moral constitution based on deep agreement in outlooks, but in our wider social interactions such agreement seems, at best, thin. We have irreconcilable disputes of absolute depth. What are we to do?

One response, which we can associate with much of Rawls’s work and many of his contemporary followers, sees our disagreements as ultimately shallow. If we can only abstract away from our disagreements, we will find that we share a common reasonable conception of the just moral constitution, and so, when abstracted to this common core we all really do agree on what is the best or optimal way to arrange the moral basis of our common life. Thus, when we take the view of the original position, we would all see that despite our disagreements, we all concur on justice as

²⁰ Henry Sidgwick, *The Methods of Ethics*, seventh edn. (Chicago: University of Chicago Press, 1907 [1962]), p. vi. See Rawls, “The Independence of Moral Theory,” p. 290; “Kantian Constructivism in Moral Theory,” p. 341.

fairness. But clearly this procedure is not plausible if our disagreements are intractable, wide and of absolute depth. Surely it is implausible to say that our disagreements are wide and deep, yet do not impact on our judgment as to what constitutes an acceptable normative basis of our shared life. Rawls, I believe, ultimately came to this conclusion, and so relaxed his supposition that we would agree on the very same principles of justice.²¹ In this sense he abandoned his original search for a well-ordered society.²² However, he never succeeded in building such disagreement into his deliberative model; how might we do so?

Suppose we take seriously the width and depth of our disagreements in our diverse society; in our deliberative model each person is well aware of the full extent of her normative commitments. For sake of simplicity, let us assume that each person proposes a moral constitution (alternatively, and more plausibly, we might suppose that the deliberators consider different rules that could be elements of a constitution, see §§3-5 below). Suppose that each deliberator, *i*, proposes her optimal or best constitution (C_i), based on her own deeply held convictions (let us call this her “overall evaluative outlook”); suppose further that she ranks all the others (we can even allow that she may come to the conclusion that her proposal was not, after all, the best from her perspective, and so ranks one of the alternatives as superior). In a five-person society, we thus might have the following outcome.

A	B	C	D	E
C_A	C_B	C_C	C_D	C_E
C_B	C_A	C_D	C_B	C_B
C_D	C_C	C_B	C_A	C_A
C_C	C_D	C_A	[C_C]	C_D
[C_E]	[C_E]	[C_E]	[C_E]	C_C

DISPLAY 1

We immediately see that a deliberator cannot insist on her optimal constitution and still share a commonly endorsed framework for moral life. Each must renounce the optimizing stance: one must accept that one could grant normative authority to a public moral constitution that falls short of what is best by one’s own lights.

²¹ See my “The Turn to Political Liberalism.”

²² As Samuel Freeman suggests in “Public Reason and Political Justification” in his *Justice and the Social Contract* (Oxford: Oxford University Press, 2007), pp. 215-56 at pp. 255-56.

A common moral life is a great benefit, a benefit that everyone's overall evaluative standards endorse.²³ When you and I confront each other, recognizing the same moral constitution as possessing normative authority, we have shared grounds for the adjudication of moral claims and a shared recognition of the moral demands that we can make on each other. And, importantly, we will both experience guilt at their violation. This, in turn, means that the reactive attitudes of resentment and indignation are well-grounded: not only are we making demands on each other, but demands that we are justified in supposing the other has adequate reason to acknowledge and act upon. As P. F. Strawson stressed, the reactive attitudes are based on a supposition that the other has acted towards one with ill-will; I feel resentment and indignation when I understand your action towards me as manifesting contempt or disregard for me.²⁴ However, if you can see no reason to acknowledge my demand (it is based on a constitution you cannot see as providing you with normative reasons to endorse), your violation is not a manifestation of contempt or ill-will, but an indication that you cannot see how my demand has the force I attribute to it. Typically, my resentment and indignation will be undermined, and our shared social-moral lives impoverished.²⁵

Of course even though I see great value in sharing a moral constitution with others, the constitution must sufficiently cohere with my evaluative outlook for me to see it as giving adequate normative reasons to comply. No matter how important it is to share a social-moral life with others, if a moral constitution does not draw on my evaluative outlook, I cannot see it as sufficiently normative. My evaluative outlook, after all, defines what I can see as normative; my recognition of the normativity of the moral constitution, as it were, flows from it. This is the heart of Rawls's claim that "full justification" only occurs when the constitution is embedded into one's overall evaluative outlook.²⁶ It follows from this that in some cases full justification fails: the constitution may be rejected "once all the values are tallied up."²⁷ In this case the person cannot endorse some proposed constitution C_x as

²³ Of course there are the problems of the psychopath and the fanatic. Before working out what we wish to say to those not interested in sharing a moral life with us, let us think harder about what we shall say to those who do.

²⁴ P. F. Strawson, "Freedom and Resentment," *Proceedings of the British Academy*, vol. 48 (1962): 187-211.

²⁵ See further my *Order of Public Reason* (Cambridge: Cambridge University Press, 2011), pp. 205-25.

²⁶ See Rawls, *Political Liberalism*, p. 386. Rawls is here restricting himself to the political, not the moral constitution. The major change from Rawls's original Dewey Lectures ("Kantian Constructivism in Moral Theory") to the revised Dewey Lectures (*Political Liberalism*) was a change from the justification of a moral constitution to principles governing the political.

²⁷ Rawls, *Political Liberalism*, p. 386.

sufficiently normative; claims based on it do not cohere whether her overall evaluative outlook.²⁸

We might say, then, that given the overall evaluative outlook of such a person C_i , some possible constitutions are not normatively eligible for her. In Display 1, we may suppose that C_E is not eligible for persons A-C, that neither C_C nor C_E is eligible for person D, and all are eligible for person E. In this case, then, moral constitutions C_A , C_B , and C_D could be endorsed by all as providing a mutually recognized normative basis for their social life (I shall call constitutions that all can endorse “socially eligible”). To paraphrase Rawls, all three provide public conceptions of justice that all can live with. We can find no better basic charters for our social world.²⁹

3 CLAIM 1: AMERICAN CONSERVATES SHARE ELIGIBLE CONSTITUTIONS WITH LEFT-LEANING-LIBERALS

The current partisan climate in both politics and political philosophy appears to assume that left-leaning-liberals and conservatives cannot embrace the same charter for their social world. The left-leaning-liberal, we are told, has a secular and scientific outlook, the conservative a religious view that is sometimes hostile to, or at least skeptical about, certain scientific claims. Or, to be more philosophical, the academic liberal is said to base her political philosophy on the supposition of equal concern and respect, while conservatism is said to be premised on a conception of virtue or the good.³⁰ We set aside these disputes here. Some are deeper than we need to go (such as whether conservatism, but not liberalism, is based on a conception of virtue), while others are too close to policy (such as the teaching of evolution). Our concern is whether left-leaning-liberals and conservatives have common eligible moral constitutions — whether, in Rawls’s terms, they can concur on “a conception of justice” or a basic moral charter for their social world. To make progress on this question, it will help to replace the general idea of sharing a moral constitution with the various elements that may comprise such a constitution. Fundamental to all contemporary versions of liberalism, including left-leaning-liberalism, are four commitments: a robust regime of equal basic personal liberties, a constitutional democracy, a private-property market order, and a commitment to state provision of basic needs and services.

²⁸ I consider the distinction between eligible and ineligible rules in much more depth in *The Order of Public Reason*, pp. 310-21. Here I rely on the intuitive idea that some constitutions would not gain sufficient support from one’s evaluative standards to endorse them.

²⁹ Rawls, “Kantian Constructivism in Moral Theory,” pp. 306-7.

³⁰ Ronald Dworkin, “Liberalism” in *Public and Private Morality*, edited by Stuart Hampshire (Cambridge: Cambridge University Press, 1978), pp. 113-43.

