

Liberalism for nonliberals – toward a MacIntyrean modus vivendi

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Résumé:

Sur fond de polarisation politique croissante et de remise en question de la légitimité du libéralisme, cette dissertation plaide pour une révision fondamentale du libéralisme en tant qu'arrangement de *modus vivendi*, basé sur une négociation difficile entre des agents politiques profondément divisés sur la nature et la désirabilité même du libéralisme. Je soutiens que le libéralisme, dans toutes ses itérations traditionnelles rawlsiennes, ne peut plus susciter le niveau d'engagement moral nécessaire pour former un consensus chevauchant. Contre-intuitivement, pour renforcer une forme de libéralisme pluraliste, nous devons nous tourner vers des penseurs et des idéologies non libéraux, en reconstruisant un *modus vivendi* libéral à partir des arguments de ceux qui rejettent en fin de compte le libéralisme.

Après avoir établi les défis de la polarisation et le potentiel du fédéralisme dévolutif pour les résoudre, je commence par expliquer la dynamique qui a rendu nécessaire ce recentrage radical, une dynamique que je qualifie d'effondrement politico-compréhensif. Le libéralisme politique, ainsi que la rhétorique normative qui en découle, ont été cooptés par des libéraux compréhensifs et utilisés comme un moyen de diffuser et d'inculquer des visions substantiellement libérales dans des collectivités diverses, notamment par le biais de l'éducation civique obligatoire. Les non-libéraux en ont pris conscience et se sont lassés de participer à un jeu biaisé. À la lumière de cela, je procède à l'excavation d'un *modus vivendi* libéral minimaliste, caractérisé par une dévolution extrême du pouvoir fédéral, à partir de la théorie politique d'Alasdair MacIntyre. Ce *modus vivendi* macintyrien, comme je le montre, contient des conditions limitatives qui reflètent certains principes fondamentaux du libéralisme (la représentation politique, la fourniture de services sociaux de base, et la préservation de la liberté de circulation), mais les justifie entièrement depuis une perspective non libérale.

Un libéralisme minimal et dévolutif fondé sur une justification non libérale constitue, selon moi, un outil puissant pour atténuer la crise de légitimité du libéralisme, et je consacre le reste de la dissertation à tester cet outil en profondeur, en l'exposant aux critiques majeures des non-libéraux de droite et de gauche. Cela permet non seulement de donner forme à ce que pourrait être un *modus vivendi* macintyrien probable, mais aussi de déterminer quelles formes de non-libéralisme ce *modus vivendi* peut intégrer et lesquelles il doit nécessairement rejeter. Au terme de cette exploration, qui passe par le catholicisme de droite et la pensée autochtone de gauche, il s'avère que notre *modus vivendi* dévolutif est vaste, capable d'intégrer des critiques assez radicales de la modernité libérale tout en restant fidèle à ses propres conditions limitatives cohérentes. Je soutiens même qu'il peut obtenir l'adhésion des libéraux compréhensifs, car leurs propres objectifs politiques nécessitent des méthodes explicitement non libérales pour être atteints, des méthodes plus facilement disponibles dans le modèle macintyrien.

Abstract:

Against a backdrop of increasing political polarization and challenges to liberalism's legitimacy, this dissertation argues for a fundamental rethinking of liberalism as a *modus vivendi* arrangement, based on an uneasy negotiation between political agents who disagree wildly about the nature and desirability of liberalism itself. I contend that liberalism in all its traditional Rawlsian iterations can no longer command the necessary levels of moral commitment to form an overlapping consensus. Counterintuitively, to bolster anything like a pluralist liberalism, we must turn to nonliberal thinkers and ideologies, reconstructing a liberal *modus vivendi* out of arguments made by those who ultimately reject liberalism.

After establishing the challenges of polarization and the potential for devolutionary federalism to solve them, I begin by explaining the dynamic that has necessitated this radical recentering, a dynamic I term the political-comprehensive collapse. Political liberalism, and the normative rhetoric that stems from it, has been co-opted by comprehensive liberals and used as a means to spread and inculcate substantively liberal views across diverse polities, particularly through mandatory civic education. Nonliberals have realized this, and have grown tired of playing a rigged game. In light of this, I proceed to excavate a minimalistically liberal *modus vivendi*, featuring extreme devolution of federal power, from within the political theory of Alasdair MacIntyre. This MacIntyrean *modus vivendi*, I show, contains limiting conditions that mirror some core liberal principles (political representation, basic provision of welfare, and preserving freedom of movement), but justifies them from within a nonliberal worldview.

A thin, devolutionary liberalism built on nonliberal justification is, I contend, a powerful tool for ameliorating the crisis of liberal legitimacy, and I spend the rest of the dissertation stress-testing that tool, exposing it to major right-nonliberals and left-nonliberals, both to flesh out what a probable MacIntyrean *modus vivendi* would look like, as well as to determine which forms of nonliberalism a MacIntyrean *modus vivendi* can accommodate and which forms even it must reject. At the end of this tour through right-Catholicism and left-Indigenous thought, it turns out that our devolutionary *modus vivendi* is capacious, able to incorporate some rather radical criticisms of liberal modernity while still staying true to its own internally-consistent limiting conditions. It can even, I claim, achieve buy-in from comprehensive liberals, as their own political goals require facially nonliberal methods to achieve, methods that are more readily available to them under the MacIntyrean model.

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Chapter 1: The Pluralism of Polarization

Introduction:

Political liberalism, most famously defined by John Rawls,¹ has a problem. Political liberalism claims to be a system of rational argumentation and public justification by which a society containing people with diverse worldviews (per Rawls, “comprehensive doctrines”) can come to peaceful political arrangements.² Yet many of these comprehensive doctrines are neither liberal nor claim to be; comprehensive Marxism, comprehensive Catholicism, comprehensive conservatism/traditionalism, and many others are all openly nonliberal, and the advantage of political liberalism comes in allowing them to have the reasonable aspects of their views represented in a society-wide “overlapping consensus.”³ However, there is one comprehensive doctrine that ought to be contained within, or perhaps managed by, political liberalism where the relationship is more complicated. Comprehensive liberalism, a substantive doctrine of the good centered on the value of autonomy and individual self-creation,⁴ is one of the comprehensive doctrines that political liberalism is intended to mediate, contain, and/or manage. Yet, at the same time, comprehensive liberalism shares a long intellectual history with political liberalism, as well as sharing many of the same normative commitments, rhetorical strategies, and argumentative approaches.

Given this intellectual landscape, liberals, understandably, tend to conflate political liberalism and comprehensive liberalism, and do so such that the former tends to ‘collapse’ into

1 *Political Liberalism*, Paperback edition, The John Dewey Essays in Philosophy (New York: Columbia University Press, 1996).

2 Rawls, *Political Liberalism*, 37–38.

3 Rawls, *Political Liberalism*, 15.

4 Rawls, *Political Liberalism*, 37, 78, 145.

the latter. Theorists who explicitly set out to forge a liberalism that can handle the challenges of “evaluative pluralism,”⁵ who recognize that the “foundational insight” of liberalism is that “admissible perspectives are many and varied,”⁶ nevertheless ultimately produce liberal schemas that, when pressed, revert to arguments, justifications, and rhetorical tactics drawn from comprehensive liberalism. As such, the most salient modern varieties of public reason liberalism cannot defeat common nonliberal objections. This severely qualifies the stability-generating function of political liberalism as originally conceived; we cannot boast of our ideology’s capacity to justify itself to nonliberal citizens while simultaneously ruling out core nonliberal complaints by argumentative fiat.⁷ As such, this ‘political-comprehensive collapse’ has weakened the argumentative, rhetorical, and normative appeal of the politically liberal project, as arguments in favor of political liberalism can fail to meet the theory’s own justificatory burdens. A political liberalism that is being slowly, surreptitiously co-opted by comprehensive liberalism is a liberalism that cannot, on its own standards, accommodate the wide range of visions of the good life that liberalism prides itself on handling.

This dynamic, should it exist, places those who wish to defend pluralistic forms of liberalism in a bind. In order to bolster liberalism against increasing dissatisfaction and political polarization (which we will discuss later in this chapter), they cannot appeal to liberalism *qua* liberalism, because the political-comprehensive collapse will cause those arguments to redound to the benefit of comprehensive liberalism. They cannot appeal to political liberalism itself,

5 Kevin Vallier, *Must Politics Be War? Restoring Our Trust in the Free Society* (New York, NY, United States of America: Oxford University Press, 2019), 19–24.

6 Gerald Gaus, “The Open Society and Its ‘Friends,’” *The Critique*, Stick It To The Man: A Year Of Anglo-American Populist Revolt Against A Changing Culture & An Obtuse Political Establishment, January 15, 2017, 16.

7 Gerald Gaus, *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (Cambridge: Cambridge University Press, 2012), 407–9, <https://doi.org/10.1017/CBO9780511780844>.

because political liberalism is in the process of collapsing into comprehensive liberalism. And, finally, they cannot appeal to comprehensive liberalism itself in order to bolster pluralistic liberalism, because comprehensive liberalism, an antipluralistic doctrine, is the source of the exact problem that pluralistic liberals are trying to fix. In order to defend liberalism, it seems impossible to appeal to liberalism, of any form.

I argue that this dilemma requires a radical rethinking of the space of viable justifications for liberalism under conditions of increasing political polarization and deep, intractable disagreement. Normally, those who adhere to political liberalism are more worried about political liberalism collapsing, not into comprehensive liberalism, but into a *modus vivendi*, a political arrangement that “consists in basing political neutrality on solely strategic considerations. In this view,” Larmore summarizes, “individuals who have different ideals of the good life, but are roughly equal in power, may strike a bargain, according to which the political principles to be established will not favor any of these rival ideals.”⁸ This, for both Larmore and Rawls, is wildly insufficient; Rawls is insistent that “the question is where [nonliberal comprehensive doctrines] can still be compatible for the right reasons with a liberal political conception. To do this,” he continues, “...it is not sufficient that these doctrines accept a democratic regime merely as a *modus vivendi*. Rather, they must accept it as members of a reasonable overlapping consensus.”⁹ Larmore, for his part, condemns the *modus vivendi* approach as “inherently unstable” because “it aims to ground a moral principle (neutrality) on nonmoral, purely prudential motives.” This will fail because “[i]ndividuals will lose their reason to uphold the agreement if their relative power or bargaining strength increases significantly.”¹⁰

8 Charles Larmore, “Political Liberalism,” *Political Theory* 18, no. 3 (1990): 346.

9 Rawls, *Political Liberalism*, xxxix–xl.

10 Larmore, “Political Liberalism,” 346.

The implication is that, should we fail to achieve or maintain “stability for the right reasons,”¹¹ our society will fall into a perilous governance arrangement wherein we have no meaningful guarantee from one day to the next whether or not our liberal rights and institutions will be sufficiently protected and maintained.

This dissertation will argue that we are already in such a *modus vivendi* condition, remaining agnostic on the question of whether something thicker ever actually obtained at some point in the past. Inspired by McCabe, I advocate in favor for a modus vivendi approach which allows us to “abandon the idea that political arrangements can be defended by appealing either to the nature of the human good or to some supreme moral value any rational agent must recognize.”¹² The modus vivendi framework allows us to recognize what any mature political agent ought to: politics is dangerous, bad outcomes are always possible, and the kind of safety desired by Rawls and offered by political liberals is ultimately an illusion. Taking these facts seriously means changing our core theoretical question, from ‘how do we avoid collapsing into a modus vivendi’ to ‘what would a modus vivendi that is capable of achieving buy-in from both nonliberals and liberals *actually look like?*’.

Nonliberal Minds, Nonliberal Methods

To answer this question, we have to adopt what I call a ‘nonliberalism-first’ criterion. If, to bolster liberalism against its critics, we cannot appeal to liberalism *simpliciter*, or to political liberalism, or to comprehensive liberalism, that leaves nonliberalism as the only potential source of argumentative ballast. If we can, by analyzing nonliberal thinkers, discover within them

11 Rawls, *Political Liberalism*, 390.

12 David McCabe, *Modus Vivendi Liberalism: Theory and Practice* (Cambridge: Cambridge University Press, 2010), 126, <https://doi.org/10.1017/CBO9780511750359>.

argumentative and theoretical resources that can help provide support for some form of liberalism, then the likelihood that liberalism could actually achieve buy-in from nonliberal citizens, or citizens with nonliberal sympathies, is apt to increase. Putting nonliberalism first means engaging in depth with nonliberal theorists from across the political spectrum, in order to identify which elements of actually-existing liberalism their proposals are genuinely incompatible with, and which elements they still need in order to function in a society that will not immediately become nonliberal, in the same way that liberals cannot simply extirpate nonliberal sympathies by fiat.

As I will argue, too much of liberal theory has relied on more and more carefully defining liberalism based on liberal principles, creating a standard to determine which forms of nonliberalism may be allowed to have meaningful influence on governmental institutions and policy and which may not. Rawls' political liberalism is certainly a theory of this type. However, I contend, this strategic approach is strategically and numerically backwards, given the relative dearth of committed liberals in the general populations of Canada and the United States.¹³ In order to understand the shape of future debates, future controversies, and potential future governance arrangements, liberalism can no longer be the sole arbiter of the acceptable or "reasonable;"¹⁴ it is the logic and intuitions of nonliberals that matter more for structuring our political and institutional future.

My 'proof-of-concept' for this approach will take the form of an in-depth analysis of the political theory of Alasdair MacIntyre, a thinker who has, over the course of his long career,

13 I focus on these particular countries both for reasons of familiarity, and because the United States has been definitional for many of the struggles with polarization and pluralism that drive this dissertation. Similarly, Canada, while echoing several of the United States' problems, also has federal structures and constitutional provisions that are a useful corrective to certain American pathologies.

14 Leif Wenar, "Political Liberalism: An Internal Critique," *Ethics* 106, no. 1 (1995): 32–62.

positioned himself usefully between left-nonliberalism and right-nonliberalism. MacIntyre, one of the most influential living critics of liberalism, has within his theorizing rich resources for the development and demarcation of a new, devolutionary *modus vivendi* along the lines of McCabe's "subsidiarity" model.¹⁵ This new, MacIntyrean *modus vivendi* is the core subject of this dissertation; the next chapter will set up the problem it tries to solve, the one after will identify and delineate it, and the remaining chapters will examine different nonliberal worldviews in turn, showing which of their demands can be accommodated within it, and which will be ruled out. Importantly, a MacIntyrean *modus vivendi* has internally-consistent limiting conditions which support liberal governance structures (broadly understood), and which will presumably hold more argumentative and rhetorical weight for nonliberals than limiting conditions which are derived entirely from liberalism. This is not to say that MacIntyre himself is a liberal; it is more to say that liberalism has certain social technologies which deal well with large, diverse societies, and a nonliberal like MacIntyre can recognize this without selling out his worldview. This approach is what allows us to put nonliberalism first, and prioritize nonliberal theorists and arguments, all while maintaining those elements of liberalism that are indispensable for the societies in which we actually live.

This approach has concrete theoretical advantages; most notably, drawing on actual nonliberal theorists works as a counterbalance against the sort of theoretic/epistemic closure that led to the political-comprehensive collapse. Even something as thin as a liberal *modus vivendi* project is open to its own failure modes; for instance, what is to stop even a comparatively thinner set of liberal requirements from 'collapsing' into comprehensive liberalism in the same way every previous candidate has? As we will see in our fuller discussion of Macedo, any

¹⁵ McCabe, *Modus Vivendi Liberalism*, 143.

statement of a ‘right to education’ can slide, all too easily, into an endorsement of comprehensive liberalism, since to educate someone in a liberal democracy is in part to educate them in the sorts of liberal values required to sustain that democracy, and therefore constitutes a state endorsement of some concrete, comprehensively liberal version of the good. This arrangement will then metastasize and grow due to the biases of those who tend to become professors, politicians, educators, and bureaucrats.¹⁶

So on the one hand, engagement with actual nonliberal citizens and nonliberal theorists can help to prevent something like the political-comprehensive collapse from recurring in liberal modus vivendi theorizing; the arguments and objections of nonliberals serve as a limiting condition for what sorts of arrangements could feasibly be tolerated under any modus vivendi in which citizens and ideologies we actually recognize serve as our negotiating partners. They also, however, can save the modus vivendi theorist from another failure mode, that of being too forgiving of nonliberal ideologies, or too sanguine about the nature of political systems that could arise or have arisen from explicit modus vivendi negotiations or calculations. Many nonliberals have already formulated their views such that they are amenable to political negotiation under a broadly liberal modus vivendi,¹⁷ but some certainly have not,¹⁸ and still others used to¹⁹ but have since shifted.²⁰ Accommodating such views will result in significant sacrifices from the status quo ante of a liberal constitution with a large set of enumerated and

16 Rawls, *Political Liberalism*, 199; Stephen Macedo, “Liberal Civic Education and Religious Fundamentalism: The Case of *God v. John Rawls?*,” *Ethics* 105, no. 3 (April 1995): 485, <https://doi.org/10.1086/293723>; McCabe, *Modus Vivendi Liberalism*, 8.

17 Ryan T Anderson and Robert P George, “The Baby and the Bathwater,” *National Affairs*, no. 41 (September 20, 2019): 172–84; Rod Dreher, *The Benedict Option: A Strategy for Christians in a Post-Christian Nation* (New York, New York: Sentinel, 2017).

18 Adrian Vermeule, *Common Good Constitutionalism* (Medford: Polity Press, 2022).

19 Patrick J. Deneen, *Why Liberalism Failed* (New Haven: Yale University Press, 2018).

20 Patrick J. Deneen, *Regime Change: Toward a Postliberal Future* (New York: Sentinel, 2023).

unenumerated individual rights. And, to be clear, some versions of these nonliberal ideologies cannot be accommodated under any meaningfully liberal regime.

All this is to say that general-purpose declarations about the nature of *Illiberalism*, tout court, are unsuited to this shifting set of political agents, ideologies, and allegiances. Moreover, though the primary audience for my argument is pluralist liberals, focusing on actually-existing nonliberalism is the only theoretical hope of encompassing even that smaller subset of nonliberal citizens who recognize that pluralism and deep disagreement are inescapable facts of our political landscape. If my arguments here persuade a nonliberal to take pluralism and deep disagreement more seriously, I would consider that to be a positive side effect of my arguments, but not the core intent of this project.

To be clear, while elaborating a MacIntyrean *modus vivendi* will require analyzing a wide range of ideological positions, the primary audience for my argument is anybody who understands that deep disagreement about areas of major moral controversy will not only persist, but will remain salient enough such that they will continue to frustrate attempts to arrive on a final, durable, ideologically coherent political settlement. It is not possible, the *modus vivendi* approach says, to ‘solve’ politics in that manner. The biggest contingent in the academy who roughly fits this description are political or public reason liberals. Importantly, though, my intended audience includes any nonliberals who also realize that politics is an unreliable method to realize their normative ambitions, and that political gains are apt to erode over time. Nonliberals need not agree on why this is the case; whether the perfect regime will collapse due to the invidious effects of capitalism or the cyclical degradation of popular morals (or both), the

basic outlook needs to be that moral disagreement, rather than being a function of educable error, is here to stay.

All that having been said, a properly MacIntyrean *modus vivendi* will need to engage with thinkers who do not hold this to be true, and who believe that major political shifts have the potential to meaningfully remove or ameliorate, not just *specific areas* of controversy and moral disagreement, but controversy and moral disagreement *itself*. We will be dealing, throughout this dissertation, with ideological partisans who believe that some combination of education, control over policy, and homogeneity can meaningfully remove the problems that come with being a large, pluralistic democracy. A passionate liberal individualist may believe that the opposition to their worldview is the result of atavistic tendencies that can be meaningfully educated out of the population. A religious traditionalist, on the other hand, may hold that spiritual malaise and the social unrest that attends it can be largely ameliorated by further control over information consumption and a more robust application of the indirect power.²¹ These may seem like very different approaches, but in some senses they have significant overlap; an emphasis on control of youth education is almost always present, and there is a similar attitude towards the moral purpose of politics. Politics is, in essence, about enforcing the moral worldview you already know to be true, and not becoming confused, enervated, or distracted by your political opponents.

It is important not to underestimate or underplay the immense intuitive appeal of this mode of understanding politics. Many of those who hold this understanding of politics can meaningfully present themselves as hard-nosed realists, the only ones who recognize the need to

21 Kevin Vallier, *All the Kingdoms of the World: On Radical Religious Alternatives to Liberalism* (New York, NY: Oxford University Press, 2023), 37, 73.

fight for what one believes against overwhelming odds. To those who say that incremental change is possible, they can reply ‘oh, so you expect to just vote yourself out of late stage capitalism/individualistic liberalism’, and have a long history of examples showing the folly of such a remedial approach. To those who say that political disagreement is permanent, they can reply that such defeatist language has been cynically mobilized in order to limit revolutionary changes we now take for granted. *These replies are true.* The most successful political approaches often contain elements of both realism and idealism, and comprehensive liberals and nonliberals can convincingly encompass both of those elements.

This moralistic and absolutist approach to politics, however, is incredibly ill-suited to a world in which evaluative pluralism²² reigns and new moral controversies occur. At best, it is an attempt to apply static political solutions to novel political realities, political realities navigated by political actors who are themselves pattern-recognizing agents.²³ The opposition does not wait to pass from this earth; they adapt, and change their approach to appeal to new demographics and adopt new issue areas. Those who see politics as a set of moral failings to right will always find something new to improve, and this leads into the second issue with the moralistic approach under conditions of deep and persistent moral disagreement; it contains no limiting principle, and few functional methods for political prioritization. Every new political disagreement that arises is to be treated as a threat to the normative project as a whole, either through loose appeals to ‘systemic’ issues and problems or by resorting to the base logic of conspiracy. In either case, the two values desperately needed to function in a world of persistent political disagreement, those

22 Vallier, *Must Politics Be War?*, 19–24.

23 Alasdair MacIntyre, “Is a Science of Comparative Politics Possible?” (New York: Schocken Books, 1971).

being a sense of one's own limitations and the capacity to pick one's battles, are actively disdained.