3.1 Equal Basic Liberties

In specifying the core of all liberalism Rawls gives pride of place to a regime of equal basic liberties, and in this he speaks for the liberal tradition. “By definition,” Maurice Cranston wrote, “a liberal ... believes in liberty.”³¹ A recurring worry of liberals is that conservatives have, at best, a hesitant commitment to equal basic liberties. In the European tradition conservatism has often stood for a natural hierarchical authority and class privilege — recall that Filmer explicitly focused his attack on the “dangerous” opinion of the natural freedom and equality of mankind, arguing instead for a natural hierarchy of authority.³² The American conservative tradition has not been free of this anti-liberal strain. Ralph Adams Cram, writing in 1918, proclaimed that “‘the hungry sheep look up and are not fed,’ for the soul of sane man demands leadership and in spite of academic aphorisms on Equality, a dim consciousness survives of the fundamental truth that without strong leadership democracy is a menace; without strong leadership culture and even civilization will pass away.”³³ Indeed, to Cram most of us do not even “measure up to the standard” of human beings.³⁴

Far more important to American conservative thinking in the twentieth century was Russell Kirk’s revival of traditionalism, most importantly in his 1953 classic on *The Conservative Mind*.³⁵ Although Kirk too is a critic of most forms of equality, his version of traditionalism endorses the moral equality of all. In his influential statement of the canons of conservative thought, Kirk proclaims “The only true equality is moral equality,”³⁶ and he clearly upholds equal basic rights.³⁷ While we see definite movement in Kirk’s conservatism to an insistence on basic equality and a defense of a certain form of individuality,³⁸ he remains anchored in the conservative traditionalism that dominated the first part of the twentieth century.³⁹

³¹ Rawls, *Political Liberalism*, p. xlvi; Maurice Cranston, “Liberalism” in *The Encyclopedia of Philosophy*, edited by Paul Edwards (New York: Macmillan and the Free Press, 1976): 458-461.

³² Robert Filmer, *Patriarcha in Patriarcha and Other Writings*, edited by Johann P. Sommerville (Cambridge: Cambridge University Press, 1991), pp. 2ff

³³ Ralph Adams Cram, *The Nemeses of Mediocrity* (Boston: Marshall Jones Co, 1918), p. 6.

³⁴ Ralph Adams Cram, “Why We Do Not Behave Like Human Beings,” *The American Mercury*, (February 1956), pp. 125-133 at p. 131.

³⁵ See Gregory L. Schneider, *The Conservative Century: from Reaction to Revolution* (Lanham, MD: Rowman and Littlefield, 2009), pp. 53-55.

³⁶ Russell Kirk, *The Conservative Mind* (BN Publishing, 2008), p. 8; see also p. 82.

³⁷ *Ibid.*, p. 82. In contrast, John Randolph speaking for the Southern “aristocracy,” followed Filmer in denying that all are born free and equal. *Ibid.*, p. 139.

³⁸ *Ibid.*, p. 90.

³⁹ Which includes the southern agrarians. See *I’ll Take My Stand: the South and the Agrarian Tradition, by Twelve Southerners* (Baton Rouge: LSU Press, 1977), originally published in 1930.

What is most remarkable about American conservatism in the 1950s is the emergence of the so-called “fusion” of conservative traditionalism with classical liberalism, most notably in the work of Frank S. Meyer.⁴⁰ A fierce critic of Kirk, Meyer insisted that traditional conservatism “was far too cavalier to the claims of freedom, far too ready to subordinate the individual person to the authority of the state.”⁴¹ Whereas Kirk upheld James Fitzjames Stephen’s critique of Mill’s defense of liberty, Meyer defends Mill:

The only alternative to the moral rule of liberty is to enthrone the sad tendency of human history as right, to glorify with James Stephen “the man of genius who rules by persuading an efficient minority to coerce an indifferent and self-indulgent majority” Liberty is the political end of man’s existence because liberty is the condition of his being. It is for this reason that conservatism, which in preserving the tradition of this truth, is only constant with itself when it is libertarian.⁴²

It was not only Mill, but Adam Smith and the Austrian economists such as Menger, von Mises and Hayek, who Meyer insisted must be integrated into an adequate American conservatism for the twentieth century.⁴³

“Fusion” conservatism had a profound effect on American conservatism in the latter part of the twentieth century, and continues to this day. “Extremism in the defense of liberty is no vice. . . . moderation in the pursuit of justice is no virtue!”⁴⁴ is neither the rallying cry of the traditionalist of the first part of the century nor of Kirk. To be sure, in policy debates, and on issues of specific interpretation of individual rights, American left-leaning-liberals and conservatives have intense disagreements. It is because so much of politics is focused on these debates — from school prayer to gay marriage — that American left-leaning-liberals are convinced that conservatives are not strongly committed to freedom, just as American left-leaning-liberals’ embrace of the expansion of government convinces American conservatives that left-

⁴⁰ See Schneider, *The Conservative Century*, pp. 54-60.

⁴¹ Frank S. Meyer, “Freedom, Tradition, and Conservatism” in *Defense of Freedom and Related Essays*, edited by William C. Dennis (Indianapolis: Liberty Fund, 1996), pp. 14-29 at p. 22.

⁴² Meyer, “In Defense of John Stuart Mill” in *ibid.*, pp. 164-69 at p. 168. Compare Kirk, *The Conservative Mind*, pp. 265-75.

⁴³ Meyer, “Freedom, Tradition, and Conservatism,” pp. 26-27.

⁴⁴ These words, of course, are from Barry Goldwater’s acceptance address at the 1964 Republican convention. “Extremism in the Defense of Liberty” in *Conservatism in America Since 1930*, edited by Gregory L. Schneider (New York: New York University Press, 2003), pp. 238-46 at p. 245. In *The Conscience of a Conservative* [Bottom of the Hill Publishing, 2010, p. 13], Goldwater insists: “the Conservative’s first concern will always be: Are we maximizing freedom?” Meyer agrees: the principles of political right require “a state capable of maintaining order while at the same time guaranteeing to each person in its area of government the maximum liberty possible to him short of his interference with the liberty of other persons.” *In Defense of Freedom: A Conservative Credo in Defense of Freedom and Related Essays*, pp. 33-151, at p. 98.

leaning-liberals have forsaken liberty by embracing the security of Leviathan.⁴⁵ But these are not disputes about the fundamental place of equal liberty in the basic terms of social interaction.

3.2 Constitutional Democracy

European history reveals periodic attractions of conservative parties and followers to the anti-democratic radical right. The most infamous cases are the support of conservatives for the Nazis in the legislative elections of 1932 and Hindenburg's naming of Hitler as Chancellor in 1933. Now to be sure, the history American conservatism is not entirely free of such cases; Seward Collins, a publisher of some influence in the 1920s and 30s who advocated a "revolutionary conservatism," eventually embraced fascism, praising Franco and Mussolini.⁴⁶ American left-leaning-liberals, however, have tended to wildly exaggerate anti-constitutionalism among conservatives; the 1963 movie *Seven Days in May* (which, I must admit, is a favorite of mine), roughly inspired by General Edwin Walker, depicts a right-wing military plot to overthrow an obviously Democratic, peace-loving, president.⁴⁷ (The hero, Kirk Douglas, defends democracy and the constitution against the rabid anticommunist, Chairman of the Joint Chiefs, Burt Lancaster). In the American tradition, however, these are extremely rare outliers — a veneration of the constitution and its form of government is one of the core commitments running through practically the entire gamut of American conservative thinking.⁴⁸ Barry Goldwater insisted that the conservative's task was to uphold constitutional limits on power against the tendency of the left to conceive of the "*federal government as the whole people organized to do what had to be done.*"⁴⁹ Under the constitution, the federal government, he argued, was not an all-purpose mechanism designed to legislate for whatever problems arose, but a system of defined powers under restraints that "make it possible for men to follow their chosen pursuits with maximum freedom."⁵⁰ Although this understanding of the constitution is characteristic of the more libertarian strains of American conservatism, it certainly is not generally definitive; Robert Bork, deemed as a proponent of the "New Right," argued for much greater

⁴⁵ Meyer, *In Defense of Freedom*, pp. 149-51.

⁴⁶ Schneider considers the cases of Collins and Lawrence Dennis in *The Conservative Century*, pp. 20-24. At one point, on the way to fascism, Collins advocated monarchy. "Monarchy as Alternative" in *Conservatism in America Since 1930*, pp. 16-28.