These criticisms are important to establish, but in the upcoming chapters on specific nonliberal ideologies, I will not be primarily offering critique. Many excellent and critical reviews point out the myriad issues with these texts, both in terms of ideological disagreement and simple scholarly rigor. Any successful *modus vivendi*, however, needs to excavate a set of demands or policy prescriptions that could appeal, not to the thinkers themselves, but to their relevant ideological constituencies. Vermeule describes his intended audience as the “intelligent observer... who intuits that something has gone very wrong... but isn't sure exactly how or why,”²⁴ while Ahmari appeals to the sense that “[s]omething has gone wrong with democracy, yet it is hard to put your finger on it.”²⁵ Those who find these (vague) sentiments relatable and who find appeal in the diagnoses and solutions on offer are both far more numerous and far less politically rigid than the authors themselves. If there are people who do, in fact, yearn for “a conservatism that conserves” and “a form of liberty no longer abstracted from our places and people, but embedded within duties and mutual obligations,”²⁶ then it is those individuals, not the polarization entrepreneurs radicalizing them, who warrant attention. In making our argument, we are working with Rawlsian intuitions, but without Rawlsian commitments; similarly, the broad nonliberal constituency has nonliberal sympathies, but lacks a worked-out nonliberal ideology.

Counterintuitively, but consequently, any attempt at wholesale destruction of the worldviews and appeals of the nonliberals discussed in this thesis would actually undermine any serious prospect for a *modus vivendi*. This is not to say that any particular set of worldviews is

24 Vermeule, *Common Good Constitutionalism*, 2022, 25.

25 Sohrab Ahmari, *Tyranny, Inc.: How Private Power Crushed American Liberty-- and What to Do About It*, First edition (New York: Forum Books, an imprint of Penguin Random House LLC, 2023), xxii.

26 Deneen, *Regime Change*, xiv.

‘inherent’ or ‘natural’ to any given political arrangement, but rather that, following Rawls and the public reason tradition, I take a diversity of worldviews and the existence of evaluative pluralism as a given in my analysis. Under these conditions, we are concerned to sketch out which peaceful arrangements are possible with those who see value in the sorts of propositions offered by nonliberals of the antipluralistic persuasion. If we attempt to simply discredit these things as such, and thereby remove them as a political and ideological coordination point for those who find their arguments appealing, we are more likely, I submit, to drive those people to even worse coordination points than we are to slow or arrest their nonliberal slide. As we will see in the full chapter on the political-comprehensive collapse, attempts by liberals to control political outcomes by curtailing the range of ‘the reasonable’ have fed the very dynamic that led to these radical nonliberals finding a wider audience in the first place.

Therefore, in the relevant chapters, my engagement with nonliberals will be strategic about which critiques it chooses to make, leaving many questionable claims largely unquestioned. After all, the point of a successful *modus vivendi*, let alone a successful overlapping consensus, is to recognize a political arrangement which appears acceptable from within multiple different worldviews or comprehensive doctrines. Therefore, the critiques I make will be focused on those elements which conflict specifically with a subsidiarity-oriented *modus vivendi*. These elements exist, with the *modus vivendi* approach coming into critique,²⁷ sometimes even by name,²⁸ but other argumentative throughlines actually angle these approaches toward a broadly liberal *modus vivendi*, or at least show that their arguments cannot fully eschew

27 Deneen, *Regime Change*, 163, 187.

28 Deneen, *Why Liberalism Failed*, 9.

appeals to some notion of the reasonable and to the value of societal pluralism. Our argumentative approach will be to discredit the former and turn the bellows onto the latter.

All this is to say that a MacIntyrean *modus vivendi* must meet critics of liberalism, and more importantly their audiences and constituencies, where they are, not in a condescending or tutelary manner, but regarding them as fellow citizens with robust moral intuitions who will not have their lived experience occluded from them with the optimal Rawls citation. The goal is to, first, identify and harmonize the demands of the salient nonliberals we are discussing, insofar as they can be harmonized, and then to identify which elements can and cannot be sated by even a subsidiarity-oriented *modus vivendi* approach. Next, we must lay out those sacrifices for both liberal and nonliberal audiences honestly and openly. This approach does imply, at the very least, some kind of individualistic political psychology, in which individuals enter something like a marketplace of ideas, evaluate arguments and comprehensive doctrines based at least partially on plausibility, and change their minds accordingly. I will provide some support for this approach in my literature review, but ultimately, I will be emphasizing these elements of political reason much less than, say, the public reason liberalism tradition does.²⁹

To make another important methodological point: the eventual set of ‘demands’ I will excavate from the nonliberals I analyze are best understood, not as *my proposal* for a better possible world, but my attempt to identify the nearest stable coordination point in conceptual space given that we live in a deeply imperfect world. This project is, in part, a deliberate attempt to move away from the idealizing forms of political theory that self-consciously serve as instruction sets for how to achieve conscious and deliberate normative change. Instead, my goal

29 Gaus, *The Order of Public Reason*; Kevin Vallier, “In Defense of Idealization in Public Reason,” *Erkenntnis* 85, no. 5 (October 2020): 1109–28, <https://doi.org/10.1007/s10670-018-0067-8>.

is to identify and chart an already-existing trajectory of change that we as a society are, I contend, unconsciously and inadvertently moving along. The objective is not to build a new liberal *modus vivendi* from the ground up, but to examine and prioritize the strongest normative commitments of actually-existing nonliberals and identify which elements of our current constitutional systems and political settlements are most likely to erode.

It is very possible that many ‘liberal’ elements of the status quo never reach the level of political salience necessary to actually trigger widespread discontent or constitutional crisis; what is implausible is the hope, still held by some liberals, that nonliberalism *itself* will never reach such salience, remaining small, weak, and marginal enough to be pacified by stronger educational controls, or bans on misinformation, or any one of a number of suppressive strategies that have gained cachet in recent years. This dissertation, to be clear, does have a normative element, in that I believe that, once our trajectory is identified, there are better and worse ways to go about traversing it, and better and worse institutional equilibria within the conceptual space we are navigating. But this dissertation is primarily an exercise in prediction, not prescription, and must be read in that light.

This commitment to focus on actually-existing nonliberalism puts meaningful constraints on which nonliberal ideologies/factions I choose to treat. My ‘case selection’, in a sense, needs to be based on those nonliberal ideologies that have made inroads into both academic circles, political ‘discourse’ (especially in online venues, given the overrepresentation of online venues as avenues of polarization), and popular news and entertainment media. There is no precise formula for this; just because something is represented on Twitter does not intrinsically make it influential, and it is more difficult to find examples of, say, right-nonliberalism in large

entertainment media properties now than it was in the 1970s.³⁰ But when rightist denunciations of liberal modernity make their way onto *Tucker Carlson Tonight*, when degrowth leftism makes its way into early drafts of the Green New Deal, and when there are large and widely shared intellectual foundations behind these arguments, then those are good signs that a particular version of nonliberalism is worth sustained theoretical attention.

This kind of spread is, I contend, an indirect indicator of what a MacIntyrean *modus vivendi* is really concerned with, that being the nonliberal impulses that are *actually held*, both by ordinary citizens and political actors. These nonliberal impulses can be conjugated in ways that accord with a MacIntyrean *modus vivendi*, or they can be conjugated in ways that make them hostile to all forms of pluralism, or indeed hostile to modernity in general. My goal, when I treat various nonliberalisms in the final three chapters, will be to identify conjugations of those worldviews that have a chance at reaching some kind of accord within a pluralistic *modus vivendi*, while delineating the intellectual factions within those nonliberal ideologies that are hostile to all forms of pluralism. By breaking apart accommodationist and radical strands of nonliberal worldviews, we can then begin to get a sense of what shape a hypothetical *modus vivendi* negotiation might take if it is both meaningfully inclusive of nonliberal citizens and their

30 *Dirty Harry* (Timothy O. Lenz, “Conservatism in American Crime Films,” *Journal of Criminal Justice and Popular Culture* 12, no. 2 (2005): 121.) and *Death Wish* (Lenz, “Conservatism in American Crime Films,” 128.) are seen as holotypical examples of films in the 1970s that “show the strong emotional appeal of crime control values during this period” (Lenz, “Conservatism in American Crime Films,” 117.), and which “appealed to the average American... at a time when liberalism supported legal elites such as lawyers, judges, and academics who were committed to using due process to regulate police behavior.” The American audience at the time followed the script of *Dirty Harry* in “blam[ing] liberals for rampant street crime such as daylight bank robberies, muggings, and drug deals; criminogenic social conditions such as seedy strip clubs and alternative lifestyles.” (Lenz, “Conservatism in American Crime Films,” 121.) Compare this with the current (and possibly dying) trend of major entertainment providers actively trying to “promote greater sexual and gender diversity in their original programmes in an attempt to distinguish themselves from the hegemonic discourses long associated with broadcast networks” and “in order to cement their reputations as broadcasters of progressive ‘quality’ programming.” (Stéfany Boisvert, “‘Queering’ Tv, One Character at a Time: How Audiences Respond to Gender-Diverse Tv Series on Social Media Platforms,” *Critical Studies in Television: The International Journal of Television Studies* 15, no. 2 (June 2020): 184, <https://doi.org/10.1177/1749602020914479>.)

moral impulses, and still meaningfully liberal in the sense of preserving the conditions for ongoing diversity and different ways of life.

There is a kind of Goldilocks problem inherent in choosing which nonliberal theorists to treat. Choose an imagined ‘negotiating partner’ that is too ‘domesticated’ by liberalism,³¹ and all you have shown is that those willing to work within liberalism are willing to work within liberalism, missing the depth of discontent with liberalism to an extent that would make the theory politically inert. Choose a negotiating partner that is too radical,³² and no modus vivendi that resulted in anything like liberal commitments and governance structures will be able to satisfy them, again rendering the theory politically inert. The objective, the ‘sweet spot’, is to excavate a modus vivendi that 1: *can accommodate 2: hard cases*,³³ with both clauses of that objective recognized as equally important.

Despite this emphasis on accommodation, my ultimate audience, both in intention and just by sheer numbers, will be liberals, of both the pluralist/political and comprehensive varieties. This dissertation, in a sense, does what political liberals have tried to do for decades now: to sketch out the terms, traits, and requirements of a society that is capable of handling the existence and persistence of deep, intractable disagreement. Methodologically the project is outside of the politically liberal ‘camp’, but the ethos and inspiration behind it remains the same. If we admit, as we should, that political liberalism is collapsing, into either comprehensive liberalism or a modus vivendi, we can see that the modus vivendi is the only option that

31 Anderson and George, “The Baby and the Bathwater”; Richard Heinberg, *The End of Growth: Adapting to Our New Economic Reality* (Gabriola Island, B.C: New Society Publ, 2011).

32 Adrian Vermeule, “A Christian Strategy,” *First Things* (New York: Institute of Religion and Public Life, November 2017), 2030154883, ProQuest Central; ProQuest One Academic; Silvia Federici, *Re-Enchanting the World: Feminism and the Politics of the Commons*, Kairos (Oakland, CA: PM, 2019).

33 Deneen, *Regime Change*; and Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition, Indigenous Americas* (Minneapolis: University of Minnesota press, 2014). are the primary ‘hard cases’ that I will treat in this dissertation.

maintains satisfactory recognition of the truth of persistent disagreement. Even if one is not convinced that the task of forming and maintaining an overlapping consensus is fatally flawed, it still helps to model what sorts of institutions and institutional compromises might arise out of modus vivendi negotiations, broadly understood. Losing recourse to the overlapping consensus may appear to some of my readers to be catastrophic, but catastrophes demand theorization as much as, if not more than, ideals.

Devolution and Polarization

As regards theorizing catastrophes, one core inspiration for this project is Donald Horowitz's article "The Many Uses of Federalism,"³⁴ which applies the institutional capacities of federalism to cases much harder than ours here, such as "the many ethnically divided countries of Asia and Africa."³⁵ Importantly, the benefit of federalism as understood by Horowitz is precisely in line with our modus vivendi approach, as "the aim is to prevent majorities—ethnic majorities—from forming or, if they do form, from dominating politics and thus dominating minorities." And, much in line with a subsidiarity-oriented modus vivendi, he ushers us toward "devolution federalism, in which substate units are created to respond to problems of ethnic diversity."³⁶

Horowitz points to eight different ways by which federalism can ease or mitigate seemingly intractable ethnic conflict: by allowing minority ethnic groups a unit over which they can have some control,³⁷ by quarantining conflicts which do arise within those subnational

34 Donald L. Horowitz, "The Many Uses of Federalism," *Drake L. Rev.* 55 (2006): 953.

35 Horowitz, "The Many Uses of Federalism," 955.

36 Horowitz, "The Many Uses of Federalism," 957.

37 Horowitz, "The Many Uses of Federalism," 958.

boundaries,³⁸ by allowing for “special, asymmetric arrangements” in which one subnational unit gains certain powers without all subnational units gaining them,³⁹ by allowing representatives of ethnic groups to encounter one another on lower-stakes grounds and practice engagement and bargaining,⁴⁰ by replacing competition among ethnic groups *qua* ethnic groups for competition among subnational units,⁴¹ by “activating subethnic cleavages that drop conflict down to the subnational level from the national level or, to put it differently, from the intergroup to the intragroup level,”⁴² by partitioning supporters of extremist ethnic parties such that they don’t gain outside control over certain regions (and therefore national-level politics),⁴³ and, finally and relatedly, by thereby providing “a stimulus for interethnic alignments and coalitions.”⁴⁴ Many of these devolutionary ‘tools’ are backed up with concrete examples and observations from highly ethnically divided societies such as Malaysia, Nigeria, and India.

Furthermore, and importantly for our purposes, none of these benefits of devolutionary federalism rely on the notion of “scaling-up federalism,”⁴⁵ an approach summarized by the classic “laboratories of democracy” metaphor, and which has always had a centralizing bias at its core. Laboratories are designed to try many different approaches which *might* work in the process of discovering the main approach which *does* work, after which, presumably, the approach ceases to be one choice among many and instead becomes an element of best practices in all the laboratories. Horowitz rejects this,⁴⁶ and for good reason; this conception of the purpose

38 Horowitz, “The Many Uses of Federalism,” 959.

39 Horowitz, “The Many Uses of Federalism,” 959.

40 Horowitz, “The Many Uses of Federalism,” 960.

41 Horowitz, “The Many Uses of Federalism,” 960.

42 Horowitz, “The Many Uses of Federalism,” 960.

43 Horowitz, “The Many Uses of Federalism,” 961.

44 Horowitz, “The Many Uses of Federalism,” 962.

45 Horowitz, “The Many Uses of Federalism,” 957.

46 Horowitz, “The Many Uses of Federalism,” 957.

and ‘direction’ of federalism is, in some sense, a claim that the purpose of federalism is to eventually legislate itself out of existence. Once we have run enough experiments within the laboratories of democracy, the time will come to take the practices we have found to ‘work’ and enforce them on all subnational units in a top-down, homogeneous manner. This approach is unrealistic if one simply acknowledges the existence of emergent and novel problems in political life, and becomes naive if one accepts that intractable moral disagreement is a permanent feature of large, diverse polities. Advocates of centralization are always apt to claim that enough experimentation has been done, with the time for standardization now upon us; emphasizing devolutionary federalism specifically helps to curtail that particular rhetorical excess.

Interestingly, Horowitz identifies “scaling-up federalism” as specifically “emanating from Philadelphia in 1787,”⁴⁷ with its “purpose” to “build a larger polity out of smaller polities,”⁴⁸ and he frames this as a kind of American inheritance (or perhaps indulgence) which applies better to societies far more homogeneous than the ethnically divided polities he is concerned with. Leaving aside whether this image of American homogeneity was or is a myth, I propose that we read the devolutionary federalism Horowitz is advocating back onto the western federal polities which are more in need of the devolutionary ‘toolkit’ than they were back in 2006. In a time of increasing street violence, quarantining conflict within subnational boundaries⁴⁹ has a more obvious benefit. In an era where minoritarian political parties are able to coordinate across weakened subnational units to gain outside national-level political power, devolution as “a de facto electoral reform” gains appeal,⁵⁰ especially under conditions of institutional sclerosis where actual electoral reform seems persistently out of reach. Most importantly, in an era of increasing

47 Horowitz, “The Many Uses of Federalism,” 957.

48 Horowitz, “The Many Uses of Federalism,” 956.

49 Horowitz, “The Many Uses of Federalism,” 959.

50 Horowitz, “The Many Uses of Federalism,” 961.

political polarization, we desperately need a mechanism that is capable of “drop[ping] conflict down to the subnational level from the national level... from the intergroup to the intragroup level.”⁵¹ To move away from a nationalized, homogenized model of party politics in which West Virginia Democrats have to defend childhood gender transition and Oregon Republicans have to defend Donald Trump’s election denialism is to move toward a model in which different state parties can take up the issues that are most relevant to the elements of their political coalitions that predominate in the relevant subnational unit in question. This, in turn, encourages Tiebout⁵² competition between states or provinces⁵³ instead of the brand of winner-take-all national-level competition which exacerbates political polarization.

The final assumption underlying this use of Horowitz is that, if this model can work to mitigate something as fundamentally dangerous and intractable as ethnic conflict, it should work to deal with moral or ideological conflict, something which has proven to be less overtly dangerous in the 21st century. Via polarization, populism, and spreading nonliberal sentiment, the North American federations have shifted to a position in which the devolutionary toolkit can serve a preventative function, averting or mitigating further polarization, further centralization, and further chaos. Put simply, we would be ‘getting in early’, and as Horowitz is at pains to emphasize, “timing is crucial. In relation to the development of conflict, earlier is always better.”⁵⁴

And we do, I maintain, live in an era of increased political polarization. There is a rich vein of political science research showing that political polarization, especially affective

51 Horowitz, “The Many Uses of Federalism,” 960.

52 While Tiebout sorting originally referred to taxation and spending preferences, it has since been extended by analogy to sorting based on policy preferences in general or sorting by beliefs and worldview more broadly. As I use the term throughout this dissertation, I will make use of the more expansive meaning.

53 Horowitz, “The Many Uses of Federalism,” 960.

54 Horowitz, “The Many Uses of Federalism,” 958.

polarization and geographic partisan sorting, have increased and are increasing. Against a model of polarization as being “the difference between the policy positions of Democrats and Republicans,”⁵⁵ the recent literature understands the most salient consequences of polarization as outgrowths of group identification. “When we identify with a political party,” Iyengar et. al. write, “we instinctively divide up the world into an in group (our own party) and an out group (the opposing party)... any such in-group/out-group distinction, even one based on the most trivial of shared characteristics, triggers both positive feelings for the in group and negative evaluations of the outgroup.”⁵⁶ Current levels of political polarization are “alarmingly high,”⁵⁷ and have long been rising, both in the United States⁵⁸ and Canada, where elite polarization has been on the rise⁵⁹ and where, even among the mass public, “policy beliefs are becoming modestly more correlated with one another and *much* more correlated with partisanship.”⁶⁰

Major, era-defining events have been blamed on increasing political polarization, from the election of Donald Trump⁶¹ to the spread of covid misinformation,⁶² as well as more quotidian but arguably more important phenomena such as the selection of friends and romantic

55 Shanto Iyengar et al., “The Origins and Consequences of Affective Polarization in the United States,” *Annual Review of Political Science* 22, no. 1 (May 11, 2019): 131, <https://doi.org/10.1146/annurev-polisci-051117-073034>.

56 Iyengar et al., “The Origins and Consequences of Affective Polarization in the United States,” 130.

57 Jacob Westfall et al., “Perceiving Political Polarization in the United States: Party Identity Strength and Attitude Extremity Exacerbate the Perceived Partisan Divide,” *Perspectives on Psychological Science* 10, no. 2 (March 2015): 145, <https://doi.org/10.1177/1745691615569849>.

58 Alan Abramowitz and Steven Webster, “The Rise of Negative Partisanship and the Nationalization of U.S. Elections in the 21st Century,” *Electoral Studies* 41 (March 2016): 12–22, <https://doi.org/10.1016/j.electstud.2015.11.001>.

59 Eric Merkley, “Polarization Eh? Ideological Divergence and Partisan Sorting in the Canadian Mass Public,” *Public Opinion Quarterly* 86, no. 4 (February 20, 2023): 933, <https://doi.org/10.1093/poq/nfac047>.

60 Merkley, “Polarization Eh?,” 940.

61 Alan Abramowitz and Jennifer McCoy, “United States: Racial Resentment, Negative Partisanship, and Polarization in Trump’s America,” *The ANNALS of the American Academy of Political and Social Science* 681, no. 1 (January 2019): 139, <https://doi.org/10.1177/0002716218811309>.

62 Julie Jiang et al., “Political Polarization Drives Online Conversations about COVID -19 in the United States,” *Human Behavior and Emerging Technologies* 2, no. 3 (July 2020): 209, <https://doi.org/10.1002/hbe2.202>.

partners.⁶³ For our purposes, however, the most important polarization-related trend is the rise of partisan sorting, both ideological⁶⁴ and geographic.⁶⁵ In digital spaces⁶⁶ and physical spaces,⁶⁷ people are encountering fewer people who substantively disagree with them on major political issues and, when they do encounter such people, having worse and more acrimonious interactions with them.⁶⁸ These trends reinforce each other, such that we now have “high partisan segregation across the country, with most voters of both political parties living in partisan bubbles with little exposure to the other party. These high levels of isolation exist in different types of regions and at different population densities.”⁶⁹ Surprisingly, “even within cities, Democrats and Republicans sort into different places, again indicating that partisan segregation is not merely a result of large-scale geographic trends such as an urban-rural divide,”⁷⁰ and the trend has become so pronounced that “there is evidence for party-based affective attitudes among Americans that are, by some measures, stronger than effects based on race.”⁷¹

While the issue of increasing affective polarization and partisan sorting is often framed as an issue of ‘bubbles’, I contend, following Törnberg,⁷² that the actual dynamic is both more

63 Iyengar et al., “The Origins and Consequences of Affective Polarization in the United States,” 137.

64 Lilliana Mason, “‘I Disrespectfully Agree’: The Differential Effects of Partisan Sorting on Social and Issue Polarization,” *American Journal of Political Science* 59, no. 1 (January 2015): 128, <https://doi.org/10.1111/ajps.12089>.

65 Jacob R. Brown and Ryan D. Enos, “The Measurement of Partisan Sorting for 180 Million Voters,” *Nature Human Behaviour* 5, no. 8 (March 8, 2021): 998, <https://doi.org/10.1038/s41562-021-01066-z>.

66 Petter Törnberg, “How Digital Media Drive Affective Polarization through Partisan Sorting,” *Proceedings of the National Academy of Sciences* 119, no. 42 (October 18, 2022): e2207159119, <https://doi.org/10.1073/pnas.2207159119>; Anatoliy Gruzd and Jeffrey Roy, “Investigating Political Polarization on Twitter: A Canadian Perspective: Investigating Political Polarization on Twitter,” *Policy & Internet* 6, no. 1 (March 2014): 28–45, <https://doi.org/10.1002/1944-2866.POI354>.

67 Brown and Enos, “The Measurement of Partisan Sorting for 180 Million Voters”; Ethan Kaplan, Jörg L. Spenkuch, and Rebecca Sullivan, “Partisan Spatial Sorting in the United States: A Theoretical and Empirical Overview,” *Journal of Public Economics* 211 (July 2022): 104668, <https://doi.org/10.1016/j.jpubeco.2022.104668>.

68 Gruzd and Roy, “Investigating Political Polarization on Twitter,” 38.

69 Brown and Enos, “The Measurement of Partisan Sorting for 180 Million Voters,” 1005.

70 Brown and Enos, “The Measurement of Partisan Sorting for 180 Million Voters,” 1004.

71 Brown and Enos, “The Measurement of Partisan Sorting for 180 Million Voters,” 1006.

72 Törnberg, “How Digital Media Drive Affective Polarization through Partisan Sorting.”

complicated and less tractable. Törnberg sums up the state of the literature well, noting that “scholars have pointed to partisanship emerging as an important social identity under which societal divisions and conflicts are coming to align” and the “American electorate appears to be coalescing into two increasingly homogeneous parties, which are absorbing a growing number of political and ideological divisions, possibly even extending to leisure activities, consumption, aesthetic taste, and personal morality.”⁷³ Törnberg’s model “suggests that digital media can intensify affective polarization by contributing to a runaway process in which more and more issues become drawn into a single growing social and cultural divide, in turn driving a breakdown of social cohesion.”⁷⁴ Again, this is not a story of ‘partisan bubbles’; “digital media may drive affective polarization, not by isolating us in echo chambers that shield us from other viewpoints and positions, but precisely by connecting us with views and positions outside our local bubble.”⁷⁵ His understanding of the full polarization dynamic is worth quoting at length:

“If interaction takes place locally in geographical space or social networks, the process of sorting takes place locally, leading to local alignment of differences. This means that there will be limited sorting on the group level as the various local political cultures cancel each other out: some preferences are politicized in one region but not in others, and some are associated to one political one side [sic] in one region but the opposite side in another. The local diversity thus comes to function as a check on political polarization as politics is fractured into multiple local identities. When political cultures are internally diverse across space or across social groups, politics becomes rife with cross-cutting incentives, which leads to relatively high levels of social cohesion. The rise of digital media, however, acts to destabilize this counterforce. By connecting individuals with others from outside their local social bubbles, digital media pressure local political cultures to align globally. Over time, the system comes to sort on the global scale, with a single political culture becoming system-wide. The effects are a dimensionality reduction, in which conflicts align along a single partisan divide.”⁷⁶

73 Törnberg, “How Digital Media Drive Affective Polarization through Partisan Sorting,” 1.

74 Törnberg, “How Digital Media Drive Affective Polarization through Partisan Sorting,” 2.

75 Törnberg, “How Digital Media Drive Affective Polarization through Partisan Sorting,” 7.

76 Törnberg, “How Digital Media Drive Affective Polarization through Partisan Sorting,” 8.

This understanding of the polarization problem is key to the normative appeal of the subsidiarity-oriented modus vivendi model based on devolution of national political power to subnational units and municipalities. If the problem was simply a lack of interaction with citizens who disagree with each other, then it would be apropos to argue that “the Twitter communication platform is conducive to exposing citizens with opposing viewpoints.”⁷⁷ However, since 2014, we have seen too much contradictory evidence to take seriously the claim that “[t]he results of this exposure could serve to lessen polarization—especially if such increased awareness and exchange can be translated into a wide discourse encompassing more moderate voices not aligned with a specific party.”⁷⁸

Putting together Törnberg’s analysis with the literature on geographic partisan sorting, what we currently experience is a kind of pseudo-echo chamber, where people are in fact exposed to individuals and arguments wildly unfamiliar to them, but specifically those individuals and arguments that are most likely to encourage further affective polarization. The distinctive 21st-century form of engagement with a contrary opinion is not the Buckley-style debate show, but the partisan news segment, the TikTok ‘debunking’, or the aggressive quote-retweet; in all these cases, the political opponent comes with a mocking rebuttal pre-packaged, sometimes literally wrapped around the offending ideological content. People primarily encounter opposing worldviews not through actual flesh-and-blood people, but through cherry-picked examples of the worst their political opponents have to offer, assembled by polarization

77 Gruzd and Roy, “Investigating Political Polarization on Twitter,” 39.

78 Gruzd and Roy, “Investigating Political Polarization on Twitter,” 39.

entrepreneurs alongside counterarguments designed to maximize a felt sense of disdain and disgust.

If we generalize this dynamic beyond just digital media and to politics as a whole, it suggests a different route to “making partisanship and politics less salient.”⁷⁹ Rejecting the naive model in which exposure to political opponents will break through bubbles and increase social cohesion, we can then see how a devolution of national-level political power to subnational units could very feasibly alleviate the pseudo-echo chamber issue. Partisans will continue to be active, and polarization entrepreneurs will never leave us, but shifting the relevant focal points of politics from the White House and the Senate to the governor’s mansion and the state legislature would, on our model, have several major benefits. For one, partisans operating in an institutional framework where state-level politics determine many more of their most salient political outcomes will face incentives to tailor or outright alter their appeals such that they conform to the relevant problems of the subnational unit. Given the balance of opinion,⁸⁰ there is no meaningful incentive for an Oregon Republican to fight tooth and nail to make abortion illegal; there is a significant incentive for an Oregon Republican to push to liberalize environmental rules around logging. Moreover, those who are concerned about logging do not typically want logging rules nationwide to be liberalized, and care only about the capacity for the logging industry in Oregon specifically to be successful and employ widely. Contrast this with abortion opposition, which typically sees any abortion anywhere within the borders of the United States as legalized murder. The localized political objective is gradated, specific, and much more likely

79 Iyengar et al., “The Origins and Consequences of Affective Polarization in the United States,” 140.

80 “Views about Abortion among Adults in Oregon,” *Pew Research Center’s Religion & Public Life Project* (blog), 2014, <https://www.pewresearch.org/religion/religious-landscape-study/>.

to be realized politically, whereas the nationalized political belief is far more absolute, far more binary, and far less likely to be meaningfully achieved.

This final point may seem more like a benefit than a cost; if one opposes Republican political aims (for instance), wouldn't one want them to pour their efforts into national-level fights that are locally unwinnable? There are two responses to this, one more immediate and one more systemic. The immediate point is that the problems with dimensionality reduction are problems for progressives as well. Such that Republican politicians experience liabilities in Oregon for running on a pro-life platform, Democrats in West Virginia are also apt to experience liabilities for running on a platform of full access to gender-altering hormones for minors. Many of these state-level politicians do in fact take more moderate positions on these nationally-controversial issues, but the global sorting effect of highly centralized political institutions often means that they can be rejected through guilt-by-association. Put simply, state-level opposition Democrats are held to the worst things said on a college campus and state-level opposition Republicans are held to the worst things said by Fox News personalities. Even worse, the incentive structure of such a system pushes politicians to become more extreme, or at least less and less willing to break ranks with their co-partisans who espouse far more extreme positions on a host of controversial topics.

The deeper concern, however, is that affective polarization arguably feeds, and perhaps even stems from, a felt sense of helplessness.⁸¹ Encountering power can often have a moderating effect on political movements, as their partisans discover concrete barriers to the implementation of their policies that do not neatly align along left-right axes. Conversely, political extremism is

81 Jacob T. Levy, "The Sovereign Myth," Niskanen Center, June 15, 2017, <https://www.niskanencenter.org/sovereign-myth/>.

often the luxury of political losers, who can maintain moral and political purity while generating more and more substantive political losses, therefore allowing themselves more space for extremity. These extreme factions then proceed to make themselves known less through the ballot box and more through increasingly disruptive and dangerous forms of social unrest. Structuring the arenas of political contestation such that they are A: more regionally specific and B: more tractable will help alleviate the danger of spiraling affective polarization on both sides. Local partisans will now be more likely to experience power on newly-salient local issues, thereby alleviating their felt sense of political helplessness, and allowing political factions who previously had no chance of success in certain states or provinces a chance to govern and experience the moderating constraints of political power for themselves.

Another important and relevant objection to both the polarization literature in general and my use of it in particular is that it overemphasizes division among elites and inappropriately projects that division upon the electorate as a whole. This is not an unfounded criticism; much of the research cited so far makes an effort to break out elite polarization from other polarization metrics, and when they do so they find a more nuanced story. Kaplan et. al. take pains to note that “partisan heterogeneity within countries or precincts is many times greater than division across space... By this measure, the American electorate continues to be much more diverse within than across communities, even when the latter are narrowly defined.”⁸² Similarly, Westfall et. al. contend back in 2015 that “political attitude polarization is not as large as it seems and... political attitude polarization seems larger to some people than others,” primarily “those who are themselves most polarized, strongly identifying as party members and holding relatively extreme

82 Kaplan, Spenkuch, and Sullivan, “Partisan Spatial Sorting in the United States,” 10.

attitudes that align with their partisan identities.”⁸³ This framework, combined with the body of research that shows that more educated⁸⁴ and wealthier⁸⁵ citizens engage more with politics, suggest that polarization might largely be a mirage produced by overexposure to elite discourse communities and social groups. Professors, members of the media, political activists, and the wider range of highly partisan political junkies are best understood, on this account, as hobbyists, and are at best highly unrepresentative of the general North American public.

There are some reasons to be skeptical of this “elite quarantine” story of polarization, however. In the first instance, individuals, even those without extensive education or material resources, “constantly receive partisan cues from elites” due in part to repeated and extended campaigning seasons.⁸⁶ This also applies in highly salient issue areas; when it came to political discourse around Covid-19, we saw that “elected officials continue to influence conversations about the pandemic, granting them the potential to shape public opinion.”⁸⁷ In Canada specifically, the rise in partisan sorting among the mass public has been “mirroring patterns of affective and elite polarization.”⁸⁸ This makes sense in a context where, for most citizens, issue positions are determined by group identification, not the other way around.⁸⁹ People begin with

83 Westfall et al., “Perceiving Political Polarization in the United States,” 155.

84 Kien Le and My Nguyen, “Education and Political Engagement,” *International Journal of Educational Development* 85 (September 2021): 102441, <https://doi.org/10.1016/j.ijedudev.2021.102441>; William A. Galston, “Political Knowledge, Political Engagement, and Civic Education,” *Annual Review of Political Science* 4, no. 1 (June 2001): 217–34, <https://doi.org/10.1146/annurev.polisci.4.1.217>; Andrew J. Perrin and Alanna Gillis, “How College Makes Citizens: Higher Education Experiences and Political Engagement,” *Socius: Sociological Research for a Dynamic World* 5 (January 2019): 237802311985970, <https://doi.org/10.1177/2378023119859708>.

85 Frederick Solt, “Economic Inequality and Democratic Political Engagement,” *American Journal of Political Science* 52, no. 1 (January 2008): 48–60, <https://doi.org/10.1111/j.1540-5907.2007.00298.x>; Fay Lomax Cook, Benjamin I. Page, and Rachel L. Moskowitz, “Political Engagement by Wealthy Americans,” *Political Science Quarterly* 129, no. 3 (September 1, 2014): 381–98, <https://doi.org/10.1002/polq.12218>; Daniel Laurison, “Social Class and Political Engagement in the United States,” *Sociology Compass* 10, no. 8 (August 2016): 684–97, <https://doi.org/10.1111/soc4.12390>.

86 Iyengar et al., “The Origins and Consequences of Affective Polarization in the United States,” 130.

87 Jiang et al., “Political Polarization Drives Online Conversations about <span Style=“font-Variant,” 209.

88 Merkley, “Polarization Eh?,” 940.

89 Mason, “I Disrespectfully Agree,” 142.

genuine but “loose” moral intuitions, and then look for, or are presented with, highly motivated political operatives and polarization entrepreneurs who then propose to ‘flesh out’ the content of their worldview. Given the current centralizing incentive structure, this is often done through a very dimensionally-reduced, national-level partisan lens.

Furthermore, even if elites are less influential on the mass public than we imagine them to be, they are still highly influential on politics itself. When Westfall et. al., who expressed skepticism about whether or not the country is as polarized as it appears, write on the potential dangers of this misperception, the most important consequence they list is that “extreme party candidates are more likely to get elected.”⁹⁰ This suggests that the exaggeration of political polarization is dangerous because it could produce the real thing, but if the real thing has then been genuinely produced, mass perceptions of polarization cease to be misperceptions. Whether or not political polarization was a mirage in 2015, when the article was written, matters less to us after the election of Donald Trump, the mass social unrest of 2020, the attempted coup of January 6th, and Trump’s return to power (alongside JD Vance, arguably the politician with the most prominent nonliberal associations in North American politics)⁹¹ some four years later. Those who look at this political landscape and see increasing polarization are no longer experiencing an illusion; they are simply reading the news.

These dangerous political consequences of growing polarization and nonliberal sentiment mean that we cannot just set nonliberalism aside as some atavistic tendency that we will eventually ‘move beyond.’ Taking nonliberalism seriously means taking seriously their core

90 Westfall et al., “Perceiving Political Polarization in the United States,” 156.

91 Charlie Savage and Minho Kim, “Vance Says ‘Judges Aren’t Allowed to Control’ Trump’s ‘Legitimate Power,’” *The New York Times*, February 9, 2025, sec. U.S., <https://www.nytimes.com/2025/02/09/us/politics/vance-trump-federal-courts-executive-order.html>; Ian Ward, “The Seven Thinkers and Groups That Have Shaped JD Vance’s Unusual Worldview,” *POLITICO*, July 18, 2024, <https://www.politico.com/news/magazine/2024/07/18/jd-vance-world-view-sources-00168984>.

complaints and objections, and their central objection, I will argue, is a recognition of the political-comprehensive collapse. At varying levels of specificity and sophistication, nonliberals have recognized that liberals have ‘rigged the game’ in favor of their particular view of the good life, angling a supposedly neutral system towards autonomy, individualism, and (arguably) solipsistic notions of flourishing.

The body of this dissertation will proceed as follows; in Chapter 2, I will identify and delineate the political-comprehensive collapse, tracing it to core theoretical flaws in Rawls that have had concrete argumentative and rhetorical consequences for pluralistic liberalism as it is actually practiced. The political-comprehensive collapse is not some contingent bias that can be easily scrubbed from political liberalism; it is a foundational error that throws the entire public-reason project into question, and nonliberals certainly have questioned it. Then, in Chapter 3, I will lay out the contours of the emerging MacIntyrean *modus vivendi*, going through an in-depth reading of MacIntyre’s political theory and excavating the internal limiting conditions of the subsidiarity-oriented *modus vivendi* that, I argue, is in the process of forming. These limiting conditions, which I will call the democratic, welfare, and proxy conditions, offer intellectual and argumentative support from within nonliberalism for (broadly) liberal governance structures, and will hopefully command more fealty from nonliberals than externally-imposed criteria grounded in liberal theories and premises. Chapter 4 and Chapter 5 are the ‘case studies’, wherein I will analyze particularly salient varieties of right-nonliberalism and left-nonliberalism respectively, applying the MacIntyrean criteria to them and identifying which of their demands can be accommodated for under a subsidiarity-oriented *modus vivendi* and which cannot. First with right-Catholicism, and then with degrowth/Indigenous leftism, we will see that, while certain

theorists are implacably opposed to any sort of liberal governance arrangement, the MacIntyrean modus vivendi can accommodate really quite radical forms of nonliberalism. Finally, in Chapter 6, I will turn to the comprehensive liberals, explaining why, *even from their perspective*, it makes sense to ‘sign onto’ the emerging devolutionary modus vivendi. Comprehensive liberalism, I will show, requires facially-illiberal policy tools in order to achieve liberal ends, policy tools which are currently off the table under the actually-existing schemes of neutralist liberalism we see in Canada and the United States. Buy-in is important for any modus vivendi, and there are reasons for everybody, liberals and nonliberals alike, to buy into a MacIntyrean modus vivendi, over and against neutralist liberalism or other modus vivendi models, like McCabe’s moderate centralism. I will conclude by dealing with some salient objections to my arguments.

Chapter 2: The Political-Comprehensive Collapse

In the previous chapter, we established that political polarization is a rising force in North American politics, and that nonliberal political actors and those who share their sentiments are likely to be formidable forces going forward. Nonliberals believe that neutralist liberalism is a farce, that the game is rigged to support liberal worldviews, teach liberal beliefs, and create liberal citizens. This chapter is my attempt to explain why they are correct. Political liberalism, I argue, has foundational theoretical flaws that have led it to ‘collapse’ into comprehensive liberalism. This ‘political-comprehensive collapse’ has had dire theoretical consequences; as comprehensive liberalism is meant to be one of the comprehensive doctrines that political liberalism balances against other, nonliberal doctrines, a situation in which political liberalism is being co-opted by comprehensive liberalism would be fatal to political liberalism’s claim to adequately balance and accommodate all reasonable comprehensive doctrines.

Should political liberalism be turning into comprehensive liberalism ‘by the backdoor’, then nonliberals *are fundamentally correct* to be skeptical of liberalism’s capacity to provide normative and institutional room for different modes of life. To understand this dynamic is to understand why modus vivendi theorizing in general is necessary, and why a MacIntyrean modus vivendi in particular has such theoretical and normative appeal for the large, pluralistic North American federations of Canada and the United States. A modus vivendi is often seen as the ‘default’ political arrangement should thicker arrangements, such as political liberalism, fail to obtain. And I believe that political liberalism has already meaningfully failed.

In this chapter, I will first show that the political-comprehensive collapse, far from being some artifact of contingent bias among political theorists or some misreading of Rawls, finds its roots within the very categories and concepts that Rawls himself used in his attempt to clear ground for reasonable pluralism in the first place. I will show the areas in *Political Liberalism*⁹² in which Rawls turns over key elements of his theory to the comprehensive liberals, the first being his tendency to equivocate between whether or not liberalism is powerful and influential or in need of establishment and stability, and the second being how Rawlsian civic education results in a sectarian and exclusionary definition of the ‘reasonable’. I will establish that, on the most plausible reading of Rawls, we cannot rely on an already-existing culture of political liberalism to bolster political liberalism itself, which means we must have an effective means of preference-alteration to ensure that citizens within a politically-liberal governance order do in fact recognize politically-liberal values as “very great values.”⁹³ If we remove the assumption that political liberalism is already extant and stable (since its very value is in bringing stability), then the most plausible mechanism within *Political Liberalism* that could serve that function is civic education, which is precisely the area in which Rawls allows for the greatest conflation between political liberalism and comprehensive liberalism.⁹⁴ If civic education is best understood as a site of comprehensive liberal indoctrination, rather than a buttress for pluralism, then Rawls’ conception of the ‘reconciliation’ purpose of political philosophy⁹⁵ is deeply tainted, ultimately destroying the delicate balance he attempts to maintain between pluralism and stability within his theory.

92 *Political Liberalism*.

93 Rawls, *Political Liberalism*, 139.

94 Rawls, *Political Liberalism*, 199–200.

95 John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, Mass: Harvard University Press, 2001), 3–4.

I will then shift to examining a number of Rawls' inheritors, tracing how these core argumentative flaws were taken up by those after Rawls, sometimes in order to concretely accelerate the collapse. In different ways, but with similar methods, Macedo, Okin, and Gaus all make use of the argumentative contradictions Rawls left in his theory, those being his flawed vision of civic education and his tendency to shift between discussing an *extant* liberal order and *building* a liberal order, in order to either paper over the collapse in their own work (Gaus), or actively push comprehensive liberalism under the guise of political liberalism (Macedo, Okin).