⁴⁷ Schneider mentions this case in *The Conservative Century*, p. 103.

⁴⁸ See Schneider's "Introduction" to *Conservatism in America Since 1930*, p. 3.

⁴⁹ Quoting Dean Acheson, emphasis in original. *The Conscience of a Conservative*, p. 14.

⁵⁰ Goldwater, *The Conscience of a Conservative*, p. 15.

majoritarian, legislative, leeway.⁵¹ We cannot identify a particular theory of constitutional democracy with American conservatism in general; what we can say is that a devotion to the constitution is indeed characteristic of it.

3.3 *The Market Order*

All conservatives uphold private property; to Robert Nisbett the defense of private property is a “dogmatic” of conservatism.⁵² “The true rights of man,” wrote Kirk, “are equal justice, security of labor and property, the amenities of civilized institutions and the benefits of an ordered society.”⁵³ However, in the twentieth century, the threat of communism to private property too often drove conservatives into the arms of the far right and authoritarian regimes (as in the German elections of 1932). Various forms of corporatism and state-direction are consistent with the privileges of property. Moreover, defending property is consistent with attacking the modern economic order. Traditional conservatives have often bemoaned international economic activity, industrialization, mass production and consumerism, “the grand end which justifies the evil of modern labor.”⁵⁴

Distinctive of American conservatism in the latter half of the twentieth century and into this century has been not simply a strong defense of private property, but of the market. According to Meyer, conservatives

...stand for a free economic order for two reasons. In the first place, they believe that the modern state is politically so strong, even without controls over the economy, that it concentrates power to a degree that is incompatible with the freedom of its citizens. When to that power is added control over the economy, such massive power is created that the last defenses against the state becoming a monstrous Leviathan begin to crack. Second — though this is subsidiary in the conservative outlook to the danger to freedom — conservatives in general believe, on the basis of classical and neoclassical economic theory, that a free economy is much more productive of material wealth than an economy controlled directly or indirectly by the state.⁵⁵

⁵¹ See Robert H. Bork, *The Tempting of America: The Political Seduction of the Law* (New York: Simon & Schuster, 1990). For a criticism from the libertarian direction, see Stephen Macedo, *The New Right v. the Constitution* (Washington, DC: Cato Institute, 1987).

⁵² Robert Nisbett, *Conservatism: Dream and Reality* (London: Open University Press, 1986), pp. 55-68.

⁵³ Kirk, *The Conservative Mind*, p. 49. Kirk is discussing Burke in this passage.

⁵⁴ “Introduction: A Statement of Principles” to *I’ll Take My Stand: the South and the Agrarian Tradition*, p. xlii. Cf. John Gray, *False Dawn* (New York: The New Press, 2000).

⁵⁵ Meyer, “Conservatism” in *Defense of Freedom and Related Essays*, pp.187-205 at p.194.

To Irving Kristol, "The United States is the capitalist nation par excellence. . .the Founding Fathers *intended* this nation to be capitalist and regarded it as the *only* set of economic arrangements consistent with the democracy they had established."⁵⁶

An objection immediately arises: surely this devotion to a capitalist market order shows a significant disjuncture between the conservative's and the left-leaning-liberal's understanding of eligible moral constitutions. In his most detailed discussion of eligible economic systems in *Justice as Fairness*, Rawls appears to dismiss capitalism, including welfare-state capitalism, as inherently unjust (a view that might have surprised readers of *A Theory of Justice*).⁵⁷ More generally, hostility to capitalism is, if not quite characteristic of left-leaning-liberal political philosophers, certainly common enough. There is considerable confusion, however, over what is meant by "capitalism."⁵⁸ To many, the rejection of capitalism is tantamount to the rejection of largely unregulated markets or extreme inequalities of wealth and income. And to some, "capitalism" is simply employed as a general term of criticism for aspects of modern markets and business of which they disapprove. It is probably best to set the term "capitalism" aside. What we can say with confidence, I think, is that a market economy based on nonpublic ownership of a wide variety of assets and investment instruments, with strong protection of property rights including shareholder rights, extensive freedom to start businesses and hire employees, along with widespread use of the hierarchically organized firm, remains the focus of all plausible proposals for economic reform and policy.⁵⁹

To be sure, insofar as one is occupying the role of political philosopher, expounding personal visions of a "perfectly just" society,⁶⁰ one may well hold that no version of such a system could possibly fill the bill. If, however, our concern is moral theory, such a position is tantamount to a declaration that no feasible reform of property or trade relations could render economic life morally legitimate; left-leaning-liberalism is thus transformed into a radical, revolutionary, doctrine holding that this basic aspect of human existence (involving exchange, savings, production and the pursuit of careers) is nowhere even in the neighborhood of moral legitimacy, and can only be made legitimate by instituting a type of economic order that has

⁵⁶ Irving Kristol. "Why Big Business is Good for America" in *Conservatism in America Since 1930*, pp. 318-35 at p. 318.

⁵⁷ Rawls, *Justice as Fairness*, pp. 8n, 135-40. Note the first entry of the index under "capitalism:" "conflicts with justice as fairness."

⁵⁸ I seek to characterize it in "The Idea and Ideal of Capitalism" in *The Oxford Handbook of Business Ethics*, edited by George G. Brenkert and Tom L. Beauchamp (Oxford: Oxford University Press, 2009), pp. 73-99.

⁵⁹ All OECD countries meet these criteria, including those some deem "democratic socialist." See my *Order of Public Reason*, Appendix B

⁶⁰ See Rawls, *A Theory of Justice*, pp. 7-8.

never existed, the operation of which would be highly conjectural. If we take the task of a moral theorist as speaking to a certain historical social and political situation, seeking to discover a basic charter for the social world that all reasonable people can live with and so performs the necessary social role of a conception of justice,⁶¹ this radical utopian vision is inapposite. When left-leaning-liberal political philosophy becomes a conversation restricted to those who share similar revolutionary aspirations, it becomes irrelevant to — or, worse, a threat to — the search for a basic moral framework that we all, here and now, can live with. As is so often the case, the practical implication of an uncompromising utopianism is a practical nihilism. Happily, very few left-leaning-liberal political philosophers take this route, consistently claiming that all or most existing property and trade relations are morally illegitimate.⁶² They themselves ground moral claims on them — they buy and sell real property, invest in corporations for their retirements, call on the courts if they have been swindled, and experience resentment and indignation at being burgled.

3.4 The Welfare State

But surely the shoe is on the other foot when we consider the conservative's attitude towards the welfare state. "The welfare state is not inevitable," Goldwater wrote.⁶³ Isn't *this* an uncompromising utopian position? Hayek long ago insisted that he was not a conservative because conservatives end up endorsing the proposals advanced by their victorious opponents in the previous generation's political struggles, whatever they may be.⁶⁴ American conservatism has been accused of doing precisely this, moving ever leftwards.⁶⁵ By 1993 Kristol was sketching a conservative view of the welfare state.⁶⁶ Conservative policy analysts such as James Q. Wilson had already been doing so, though in a more piecemeal and careful manner.⁶⁷

⁶¹ Rawls, "Kantian Constructivism in Moral Theory," p. 305.

⁶² Many so-called critics of capitalism see themselves as Keynesians, though Keynes himself thought that, despite his criticisms of great inequalities, in many ways his view was "moderately conservative in its implications." His aim was to preserve freedom, efficiency and an adequate social existence for all — something that he believed capitalism could best deliver. See John Maynard Keynes, *The General Theory of Employment, Interest and Money* (Cambridge: Cambridge University press, 1973), pp. 377, 381; Keynes, "The End of Laissez-Faire" in his *Essays in Persuasion* (London: Macmillan, 1972), p. 294.

⁶³ Goldwater, *The Conscience of a Conservative*, p. 52.

⁶⁴ F. A. Hayek, "Why I am not a Conservative" in his *The Constitution of Liberty* (London: Rutledge and Kegan Paul, 1960), pp. 397-411.

⁶⁵ See Paul Edward Gottfried, *Conservatism in America* (New York: Pelgrave-Macmillan, 2007).