This ought to be worrisome to all members of modern, ideologically-diverse polities. From the perspective of nonliberals, the political-comprehensive collapse casts doubt over their putative status as full members of the overlapping consensus – if the political conception they would otherwise endorse is being replaced with comprehensive liberalism by the backdoor, they lose any incentive to pledge allegiance to it. For comprehensive liberals, the political-comprehensive collapse serves as a nearly unbearable temptation to rig the ostensibly-politically-liberal system in their favor, as they, by dint of their intellectual heritage, will have the hardest time of anybody keeping comprehensive and political liberalism separate in their intellectual judgments. Finally, committed political liberals risk losing, through the political-comprehensive collapse, the very stability that is the prime selling point of their theory⁹⁶ – if the comprehensive liberals are (semi-consciously, in good faith) working to undermine political liberalism from within, and nonliberals are noticing this and abandoning or attacking political liberalism from without, then political liberalism cannot serve as the (relatively) neutral arbiter between comprehensive doctrines that we need for a morally robust liberal society to function.⁹⁷

96 Indeed, one could understand political liberalism as 'collapsing' into either comprehensive liberalism or a *modus vivendi*. However, political liberals are familiar enough with the latter threat that I focus on the former, as it is both much harder to diagnose and more difficult to treat.

97 Larmore, "Political Liberalism," 346.

Importantly, I am not, in this chapter, arguing for why comprehensive liberalism is ‘wrong’; my critique, for the moment, is internal. It is that political liberalism fails on its own terms, from its own origin points. A comprehensive liberal could very well read this argument and feel vindicated that their ideology is more stable and more intuitively appealing than Rawls and Larmore’s⁹⁸ thinner alternative. In the final chapter of this dissertation, I will argue that comprehensive liberals, too, have reasons to sign onto the emerging MacIntyrean *modus vivendi*. However, for now, it is enough to say that if one values pluralism, and has thought of political liberalism as a realistic(ally utopian) method by which to preserve it, my conclusions are much more disturbing.⁹⁹

Bait and Switch

Rawls did not often discuss the differences between political and comprehensive liberalism.¹⁰⁰ He was clear, however, about the relationship between the two – comprehensive liberalism is understood to be among the many possible comprehensive doctrines that political liberalism is meant to manage, and it comes in reasonable and unreasonable forms. In the same way that a religious comprehensive doctrine may make “oppressive use of state power,” seeing it as “necessary for political community... [t]he same holds, I believe, for any reasonable comprehensive philosophical and moral doctrine, whether religious or nonreligious. A society united on a reasonable form of utilitarianism,” he continued, “or on the reasonable liberalism of

98 Larmore, “Political Liberalism.”

99 To anticipate one critique, it could be said that my analysis in this chapter blurs the lines between comprehensive liberalism as “a secular philosophy” and comprehensive liberalism as “a theory of right,” to use the differentiation introduced by Gaus (2004, 100). Briefly, my response is that I am not the one blurring those lines; as the purpose of this piece is to track a collapse from political liberalism into comprehensive liberalism, it is not surprising that we should also see a further slide within comprehensive liberalism away from its more accommodating strains and toward its more fundamentalist strains.

100 Rawls, *Political Liberalism*.

Kant or Mill, would likewise require the sanctions of state power to remain so.”¹⁰¹ As an extreme example, a government which had, as a constitutional stipulation, a requirement that all legislation be justified as producing the greatest happiness for the greatest number would be a paradigmatically unreasonable instance of comprehensive liberalism. Political liberalism, by contrast, “affirms political autonomy for all but leaves the weight of ethical autonomy to be decided by citizens severally in light of their comprehensive doctrines.”¹⁰² Most fundamentally, then, political liberalism begins with an assumption of “the fact of reasonable pluralism,” and the role of this claim as an assumption is both the theory’s virtue and the source of its downfall.

The fact of reasonable pluralism, per Rawls, “is the fact that free institutions tend to generate not simply a variety of doctrines and views,” as you might expect, but instead “that among those views that develop are a diversity of reasonable comprehensive doctrines.”¹⁰³ This is to say that reasonable views “are not simply the upshot of self- and class interests, or of people’s understandable tendency to view the political world from a limited standpoint. Instead, they are in part the work of free practical reason within the framework of free institutions.”¹⁰⁴ On the one hand, this approach allows us to move beyond the simple, conflictual mode of conceptualizing justice disputes which allows them to terminate only in either suspicious neglect or active hostility. On the other, this is a demanding approach, requiring a sort of double-mind in the citizen of a politically liberal state; “one part can be seen to be, or to coincide with, the publicly recognized political conception of justice; the other part is a (fully or partially) comprehensive doctrine to which the political conception is in some manner related.”¹⁰⁵

101 Rawls, *Political Liberalism*, 37.

102 Rawls, *Political Liberalism*, 78.

103 Rawls, *Political Liberalism*, 36.

104 Rawls, *Political Liberalism*, 37.

105 Rawls, *Political Liberalism*, 38.

Rawls' mental model of the existence and strength of politically liberal culture, however, shifts as he elaborates his system. It is tempting to write about Rawls' idea of the relationship between the political conception of liberalism and the comprehensive doctrines that exist under it as a sort of negotiation, wherein adherents to different comprehensive doctrines come together, see which elements of their theories overlap, and then declare that overlap to be the content of the political conception of justice. But in this passage, *political conceptions come first*; it is only after this that we hear about a citizen's possible, partial, maybe-not-that-well-thought-out commitment to their comprehensive doctrine, which bears some vague, undefined relation to the already-existing political conception.

This is not a question of historical emergence; obviously, historically, liberal institutions emerged from nonliberal conditions, and equally obviously people are, after this, born into liberal institutions. The problem is one of argumentative priority and argumentative support. There is, if not an outright contradiction, at least significant tension within political liberalism as it attempts to derive argumentative support both from a need to acclimate its subjects to an extant, stable liberal regime, *and* its claimed capacity to *generate* stability for the right reasons where stability did not previously exist. To shift, conceptually, between a mental model where liberalism is *justifiably* powerful and established (therefore justifying state inculcation of liberal values) and a model where liberalism can produce said justified power is a bootstrapping maneuver that only works if it works. Should there be widespread discontent with liberalism, as I contend there is, shifting between these mental models is simply a method to allow political liberalism to draw from two contradictory sources of self-justification.

We see this shift in emphasis having its effect once more in the final passage of that paragraph, wherein “citizens individually decide for themselves in what way the public political conception all affirm is related to their own more comprehensive views.”¹⁰⁶ Two people who adhere to a comprehensive doctrine may disagree about why or how they, from within that doctrine, can ultimately affirm the political conception of justice, but all that matters is that they both ultimately affirm it, and perhaps secondarily that they don’t speak too much to each other about their doctrinal disagreements.

This approach does fit the empirical facts in some useful ways. If the political conception is thought to contain the moral intuitions that support such injunctions as “don’t murder” or “don’t steal,” then it is very possible that the lion’s share of any given citizens’ political morality does in fact accord with the political conception. Moreover, as a descriptive matter, people really do not seem to have very detailed, thought-out, or coherent/consistent conceptions of their broader political morality separate from these injunctions.¹⁰⁷ With these ideas both in hand, we can see why Rawls slips into treating the political conception as extant and guiding; most people, most of the time, do not live their lives as Catholics, or as Marxists, or as Confucians. When we engage our commonsense political morality, whether by giving money to a panhandler or by condemning a murder or anything in-between, we are doing so not as adherents to our comprehensive doctrines but as *citizens*. Given this, it doesn’t really matter if one Marxist condemns murder because they believe that murder reflects and engenders a *lumpenproletariat* mindset in the working class, while another condemns murder because they believe it is a reflection of the very rapaciousness we see among the *bourgeoisie*. These reasons are at least

¹⁰⁶ Rawls, *Political Liberalism*, 38.

¹⁰⁷ Maria V. Zwicker, Jan-Willem van Prooijen, and André P. M. Krouwel, “Persistent Beliefs: Political Extremism Predicts Ideological Stability over Time,” *Group Processes & Intergroup Relations* 23, no. 8 (December 2020): 1137–49, <https://doi.org/10.1177/1368430220917753>.

facially inconsistent with each other, but both are consistent with (elements of the broad canon of) Marxism, and both give their individual Marxists reasons to sign onto the endorse the anti-murdering element of the public conception of justice. This work does double-duty; it allows the political conception of justice to be a “freestanding” view, an all-important Rawlsian criteria that ensures stability,¹⁰⁸ and it also gives political liberalism excuses not to go diving into and meddling with internecine factional debates within the comprehensive doctrines.

This approach, however, has major flaws which contribute to the political-comprehensive collapse. It confuses the *number* of political and moral beliefs with the *intensity* of certain political or moral beliefs, thereby allowing political liberals to erroneously believe that their worldview has support if only because most people within the polity do not wish to lie, steal, and murder. It is true that, in a liberal polity, most people do act in ways that line up well with political morality in the sense of a shared liberal set of values. However, when it comes to people’s *most fervently held* beliefs, the ones for which they might cause social conflict and threaten the stability of political liberalism, those tend to originate from those elements of their comprehensive doctrines that are unique, distinctive, or otherwise identifying. If I am permitted only to be Catholic in ways that benefit liberalism (say, by engaging in charitable acts, but not through intensive moral education of the young), or if I am permitted only to be Marxist in ways that benefit liberalism (say, by organizing a commune on private property, but not by abolishing private property) then there is a sense in which I may well feel I am not allowed to be a Catholic or a Marxist (or both) in the ways that most matter.

More importantly for our purposes, this theory of support appears, for Rawls, to be unidirectional. In his later work, he emphasizes that his stricture on comprehensive doctrines

¹⁰⁸ Rawls, *Political Liberalism*, 40.

“does not mean, however, that reasonable comprehensive doctrines cannot be introduced and discussed in public reason. People are in general free to do this. It has the advantage of citizens informing one another where they come from, so to speak, and *on what basis they support* the public political conception of justice.”¹⁰⁹ In our context, the italicized clause sticks out sorely. Your comprehensive doctrine may be used to establish consensus, but *it may not be used to justify dissensus*. Your moral beliefs only hold weight insofar as they add to the ‘justified’ stability of political liberalism; when they risk delegitimizing the extant liberal order, they suddenly become weightless. Ordinary people will notice this trick, and it will fail to establish stability for the right reasons.

In other places in the book, however, Rawls shifts his understanding of whether liberal culture is extant and socially powerful, allowing the comprehensive doctrines to take rhetorical primacy. In his discussion contrasting an overlapping consensus with a *modus vivendi*, a mere contingent political arrangement for the sake of temporary peace, he clarifies that:

“An overlapping consensus, therefore, is not merely a consensus on accepting certain authorities, or on complying with certain institutional arrangements founded on a convergence of self- or group interests. *All those who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides.*”¹¹⁰

Here, unlike earlier, the comprehensive doctrine does come first, but here, unlike earlier, we have a test for a successful overlapping consensus, which is whether those affirming the political conception “will not withdraw their support of it should the relative strength of their view in society increase and eventually become dominant.”¹¹¹ The overlapping consensus, originally

109 Rawls, *Justice as Fairness*, 90, emphasis added.

110 Rawls, *Political Liberalism*, 147–48, emphasis added.

111 Rawls, *Political Liberalism*, 148.

appealed to as a bulwark against *modus vivendi*, is now treated more as a standard by which existing social arrangements can be judged as a *modus vivendi* or not, but this move notably weakens the analytical content of the overlapping consensus in the first place. The value of an overlapping consensus is that it holds people to their liberal commitments even as their relevant comprehensive doctrine grows in social power, but the only way we would know if it was working is if people do in fact hold to their commitments even as their social power rises. Rawls' worry is about the "pure rationalist," someone who will "never award ultimate priority to the right," and who observes justice because it serves their own personal well-being, rather than for fairness as fairness.¹¹² By comparison, my challenge to Rawls is relatively generous – I am positing citizens who all believe what they profess to believe and who have sincere attachments to their notion of the good, rather than being ultimately subject to avarice.¹¹³ And yet, despite this more charitable framing, a stable overlapping consensus is still unlikely to form.

In Larmore,¹¹⁴ the other main headwater of political liberalism, we find a similar weakness to empirical conditions. When he argues that the "common ground" offered by political liberalism "must certainly be neutral enough to accommodate people who value belonging and custom, *for Romantic Ideals have become an enduring part of our culture,*"¹¹⁵ he is directly tying the need for accommodation with some threshold for a worldview's endurance or popular uptake. His framing immediately raises the question of how far, and to what extent, ideologies that reject core liberal tenets ought to be accommodated on the basis of their prevalence alone. Admirably, Larmore acknowledges that he hasn't much to say "about how we

112 Jimmy Lim, "Mind, Motivation, and Order: Reconstructing Part III of a Theory of Justice" (Dissertation, Montreal, McGill University, 2022), 37.

113 Lim, "Mind, Motivation, and Order," 76.

114 Larmore, "Political Liberalism."

115 Larmore, "Political Liberalism," 346, emphasis added.

ought to converse with those who refuse rational dialogue or about how we ought to respect those who refuse to show us respect.”¹¹⁶ Ultimately, however, the argumentative lacuna we find in Rawls is not remedied significantly by Larmore.

To sum up, we have two versions of this dynamic by Rawls, one which places the overlapping consensus first and one which places the comprehensive doctrines first. The former version, which offers the sort of stability that makes the overlapping consensus appealing, does not take the felt force of a comprehensive doctrine seriously enough, and the latter version, which does, is much more clearly hostage to the actual distribution of ideological sympathies in the polity. Given Rawls’ consistent theoretical focus on stability, I make the strong claim that the first conjugation of the overlapping consensus is more representative of his actual view, and the weaker claim that, even if he himself was personally torn between these two conjugations, his bias towards stability will render the former more characteristic of his theory and more influential on those who would extend it. It is all well and good to start with reasonable pluralism as an assumption, and to assure us “that values of the political are very great values and hence not easily overridden,”¹¹⁷ but a theory worthy of being called stable will take as its subjects persons who do not assent to those two overriding ideas. And, should enough of those nonliberals exist, as I contend they do, then political liberalism cannot complete its normative bootstrapping maneuver, wherein it creates its own justified stability, thereby justifying shoring up that stability with explicit liberal indoctrination, as we will see in the next section.

116 Larmore, “Political Liberalism,” 352.

117 Rawls, *Political Liberalism*, 139.

Civic Education

One possible response to this objection is to say that, yes, it is true in our polity currently that people draw more moral meaning from, and tend toward greater allegiance to, their comprehensive doctrine. However, people's beliefs are not a given, and tools such as civic education can inculcate the values we need for political liberalism to function. Rawls appeals to this possibility as well,¹¹⁸ and it is here that we see the political-comprehensive collapse take form in *Political Liberalism*. In situations where "various religious sects" may reject modernity and "wish to lead their common life apart from its unwanted influences," conflicts arise "about their children's education and the requirements the state can impose." To follow comprehensive liberalism in these disputes "may lead to requirements designed to foster the values of autonomy and individuality as ideal to govern much if not all of life," whereas "political liberalism has a different aim and requires far less," asking merely that "children's education include such things as knowledge of their constitutions and civic rights."¹¹⁹

Importantly for our purposes, Rawls did allow that "certainly there is some resemblance between the values of political liberalism and the values of the comprehensive liberalisms of Kant and Mill."¹²⁰ This could lead to a situation where "requiring children to understand the political conception in these ways is in effect, though not in intention, to educate them to a comprehensive liberal conception."¹²¹ Rawls, however, characterizes this process as one of entirely voluntary transition. When you introduce a child, in this example the sheltered child of sectarian parents, to facts like "liberty of conscience exists in their society and that apostasy is

118 Lim, "Mind, Motivation, and Order," 79–80.

119 Rawls, *Political Liberalism*, 199.

120 Rawls, *Political Liberalism*, 200; Rawls, *Justice as Fairness*, 156.

121 Rawls, *Political Liberalism*, 199; Rawls, *Justice as Fairness*, 156.

not a legal crime,” the child may grasp the underlying liberal values that are shared between political liberalism and comprehensive liberalism such that “[d]oing the one [politically liberal civic education] may lead to the other [inculcating children in comprehensive liberalism], if only because once we know the one, we may *of our own accord* go on to the other.”¹²² With this rosy understanding of the purpose and mechanism of civic education locked in, Rawls then bites the bullet, writing that “[t]he unavoidable consequences of reasonable requirements for children’s education may have to be accepted, often with regret.”¹²³

Rawls writes about the power of civic education in a similarly loose way to how he wrote about the overlapping consensus, moving freely between its purpose being to acclimate students to political requirements which are necessary for political liberalism to *obtain* and acclimating students to a culture of political liberalism that *already exists*. This is, again, a problem, because the idea of acclimating somebody to a system that already functions and works has an independent justificatory force, a force that is undermined should the system not already functionally work. The former is Rawls’ requirement that civic education feature “knowledge of their constitutional and civic rights,”¹²⁴ which sounds reasonable enough on its own. The latter comes into view as his list expands to the students’ “role as future citizens, and so in such essential things as their acquiring the capacity to *understand the public culture* and to participate in its institutions, in their being economically independent and self-supporting members of society over a complete life, and in their *developing the political virtues*.”¹²⁵ Much of the normative appeal of Rawls’ case derives from the first italicized point, the image of the isolated child being kept in the dark by sectarian parents, and therefore being forcibly excluded from a

122 Rawls, *Political Liberalism*, 199, emphasis added.

123 Rawls, *Political Liberalism*, 200; Rawls, *Justice as Fairness*, 157.

124 Rawls, *Political Liberalism*, 199.

125 Rawls, *Political Liberalism*, 200, emphasis added.

society already thrumming to “the soft rhythm of the reasonable.”¹²⁶ Even a nonliberal who is deeply skeptical of liberalism can understand, at least instrumentally, the need for their child to learn to ‘speak the language of liberalism’ in a world where liberalism exists and is dominant. Should society not be thrumming in such a way, should liberalism be under question and attack from various intellectual and political forces, this argument is undermined significantly, a damning conclusion given that it is Rawls’ most normatively plausible position.

The second italicized point, however, shows what any advocate of civic education knows: that it is civic education’s powers of preference structuring and value transmission that political liberalism requires in order to exist in the first place. It is, to be clear, not technically impossible for the “political virtues” Rawls describes to remain, in practice, limited to just those elements of civic education needed to make a politically liberal polity functional, viable, and stable for the right reasons. If one is only expecting that the politically liberal teacher is teaching students that they and others have constitutional rights, and that those rights protect them from things such as state punishment for apostasy, then Rawls’ proposal likely seems as modest as he intends it to be. However, given the explicit admission from Rawls himself that comprehensive liberalism stands poised to guide the civic education process, this expectation seems, at the very least, naive. Our hypothetical nonliberal parent, instead of seeing civic education as a necessary tool for their child to learn the language of liberalism, begins to recognize that it is liberal civic education, tough to distinguish from comprehensive liberal ideology even on Rawls’ terms, that is (at least in part) *creating* liberal ideological hegemony.

In combination with factors that I will discuss further on in this section, a more realistic expectation is that liberal civic education will spill outside of the carefully-demarkated bounds of

126 Wenar, “Political Liberalism,” 34.

the political. Rather, civic education will teach students not simply the fact of their autonomy, but also that they ought to value it, not merely instrumentally, but for itself as the proper comprehensive notion of the good. Perhaps educating students “to a comprehensive liberal conception” would be a matter of “effect” and not “intention,”¹²⁷ but in practice effect and intention have a tendency to blur with each other, especially should an institutional culture of comprehensive liberalism arise among educators and educational institutions. While it is true that political liberalism is a thicker doctrine than some critics maintain, this first shift, which does not require us to project very far from Rawls’ own stated framework and self-criticisms, would certainly be a failure of the theory on its own terms, an early inculcation of one particular comprehensive notion of the good in a system explicitly designed and sold as a method to maintain and support several.

If civic education does not have these powers, then it cannot be appealed to to solve the issue of a public alienated from politically liberal values. In such a world, political liberalism would likely have to be enforced by various state incentives and, more importantly, sanctions. Therefore, Rawls’ “fact of oppression”¹²⁸ ceases to be a differentiating characteristic between political liberalism and the comprehensive doctrines it is meant to contain. To a nonliberal reading this (and perhaps even some liberals), this may seem like a somewhat obvious claim. Of course ruling ideologies enforce themselves through various means of social control and explicit government sanction; why should liberalism be any different? Nonliberal readers in particular are more attuned to the ways in which liberalism enforces itself in ways contradictory to its own stated self-conception, and so none of this, to them, is news. However, from the perspective of

127 Rawls, *Political Liberalism*, 199; Rawls, *Justice as Fairness*, 156.

128 Rawls, *Political Liberalism*, 37.

political or pluralistic liberalism, the depth of this failure is difficult to overstate. Rawls, and many of the public reason liberals who follow him, either explicitly or implicitly hold the fact of oppression in their minds as *the* key differentiating factor between their preferred political approach and all others. Pluralistic/political liberalism, the kind that is interested in adjudicating and ameliorating the sorts of conflicts that arise within a wildly diverse polity, truly does hold itself to a higher standard, and this is evidence of them rather conclusively failing to meet that standard. Rather than serving as the rules of the game by which comprehensive doctrines can resolve disputes, political liberalism itself becomes just another disputant. This is not a minor problem; this is a major problem.

If, however, civic education *can* construct the preferences and virtues of the politically liberal subject in quite important ways, then this has two effects. For one, it undermines Rawls' claim to be simply acclimating children to an extant climate of political liberalism, since it is liberal civic education itself that is producing the climate. On this model, civic education itself becomes, if not part of a liberal fact of oppression, at least a means by which political liberalism undermines the differences between itself and the comprehensive doctrines it claims to stand above and police. Secondly, because of these tensions, it means that we cannot be as blasé as Rawls is about the potential for education in the political virtues to collapse into education in comprehensive liberalism. A civic education powerful enough to bolster political liberalism cannot simply operate in the voluntaristic, unforced-force-of-the-greater-argument way with which Rawls characterizes the political-comprehensive collapse.¹²⁹ It must be taken seriously as deliberate, load-bearing ideological formation, not as a regrettable side-effect, but as its core

129 Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, Studies in Contemporary German Social Thought (Cambridge, Mass: MIT Press, 1996), 306; Rawls, *Political Liberalism*, 199.

purpose within the theory. Political liberalism must, on any plausible reading of Rawls' own theory, *actively teach* comprehensive liberalism to all young citizens, and then turn around and tell nonliberal parents, with a straight face, that nonliberal modes of being have meaningful room to establish and sustain themselves within the liberal polity. This claim, put mildly, strains credulity, and as we shall see in our upcoming 'case study' chapters, prominent nonliberal thinkers are suitably incredulous.

Assuming that civic education can in fact serve the purpose Rawls says it does, that of ideological and preference formation, then the basic shape of the political-comprehensive collapse begins to take form. As a descriptive matter, I maintain, the average citizen, even of a liberal republic, does not put nearly as much emphasis on the moral weight of the political conception of justice as Rawls claims. Far from being "not easily overridden,"¹³⁰ the values that fill up a candidate overlapping consensus are of lower salience to most citizens, and are of lower salience *precisely because* agreement on them is so easy. For the concept of the overlapping consensus to command any normative force, or maintain any analytical bite, it needs to be able to help us adjudicate areas of existing controversy, allowing us to determine which debates and positions are compatible with the existence of a healthy liberal republic, and which (actually-existing, widely held, politically-salient) positions are to be ruled out or eliminated. This is where the concept of "the reasonable" kicks in, serving as the primary differentiating force between ideas that political liberalism has to accommodate, and ideas that it can safely rule out without violating its own self-conception as a 'thin' ideology.

130 Rawls, *Political Liberalism*, 139.

Rigging the Reasonable

To briefly emphasize the importance of this self-conception and the role of the ‘reasonable’ in maintaining it, take Vallier’s critique of Quong’s “objectionably sectarian” interpretation of political liberalism.¹³¹ Quong argues that “public justification need merely be addressed to persons who affirm liberal political values,” as we cannot have a workable political arrangement be hostage to the existence of empirical disagreement over the nature of justice.¹³² Therefore, “the political liberal addresses justifications to an *idealized* constituency... [b]ut Quong’s constituency erroneously idealizes all reasonable persons so that reasonable people by definition prioritize liberal values.”¹³³ Cecile Laborde makes a similar critique of Quong,¹³⁴ but then falls into a similar trap, arguing that requests for religious exemptions “from antidiscriminatory legislation are morally ambivalent [read: potentially acceptable], not because they have respectable standing within traditional religions, but because they can be supported by (a reasonable interpretation of) liberal rights of free speech, free association, privacy, and so forth.”¹³⁵ Even in this framework, liberalism is still the yardstick of reasonableness. This approach will always, I submit, struggle to maintain stability in a society where liberalism is rare and nonliberalism is, if not the norm, at least much more common. This outsize focus on ‘the reasonable’ has threatened to undermine the very thing public reason liberalism claims to be uniquely skilled at: the incorporation of nonliberal citizens into a self-limited and logically coherent body politic.

131 Kevin Vallier, “On Jonathan Quong’s Sectarian Political Liberalism,” *Criminal Law and Philosophy* 11, no. 1 (March 2017): 175, <https://doi.org/10.1007/s11572-014-9350-1>.

132 Jonathan Quong, “Liberalism Without Perfection: Replies to Gaus, Colburn, Chan, and Bocchiola,” *Philosophy and Public Issues-Filosofia E Questioni Pubbliche* 2, no. 1 (2012): 53, quoted in; Vallier, “On Jonathan Quong’s Sectarian Political Liberalism,” 176.

133 Vallier, “On Jonathan Quong’s Sectarian Political Liberalism,” 176.

134 Cécile Laborde, *Liberalism’s Religion* (Cambridge, Massachusetts: Harvard University Press, 2017), 104.

135 Laborde, *Liberalism’s Religion*, 213–14.

Moreover, to reiterate a theme, this issue is not just a problem with Rawls' interpreters and inheritors; we can find the seeds of the issue within the source text itself. As Leif Wenar ably notes, Rawls only gives "explicit definitions for two pivotal terms—'reasonable comprehensive doctrine' and 'reasonable person'—and then [expects] that the other terms can be defined by reference to these."¹³⁶ Even worse, given the centrality of this concept, we can collapse the chain one step further, and "make the characterization of 'reasonable comprehensive doctrine' itself directly dependent on the characterization of 'reasonable person'. A reasonable comprehensive doctrine," Wenar continues, "on this line, is a comprehensive doctrine that a reasonable person could affirm."¹³⁷ Helpfully, Wenar then summarizes the various qualities that define a reasonable person, the most important one for our purposes being that they "have a reasonable moral psychology."¹³⁸ Wenar then puts his finger directly on the problem; since the concept of "reasonable moral psychology" is "part of the characterization of the reasonable person," it "cannot depend on 'reasonable person' for its meaning. It is the only 'reasonable' term not grounded in 'reasonable person'."¹³⁹

This is why we must place so much weight on Rawls' discussion of civic education; if his variegated uses of the word 'reasonable' boil down to the notion of a person having a "reasonable moral psychology,"¹⁴⁰ then, given our earlier discussion of the centrality of civic education in *establishing* a liberal populace, the most likely source of this reasonable moral psychology is the liberal civic education he advocates. A Rawlsian may say that a reasonable moral psychology could arise from living in a functioning liberal society instantiating a

136 Wenar, "Political Liberalism," 35.

137 Wenar, "Political Liberalism," 36.

138 Wenar, "Political Liberalism," 37.

139 Wenar, "Political Liberalism," 37.

140 Rawls, *Political Liberalism*, 86.

successful overlapping consensus, but if this consensus relies on comprehensively-liberal civic education to obtain in the first place, then we are looking at a distinction without much of a difference. This liberal civic education must, if his theory is to function, contain the power to develop, within its citizens, “the political virtues.”¹⁴¹ And, as we have already emphasized, it is precisely in this area of civic education that Rawls most allows the blurring between comprehensive liberalism and political liberalism, thus eroding the primary theoretical differences between political liberalism and the ideologies it seeks to police. *Other* ideologies indoctrinate and suppress, the political liberal says, but not *us*; meanwhile, comprehensively liberal civic education provides the indoctrination, and the following assumption of a population that has freely chosen liberalism serves as the justification for the oppression, if it is indeed even recognized as oppression in the first place.

This is *the central moment* where Rawls implicates himself in the political-comprehensive collapse. On the most plausible readings of Rawls we have, political values are not innate, we cannot assume a healthily functioning culture of political liberalism, civic education is required to form and alter people’s values, preferences, and the very social definition of the reasonable, and that definition has to hold outsize weight in adjudicating salient political disputes of genuine controversy. Putting my reading together with Wenar’s, every single invocation of the word ‘reasonable’ in *Political Liberalism* boils down to these short passages on civic education. This makes Rawls’ caveat on page 200, his willingness to educate students “to a comprehensively liberal conception”¹⁴² the hairline fracture that eventually shatters the bone.

Putting further pressure on that fracture is Rawls’ understanding of the “reconciliation”

141 Rawls, *Political Liberalism*, 200; Lim, “Mind, Motivation, and Order,” 80.

142 Rawls, *Political Liberalism*, 199–200; Rawls, *Justice as Fairness*, 156.

purpose of political philosophy. Per Rawls, “political philosophy may try to calm our frustration and rage against our society and its history by showing us the way in which its institutions, when properly understood from a philosophical point of view, are rational, and developed over time as they did to attain their present, rational form.”¹⁴³ This is explicitly intended to evoke Hegel; “When we look at the world rationally, the world looks rationally back.”¹⁴⁴ This notion of reconciliation aligns well with Rawls’ normative concerns about stability for the right reasons, and also helps exonerate him from some of the charges one could make about placing the veil of ignorance or the overlapping consensus ‘first’ in his analysis. On a very deep level, Rawls is acknowledging that political philosophy meets people in the world and is intended to help them make sense of the institutions which govern them.¹⁴⁵

However, this is not the end of reconciliation in the politically liberal framework. Rawls highlights a second form of reconciliation, one which can allow political philosophy to reconcile us to “the fact of profound and irreconcilable differences in citizens’ reasonable comprehensive religious and philosophical conceptions of the world, and in their views of the moral and aesthetic values to be sought in human life.” This basic fact “is not always easy to accept, and political philosophy may try to reconcile us to it by showing us the reason and indeed the political good and benefits of it.”¹⁴⁶ So we have a form of reconciliation intended to allow peaceable association with the state above us, and another form intended to allow peaceable association with our fellow (reasonable) citizens beside us. Let us call the former “vertical” reconciliation and the latter “horizontal” reconciliation.

143 Rawls, *Justice as Fairness*, 3.

144 Rawls, *Justice as Fairness*, 3.

145 Rawls, *Justice as Fairness*, 4.

146 Rawls, *Justice as Fairness*, 3–4.

Taking Rawls at face value, with none of my previous critiques in mind, these two forms of reconciliation complement each other in a genuinely beautiful manner. Vertical reconciliation is a unifying force in the theory, drawing people together to a common set of normative principles that can be used both to evaluate whether or not a particular governance arrangement is just, and hold them to obedience to that particular governance arrangement should it be determined to be just. Horizontal reconciliation, however, encourages us to look outward, pulling us to empathize with those distant from us in ideological space, and putting limits on how thick a theory of justice may be demanded in the moment of vertical reconciliation. This is precisely the semi-paradoxical balancing act that political liberalism is meant to engage in, and much of its appeal depends on properly maintaining that balance.

Evaluate this model of dual reconciliation after our dissection of Rawls' conception of the reasonable, however, and the picture looks much worse. The principles of justice which reasonable people come to, and the overlapping consensus that supports them, boil down to the existence of people with a reasonable moral psychology. The only mechanism Rawls offers for inculcating a reasonable moral psychology is the mechanism of civic education, and this is where Rawls allows comprehensive liberalism the freest hand within his theory. These factors together change the 'direction' of horizontal reconciliation within the theory. Horizontal reconciliation is presented as a centrifugal force, pressing outwards toward our fellow citizens, and reconciling us to the pragmatic limitations that the fact of reasonable disagreement places on vertical reconciliation. But the comprehensive liberal base of civic education, and the foundational role of civic education in the construction of a 'reasonable' moral psychology, transforms horizontal reconciliation into a *centripetal* force, reconciling those (confused, benighted, indoctrinated)

citizens who reject liberalism to our liberal way of viewing the world. With the empirical limitations of the fact of reasonable pluralism now removed (since, as we saw in Quong¹⁴⁷ to be reasonable is to be comprehensively liberal, at ground), we can then engage in our now-entirely centripetal task of forming a set of institutions that are (according to comprehensive liberals) just, and reconciling everybody else in society to those institutions.

It is one thing, and a true thing, to say that Rawls does not offer us any meaningful differentiation between normatively necessary reconciliation and normatively destructive ideological deformation. This, I maintain, is the reason why. Rawls has, through his overreliance on the notion of the ‘reasonable’ and its basis in comprehensively liberal, antipluralistic civic education, destroyed the delicate balance he wants to maintain between the centripetal and centrifugal aspects of his theorizing. Moreover, he has done so traceably in favor of comprehensive liberalism, even reproducing verbatim the smoking-gun passages regarding civic education in his final holistic representation of his theory.¹⁴⁸ All this is to say that the political-comprehensive collapse is not a misapprehension of Rawls’ theory, or a mistake, or motivated reasoning by less pluralistic followers of Rawls. The collapse is present in the theory itself, across decades and throughout its many iterations.

In The Wild

Whereas Rawls regretfully acknowledged that education could pose problems for political liberalism, Macedo embraced these tendencies as a feature, rather than a bug.¹⁴⁹ In his article examining civic education under political liberalism, he pushed Rawls’ point further.

147 Quong, “Liberalism Without Perfection”; Vallier, “On Jonathan Quong’s Sectarian Political Liberalism.”

148 Rawls, *Justice as Fairness*, 156–57.

149 Macedo, “Liberal Civic Education and Religious Fundamentalism.”

“Inevitably,” he wrote, “some groups will be marginalized and feel oppressed by even liberal public policies... such feelings may indicate the need for adjustments not in public policy, but in the group. Assimilation,” he concluded, “is an inescapable and legitimate object of liberal policy.”¹⁵⁰ Advocating for a “political liberalism with spine,”¹⁵¹ he insisted that “[w]e should avoid the common tendency to underdescribe the pattern of life which is liable to be promoted by even a circumscribed political liberalism.”¹⁵² Instead of succumbing to “the embrace of nonjudgmental, unqualified pluralism,”¹⁵³ he presented his interpretation of Rawls as a hard-nosed recognition of *what justice requires*. “Liberal civic education,” he writes, “is bound to have the effect of favoring some ways of life or religious conviction over others. So be it.”¹⁵⁴ Elsewhere he is even more definitive: “[i]f some people nevertheless feel ‘silenced’ or ‘marginalized’ by the fact that some of us believe it is wrong to shape basic liberties on the basis of religious or metaphysical claims, I can only say ‘grow up!’”¹⁵⁵

We have to look past his combative phrasing to realize that Macedo is, in light of our analysis, making good use of the conceptual tools Rawls has given him, even if it is for a purpose that Rawls himself might never have agreed with. Rawls’ political liberalism was intended to allow us universal standards of political conduct and public reason in a society that contained, and was perhaps interested in maintaining, a diversity of comprehensive doctrines. Macedo, however, showed us how easily one can minimize the value of diversity within the politically liberal framework *without altering or sacrificing Rawls’ core theoretical constructs*. Religious

150 Macedo, “Liberal Civic Education and Religious Fundamentalism,” 469–70.

151 Macedo, “Liberal Civic Education and Religious Fundamentalism,” 470.

152 Macedo, “Liberal Civic Education and Religious Fundamentalism,” 479.

153 Macedo, “Liberal Civic Education and Religious Fundamentalism,” 470.

154 Macedo, “Liberal Civic Education and Religious Fundamentalism,” 485.

155 Stephen Macedo, “In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?,” *The American Journal of Jurisprudence* 42, no. 1 (January 1, 1997): 20, <https://doi.org/10.1093/ajj/42.1.1>.

worldviews are one of the core examples of comprehensive doctrines that Rawls is concerned about accommodating, yet Macedo was consistently hostile to what he termed “Protestant fundamentalism.” This hostility even held when those fundamentalists were asking for opt-out solutions for their children,¹⁵⁶ as opposed to the totalizing sorts of policies (explicit state-educational endorsement of Christianity, for example) that liberals of any stripe are justifiably opposed to.¹⁵⁷ And, as we have seen from the previous section, Macedo is not engaged in a bastardization of Rawls; I am claiming that his extension is logical.

For a further step in this process, take Susan Moller Okin’s “Political Liberalism, Justice, and Gender.” After making a trenchant criticism of Rawls for shortchanging discussion of the family in his overall theory, Okin asked why the “affectional” status of the family renders it beyond the realm of justice. “Why is it not the case” she asked, “that, in *this* institution, which certainly meets Rawls’s criteria for inclusion in the basic structure... the value of justice does not, as elsewhere, outweigh other values?”¹⁵⁸ The phrase “as elsewhere” contains within it a particularly seductive theoretical temptation for the political-comprehensive collapse. To say that “[j]ustice is the first virtue of social institutions”¹⁵⁹ is to subject a huge portion of human activity to one core principle, and allows one to criticize a wide range of varying social institutions whose character could be described as fundamentally affectional or filial in nature. What is the matter, Okin asked, with making other areas, like the family or religion, answerable to the

156 In the specific instance Macedo discusses, parents in the *Mozert v. Hawkins* case had asked for their children to be exempt from a reading program which contained content offensive to their religious beliefs, such as magic and witchcraft. Notably both for Macedo’s purposes and for ours, “[t]he families asked that the children be allowed to opt out of the reading program, and that program only, while remaining in the public schools.” (Macedo, “Liberal Civic Education and Religious Fundamentalism,” 471.) We will see this dynamic recur, perhaps more sympathetically, in our later discussion of left-Indigenous theorists and their criticisms of hegemonic education systems.

157 Macedo, “Liberal Civic Education and Religious Fundamentalism,” 472, 485.

158 Susan Moller Okin, “Political Liberalism, Justice, and Gender,” *Ethics* 105, no. 1 (1994): 27.

159 John Rawls, *A Theory of Justice*, Revised Edition (Cambridge, Mass: Belknap Press of Harvard University Press, 1999), 3.

demands of a Rawlsian conception of reason, a conception that is already being formed primarily by comprehensive liberalism?

“As we see,” she continued, Rawls’ “emphasis on toleration of a wide range of comprehensive philosophical, religious, and moral doctrines comes into conflict with some important means by which greater equality between the sexes might be promoted.”¹⁶⁰

Traditionalist or fundamentalist religions, on Okin’s account, produce an unconscionable lack of self-regard in the women who adhere to them, leading to a form of “social death” not much less extreme than as experienced under slavery.¹⁶¹ This critique of religions with (by her lights) patriarchal bases went so far as to rule out Roman Catholicism as a candidate for reasonable comprehensive doctrine status. Okin thinks that, in his discussion of the potential reasonableness of religions, Rawls is “too optimistic, by far. For one thing,” she continues:

“unless I totally misunderstand what is meant by ‘an account of free faith,’ it is difficult to see what is free about the faith allowed Roman Catholics... Surely the circumscription of women’s roles in life, their segregation in religious life, and their exclusion from important religious functions and positions of leadership—doctrines and practices that are still common to many varieties of religion—render them unreasonable by Rawls’s own criteria.”¹⁶²

This should be a hard pill for pluralists attracted to political liberalism to swallow, given Rawls’ claim that political liberalism “counts many familiar and traditional doctrines... as reasonable.”¹⁶³

The importance of using post-Vatican II Roman Catholicism as a test case is difficult to overstate; political liberalism sells itself as being the descendant of the ideological approach that

160 Okin, “Political Liberalism, Justice, and Gender,” 28.

161 Okin, “Political Liberalism, Justice, and Gender,” 29.

162 Okin, “Political Liberalism, Justice, and Gender,” 31.

163 Rawls, *Political Liberalism*, 59.

ended the wars of religion. If political liberalism cannot accommodate Roman Catholicism, even a version that pursued deliberate reforms to become compatible with liberal democracy and religious freedom, then political liberalism has, by any reasonable standard, failed as a sociological doctrine, on its own terms. Okin clearly believed, however, she had met the bar of providing “strong grounds based on clear aspects of the reasonable itself” that Roman Catholicism is unreasonable,¹⁶⁴ and given the biases inherent in how the concept of the reasonable is formed this is an unsurprising conclusion. To achieve this with the core example of post-Vatican II Catholicism *is to show* that Okin and Macedo are openly facilitating the collapse. Rawls began with the assumption that there is a “reasonable pluralism of comprehensive doctrines,”¹⁶⁵ and Okin did not even have to throw that out. Instead, she looked within Rawls and found the tools to redefine ‘reasonable’ within such a narrow window as to completely undermine the very pluralism that political liberalism is intended to uphold.

Gaus and the Fact of Oppression

Gerald Gaus, aware of this internal threat to liberalism, took aim at those like Macedo, and criticized “a ‘sectarian’ perspective on the open society... defined by opposition to ‘superstition’ and ‘magic’, a devotion to reason, science and to humans’ critical powers.” This understanding of what the open society entails, and the sort of citizens it requires, “is deeply flawed, inadvertently encouraging a retreat to the very reactionary tribalism it opposes.”¹⁶⁶ He allows that some of Rawls’ followers “appeared to embrace the insight that political philosophy must accommodate ‘reasonable disagreement’,” but then in practice “it was ‘shown’ that all

164 Okin, “Political Liberalism, Justice, and Gender,” 59.

165 Rawls, *Political Liberalism*, xl.

166 Gaus, “The Open Society and Its ‘Friends,’” 3.

reasonable people supported these controversial measures and thus, after all, disagreement was tolerated.”¹⁶⁷

Against this worrying trend, the main advantage of a fully-worked-out public reason approach, according to Gaus, is that it moves us beyond the sort of moral authoritarianism that he worries about in “The Open Society and Its ‘Friends.’” Again and again throughout *The Order of Public Reason*, he returns to what he calls “the deeply objectionable characteristic of a conception of social morality based simply on a first-person conviction about moral truth. Social morality,” he continues, “...would be dictated by the conscience of some, demanding that others simply obey.”¹⁶⁸ An order of public reason, per Gaus, gets morality out of people’s heads, and recognizes it as a properly social phenomenon, formed and forged by a complicated game-theoretical process he lays out at several points in the book.¹⁶⁹

To find the collapse here as well, we have to look more closely at the construct with which Gaus claims we can reconcile political legitimacy with reasonable pluralism. His solution relies on conceptualizing moderately idealized Members of the Public, who will converge on a “set of *optimal eligible proposals*.”¹⁷⁰ An MotP is an improved version of an actually existing citizen, a version who has the time, education, and informational resources needed to evaluate a problem with a “respectable amount” of thought and consideration.¹⁷¹ However, he emphasizes that MotPs “are not so idealized that their reasoning is *inaccessible* to their real world

167 Gaus, “The Open Society and Its ‘Friends,’” 15–16.

168 Gaus, *The Order of Public Reason*, 230.

169 Gaus, *The Order of Public Reason*, 103, 131–62, among others.

170 Gaus, *The Order of Public Reason*, 43, emphasis in original.

171 Gaus, *The Order of Public Reason*, 253.

counterparts.”¹⁷² This notion of ‘accessibility’¹⁷³ is key to the proper functioning of Gaus’ entire system, and yet is worryingly undertheorized within the text itself.