⁶⁶ Irving Kristol, "A Conservative Welfare State" in *The Essential Neoconservative Reader*, edited by Mark Gerson (New York: Addison-Wesley, 1996), pp. 283-87.

⁶⁷ For a useful summary, see James Q. Wilson, "The Rediscovery of Character: Private Virtue and Public Policy" in *ibid.*, pp. 291-304.

Conservative analyses of good public policy in a welfare state certainly conflict with mainstream Democrats. There is, for example, a much stronger emphasis on the relation of the welfare's state's incentive structure to character, more worry about an expansive Federal government, and far more readiness to enlist religious organizations as providers in government-sanctioned schemes. Interestingly, however, Wilson defined the core of the "neoconservative" approach to public policy not in terms of specific value commitments, but a lively appreciation of the law of unintended consequences. "Things almost never work out quite as you hope; in particular, government programs often do not achieve their objectives or do achieve them but with high or unexpected costs."⁶⁸

To be sure, the last few years have witnessed a more populist conservative opposition to certain existing and proposed programs of the welfare state, as well as taxation policies. In the current, overheated, ideological political environment, it is tempting to rush to view that we are witnessing a radical break with post-war American conservatism. I am deeply skeptical. Almost all these elements have been a part of "fusion" conservatism since the '50s — evaluation of public policy in terms of the "Judeo-Christian tradition,"⁶⁹ a defense of markets, and deep reservations about expansive state policies. Overwhelmingly, this political program has evolved into a debate within the welfare state, about its appropriate tasks and limits, not its legitimacy. In his first inaugural address, Ronald Reagan proclaimed:

It is my intention to curb the size and influence of the Federal establishment and to demand recognition of the distinction between the powers granted to the Federal Government and those reserved to the States or to the people. . . . Now, so that there will be no misunderstanding, it's not my intention to do away with government. It's rather to make it work — work with us, not over us; to stand at our side, not ride our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it.⁷⁰

⁶⁸ James Q. Wilson, "Forward" to *The Essential Neoconservative Reader*, pp. vii-x, at p. viii. For an excellent accessible survey of this feature of public policy, see Edward Tanner, *Why Things Bite Back* (London: Fourth Estate, 1996). Tanner sums up his review of public policy: "[w]hat is almost a constant, though, is that the real benefits usually are not the ones we expected, and the real perils are not the ones we feared" (p. 272).

⁶⁹ See Ronald Regan's "Remarks at the Annual Convention of the National Association of Evangelicals in Orlando Florida, March 8, 1983" in *Conservatism in America Since 1930*, pp. 352-61.

⁷⁰ Ronald Reagan, "Inaugural Address, January 20, 1981," in *ibid.*, pp. 341-46, at p. 343. Paragraph break deleted.

4 CLAIM 2: CONSERVATISM SHOWS US HOW TO ACHIEVE
A JUSTIFIED MORAL CONSTITUTION

4.1 A Lacuna in the Liberal Philosopher's Quest for Determinacy

Looking at these four fundamental aspects of (to use the term in its broadest sense) a liberal moral constitution, I conclude that American conservatism not only can endorse them (as, say, something they can live with, but without great enthusiasm), but “wholeheartedly” embrace them, for they also express their cherished ideals. This is not to say, of course, that they and left-liberals agree on their interpretations of these ideals; we know that we have continuing and often deep political disputes about the “true meaning” of these commitments (I shall argue in §5 that this lack of agreement is a source of moral strength in a social and political order). But because both left-leaning-liberals and conservatives have an enduring interest in shared terms of moral life that both can see as grounding legitimate claims — and so avoiding a social life based simply on power, force and indoctrination — they have compelling reasons to embrace the non-optimizing stance, and accept that articulations of these basic commitments that fall considerably short of their ideal are eligible (§2.2). In terms of the model presented in section 2, we can say that they concur on some eligible constitutions (i.e., ones that adequately articulate these four general commitments), but they deeply disagree on which is best. American conservatives, for example, tend to stress a different interpretation of the basic liberties; they are apt to join libertarians in seeing economic liberties as very important, a view with which left-leaning (more traditional Rawlsian) liberals disagree.⁷¹ Similarly, the commitments of American conservatives and left-leaning-liberals favor different understandings of the constitution, the market, and the size and responsibilities of the welfare state.

Supposing, then, that on each of these issues (and no doubt any other elements we would wish to add to the moral constitution) left-leaning-liberals and conservatives disagree on the ordering of the eligible options, what are we to do? The liberal tradition in political philosophy tends to two responses. On one hand, academic liberalism has sought to push beyond the claim that basic constraints on acceptable moral constitutions can be justified to all to the much more controversial claim that a single, best, moral constitution or “theory of justice” can be. Trotting out heavy and controversial philosophical machinery — the original position or bargaining theory — or (much worse) proclaiming moral intuitions about what is “true basic liberty”— the liberal philosopher has often declared that she has justified one unique moral constitution (or, somewhat more modestly, a set of very similar

⁷¹ See, for example, Samuel Freeman’s dissent from John Tomasi’s claim (in *Free Market Fairness* [Princeton: Princeton University Press, 2012]) that economic liberties are basic. “Can Economic Liberties Be Basic Liberties?” at <http://bleedingheartlibertarians.com/2012/06/can-economic-liberties-be-basic-liberties/>

constitutions) that, remarkably enough, wonderfully align with her controversial political opinions. Only one already committed to the political conclusions generated is convinced by these devices; their suppositions are controversial, their conclusions uncertain. We are left with the plethora of deeply controversial theories of justice that I noted at the outset (§1).

When the liberal philosopher finally admits that her philosophical machinery has cranked out all it can (we might, as in *Frankenstein*, picture sparks flying and the rafters shaking as the devices reach the limit of their capacity), the only recourse is to leave the rest to democratic politics. And there is a deep truth here: in the end many of our disputes about the proper interpretation of our more fundamental commitments must be left to the political arena. It is because this is so that those who most focus on politics and legislation are most impressed by our disagreements; rather than being the realm of deliberative consensus, politics is the adjudication of our disputes so that those who continue to disagree can engage in coordinated action.⁷² We ought, though, to be wary of rushing directly from the ivory tower to the hustings, for at least two reasons.

(i) Different political and electoral systems can yield different policy outputs given the same range of political views; it thus matters a great deal what system is selected. The political philosopher cannot justify a single, particular, detailed system, so on what basis can she recommend that we employ this particular system over that one? Even in the United States, where there is a remarkable consensus on the Federal Constitution,⁷³ there is disagreement about, for example, whether the use of the commerce clause to justify Federal legislation since the New Deal is legitimate.⁷⁴ There is a lacuna in academic liberal thought; the jump from the philosophical to the political seems to accept the arbitrariness of the choice of a specific political and judicial system, yet this choice has far-reaching consequences for the nature of our shared social existence. The academic liberal philosophical project is devoted to avoiding any arbitrary choice among options so long as the discussion is in the realm of the philosophical; but once the philosophical gives way to the political arbitrariness has great leeway.

(ii) In any event, we should be wary of too quickly resorting to the political to resolve our disagreements. The strength of the political is that it can give us some

⁷² This is the important insight of Jeremy Waldron's analysis of politics and law. See his *Law and Disagreement* (Oxford: Oxford University Press, 1999), esp. pp. 102ff. What Waldron misses is the deeper underlying agreement on what is eligible. See my *Contemporary Theories of Liberalism* (London: SAGE, 2003), pp. 84-99.

⁷³ Kurt Baier, "Justice and the Aims of Political Philosophy," *Ethics*, vol. 99 (July 1989): 771-90.

⁷⁴ Compare Randy Barnett, *Restoring the Lost Constitution* (Princeton: Princeton University Press, 2005) and Bruce Ackerman, *We the People: Volume 2: Transformations* (Cambridge, MA: Belknap Press of Harvard University Press, 1998).

answer to just about any question; but there is no guarantee that this answer is one that falls into the eligible arrangements of all citizens.⁷⁵ The legislature can legislate as to the shape of the economic system, but this will reflect the views of only a part of the population, and of course may override that of others. Political adjudication is a powerful tool; it can help us identify a specific coordinative arrangement that we all see as acceptable, but it can also enforce a system that many find deeply objectionable.

4.2 The Moral Constitution and How We Can Arrive at One

Conservatives have long recognized that between the individual's private moral judgment and the political lies the social. Indeed, the insight that there is a social-moral constitution that underlies the political constitution has been viewed as a characteristic theme in conservative thinking.⁷⁶ Many liberals (including Rawls) have also recognized this. As T.H. Green observed, "A state presupposes other forms of community, with the rights that arise out of them. . . . In order to make a state there must have been families of which the members recognized rights in each other. . . there must further have been intercourse between families, or between tribes that have grown out of families, of which each in the same sense recognized rights in the other. . . ." ⁷⁷ Green's insight is that between the individual's private judgment about what is right and the public authority of the state lies the moral authority of social practices, which I have been calling the moral constitution.

From Hume to Hayek (both of whom are sometimes seen as liberals, sometimes as conservatives) the selection of one among many eligible moral constitutions is understood as a matter of history and the evolution of tradition.⁷⁸ As I have shown elsewhere, we can understand the evolution of such a constitution as an iterated, multi-person impure coordination game.⁷⁹ To see the basic point, take the simplest case; suppose that we have simply two socially eligible constitutions (x,y) and two parties (Left-leaning-liberal and Conservative) and a one play-game as in Display 2. The numbers represent each party's rankings of the outcomes given their

⁷⁵ I make this point more fully in *Contemporary Theories of Liberalism*, pp. 97-99.

⁷⁶ Jerry Z. Mueller, "Introduction" to *Conservatism: An Anthology of Social and Political Thought from David Hume to the Present* (Princeton: Princeton University Press, 1997), pp. 3-31 at p. 18.

⁷⁷ T. H. Green, *Lectures on the Principles of Political Obligation* in *Lectures on the Principles of Political Obligation and Other Writings*, edited by Paul Harris and John Morrow (Cambridge: Cambridge University Press, 1986), §134.

⁷⁸ Readings from Hayek are almost always included in anthologies of conservatism, including his "Why I Am Not a Conservative"! (e.g., *Conservatism in America Since 1930*, pp. 180-94). Michael Freeden insists that Hayek is a conservative, but Freeden has a resolutely rationalistic view of liberalism. *Ideologies and Political Theory*, pp. 373ff. Cf my "Liberalism as the End of the Century," *Journal of Political Ideologies*, vol. 5 (2000): 179-99 at pp. 186-89.

⁷⁹ *The Order of Public Reason*, pp. 391-409.

fundamental values and moral principles, with higher numbers indicating better outcomes.

		Left-leaning-liberal	
		<i>x</i>	<i>y</i>
Conservative	<i>x</i>	1	0
	<i>y</i>	0	2
		0	1

DISPLAY 2

The important point is that, if x and y are both socially eligible moral constitutions, both the Left-leaning-liberal and Conservative think it is better to coordinate on either than neither, though they will disagree on which is the best. Both are Nash equilibria; should the Left-leaning-liberal become convinced that the Conservative will act on x , also abiding by x is her best response. Recall that Rawls’s aim was to show this. viz. that a stably just society is one in which acting justly is each person’s “best reply” to others acting justly.⁸⁰ That is, Rawls sought a society in which acting on the rules of justice is a Nash equilibrium.⁸¹ Coordination on any moral constitution in the socially eligible set — and only ones in the set — fulfills this requirement. Experimental evidence in many-generational iterated impure coordination games indicates that, indeed, people settle on a tradition of playing one or the other equilibria, despite their disagreement on which is best. In deciding what equilibrium to play, a generation i draws on both the history of play and, more importantly, “socialization in which present generations teach and pass on current conventions of behavior to the next generation [i].”⁸²

From the social perspective, *ex ante*, there is no way to choose x over y or vice versa. We disagree on this matter and there is no ordering that all good-willed and rational members of our society accept. However, once we have, largely though historical accident, settled on one, it uniquely fulfills Rawls’s Nash requirement. What philosophical reflection could not do, tradition accomplishes for us. However,

⁸⁰ See Rawls, *A Theory of Justice*, p. 497.

⁸¹ This is the core claim of Paul Weithman’s *Why Political Liberalism? On John Rawls’s Political Turn* (Oxford: Oxford University Press, 2010), see e.g., pp. 48ff.

⁸² Andrew Schotter and Barry Sopher, “Social Learning and Coordination Conventions in Intergenerational Games: An Experimental Study,” *Journal of Political Economy*, vol. 111 (June 2003): 498-529 at p. 507.

as Meyer stressed, this appreciation of tradition must be combined with critical reflection. Meyer criticized the sanctification of tradition as such:

The philosophical position upon which the American constitutional settlement was based had already brought into a common synthesis concepts which were placed in radical opposition by the European conservative-liberal struggle: a respect for the tradition together with a respect for reason, the acceptance of the authority of an organic moral order with a fierce concern for the freedom of the individual.⁸³

Only if our tradition is viewed by each as eligible can its authority be freely endorsed by each; as Meyer put it, only then can we combine “freedom and moral authority.”⁸⁴

4.3 Localism: A Diversity of Constitutions Between Groups

Consider a simple case: the selection of a moral constitution composed of our four core elements: basic liberties (*L*), constitutional democracy (*D*), a private-property market economy (*M*), and a welfare state (*W*). And let us make a further radical simplifying assumption that for each element there are two, mutually exclusive, eligible interpretations (say, a left-leaning-liberal and a conservative one). Supposing that these issues are relatively separable, even in this highly simplified case we have 16 eligible constitutions. Now (using uppercase for the left-leaning-liberal alternative and lower case for the conservative), even with identical eligible sets we could have, through convention, one group having a *LDMW* moral constitution while another has *ldmw*. It would look like these groups have fundamental moral disagreements, but this difference, impressive as it is, would be entirely within the bounds of what can be reflectively justified — the socially eligible set. Once we accept that reflection on moral matters does not yield a single, unequivocal, understanding of the best moral constitution, we must accept the quintessential conservative claim that morality depends on local conventions and can differ from place to place. We thus witness an important relation of coordination and diversity that can be observed across a variety of domains: *the value of coordination simultaneously decreases diversity (of moral constitutions) within a group, leading members to converge, while increasing diversity (of moral constitutions) between groups.*⁸⁵

This degree of moral difference can arise even between two groups that have the same socially eligible options. This is a strong assumption. One group may have a

⁸³ Meyer, “Conservatism,” p. 198. Meyer criticized Kirk for reaffirming nineteenth century conservatism, stressing tradition to the neglect of freedom. See his Meyer, “Collectivism Rebaptized” in in *Defense of Freedom and Related Essays*, pp. 3-13.

⁸⁴ Meyer, *In Defense of Freedom*, p. 36.

⁸⁵ For a general analysis, see Scott E. Page, *Diversity and Complexity* (Princeton: Princeton University Press, 2011), pp. 109-110, 138-40.

subpopulation for which the left-leaning-liberal or conservative interpretation on some issue is not eligible, while perhaps some third option is eligible. Once we allow that the aim of a moral constitution is to be endorsed by the diverse normative outlooks of the members of a group, we must allow not only for different conventions, but different socially eligible sets. To be sure, there may well be limits to the range of reasonable disagreement; some concerns, such as rules against harm and notions of fairness, seem basic to the very idea of a cooperative social order.⁸⁶

Liberal philosophers often recoil at this, disparaging such views as advocating “parochialism,” and insisting that true moral objectivity must imply that the moral rules that are justified for one group must be justified for all.⁸⁷ The conservative certainly need not be claiming that morality is *only* a matter of tradition and convention; but to refuse to make that extreme claim does not mean that morality is not significantly shaped by convention. As Meyer put it, tradition is not a weapon that should be employed to suppress reason: it is a “guide to the operation of reason.”⁸⁸

5 CLAIM 3: DIVERSITY (THAT INCLUDES CONSERVATIVES) ENHANCES THE SUSTAINABILITY OF A MORAL CONSTITUTION

5.1 A Benefit of Moral Diversity: Multiple Eligible Constitutions

The traditional liberal political philosopher is apt to view this as a deeply disappointing result. Asking what justice requires of us, we find that its demands vary in significant ways from place to place and from time to time — and perhaps simply because of historical contingency. Our shared moral framework is, to some extent, an accident. Perhaps we should go back and reconsider our reasoning. That the liberal project of justifying a moral framework to all could end up with such a, well, conservative, conclusion, surely is a matter for concern. Shouldn't we revise

⁸⁶ As Rawls puts it, they are basic to the very idea of a “decent scheme of political and social cooperation.” *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), p. 65. I have argued that human rights are abstract principles required for cooperation among free and equal, self-directing persons; *The Order of Public Reason*, pp. 428-34.