Gaus cannot command that the actually existing person needs to agree with, or be convinced by, their corresponding MotP, because the entire point of idealization is to move us away from those citizens too monomaniacal, too radical, or too ignorant to participate in the sort of consensus-generating processes a liberal order requires for legitimacy.¹⁷⁴ So leave open the possibility that a citizen would disagree with their corresponding MotP; what happens if, to push the metaphor, there is mass defection from the enlightened consensus that the MotPs eventually come to recognize? All Gaus demands is that the MotPs’ arguments be accessible, but we are all aware, in our personal and public lives, of situations where our arguments are *accessible* to our interlocutor, and are nonetheless rejected; this is precisely the fact of “evaluative pluralism” that public reason liberalism purports to best handle.¹⁷⁵ If the actually-existing people who are represented by the MotPs reject the political consensus that emerges from the optimal-set-discovery process Gaus advises, then we are confronted with the odd image of the Member of the Public as a sort of Burkean trustee legislator,¹⁷⁶ determining the contours of acceptable government coercion over and against the objections of their constituency of one. Even as Gaus rightly sees moral authoritarianism when the philosopher decides from first principles what is true and good and imposes that upon a benighted population, Gaus has himself created a system

172 Gaus, *The Order of Public Reason*, 276, emphasis added.

173 Gaus, *The Order of Public Reason*, 253.

174 Gaus, *The Order of Public Reason*, 281; Chad Van Schoelandt, “Justification, Coercion, and the Place of Public Reason,” *Philosophical Studies* 172, no. 4 (April 2015): 1035, <https://doi.org/10.1007/s11098-014-0336-6>.

175 Vallier, *Must Politics Be War?*, 19–24.

176 Edmund Burke, “Speech to the Electors of Bristol,” in *The Works of the Right Honourable Edmund Burke*, vol. 1, 6 vols. (London: Henry G. Bohn, 1854), 446–48, <https://press-pubs.uchicago.edu/founders/documents/v1ch13s7.html>.

where that authoritarianism is not avoided, but instead broken down and disseminated into millions and millions of separate paternalistic relationships.

Importantly for our topic of liberal accommodation of nonliberal views, Gaus discusses meta-fairness norms, rehearsing the objection that “almost every aspect of large-scale cooperation involves an equilibrium that some ‘like’ much more than others.”¹⁷⁷ Keep in mind the lofty standards of ideological fairness that political/public reason liberalism sets itself; “given our evaluative standards,” Gaus continues, fleshing out the objection, “we do share a meta-norm that identifies a standard of fairness regulating the distribution of the degree to which a rule satisfies the evaluative standards of each. If so, this can be integrated into the account as a more demanding notion of what constitutes the eligible set.”¹⁷⁸ Some people at least share the moral intuition that fair, neutral systems should deliver “an equal, or at least fair, distribution of ‘utility gains,’”¹⁷⁹ and this intuition seems even more salient when we are talking about a system that purports to balance, not just distribution of income or consumer surplus,¹⁸⁰ but “differences in how well the outcomes satisfy [a] person’s own [moral] standards.”¹⁸¹

This raises the question; is it a problem if the arrangement of social morality endorsed by the MotPs favors one particular comprehensive doctrine or ideological cohort over others? Is it a worthy concern if a greater percentage of actually-existing conservatives, socialists, and traditionalists disagree with their hypothetical MotP ‘representative’ than is the case with actually-existing liberals? Gaus does not have time for this objection, saying he is “skeptical that such a meta-norm can be justified... [A]ny moral code will be especially biased toward those

177 Gaus, *The Order of Public Reason*, 405.

178 Gaus, *The Order of Public Reason*, 407.

179 Gaus, *The Order of Public Reason*, 406.

180 Gaus, *The Order of Public Reason*, 405.

181 Gaus, *The Order of Public Reason*, 406.

whose values converge with it and will be biased against those who values chafe, but to seek such meta-fairness looks not only contentious, but a recipe for the instability of public justification.”¹⁸² As he continues to deal with the objection, he makes his particular brand of paternalism more evident. “It is a great and important thing,” he writes, “not a cause of regret, that when living under a justified scheme people come to better appreciate its virtues and become increasingly devoted to it... it would be crazy to think that somehow morality itself required us to overturn this stability in the interests of meta-fairness.”¹⁸³ Liberalism, in this argumentative moment, is assumed to be extant and justified, with its own validly moral center of gravity. With this assumption in place, Gaus can then claim that those accommodating themselves to liberalism are doing so of their own free reason, rather than being indoctrinated by a system biased towards liberal beliefs, liberal outcomes, and liberal moral intuitions.

This response, rhyming as it does with the worst moments in Rawls, is unsatisfactory for two reasons. First, just as Rawls’ shifted his mental model of the existence and strength of political liberalism during his treatment of the overlapping consensus, Gaus’ response to the meta-fairness objection relies on the existence and strength of a stable, mutually justified scheme of moral rules. However, just as in our earlier discussion of Rawls, the objection he is attempting to respond to is disputing whether the scheme is genuinely mutually justified in the first place. In that context, Gaus’ rejection of the meta-fairness objection seems like a textbook example of begging the question; you cannot use the justified stability of liberalism as a premise to rebut an argument questioning the justified stability of liberalism.

182 Gaus, *The Order of Public Reason*, 407.

183 Gaus, *The Order of Public Reason*, 408–9.

Furthermore, throughout his body of work, Gaus prides himself on working with moral beliefs and intuitions as they exist in the real world. As he writes, “[a] moral and political philosophy truly suited to the defense of the open society does not begin by supposing a correct perspective on justice, but takes as its foundational insight that the admissible perspectives are many and varied.”¹⁸⁴ Those who attempt to ignore or overwrite actually-existing moral disagreement are “either deluded, authoritarian, or nihilistic.”¹⁸⁵ The problem is that this intuition about meta-fairness is, in fact, an actually existing moral consideration, and worse, one that is highly salient for many nonliberal critics of liberalism.¹⁸⁶ The stability of the proposed eligible set cannot require the exclusion of this particular concern; whether or not the set is eligible depends on it being able to defeat this moral consideration. Gaus, perhaps without noticing, moves from a very bottom-up, empirically-driven approach to moral construction to suddenly ruling out a specific moral objection to his system on the grounds that it would prove a risk to the stability of social morality as he defines it. Without arbitrarily ruling out certain extant moral intuitions, his system is not, and perhaps ought not be, stable.

Vallier¹⁸⁷ attempts to assuage concerns like mine when he emphasizes that “the standards of idealization should be moderate; that is, the standards do not attribute reasons to citizens that stray too far from their actual commitments.” As such, “[a]voiding authoritarianism is a kind of Goldilocks value: to realize it, we must idealize, but not too much; we’re looking for a degree of idealization that is *just right*.”¹⁸⁸ This is well-taken as characterization of the view that Vallier and

184 Gaus, “The Open Society and Its ‘Friends,’” 16.

185 Gaus, *The Order of Public Reason*, 548.

186 Dreher, *The Benedict Option*; Anderson and George, “The Baby and the Bathwater”; Vermeule, “A Christian Strategy”; Coulthard, *Red Skin, White Masks*; Leanne Betasamosake Simpson, “Land as Pedagogy: Nishnaabeg Intelligence and Rebellious Transformation,” *Decolonization: Indigeneity, Education & Society* 3, no. 3 (November 21, 2014), <https://jps.library.utoronto.ca/index.php/des/article/view/22170>.

187 “In Defense of Idealization in Public Reason.”

188 Vallier, “In Defense of Idealization in Public Reason,” 1110, emphasis in original.

Gaus share, but it fails as a response to the political-comprehensive collapse. If we look at the ways in which idealization has in fact been practiced, and how it has fed the political-comprehensive collapse, then it becomes tempting to paraphrase a critique by Adrian Vermeule; “[i]f [idealization] is so difficult that one of its leading champions cannot apply it correctly, one might conclude instead that [idealization] is simply a dangerously unreliable technology, one that induces fatal rates of human error.”¹⁸⁹ More charitably, Vallier, in championing the Habermasian/Gaussian approach of appealing to universal standards of reasoning, ignores Rawls’ insight about the need for broadly shared moral principles. If *enough* people disagree *deeply enough*, there may be no Goldilocks zone we are capable, as a society, of hitting. Under conditions of deep disagreement, in a polity the size of the modern United States or Canada, basing idealization on universal standards of reasoning will either be too vague to be useful, or authoritarian enough to trigger the complaints I have laid out in this section. Either way, the Gaussian project will be unstable on its own terms.

Gaus attempts to shore up the stability of his theory in his later work *The Open Society and Its Complexities*,¹⁹⁰ drawing, as he often does, on a wide range of anthropological and game theoretical research to back his intuitions that people are in fact hard-wired to cooperate and coordinate on moral rules and guidelines.¹⁹¹ However, as he brings his argument in contact with critiques like mine, it begins to show cracks. He allows that “for the last 150 years Western societies have been significantly polarized between ‘right’ and ‘left’ justice, with the last 40 adding a number of other groups (e.g., feminists, environmentalists) who also tend to [polarized moral] judgments.” He sees a silver lining to this cloud, arguing it could show that “these sharp

189 Adrian Vermeule, *Common Good Constitutionalism* (Medford: Polity Press, 2022), 106.

190 Gerald Gaus, *The Open Society and Its Complexities*, 1st ed. (Oxford University Press, 2021), <https://doi.org/10.1093/oso/9780190648978.001.0001>.

191 Gaus, *The Open Society and Its Complexities*, 146.

differences in individual moral judgments can be significantly moderated by a diversity of weighting types,” which means it is ultimately “not necessary that we all highly value reconciliation to overcome polarization.”¹⁹²

However, he then allows, “[p]erhaps the most obvious possibility is that convergence will occur within each group, but not between them.”¹⁹³ To allow this is to, in some sense, give away the farm, and after this his argument shifts from the much more confident register that humans *will* cooperate, are in fact *hard-wired* to cooperate, to the more cautious register that humans *may* cooperate on the scale needed to sustain the open society. When pressed, Gaus begins to say merely that upward spirals of moral agreement are possible, not that they are plausible or likely under the current empirical conditions within which we find ourselves. The literature on polarization we reviewed earlier should make us skeptical that such upward spirals are, in our current societies, likely to obtain. “Great diversity does not preclude convergence,” absolutely, not in all possible universes, but *what about ours?*¹⁹⁴

Gaus summarizes his fears as he posits that, “when diverse populations split into isolated groups, we should expect either animosity or, at best, a sort of practical relativism. This, in turn, will tend to lessen the interest in reconciliation with the moral views of others, and so decrease the likelihood that there will be convergence on the justification of an impartial framework.”¹⁹⁵ This is an understandable concern, but it makes the most sense if one is still envisioning, against the argument of this paper, some extant moment of Rawlsian moral consensus. With that vision in mind, it makes sense to talk about all the coordination possibilities we could lose as a result of ‘allowing’ polarization to ‘go too far’. But we are, very plausibly, in a world where no such

192 Gaus, *The Open Society and Its Complexities*, 153.

193 Gaus, *The Open Society and Its Complexities*, 154.

194 Gaus, *The Open Society and Its Complexities*, 159.

195 Gaus, *The Open Society and Its Complexities*, 206.

consensus moment existed, and where concerns like meta-fairness objections are gaining increasing salience. As such, Gaus likely has to either artificially bound the range of disagreement in the authoritarian way I have criticized, or he has to accept a form of archipelago liberalism that he seems to oppose.

Indeed, Gaus criticizes a famous treatment of the liberal archipelago,¹⁹⁶ the one offered by the radical liberal political theorist Chandran Kukathas in his book of the same name.¹⁹⁷ Kukathas famously argues that “the fundamental principle describing a free society is the principle of freedom of association,” which entails “not a hierarchy of superior and subordinate authorities but an archipelago of competing and overlapping jurisdictions.”¹⁹⁸ However, Kukathas sometimes writes as though he is intent to fulfill a comprehensive liberal’s worst nightmares when they contemplate a theory that places diversity above autonomy. As he lays out his ideal of the liberal archipelago, he deals with the objection that the expansive level of toleration he advises “in effect condones the oppression of internal minorities (minorities within minority communities), and of the weakest members of such communities in particular. It risks turning society into a ‘mosaic of tyrannies,’” he concludes.¹⁹⁹ He does not soften this objection, raising explicitly the example of clitoridectomies, a procedure that he is happy to describe as a form of torture.²⁰⁰ Instead of backpedaling to avoid this conclusion, Kukathas instead opts to bite the bullet, arguing we should use persuasion rather than force to convince those groups which practice clitoridectomies to stop.²⁰¹ Persuasion, plus the policing power of the right of exit, will

196 Gaus, *The Open Society and Its Complexities*, 206.

197 Chandran Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, Repr, Oxford Political Theory (Oxford: Oxford University Press, 2009).

198 Kukathas, *The Liberal Archipelago*, 75.

199 Kukathas, *The Liberal Archipelago*, 135.

200 Kukathas, *The Liberal Archipelago*, 135.

201 Kukathas, *The Liberal Archipelago*, 136.

be enough to ensure enough freedom for the theory to remain normatively valuable. In Gaus, as in many of the liberal theorists that I cite throughout this dissertation,²⁰² Kukathas' theory serves as a *reductio* against governance arrangements that are normatively too thin.

Assuming, then, that he has not spontaneously become a Kukathasian, what we see in Gaus is a more subtle but still recognizable example of the political comprehensive collapse. Later Gaus attempts a rearguard defense against these tendencies within his own theorizing, but ultimately fails. Rawls' main errors that led to the establishment of the dynamic were twofold: the first being equivocating between accommodating people to an existing liberal order and establishing the conditions for that order to obtain in the first place, and the second being using a compromised and exclusionary conception of 'the reasonable' as the measuring stick for inclusion into a liberal polity. We must recognize how damning it is that, despite his explicit and admirable awareness and career-long effort to avoid these traps, Gaus falls into them anyway. His response to the meta-fairness objection mirrors Rawls' equivocation about whether liberal culture is established or in need of establishment, and his MotP construct recapitulates the issues with Rawls' conception of reason, such that (in Gaussian terms) his theory risks producing empty eligible sets for governance arrangements. Moreover, he falls into these traps when confronted with the most salient and intellectually sophisticated nonliberal objections that can be brought against his theory; when the liberal theorist is pressed hardest, the collapse presents the most.

This speaks, I argue, to the *foundational and ongoing* nature of the political-comprehensive collapse. Picture, briefly, the world in which Macedo²⁰³ was writing; liberalism seemed ascendant both academically and politically, progressive social attitudes were making

202 Monique Deveaux, *Cultural Pluralism and Dilemmas of Justice* (Cornell University Press, 2000), 186, <https://doi.org/10.7591/9781501723759>; McCabe, *Modus Vivendi Liberalism*, 138.

203 "Liberal Civic Education and Religious Fundamentalism."

headway in popular culture, and fundamentalism seemed to be dwindling or dying in public opinion polls. Perhaps the ongoing relevance of the religious right had shown that reactionary nonliberalism was still a threat, and various small religious sects were requesting opt-out privileges. But with a somewhat firmer hand in the classroom, political liberalism would soon complete its inevitable victory. Whether and to what extent it had mixed itself with or surrendered to comprehensive liberalism would soon be a nonissue, as the political virtues engendered by a properly liberal civic education would ensure that all had access to the expanding list of the social bases for self-respect.²⁰⁴

Apply my theory to this status quo, however, and you would predict precisely what we have seen – the political neutrality of the public education system, far from being worthy of a few throwaway lines, has become one of the central political debates of our current era. Whether public schools are or ought to be teaching controversial conceptions of gender and sexuality, whether these controversies themselves are reasonable or ought to be excluded from the public sphere, whether individuals and religious associations can exempt themselves from liberal legislation that they claim violates their conceptions of the good: these issues and the numerous others like them confront the political liberal with a very different world than the one they saw in 1995. Even if this historical narrative is wrong, and education policy is best characterized simply as an omnipresent site of moral dispute, we still in our current era have another 30 years of educational fights to add to our evidence base. In this world, their deference to comprehensive liberalism in the area of civic education appears tactically short-sighted at best and intellectually ruinous at worst.

204 Rawls, *Political Liberalism*, 82, 106.

Moreover, in response to increasing attacks, modern liberals have shifted from politically liberal aspirations to comprehensively liberal policies and arguments, actively defending the normative primacy of autonomy in a wide range of policy areas, especially civic education. When hunted, comprehensive liberalism is where today's liberals go to ground.²⁰⁵ Again, whether or not this speaks to the superiority of comprehensive liberalism as a normative coordination point is beyond the scope of this paper. My only claim is that, whatever the answer, it should make the dedicated political liberal profoundly nervous, both about their theory's capacity to apply to the actually-existing political landscape²⁰⁶ and about the tactical and normative predispositions of their ideological compatriots.

For those political liberals who remain faithful to the overall framework, however, the analysis I have offered can focus their attention on some potential and recurring areas of

205 Rep. Ayanna Pressley's infamous comments at the 2019 Netroots Nation conference can serve as a holotype of this particular kind of progressive liberal sentiment; "Because if you're going to come to this table, all of you who have aspirations of running for office. If you're not prepared to come to that table and represent that voice, don't come, because we don't need any more brown faces that don't want to be a brown voice. We don't need black faces that don't want to be a black voice. We don't need Muslims that don't want to be a Muslim voice. We don't need queers that don't want to be a queer voice. If you're worried about being marginalized and stereotyped, please don't even show up because we need you to represent that voice." (Ian Schwartz, "Rep. Ayanna Pressley: 'We Don't Need Any More Brown Faces That Don't Want To Be A Brown Voice,'" July 14, 2019, https://www.realclearpolitics.com/video/2019/07/14/rep_ayanna_pressley_we_dont_need_any_more_brown_faces_that_dont_want_to_be_a_brown_voice.html.) This is a clear-cut example of conflating a concern for diversity, the original goal of political liberalism, with a thick, comprehensively liberal ideological outlook. Additionally, diversity statements and other DEI programs required on college campuses and by faculty hiring committees have been criticized as "ideological litmus tests," (Randall Kennedy, "Mandatory DEI Statements Are Ideological Pledges of Allegiance," April 3, 2024, <https://www.chronicle.com/article/mandatory-dei-statements-are-ideological-pledges-of-allegiance>.) which create "an overwhelming incentive [for an applicant] to suppress their true beliefs, or pretend to have the 'right' ones, lest they be eliminated from consideration." (Editorial Board, "The Problem with Diversity Statements — and What to Do about Them," *Washington Post*, May 19, 2024, <https://www.washingtonpost.com/opinions/2024/05/19/universities-dei-academic-freedom/>.) The intellectual temptation for this kind of conflation is discussed at greater length in Gaus, "The Open Society and Its 'Friends.'"

206 The doctrinaire Rawlsian can always reply that the goal of justice theorizing is to develop a realistic utopia to guide action towards justice, so whether or not political liberalism sometimes fails in practice does not bear on their theory. This reply can be plausible, but less so since we have found evidence of the political-comprehensive collapse in core theorists such as Rawls, Larmore, Macedo, Okin, and Gaus. This offers not just an explanation for why political liberalism *has failed* as a normative coordination point, but good reason why it *will most often fail*, in enough nearby possible universes such as to render it insufficiently action-guiding.

argumentative weakness. The two prongs of the political-comprehensive collapse must be confronted head-on. As for the first prong, political liberals would be well-served to keep an eye on the assumption of an already-robust liberal society within their theoretical argumentation. As we have seen, arguments that ring true when we assume that liberalism is extant and powerful can often undermine or directly contradict arguments that assume liberalism is something to be established, justified, or bolstered, and the temptation to slip between these two contradictory background assumptions as convenient is very, very strong, even in very sophisticated theorists.

The second prong, that of an ever-thickening definition of the reasonable, is more difficult to manage. Any theory of politics needs to draw lines between acceptable and unacceptable political behavior and argumentation, and the lines of a liberal theory will most often have liberal bases.²⁰⁷ While there are imaginable arguments for political liberalism that remain completely consistent as to the assumed existing strength of liberalism and liberal culture, there is no definition of the reasonable that could completely rule out nonliberal meta-fairness objections while maintaining any meaningful analytical or normative leverage. Put simply, the liberal will always have to rule out certain nonliberal beliefs and proposals, and those nonliberals whose beliefs are rejected will always be able to cry ‘collapse’. Whether or not those complaints are, at ground, worthy of accommodation is not something that can be adjudicated from first principles. Nonliberals, in short, get a vote.

We are in a situation, then, where nonliberals are essentially correct in one of their core, highly salient criticisms of liberalism. We are also in a situation, as discussed earlier, where, to bolster liberalism, we cannot appeal to liberalism itself, of any form. Again, under the conditions

²⁰⁷ The theory offered in this dissertation, of course, claims to excavate a thin liberal governance arrangement from nonliberal arguments and theorists, but that is why I contend it is an innovative contribution to the literature.

of the political-comprehensive collapse, those wishing to find argumentative or theoretical support for liberalism cannot appeal to political liberalism, since it has collapsed into comprehensive liberalism. They cannot appeal to liberalism *simpliciter*, as the effect of the collapse means that this will ultimately redound to the benefit of comprehensive liberalism. And, finally, they cannot appeal to comprehensive liberalism, since comprehensive liberalism itself is the source of the very problems with accommodation that are proving fatal to the politically liberal project. This means that the only place we could find resources to support liberalism would have to come from somewhere within nonliberalism. In our next chapter, we will find those resources in an unlikely place: the political theory of Alasdair MacIntyre.