⁸⁷ See, for example, Sen, *The Idea of Justice*, chap. 6. That Rawls did not embrace the necessity of such universality is another way in which, while being held up as the quintessential liberal philosopher, his work is more complex, and tends to straddle traditions. The unenthusiastic reception of most of his followers to *The Law of Peoples* was not surprising; it rejects the sort of universalistic cosmopolitanism most characteristic of contemporary academic liberal thought.

⁸⁸ Meyer, “Freedom, Convention, and Conservatism” in *Defense of Freedom and Related Essays*, pp. 14-29 at p. 24.

our analysis so that we rescue Rawls's early vision of a well-ordered society, in which all accept the best (left-liberal) theory of justice, and will not settle for less?⁸⁹

An attraction of a return to the ideal of a morally homogenous liberal order may appear its ability to achieve stability. Although traditional moral and political philosophy may intelligibly insist that stability is not itself a desideratum of morality or a theory of justice,⁹⁰ when we take up the perspective of moral theory, something like stability is of critical importance.⁹¹ Stability is the tendency of a moral constitution to return to a just equilibrium (in which acting on a moral constitution is the best reply to others doing so) in the face of both internal and external shocks that induce deviation from it.⁹² If we are seeking to evaluate a moral framework, we need to know whether it provides the basis for a just social framework in a narrow or a wide range of conditions; if the former, we may well doubt that the constitution can perform its expected function given the vicissitudes of human life. Now Rawls, and almost all other political philosophers who have considered the matter, have supposed that stability is induced by homogeneity, and endangered by diversity. A society that shares the same basic outlook on justice, it is thought, can weather storms better than one in which people have diverse perspectives on justice. Rawls's proposed solution to the problem of stability in *A Theory of Justice* was to show a surprising degree of homogeneity not only concerning justice but in our understanding of the good, which would lead us to remain faithful to justice as fairness, even in the face of injustice by others; his later work, acknowledging greater diversity, struggled to show how such a deeply divided society could nevertheless be stably just.⁹³

The idea of a society that is apt to maintain just social relations in the face of endogenous and exogenous disruptions can be understood in two ways: stability and robustness. Let us call "stability" the tendency of a system to return to the same equilibrium given some dynamic and "robustness" the tendency of a system to

⁸⁹ I am not being facetious; this seems to be one aim of Robert S. Taylor, *Reconstructing Rawls: The Kantian Foundations of Justice as Fairness* (University Park, PA: The Pennsylvania State University Press, 2011), e.g. pp. 279ff.

⁹⁰ This is a fairly widespread view today. See, for example, G.A. Cohen in *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008), Part II; David Estlund, "Human Nature and the Limits (if Any) of Political Philosophy," *Philosophy and Public Affairs*, vol. 39 (2011): 207-37.

⁹¹ "Other things equal, persons in the original position will adopt the most stable scheme of principles." Although the "criterion of stability is not decisive," if the parties find that a conception is unworkable, this would force a reconsideration of their initial choice. Rawls, *A Theory of Justice*, pp. 398-9, 472, 505.

⁹² *Ibid.*, p. 401; Weithman, *Why Political Liberalism?*, p. 45. On the idea of a justice equilibrium, see also my "A Tale of Two Sets: Public Reason in Equilibrium," *Public Affairs Quarterly*, vol. 25 (October 2011): 305-325.

⁹³ See my "The Turn to a Political Liberalism."

maintain an equilibrium (on a just constitution) — a robust system returns to *an* equilibrium, but not necessarily the same one.⁹⁴ To better see the contrast compare two societies, \mathcal{A} and \mathcal{B} . In \mathcal{A} , the Holy Grail of contemporary political philosophy has been achieved: there is one, and only one, moral constitution that is eligible and so can be justified to all, *LDMW* (§4.3). Everyone accepts this, and knows that others accept it, as *the one and only correct view* (it is in this sense that \mathcal{A} is homogeneous). \mathcal{B} , in contrast, has not achieved moral agreement on one and only one constitution as eligible. Suppose all 16 constitutions that can be generated from left-leaning-liberal and conservative views on each of our four core elements are socially eligible in \mathcal{B} . Let us suppose, however, that it too has, because of convention, gravitated to the *LDMW* constitution, so it too is in this sense a thoroughly left-leaning-liberal society. Suppose that W (the left-leaning-liberal view the welfare state) comes under strain; people begin to question it, its rules are violated. To make the case more vivid, suppose that considerable parts of the population begin to dodge high taxes or resent beneficiaries of the welfare state. Perhaps many start to question whether this version of the welfare state is justified at all. Now society \mathcal{A} can only sustain a basic moral charter that all can live with if it returns to the *LDMW* constitution; it must somehow induce people to return to W . It must be *stable*. In contrast, \mathcal{B} has two routes by which it can return to justice: a return to W or a switch to w . We can model \mathcal{B} (which, recall, is also a thoroughly left-leaning-liberal *LDMW* society) as carrying a “conservative gene” that allows it to adapt to a changed environment; it is *robust* as it can maintain its justification either by returning to the *LDMW* equilibrium or through moving to *LDMw*. The first society has fewer (“genetic”) resources to achieve a justified moral constitution in the new environment. Justice is more fragile in \mathcal{A} ; it has fewer moral resources to adapt. A society that has significant moral disagreement *within an eligible set* has greater resources to maintain a basic charter for their social world that all can live with.⁹⁵

5.2 Is Instability the Price of Robustness?

A society that has coordinated on a moral constitution from a wide eligible set thus is more apt to be robust in the face of disruptions. The worry arises, however, whether this robustness invites instability. Consider a simple model, with representative persons A and B in, respectively, societies \mathcal{A} and \mathcal{B} , both of which are at the *LDMW* constitution. Suppose at some point in society \mathcal{A} people are overwhelmingly acting according to the *LDMW* constitution; person A will act on it

⁹⁴ I am following Page, *Diversity and Complexity*, pp. 149-50.

⁹⁵ We might say that such a society will exhibit punctuated equilibrium, converging on an equilibrium for a period and then, after disruption, gravitating to a new one. In experiments on many-generational impure coordination games, this was observed. Andrew Schotter and Barry Sopher, “Social Learning and Coordination Conventions in Intergenerational Games,” p. 501.

so long as his commitment to maintain justified moral relations with his fellows and his fear of being punished outweighs his temptation to cheat in order to better pursue his values. Radically simplifying, then, for A to continue acting justly it must be the case that (letting p indicate the relevant probability):

$$(EQ 1) p[\text{benefits(moral relations)}] \geq p[\text{benefits(defection)}] - p[\text{costs(punishment)}]$$

The probable benefits of continued moral relations based on *LDMW* only need outweigh the probable benefits of defection discounted by probable punishment. Contrast this to person B in society \mathcal{B} . She has an additional incentive to defect on the moral constitution — the expected payoff that her defection might drive \mathcal{B} to, say, her favored *LDMw* constitution. So for her to have reason to conform to the *LDMW* constitution, it must be the case that:

$$(EQ 2) p[\text{benefits(moral relations under LDMW)}] \geq p[\text{benefits(defection)}] + p[\text{benefits(of moral relations having achieved LDMw)}] - p[\text{costs (punishment)}]$$

The probable benefits of moving society to what she sees as a better moral constitution gives her a type of moral reason to defect. Of course, if $p[\text{benefits(of getting LDMw)}]$ is very low, this will not matter, but if B thinks there are enough like-minded others so that they could actually move to *LDMw*, so that the probable benefits of moving to the new constitution become significant, then unless $p[\text{benefits(moral relations under LDMW)}]$ is greater in \mathcal{B} (why would that be?) or the threat of punishment in \mathcal{B} is greater than in \mathcal{A} , even though they may have the same value systems and living under the same constitution (*LDMW*), B may defect while A does not. We face the prospect that the very possibility of change to another eligible constitution, which is required for robustness, will tend to destabilize the current moral constitution, inducing people to defect in order to achieve a constitution they consider superior. Here then, is our problem: how do we achieve sufficient stability while also allowing us to exploit the moral resources that promote robustness?

5.3 More Benefits of Diversity: The Parties of Stability and Reform

As equation 2 shows, increasing punishment certainly can induce stability on a specific equilibrium by discouraging those who would seek to move to another moral constitution in the eligible set. Although recent analysis shows that

punishment is indispensable in maintaining equilibrium on norms and moral rules,⁹⁶ the problem with punishment is that it can stabilize any equilibrium, in or out of the eligible set.⁹⁷ And, of course, liberals recoil at the prospect of a social order that can only be sustained by high levels of force.

A moral constitution requires significant *stability* if it is to perform its coordinating task, helping to settle expectations about future interactions while, at the same time, it should possess sufficient flexibility to be capable of responding to disruptions by switching to a new equilibrium. Now we can imagine ideal members of a moral order that have precisely the right trade-off rate between valuing stability and inducing change but, of course, we do not know at any particular time what this trade-off rate is. In environments with a low rate of change stability is generally appropriate; in times of storm and stress, flexibility is apt to be more valuable. And, in any event, we should no more expect homogeneity on this value than on any other. But that is not a worry, for we do not need individuals to agree on the optimal trade-off rate. Recent work in cultural evolution, the philosophy of science, organizational theory and democratic theory converge in showing that diverse populations — those that are divided between different values or behavior — often arrive at better collective outcomes than those characterized by a single type.⁹⁸ This, of course, was precisely Mill's claim about a population divided between a party of reform and a party of stability in our epigraph.

Consider a society such as \mathcal{B}_{DIV} , divided between those who are critical of the existing constitution, searching for ways to improve it, and those who place high value on stability and so are very reluctant to move to a new equilibrium. Contrast this to societies \mathcal{B}_{CON} , an orderly society whose members all value stability and society \mathcal{B}_{LIB} , a society of reformists whose members all place high value on achieving what they see as the best constitution. There is strong reason to think that under a range of environmental conditions, \mathcal{B}_{DIV} will outperform \mathcal{B}_{CON} and \mathcal{B}_{LIB} in the sense of better maintaining justified social relations over a sustained period. As Scott E. Page demonstrates, there are two lines of analyses that support this: averaging and decreasing returns to type.⁹⁹ Homogenous \mathcal{B}_{CON} populations will perform very well in (a) environments with minimal disruptions, (b) assuming that it has initially achieved a justified equilibrium. \mathcal{B}_{CON} will perform badly when (c) there are severe

⁹⁶ See my "Retributive Justice and Social Cooperation" in *Retributivism: Essays on Theory and Practice*, edited by Mark D. White (Oxford: Oxford University Press, 2011), pp. 73-90.

⁹⁷ See *The Order of Public Reason*, pp. 438ff.

⁹⁸ See Scott E. Page, *The Difference* (Princeton: Princeton University Press, 2007); Fred D'Agostino, "From the Organization to the Division of Cognitive Labor," *Politics, Philosophy & Economics*, vol. 8 (January 2009): 101-129 and his *Naturalizing Epistemology* (New York: Pelgrave Macmillan, 2010); Michael Weisberg and Ryan Muldoon, "Epistemic Landscapes and the Division of Cognitive Labor," *Philosophy of Science*, vol. 76 (2009).

⁹⁹ Page, *Diversity and Complexity*, chaps. 6 and 7.

and regular disruptions that render the current equilibrium difficult to maintain and (d) the current equilibrium is not in the eligible set. On the other hand, \mathcal{B}_{LIB} does well under (c) and/or (d), but worse than \mathcal{B}_{CON} under conditions (a) and (b). In a range of environments \mathcal{B}_{CON} and \mathcal{B}_{LIB} will experience wide variation in their ability to maintain a justified constitution; in contrast the diverse \mathcal{B}_{DIV} is almost certain to have less variation in its performance, and it can be shown that systems such as \mathcal{B}_{DIV} , with less variation, generally outperform less diverse systems such as \mathcal{B}_{CON} and \mathcal{B}_{LIB} .¹⁰⁰

A similar result can be shown by appealing to decreasing returns to type.¹⁰¹ Suppose we start out with \mathcal{B}_{CON} and replace n conservative members with reformist members, where n constitutes a small proportion of the society. This new group, $\mathcal{B}_{\text{CON}}^*$ will almost certainly outperform \mathcal{B}_{CON} ; given that there is still a large proportion of conservative members, the small n conservatives lost will not much reduce the impact of the pro-stability perspective, but the small n of reformist citizens will make contributions that otherwise would not exist, alerting the other citizens to new possibilities and problems (for example, that the current equilibrium is flawed in ways not previously appreciated). If we think in terms of one's marginal value to achieving long-term just social life, the new n reformist members have a higher marginal value than the conservative members they replaced.¹⁰²

5.4 Empirical Evidence: Moral Differences Between the Parties of Stability and Reform

Jonathan Haidt's recent research provides support for the idea that left-leaning-liberals and conservatives do indeed have different basic moral outlooks, and that these different moral outlooks yield different orientations to alterations in the current moral constitution. His "moral foundations theory," based on his extensive survey of ordinary moral reasoners, hypothesizes six different foundations of people's moral responses to various vignettes with which they were confronted, such as the following:

Julie and Mark, who are sister and brother, are travelling together in France. They are both on summer vacation from college. One night they are staying alone in a cabin near the beach. They decide it would be interesting and fun if they tried making love. At the very least it would be a new experience for each of them. Julie is taking birth control pills, but Mark uses a condom too, just to be safe. They both enjoy it, but they decide not to do it again. They keep

¹⁰⁰ This result relies on several theorems, which show the benefits of averaging performance over a wide variety of circumstances. See *ibid.*, chap. 6

¹⁰¹ *Ibid.*, chap. 7.

¹⁰² Various caveats are necessary here, of course; if critical and conservative citizens tend to come into conflict and so destabilize the constitution, then the benefits of diversity may be swamped. See Page, *Diversity and Complexity*, pp. 194ff.

that night as a special secret between them, which makes them feel even closer to each other. So what do you think about this? Was it wrong for them to have sex?¹⁰³

Haidt finds that subjects make very quick and firm moral judgments (80% say that it was wrong for the siblings to have sex). However, many subjects, especially left-leaning-liberals, founder in attempting to give a justification for their view in cases like this. As one subject finally concludes in response to the attempt by the interviewer to solicit the rationale for his firm judgment that “it’s totally wrong [for Julie and Mark] to have sex”: “Um . . .well . . . oh, gosh. This is hard. I really — um, I mean, there’s just no way I could change my mind but I just don’t know how to — how to show what I’m feeling, what I feel about. It’s crazy!”¹⁰⁴

Haidt’s hypothesis is that in cases of moral judgment such as this, one’s “intuitive dog” is wagging “the rational tail.” Judgment and justification, he claims, are distinct processes. Precisely how intuitive and rational processes relate goes beyond our concern here; what is important for our purposes is Haidt’s hypothesis that moral responses have six dimensions, given in Display 3.