Chapter 3: MacIntyre's Modus Vivendi

Having established that political liberalism has collapsed into comprehensive liberalism, and that this is a key driving force behind nonliberal discontent with liberalism, we now turn to the positive aspect of this dissertation. A modus vivendi is not just what happens when normatively thicker governance arrangements collapse; it is its own area of normative political theory, admitting of its own disputes, internal divisions, and political conflicts. In this chapter, I will explain what it is to do work within a modus vivendi lens and analyze a major proponent of a liberal modus vivendi governance arrangement,²⁰⁸ offering criticisms and rehearsing common objections. With the 'space' of modus vivendi theorizing laid out, I then identify one theoretically lucrative position within it, what I term the MacIntyrean modus vivendi. Alasdair MacIntyre, one of the most famous critics of liberalism, who has claims to membership in both the left- and right-nonliberal 'camps',²⁰⁹ has within his political theory argumentative and normative resources to support a broadly liberal modus vivendi that nevertheless accommodates even quite radical critics of liberalism. MacIntyre's particular brand of antistatist communitarianism angles a MacIntyrean modus vivendi towards devolution of power to subnational units²¹⁰ while maintaining certain core limiting conditions that originate from within nonliberalism, rather than being imposed from without. This approach, I argue, is being slowly

208 McCabe, *Modus Vivendi Liberalism*.

209 Alasdair MacIntyre, *Dependent Rational Animals: Why Human Beings Need the Virtues* (Chicago and La Salle, Illinois: Open Court Publishing Company, 2006), 129–30; Alasdair MacIntyre, *Marxism and Christianity* (Notre Dame IN: University of Notre Dame Press, 1988); Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 3rd ed (Notre Dame, Ind: University of Notre Dame Press, 2007); Alasdair MacIntyre, "Is Patriotism a Virtue?," in *Debates in Contemporary Political Philosophy: An Anthology*, ed. Derek Matravers and Jonathan Pike, First Edition (London: Routledge, 2002), 286–300.

210 "Subnational units" again being my catch-all term for the constituent governance institutions of federations. The most obvious examples are states and provinces, but the term can also encompass Indigenous nations, cities and city-states, and many other institutional forms that a properly devolved modus vivendi ought to open us up to.

implemented, but unconsciously; by identifying and delineating the ‘terms’ and limiting conditions of the MacIntyrean *modus vivendi*, we have a chance to move consciously towards this new governance arrangement in a way that preserves as much of a pluralist liberalism as possible while also recognizing and accounting for the dissatisfaction and instability produced by the political-comprehensive collapse.

To briefly restate, a *modus vivendi* arrangement is an arrangement in which people agree to live peaceably, but not as a result of adherence to any particular overarching value or set of values. Whereas thinkers like Rawls,²¹¹ Larmore,²¹² Nussbaum,²¹³ and Galston²¹⁴ all, in various ways, demand that people within a well-ordered society come to agreement on certain core normative commitments that then solidify their allegiance to the liberal governance order, *modus vivendi* theorizing abandons this goal, rejecting it as naive or unrealistic. This allows *modus vivendi* theorizing to draw upon less ‘noble’ reasons for cooperation and cohesion, such as fear, but it also leaves *modus vivendi* theorizing open to instability produced by shifts in relative power dynamics. *Modus vivendi* theorists, myself included, argue in response that there never was any other real option.

While this project is deeply indebted to political liberals and public reason liberals, the argument I have laid out in describing the political-comprehensive collapse is also, ultimately, the reason I can no longer present myself as a political liberal, and why I take an explicitly *modus vivendi* approach throughout this dissertation. The political-comprehensive collapse is only one way, an additional way, that political liberalism can collapse; much more famously,

211 Rawls, *Political Liberalism*.

212 Larmore, “Political Liberalism.”

213 Martha C. Nussbaum, “Perfectionist Liberalism and Political Liberalism,” *Philosophy & Public Affairs* 39, no. 1 (January 2011): 3–45, <https://doi.org/10.1111/j.1088-4963.2011.01200.x>.

214 William A. Galston, “Two Concepts of Liberalism,” *Ethics* 105, no. 3 (1995): 516–34.

political liberalism fears a collapse into a state of *modus vivendi*.²¹⁵ Add this to my analysis from before, and we have a picture of political liberalism balanced on a knife's-edge, with *modus vivendi* on one side and comprehensive liberalism on the other. There are those scholars who will acknowledge this picture, and continue to walk the knife's edge, convinced that the balance can be maintained and is worth maintaining. I cannot, in light of my claims that the potential for collapse runs so deep, count myself among their number.

If political liberalism is to collapse, it then must collapse into the normative framework that can in fact handle the deep diversity that we experience in large North American societies, that is to say a *modus vivendi*. To put this in normative terms, allowing or ignoring how political liberalism collapses into comprehensive liberalism will lead to a regime in which the Rawls' "fact of oppression"²¹⁶ is again present even within a liberal framework, thus eroding the primary normative reason the political liberal has to reject the *modus vivendi* arrangement. Additionally, the *modus vivendi* framework can then acknowledge the existence of sites of oppression without hypocrisy, unlike the comprehensive liberalism that asserts itself through the political-comprehensive collapse. In empirical terms, a regime that is facially neutral but in fact has been co-opted by a sectarian doctrine will produce, and in fact has produced, destabilizing levels of intellectual and political opposition.²¹⁷ Just as, in international politics, your enemy has a vote in terms of whether or not you are in a war with them, nonliberal citizens in a liberal state have a vote as to whether or not the arrangement you believed was an overlapping consensus was, or is now, in fact a *modus vivendi*. Increasingly contorted conjugations of the word 'reasonable' can

215 Rawls, *Political Liberalism*, 146–47.

216 Rawls, *Political Liberalism*, 37.

217 Deneen, *Why Liberalism Failed*; Deneen, *Regime Change*; Vermeule, *Common Good Constitutionalism*, 2022.

be applied to paper over these empirical problems,²¹⁸ but this approach has so far yielded unsatisfactory and unpersuasive results.²¹⁹

The fact that actual nonliberal citizens can, by their beliefs and behavior, create the situation where a presumptive overlapping consensus is unmasked as a *modus vivendi* means that we cannot talk about nonliberalism in the abstract, a kind of remainder category like how ‘authoritarianism’ in comparative political science can sometimes simply mean ‘not democracy.’²²⁰ *Modus vivendi* theorizing is committed to analyzing shifting power arrangements, and the factions behind them, as they actually appear; McCabe argues that “[liberal] citizens are not, I want to stress, those whom contemporary liberal theorists most need to address. The really important audience here consists of person who, prior to being presented with the liberal’s argument, either endorse some illiberal version of political association or are unsure of the appeal of the liberal account.”²²¹ Taking these citizens seriously, and recognizing the attendant moral incommensurability that arises when we try to incorporate them into any account of public reason, should lead us to an “anti-utopian” liberalism that “abandon[s] the idea that political arrangements can be defended by appealing either to the nature of the human good or to some supreme moral value any rational agent must recognize.”²²² While this dissertation is still focused on primarily an audience of liberals (since that is where the existence, let alone the value, of deep persistent disagreement is most often discussed), this approach still points us away from discussing an abstract, malleable construct like ‘illiberalism’ and toward the actual views of actual nonliberal citizens and theorists.

218 Jonathan Quong, *Liberalism without Perfection* (Oxford ; New York: Oxford University Press, 2011).

219 Vallier, “On Jonathan Quong’s Sectarian Political Liberalism.”

220 Adam Przeworski et al., *Democracy and Development: Political Institutions and Well-Being in the World, 1950–1990*, 1st ed. (Cambridge University Press, 2000), <https://doi.org/10.1017/CBO9780511804946>.

221 McCabe, *Modus Vivendi Liberalism*, 7.

222 McCabe, *Modus Vivendi Liberalism*, 18, 126.

McCabe's Modus Vivendi

One reason is that the other alternatives have failed to properly grasp the deep challenge that evaluative pluralism poses to shared values. This is the upshot of the argument in the first half of McCabe's definitional book *Modus Vivendi Liberalism*.²²³ Despite many attempts, "liberals cannot turn value pluralism to their advantage, since that idea is both controversial and rejected by many of the citizens they need to persuade."²²⁴ Taking the existence of these citizens seriously should lead us to an "anti-utopian" liberalism that "abandon[s] the idea that political arrangements can be defended by appealing either to the nature of the human good or to some supreme moral value any rational agent must recognize."²²⁵ Modus vivendi liberalism focuses instead on "the requirements of thin morality" which "constitute a core set of human rights which the MVL state is committed to protect and which draw the limits of the tolerable. They rule out such evils as slavery and severe or permanent bodily harm, while guaranteeing access to such things as education, basic physical and psychological needs, and security."²²⁶ In the context of this dissertation, though, an objection arises; what is to stop even this comparatively thinner set of human rights from replicating the same tensions with value pluralism that every previous candidate has shown?

McCabe has two responses to this objection, one of which I endorse and one of which I reject. I endorse his understanding of modus vivendi liberalism as a doctrine of the "second-best option... MVL [modus vivendi liberalism] thus rests on a wager: that citizens will tolerate others' having broad liberties and accept that state power will not be used to advance their particular

223 McCabe, *Modus Vivendi Liberalism*, 121–22.

224 McCabe, *Modus Vivendi Liberalism*, 125.

225 McCabe, *Modus Vivendi Liberalism*, 18, 126.

226 McCabe, *Modus Vivendi Liberalism*, 138.

normative framework, in exchange for the assurance that their own liberties will be protected.”²²⁷ Nonliberals in a liberal society are highly attuned to what we might call “the security needs of communal self-conception,”²²⁸ and this is what motivates toleration. At first blush, this appeal to toleration can sound similar to calls for “thick-skinned liberalism” from thinkers such as Sinopoli²²⁹ and Bejan.²³⁰ They agree with McCabe and myself when they make the point that naive appeals to tolerance as a core liberal virtue can “unduly... constrain the conversations that may legitimately take place in liberal societies on the meaning of the good life.”²³¹ It is true that previous liberal approaches to this issue, particularly deliberative approaches,²³² “take an elite, and frankly elitist, standard of civil discourse appropriate to particular formalized and limited conversational contexts... as paradigmatic for civility, and then apply it to others where the rules of civility are more nebulous.”²³³ Against this, Bejan advocates for the “meer civility” of Roger Williams, which allows for “peremptory contradiction, dogmatic and unwanted counsels, expressions of disgust, or sharp rebukes.”²³⁴ Mere civility is a “low standard, loosely applied, combined with a thick-skinned determination to tolerate what we perceive as others incivility,”²³⁵ and is therefore the only standard fit for purpose in a society with permanent and intractable disagreement.

227 McCabe, *Modus Vivendi Liberalism*, 133.

228 Ingrid Creppell, *Toleration and Identity: Foundations in Early Modern Thought*, 1st ed. (Routledge, 2013), 159, <https://doi.org/10.4324/9780203616451>.

229 Richard C. Sinopoli, “Thick-Skinned Liberalism: Redefining Civility,” *American Political Science Review* 89, no. 3 (September 1995): 612–20, <https://doi.org/10.2307/2082977>.

230 Teresa M. Bejan, *Mere Civility: Disagreement and the Limits of Toleration*, First Harvard University Press paperback edition (Cambridge, Massachusetts: London, England, 2019).

231 Sinopoli, “Thick-Skinned Liberalism,” 613.

232 Simone Chambers, “Truth, Deliberative Democracy, and the Virtues of Accuracy: Is Fake News Destroying the Public Sphere?,” *Political Studies* 69, no. 1 (February 2021): 147–63, <https://doi.org/10.1177/0032321719890811>; John S. Dryzek et al., “The Crisis of Democracy and the Science of Deliberation,” *Science* 363, no. 6432 (March 15, 2019): 4, <https://doi.org/10.1126/science.aaw2694>.

233 Bejan, *Mere Civility*, 149.

234 Bejan, *Mere Civility*, 65.

235 Bejan, *Mere Civility*, 165.

However, this approach still differs from a committed *modus vivendi* approach in important ways. When McCabe appeals to toleration, he does not require that citizens value toleration in and of itself, in the way that Nussbaum demands citizens value respect in and of itself, or Galston demands citizens value diversity in and of itself.²³⁶ The value of toleration is entirely instrumental as a means to *self-protection*; you do not tolerate what others do because it is good to tolerate, or because they deserve it, or for any other-regarding reason. By the end of the book, Bejan has slipped into something thicker than this; demanding more than a Hobbesian “society of scrupulously silent tongue-biters,” she emphasizes how “modern liberal democracies are dedicated to the proposition that perpetual talking about the things that divide us most deeply will bring us closer.”²³⁷ She cannot, in her final estimation, totally reject this aspiration. Her framing, as well as her advocacy of religious and ideological proselytizing,²³⁸ still prioritizes engagement, conversation, and potentially convergence, while the *modus vivendi* approach allows for situations of retreat, retrenchment, and stasis.

This becomes more obvious if we look at Sinopoli²³⁹ and MacGilvray.²⁴⁰ Sinopoli, similarly, argues against Rawls that, “[i]f respect for persons necessitates respect for ends... then there seems to be little room for the sort of ‘impolite’ critique of ends that Mill finds essential to the exercise of liberty.”²⁴¹ However, Sinopoli ultimately holds that Mill’s “interest-based theory leads to a more morally satisfactory account of civility” defending it “because of the interest all have in leading lives aimed at their own development and perfection.”²⁴² But if we allow for

236 Nussbaum, “Perfectionist Liberalism and Political Liberalism”; Galston, “Two Concepts of Liberalism.”

237 Bejan, *Mere Civility*, 166.

238 Bejan, *Mere Civility*, 174.

239 Sinopoli, “Thick-Skinned Liberalism.”

240 Eric MacGilvray, *Reconstructing Public Reason* (Cambridge, Mass: Harvard University Press, 2004).

241 Sinopoli, “Thick-Skinned Liberalism,” 615.

242 Sinopoli, “Thick-Skinned Liberalism,” 615, 617.

social experimentation primarily because of a pre-existing commitment to a controversial ideal of individual human flourishing, this utilizes precisely the kind of thick conception of self-interest that a *modus vivendi* approach rejects. Following MacGilvray into the institutional realm, he argues in favor of decentralized, federalist political institutions because they allow for greater experimentation with different ways of living.²⁴³ However, it rapidly becomes clear that this process is ultimately serving an ideal of consensus; the response to “legitimate” public disagreement around controversial positions is to use federalism “to allow their merits to be tested in practice, even as we are vigilant in attending to and exposing their shortcomings.”²⁴⁴ For MacGilvray, the purpose of subnational politics is to provide evidentiary leverage for national-level political decisions, but this is *directly hostile* to the self-preservation intuitions that a *modus vivendi* liberalism draws on. Is a conservative in Oklahoma going to be comforted by the assertion that they may live according to their conscience unless and until a panel of Harvard economists decides that the gender income gap in their state is unacceptable? Is a progressive in Oregon going to feel secure knowing that their environmental regulations will remain safe until a Weyerhaeuser-funded study shows that GDP-per-capita in the Willamette Valley has dropped below some predetermined threshold?

With varying levels of intensity, Bejan, Sinopoli, and MacGilvray all hold consensus and convergence up as a goal, while the *modus vivendi* approach rejects such illusions. We simply have to wager that people will be willing to tolerate practices they find abhorrent *in exchange for* promises of self-protection and self-governance. This raises a powerful counterargument, which I will address briefly here and then flesh out in later chapters; what if ‘self-protection and self-

243 MacGilvray, *Reconstructing Public Reason*, 199–200.

244 MacGilvray, *Reconstructing Public Reason*, 204.

governance' is just *modus-vivendi*-speak for autonomy? If that's true, then either A: self-governance and self-protection is given equally to all, which would just be a promise of liberal autonomy, or B: it is not given equally to all, in which case it is just a side-deal between the central government and local tyrants.²⁴⁵ This means that McCabe, rather than being overly paternalistic, is simply choosing one horn of the dilemma. Does the thinner *modus vivendi* I am fleshing out do the same?

In short, the answer is yes, I am choosing the second horn of the dilemma. Following Levy,²⁴⁶ I maintain that there is an element of 'tragic choice' to any theory that attempts to weigh the faults of centralization against the faults of local community power structures. Empowering the centralized bureaucracy means empowering the 'man of system'; empowering local governments or intermediate institutions means empowering the petty tyrant or the busybody. I will not patronize my readers by pretending that there are no risks associated with decentralization as well as centralization. The goal of fleshing out a thin liberal *modus vivendi* based on nonliberal moral arguments, producing nonliberal limiting conditions, is to hopefully produce a normatively informed institutional schema that acknowledges more of the evils of centralization than our current, overly-centralized system does, while also limiting the worst possible outcomes local tyranny can produce. Whether I have walked that line successfully will, at dissertation's end, be up to the reader, but that is the ambition.

McCabe, however, draws a distinction between two models of *modus vivendi* liberalism, which shows us what in his theory we must reject. In the first model, which he calls the "subsidiarity" model, "political authority is parceled out to smaller locales and jurisdictions in a

²⁴⁵ I would like to thank William Clare Roberts for this critique generally and for this phrasing more specifically
²⁴⁶ Jacob T. Levy, *Rationalism, Pluralism, and Freedom*, First edition (Oxford, United Kingdom: Oxford University Press, 2015).

manner that tolerates departures from the liberal commitments to the harm principle and anti-paternalism [his core normative commitments]. Most subsidiarity theorists,” he allows, admit “that any such devolution of jurisdictional authority would still be limited by the requirements of minimal universalism,” but as they do not require that these limits be uniformly enforced across all groups within the society, their approach is still too permissive.²⁴⁷ Over this, he prefers his “moderate centralism,” which “demands universal adherence to the defining liberal commitments and forbids any local departures from either.” The subsidiarity approach, in general, is written off as too fractious, unrealistic, and conflictual, whereas the moderate centralism approach to *modus vivendi* liberalism is endorsed almost as a useful midpoint between the unrealistically thick liberalisms both McCabe and I wish to reject, and the archipelago of microtyrannies offered by someone like Chandran Kukathas.²⁴⁸

To his credit, McCabe considers objections that his moderate centralism is still too thick, though his response is less than satisfactory. Through John Gray, he voices the counterargument that “moderate centralism, in refusing to compromise either the harm principle or the prohibition on paternalism, aligns with a rights-based approach... [which] means that attendant conflicts become winner-take-all battles, and this ill serves the goal of peaceful coexistence.”²⁴⁹ McCabe replies that “rights are more flexible than Gray suggests” discussing how the Senate rejected Robert Bork’s “plausible and carefully reasoned” claim that there was no right to privacy in the United States constitution. This, per McCabe, showed that “[e]ven a rights-based centralism will thus inevitably reflect changing attitudes about important human interests and how they can be harmed.”²⁵⁰ This is a fine enough response if you are attempting to convince an Okin or a

247 McCabe, *Modus Vivendi Liberalism*, 143.

248 Kukathas, *The Liberal Archipelago*.

249 McCabe, *Modus Vivendi Liberalism*, 148.

250 McCabe, *Modus Vivendi Liberalism*, 149.

Macedo that modus vivendi rights-talk can be bent to enforce whatever they think currently best serves human autonomy, but *to say that is to say* that the rights-talk required by moderately centralized modus vivendi liberalism will likely fail to accommodate nonliberals. McCabe takes the precise problem that modus vivendi liberalism is uniquely capable of addressing and repackages it as a feature of modus vivendi liberalism itself. If not dispositive, this move is highly suggestive that moderate centralism cannot serve the political and theoretical functions it needs to. Turning to MacIntyre, we will attempt to excavate a form of modus vivendi liberalism that can.

MacIntyre's Modus Vivendi

Antistatist communitarianism may appear to be something of an oxymoron. Per Buchanan, communitarians, “including Taylor and possibly MacIntyre as well,” believe that “communal participation in the highest political organization – in an all-inclusive political community (e.g., the governing of the nation-state) – is an essential ingredient of the good life or at least of the best life for human beings.”²⁵¹ However, that we are, as MacIntyre famously argued in *After Virtue*,²⁵² in a condition of fundamental moral confusion does not mean that the modern bureaucratic state is capable of alleviating this confusion. Indeed, MacIntyre assumes that the task for the aspiring moral citizen is to find a way to live under liberalism rather than attempting to overthrow or replace it. We see this in the famous passage at the end of *After Virtue*, wherein MacIntyre argues for “the construction of *local* forms of community within

251 Allen E. Buchanan, “Assessing the Communitarian Critique of Liberalism,” *Ethics* 99, no. 4 (July 1989): 859, <https://doi.org/10.1086/293124>.