Name	Features
<i>Liberty/oppression</i>	anti-bullying; anti-constraining others; anti-tyrant; related to egalitarianism
<i>Fairness/Anti-cheating</i>	emphasis on playing by the rules, and doing one’s part in cooperative schemes; rewards according to desert
<i>Care/Harm</i>	emphasis on not harming others; disapproval of cruelty; sympathetic concern with the needs of others
<i>Loyalty/Betrayal</i>	loyalty to groups in which we participate; sensitivity to those who betray our group
<i>Authority/Subversion</i>	respect for rank and status relations; sensitivity to inappropriate behavior given status
<i>Sanctity/Degradation</i>	attribution of intrinsic value and sacredness to objects and symbols; disapproval of that which disrespects these values; disgust

DISPLAY 3 SOURCE: HAIDT, *THE RIGHTEOUS MIND*, PP. 153-54, 181-85

Haidt’s crucial finding is that left-leaning-liberal subjects display responses and justifications that very strongly focus on Liberty/Oppression and Care/Harm dimensions. We must be careful; this is not to say that they are entirely without intuitions based on the other foundations, but that their intuitions are strongly

¹⁰³ Jonathan Haidt, *The Righteous Mind: Why Good People are Divided by Politics and Religion* (New York: Pantheon, 2012), p. 38.

¹⁰⁴ *Ibid.*, pp. 39-40.

inclined to those two foundations (or dimensions) as are, especially, their justifications. Thus on their view, morality is essentially about treating all as free and equal, avoiding harm and ensuring that needs are met.¹⁰⁵ Consequently, left-leaning-liberals are apt to be more confused when endeavoring to provide justifications for their moral reactions in cases such as incest; they are disgusted (which relates to impurity and sacredness), but cannot parse this into their essentially anti-oppression, anti-harm morality. In contrast, Haidt shows, those associated with conservative political views tend to rely on all foundations, both in their reactions and justifications. Whereas “liberal” subjects put great stress on only two foundations, “conservative” respondents rely almost equally on all.¹⁰⁶

The range of foundations on which Haidt’s conservatives draw bears out the long-held view that conservatives tend to be guardians of the current moral constitution. Conservative subjects are far more apt to be loyal to current moral conventions and respect their authority even to the point of seeing them as sacred (they are not understood as *mere* conventions).¹⁰⁷ And they are ready to expend resources in policing them, ensuring that others do not cheat. As Haidt concludes, their moral outlook supports the importance of protecting our current “moral capital,” our practices that ensure a cooperative and peaceful social life. “Moral communities are fragile things, hard to build and easy to destroy. . . . If you don’t value moral capital, then you won’t foster values, norms, practices and identities, and technologies that increase it.”¹⁰⁸ He continues:

...[I]f you are trying to change an organization or society and you do not consider the effects of your changes on moral capital, you’re asking for trouble. This, I believe, is *the fundamental blind spot of the left*. . . . It tends to overreach, change too many things too quickly, and reduce the stock of moral capital inadvertently. Conversely, while conservatives do a better job of preserving moral capital, they often fail to notice certain classes of victims, fail to limit the predation of powerful interests, and fail to see the need to change or update institutions as times change.¹⁰⁹

Remarkably, Haidt is led to the idea of the parties of order and of change:

...here’s the most basic of all ideological questions: Preserve the present order, or change it? At the French Assembly of 1798, the delegates who favored preservation sat on the right side

¹⁰⁵ See *ibid.*, chap. 5.

¹⁰⁶ *Ibid.*, p. 161. “Very conservative” respondents rely more on authority and loyalty. In the figure referred to here Haidt was relying on an earlier version of this theory, which only specified five foundations; some of the foundations are differently characterized in this earlier version.

¹⁰⁷ *Ibid.*, p. 290.

¹⁰⁸ *Ibid.*, p. 293.

¹⁰⁹ *Ibid.*, p. 294. Emphasis in original.

of the chamber, while those who favored change sat on the left. The terms *right* and *left* have stood for conservatism and liberalism ever since.¹¹⁰

Haidt's work in moral psychology leads him to a conclusion that I have reached by another route: that a moral and political order composed of liberals and conservatives performs better — from a certain moral point of view — than a homogeneous order of either alone.

5.5 Two Levels of Conservatism: Diversity within Conservatism

At this point it becomes clear that American conservatism has two distinct aspects. On the one hand, it constitutes an ordering of constitutions that institutionalize the basic elements of a free constitution — liberty, democracy, the market and the welfare state. We might call these the conservative's *first-level moral-political commitments*. Understood in terms of first-level commitments, conservatives can be reformist; if a society is at a left-leaning-liberal equilibrium, conservatives can agitate for change. We have seen how a population that possesses such conservative policy preferences can improve the moral performance of a society (in comparison to a homogenous society). On the other hand, conservatism is also a *second-level moral perspective* (a perspective on altering constitutions), one that generally is skeptical about the benefits of altering the status quo. Recall Wilson's summary of the core insight of the contemporary American conservative: "Things almost never work out quite as you hope; in particular, government programs often do not achieve their objectives or do achieve them but with high or unexpected costs" (§3.4).

Some American conservatives stress their first-level moral commitments, and thus are, at the second-level, reformers (e.g., Barry Goldwater). In the perspectives of other conservatives, the second-level commitments to what Haidt calls "moral capital" are more salient; such conservatives may well oppose challenges mounted to the features of the welfare-state by their first-level cousins. Of course most actual conservatives combine first- and second-level commitments, so their overall view is an amalgamation of both. Meyer most clearly stresses the need for the conservative to appreciate and give each of these two levels its due. He consistently stressed that we must both realize the importance of tradition, while being prepared to reform unjust ones. But as I have stressed, getting the precise trade-off rate correct is a complicated matter. Here, as elsewhere, a diverse population, which disagrees on the right trade-off rate, can often out perform a homogenous one that gets it almost perfect. Within American conservatism we also witness a diversity of

¹¹⁰ *Ibid.*, p. 277. Emphasis in original. See also p. 305, where he cites Mill's observation that conservatives are the "party of order and stability."

perspectives, which contributes to the overall moral resources of a sustainable free and just moral order.¹¹¹

6 CONCLUSION: TOWARD A THEORY OF COMPLEX NORMATIVE SYSTEMS

Political philosophers are accustomed to conceiving of their activity as a philosophical elaboration and defense of a specific theory of justice. We are left-leaning-liberal political philosophers or conservative political philosophers. Like Plato, who continues to cast a spell over our profession, the deep conviction is that the best state would, in a deep sense, be a morally homogenous one. Our current, real-world communities, characterized by disagreement and moral dispute, may be the best we can attain, but fall far short of the ideal or perfect. Like Plato, we see the moral community as a person writ large; if a just person is moved by a well-thought out and consistent theory of justice, so too must a just community. And the most just community would be one that is moved by the best theory of justice. Societies, however, are far better understood as normative systems of a very different type: complex moral systems in which the very diversity and disagreements of the participants sustain the community's moral life.

This is not to say that diversity and conflict are always healthy for a justified moral constitution. Conflict, like homogeneity, can undermine the ability of our moral order to function. Too much diversity leads to chaos. In section 3, I was at pains to cast doubt on the supposition that the differences between American conservatives and left-leaning-liberals are so wide and deep that there are no mutually satisfactory equilibria. My claim 1, that left-leaning-liberals and conservatives can endorse a common moral constitution, may seem incredible in our current shrill, often nasty, partisan environment. Political philosophers (as well as more influential academics) cannot simply wash their hands of this; through our teaching, public pronouncements, and participation in various ideological gatherings and centers, we have too often shrilly maintained that an acceptable society is one that must conform to our (many) blueprints. A political philosophy of complex normative systems sets aside the ancient aim of describing the just, well-ordered, society where we all agree what justice is and conform to its dictates. Instead, it aims to investigate the benefits, costs and limits of sustainable moral diversity, enlightening us about the conditions under which we can achieve and

¹¹¹ The same, of course, applies to left-leaning-liberals; on the first level they are committed to what I have called certain interpretations of the eligible set of moral constitutions, while at the second level they tend to stress the benefits of reform and are more confident in their predictions of the effects of policy. Some left-leaning-liberal's support of current social programs — for example the current social security policies — may well be moved by a conservative attitude towards departures from the status quo.

maintain what in the end Rawls sought — a basic charter for our social world that we all can live with.

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