252 MacIntyre, *After Virtue*.

which civility and the intellectual and moral life can be sustained through the new dark ages.”²⁵³

Look past the apocalyptic language in that passage to his emphasis on the local, as opposed to the national or supra-national. Communities of moral virtue, for MacIntyre, will not be formed from the top-down,²⁵⁴ but instead from the circles and communities we already share, radiating outwards, a view consistent with his Aristotelian understanding of practical knowledge.²⁵⁵

MacIntyre’s antipathy for the modern Weberian bureaucratic state goes much deeper than this (often misinterpreted) passage.²⁵⁶ As Kozinski points out, MacIntyre’s own critique of the “communitarian project” is that it “mistakenly perceives a moral, rational agent [in the state] where there is only an amoral, irrational animal.”²⁵⁷ MacIntyre ultimately claimed that “the modern state is ‘grotesquely unfitted to be the protagonist of any substantive conception of the human good.’”²⁵⁸ This, for MacIntyre, is a tragic fact; the modern state “is not and cannot be evaluatively neutral,” yet “...it is just because of the ways in which the state is not evaluatively neutral that it cannot generally be trusted to promote any worthwhile set of values.”²⁵⁹

253 MacIntyre, *After Virtue*, 263, emphasis added.

254 Again, this is not to say that local community organizations and social structures do not have their own internal hierarchies which can produce injustices. They most certainly do. (Levy, *Rationalism, Pluralism, and Freedom*.) However, it would be unfair to expect any form of organized social life to operate without any internal hierarchies. Many organizations which form in archetypically ‘bottom up’ ways, from co-ops to consciousness-raising groups, later form more structured internal hierarchies which allow them to function and stick to their purposive missions, often in valuable ways. This does not mean that the organization did not form in a bottom-up manner, and it does not obviate the differences between those organizations that do and the more centralized, ‘man of system’-style interventions pursued by distant centralized bureaucracies. It merely means that we cannot assume that local organizations are intrinsically and will always remain virtuous bastions of Tocquevillian self-governance, a fallacy that this dissertation takes pains to avoid, especially in its final chapter.

255 Alasdair MacIntyre, “Moral Relativisms Reconsidered” (Lecture, To What End?: Narrative, Institutions, and Practices conference, University of Notre Dame, July 26, 2019), <https://youtu.be/Zr2uI3oJUT0?t=1812>.

256 Alasdair MacIntyre, “Common Goods, Frequent Evils,” <https://youtu.be/9nx0Kvb5U04?t=4089>.

257 Thaddeus J. Kozinski, “Alasdair MacIntyre’s Political Liberalism,” *The Political Science Reviewer* 36 (2007): 279.

258 Alasdair MacIntyre, “Natural Law against the Nation-State: Or the Possibility of the Common Good against the Actuality of the Public Interest.” (Lecture, Agnes Cuming Lectures in Philosophy, University College Dublin, March 1, 1994), 29, quoted in; Kozinski, “Alasdair MacIntyre’s Political Liberalism,” 280.

259 Alasdair MacIntyre, “Toleration and the Goods of Conflict,” in *The Politics of Toleration: Tolerance and Intolerance in Modern Life*, ed. Susan Mendus (Edinburgh: Edinburgh University Press, 1999), 143, quoted in; Kozinski, “Alasdair MacIntyre’s Political Liberalism,” 281.

However, this does not mean that neutrality should be completely thrown out; “Even though the neutrality is never real,” MacIntyre writes, “it is an important fiction, and those of us who recognize its importance as well as its fictional character will agree with liberals in upholding a certain range of civil liberties.”²⁶⁰ Read alongside more obviously statist communitarians like Taylor and Sandel, it is understandable how some could lump MacIntyre in with those who would wish to enforce their telos using state force. However, MacIntyre stresses that “[a] national community... in which the bonds deriving from history were in no way the real bonds of the community (having been replaced for example by the bonds of reciprocal self-interest) would be one towards which patriotism would be – from any point of view – an irrational attitude.”²⁶¹ Much better, he says, to encourage the fiction of liberal neutrality in order to achieve social and legal space for people to create meaningful communities of virtue.²⁶²

It is true that this is a reluctant endorsement of the core institutions of liberalism, but its reluctance is its strength. To ask members of nonliberal comprehensive doctrines to wholeheartedly support liberalism, even a supposedly ‘thinner’ public reason liberalism, is still too stringent; regardless of which comprehensive doctrine we are talking about, all of them will likely, at some point, feel as though “the barbarians... have already been governing us for quite some time.”²⁶³ It is the *reaction* to this felt political revulsion that we are concerned with; do they attempt to seize the state, and enforce their vision of the good with all the Weberian might they can muster? Or do they opt to retreat and protect themselves, perhaps doing some harm to those within their communities, but refraining from attempts to control those who choose to live

260 MacIntyre, “Toleration and the Goods of Conflict,” 144, quoted in; Kozinski, “Alasdair MacIntyre’s Political Liberalism,” 281.

261 MacIntyre, “Is Patriotism a Virtue?,” 298.

262 MacIntyre, “Toleration and the Goods of Conflict,” 144.

263 MacIntyre, *After Virtue*, 263.

according to other conceptions of the good? This second option, from the perspective of a subsidiarity-oriented modus vivendi liberalism, is thoroughly preferable. In a world where these are our choices, having justifications for demanding the liberal state aim for its own self-conception of neutrality, made from a standpoint that recognizes the flaws and lack of neutrality inherent in liberalism, is an essential resource.

So what is MacIntyre's positive theory? In *Dependent Rational Animals*, MacIntyre attempts to "envisage... a form of political society in which it is taken for granted that disability and dependence on others are something that all of us experience at certain times in our lives."²⁶⁴ In doing so, he provides us with his most comprehensive discussion of the nature of just political life under conditions of liberal modernity. The "types of political and social society that embody those relationships of giving and receiving through which our individual and common goods can be achieved" have three characteristics. "First," he writes, "they must afford expression to the political decision-making of independent reasoners on all those matters on which it is important that the members of a particular community be able to come through shared rational deliberation to a common mind." This serves as a sort of *democratic condition* for a just political association. Secondly, a community which holds just generosity as a central virtue "will have to be consistent with the exercise of this virtue."²⁶⁵ By this he seems to be appeal to a sort of *welfare condition*, wherein "norms will have to satisfy Marx's formula for justice in a socialist society, according to which what each receives is proportionate to what each contributes" and, towards the dependent, "to each, so far as is possible, according to her or his needs."²⁶⁶ He is quick to clarify this potentially radical statement, "[b]ut without its application, even if imperfectly, even if *very*

264 MacIntyre, *Dependent Rational Animals*, 130.

265 MacIntyre, *Dependent Rational Animals*, 129.

266 MacIntyre, *Dependent Rational Animals*, 129–30.

imperfectly, we will be unable to sustain a way of life characterized both by effective appeals to desert and by effective appeals to need.”²⁶⁷ Finally, we have what could be called a *proxy condition*, wherein just political structures “must make it possible both for those capable of independent practical reason and for those whose exercise of reasoning is limited or nonexistent to have a voice in communal deliberation about what these norms of justice require. And,” he continues, “the only way in which the latter can have a voice is if there are others who are able and prepared to stand proxy for them and if the role of proxy is given a formal place in the political structures.”²⁶⁸

What might this look like in practice? Despite his earlier appeal to ideas of the “whole political society,”²⁶⁹ MacIntyre, following our refined interpretation of him, once again draws a strong distinction between morally relevant communities and the liberal-Weberian government they are operating under. He writes that “the distribution of goods by government in no way reflects a common mind arrived at through widespread shared deliberation governed by norms of national enquiry. Indeed, *the size of modern states would itself preclude this.*”²⁷⁰ Instead, what is needed is a cost-benefit analysis; given that “[n]o one can avoid having some significant interest in her or his relationships to the nation-state... any rational relationship of the governed to the government of modern states requires individuals and groups to weigh any benefits to be derived from it against the costs of entanglement with it.”²⁷¹ This approach, in a sense, anticipates Avigail Eisenberg’s endorsement of “relational pluralism,” which, in her formulation, “is skeptical that

267 MacIntyre, *Dependent Rational Animals*, 130.

268 MacIntyre, *Dependent Rational Animals*, 130.

269 MacIntyre, *Dependent Rational Animals*, 130.

270 MacIntyre, *Dependent Rational Animals*, 131, emphasis added.

271 MacIntyre, *Dependent Rational Animals*, 131–32.

the state can resolve group conflicts fully and fairly,” yet also “recognizes that today, groups can rarely act independently of other groups, including the regulatory state.”²⁷²

The most striking example he offers is his treatment of the Americans with Disabilities Act. The wise person will recognize that the nation-state “is an ineliminable feature of the contemporary landscape and they will not despise the resources that it affords.” The ADA, per MacIntyre, was a very good thing, and we should be grateful to those “who have used its provisions constructively and creatively.”²⁷³ Read simply, this could be a contradiction. MacIntyre claims to be wary of the “threats” presented by the “blundering and distorted benevolence” of the state,²⁷⁴ but here he seems to affirm not just one of the most expansive federal laws ever produced by that state, but also to *creative expansions and applications of that law’s power*. If, however, a wise person must not despise the resources the state can offer, how should we interpret the case of the Little Sisters of the Poor, who raised religious freedom objections against the contraceptive mandate in the Patient Protection and Affordable Care Act?²⁷⁵ While the Sisters eventually won their case, the uncertainty left scars on many who populate Catholic institutions,²⁷⁶ and recent empirical work on religion and polarization suggests that such legal challenges and conflicts are likely to continue in the near-to-middle term.²⁷⁷ How are we to balance the detriments and benefits of these potential “entanglements?”²⁷⁸ Tellingly, Eisenberg’s gloss on relational

272 Avigail Eisenberg, “Pluralism and the Authority of Groups to Discriminate,” *Critical Review of International Social and Political Philosophy* 24, no. 6 (September 19, 2021): 911, <https://doi.org/10.1080/13698230.2019.1610844>.

273 MacIntyre, *Dependent Rational Animals*, 133.

274 MacIntyre, *Dependent Rational Animals*, 132.

275 Altmease Lowe, “Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania, 140 S. Ct. 2367 (2020) Survey of Recent Case Law: Labor & Employment Law,” *University of Arkansas at Little Rock Law Review* 43, no. 4 (2021 2020): 603.

276 Christopher C. Lund, “Martyrdom and Religious Freedom,” *Connecticut Law Review* 50 (2018): 961–62.

277 Jeremiah Castle, “New Fronts in the Culture Wars? Religion, Partisanship, and Polarization on Religious Liberty and Transgender Rights in the United States,” *American Politics Research* 47, no. 3 (May 1, 2019): 671, <https://doi.org/10.1177/1532673X18818169>.

278 MacIntyre, *Dependent Rational Animals*, 132.

pluralism ends with an assurance to liberals that her approach would still allow for significant institutional pressure to come to bear in order to revoke the accreditation of a Christian law school which maintains traditional sexual morality clauses in their Community Covenant,²⁷⁹ an outcome that MacIntyre likely, and many of his readers certainly, will find deal-breaking.

Multiple MacIntyres

MacIntyre hedges his claims about the ADA,²⁸⁰ but this is where, to save us from his ambiguities, we might delineate a *MacIntyrean* position from MacIntyre's own position. Two major interpretations arise, one radical, one more accommodationist. At first glance, the accommodationist interpretation would understand MacIntyre's comments on the ADA as an acknowledgment that the virtuous life he desires for morally cohesive intermediate groups was at least possible under the legal regime and levels of bureaucratic extension of the United States circa 1999. By contrast, the radical position would lean further into his characterization of intermediate groups as living under a hostile regime and might imagine covert resistance and civil disobedience against the liberal Weberian state.²⁸¹

However, even an accommodationist MacIntyrean, in light of the cultural and legal shifts that have so alarmed Dreher²⁸² and Deneen,²⁸³ would likely be less sanguine about the virtue-promoting potential of large, messy federal legislation than the MacIntyre of 1999. Keeping the antistatism in mind, a modern MacIntyrean could consistently argue that the level of entanglement we have reached is far too high, and has taken on a noticeably adversarial

279 Eisenberg, "Pluralism and the Authority of Groups to Discriminate," 925.

280 MacIntyre, *Dependent Rational Animals*, 133.

281 Lund, "Martyrdom and Religious Freedom," 963.

282 *The Benedict Option*.

283 *Why Liberalism Failed*.

character. Opportunistic appeals to the existence of dissenters within the Catholic coalition can and have been used by the nation-state in attempts “to break the liberty of the corporate whole,”²⁸⁴ and taking this seriously means better cataloging the ways in which state entanglements are currently *unchosen* by intermediate groups, and taking stock of the broad range of associational life that does or could fall under the purview of federal antidiscrimination laws, federal disability accommodations, or federal healthcare provisions. Taking the risks of such entanglements seriously from a MacIntyrean perspective, we are once again led to a defense of a subsidiarity-oriented *modus vivendi*, and the necessary legislative effort towards disentanglement, likely requiring some devolution of federal power.

This is where the dual connotations of a term like subsidiarity become important for the cross-ideological project we are engaged in. McCabe uses it mainly as an antonym for ‘centralization’, making it in effect synonymous with something like ‘devolution’ or ‘localism’. However, when speaking to a Catholic like MacIntyre or Deneen, it takes on a thicker meaning. In the Catholic context, “‘subsidiarity’ is shorthand for ‘the principle of subsidiarity,’ which in turn is shorthand for ‘the principle of subsidiary function/responsibility’, shorthand for the principle that it is unjust for a higher authority to usurp the self-governing authority that lower authorities, acting in the service of their own members (groups and person), rightly have over those members.”²⁸⁵ This principle has deep Aristotelian/Thomistic roots; “Human good,” Finnis elaborates, “requires not only that one *receive* and *experience* benefits or desirable states; it requires that one *do* certain things, that one should *act*, with integrity and authenticity.”²⁸⁶ As such, “just as the dissolution of family and property would water down human friendship, so the

284 Levy, *Rationalism, Pluralism, and Freedom*, 278.

285 John Finnis, “Subsidiarity’s Roots and History: Some Observations,” *The American Journal of Jurisprudence* 61, no. 1 (June 2016): 134, <https://doi.org/10.1093/ajj/auw006>.

286 Finnis, “Subsidiarity’s Roots and History,” 135, emphasis in original.

complete absorption by the family of its members would radically emaciate their personal freedom and authenticity, which also are basic aspects of human full-being.”²⁸⁷ This Aristotelian/Thomistic loading is a valuable and necessary element of presenting a *modus vivendi* liberal case in terms nonliberals can accept. Similarly to the Rawlsian overlapping consensus, it does not matter if one accepts a more decentralized liberal *modus vivendi* due to the existence of intractable moral disagreement, per Kukathas,²⁸⁸ or because Catholic teaching informs us that “attempt[s], for the sake of the common good, to absorb the individual altogether into common enterprises would thus be disastrous for the common good, *however much the common enterprises might prosper*.”²⁸⁹ In other words, the value of appealing to a capacious concept like subsidiarity is that it can draw support for a similar institutional arrangement from people with vastly different moral presuppositions. The point is not that MacIntyre, or McCabe, or Finnis, are the first to appeal to decentralization to solve problems of persistent disagreement. Indeed, recasting liberal arguments in nonliberal terms will involve, in many ways, retreading old ground. The point is that the recasting *itself* has positive persuasive, political, and theoretical value.

So, with MacIntyre’s three conditions/criteria in mind, the democratic condition, the welfare condition, and the proxy condition, we can now start to sketch what sorts of concessions MacIntyreans could demand from liberalism. We have limited direct textual evidence, so answering this question requires that we examine MacIntyre’s treatment of the university, and use that as a proxy for the sorts of group capabilities he would want to afford all intermediate groups. This move is not unprecedented; Jacob Levy examines universities as paradigmatic cases

287 Finnis, “Subsidiarity’s Roots and History,” 137.

288 Kukathas, *The Liberal Archipelago*.

289 Finnis, “Subsidiarity’s Roots and History,” 138, emphasis in original.

of “complex associations,” intermediate groups that contain within them significant pluralism of beliefs, ideas, and subgroups.²⁹⁰ Therefore, universities are a useful test case since their complex, internally pluralistic nature mimics, somewhat deceptively, the structure of the liberal state itself. Since intermediate groups with less diverse membership rolls present less of a moral dilemma as regards their ability to enforce nonliberal norms and modes of life upon their members, the internal governance powers MacIntyre would afford to the university likely represent a ‘floor’ for what a MacIntyrean *modus vivendi* would be willing to accept, the sorts of powers and thick group rights we should expect to exist across all intermediate groups.

Per MacIntyre, the purposive university, as opposed to the liberal university, is first and foremost “a place of *constrained* disagreement.”²⁹¹ There would be disputes between partisans of different explanatory frameworks in a purposive university, but in relation to the overall complex association “each of us would have to play a second role, that not of a partisan, but of someone concerned to uphold and to order the ongoing conflicts.” This, for MacIntyre, avoids the trap of treating the university “as an arena of neutral objectivity, as in the liberal university, since [in the liberal university] each of the contending standpoints would be advancing its own partisan account of the nature and function of objectivity,” an issue on which a truly purposive university would brook no dissent.²⁹² It is important for purposive institutions to bound dissent and other forms of speech in sometimes quite significant ways.²⁹³ Returning to our dichotomy, an

290 Levy, *Rationalism, Pluralism, and Freedom*, 267–68, 271.

291 Alasdair MacIntyre, *Three Rival Versions of Moral Enquiry: Encyclopaedia, Genealogy, and Tradition; Being Gifford Lectures Delivered in the University of Edinburgh in 1988*, Reprint (Notre Dame, Ind: Univ. of Notre Dame Press, 2006), 230–31.

292 MacIntyre, *Three Rival Versions of Moral Enquiry*, 231.

293 There is a sense in which the *modus vivendi* of this project necessitates a kind of caginess around declarations like this, as the empirical commitments of the *modus vivendi* approach mean that different societies, or even subgroups within one society, will come to different institutional arrangements based on differences in empirical facts, including but not limited to differing levels of normative emphasis members of a polity might accord to one salient political issue over or against another. That being said, I will spend the later ‘case study’ chapters fleshing out a fuller list of nonliberal demands that I think best match the most salient

accommodationist position would likely require a shift towards more alternative education options, both for university-level students and for K-12 students as well. MacIntyre’s argument does not stop at the border of campus – many nonliberal citizens would likely wish for their children to receive similarly purposive education environments long before that. An accommodationist MacIntyrean would likely have to at least push for some variety of voucher model for educational expenditures, if not even further towards opt-in models for state-sponsored education and education taxation. These are evolutions of the sorts of demands made by the evangelical parents in Macedo’s case study,²⁹⁴ and they are, as we will later see, echoed in key left-Indigenous criticisms of the centralized education system as well.²⁹⁵

Importantly, this is an area where an accommodationist position could, in a sense, steal thunder from some of the more strident critics of liberalism. Patrick Deneen, in his editorial “Against Academic Freedom,”²⁹⁶ decries how individualistic, Millian notions of academic freedom were, from the jump, intended to “displace traditional forms of culture and long-standing belief in favor of *progress*.”²⁹⁷ Modern universities, per Deneen, run according to the norms of Mill’s replacement religion. However, as he moves to his positive solutions, he begins to strike a more accommodationist tone.²⁹⁸ “A *collegium*,” he writes, “that dominantly shares a

disputes of our current era, which includes the erosion of free speech protections such as to allow state endorsements of specific religions, as well as the banning of pornography. It is important to emphasize, however, that this is an exercise in prognostication; the eventual list of nonliberal demands I will excavate can also be thought of usefully as an example of the sorts of things that a MacIntyrean *modus vivendi* may allow, rather than a hard assertion of what *will be* allowed.

294 Macedo, “Liberal Civic Education and Religious Fundamentalism.”

295 Simpson, “Land as Pedagogy.”

296 “Against Academic Freedom,” Substack newsletter, *Postliberal Order* (blog), March 17, 2022, <https://postliberalorder.substack.com/p/against-academic-freedom>.

297 Deneen, “Against Academic Freedom”, emphasis in original.

298 Adrian Vermeule highlights this tendency of Deneen's during a colloquy held at Notre Dame regarding the desirability and feasibility of Catholic integralism *Higher Powers: Catholicism and the American Project* (de Nicola Center for Ethics and Culture, 2018), <https://www.youtube.com/watch?v=SVpiKpm6hDA>, particularly at 1:02:10..

deep commitment to Catholic teaching would not limit academic freedom, but would rather share an understanding of the right boundaries of the community—just as the faculty of the new ‘woke’ academy do. Of course, there will be disagreements and debates, but such debates would take place within a shared worldview.”

This position assumes a world in which more progressive, modern, comprehensively liberal models of education persist, while demanding that same level of purposive education for Catholic educational models. He writes how “[w]e ought make our stand not on the deceptive quicksand of neutrality, but on the solid foundations of truth,” but the framework in which he imagines this stand being taken is a framework of institutional decentralization and fragmentation, precisely the world MacIntyre is envisioning. He echoes this sentiment at the end of his famous condemnation of liberalism, *Why Liberalism Failed*,²⁹⁹ when he writes that, “we cannot pretend that the age of liberalism did not happen or that its basic contours can simply be jettisoned in some sort of restoration of an idyllic preliberal age.”³⁰⁰ MacIntyre has himself similarly argued that unalloyed withdrawal is *impossible*. Instead what is needed is the (potentially inadvertent) creation of “a new set of social institutions” formed by the interaction between the community of virtue and the broader society.³⁰¹ Since “[t]here can be no going back, only forward... we should focus on developing practices that foster new forms of culture, household economics, and polis life.”³⁰²

These recommendations rhyme with similar exhortations from Rod Dreher in *The Benedict Option*.³⁰³ Inspired by the famous concluding line from *After Virtue* where Alasdair

299 *Why Liberalism Failed*.

300 Deneen, *Why Liberalism Failed*, 184.

301 MacIntyre, “Common Goods, Frequent Evils.”

302 Deneen, *Why Liberalism Failed*, 182–83.

303 *The Benedict Option*, 81, 83, 84, 147, 165, among others.

MacIntyre says we are “waiting... for another—doubtless very different—St. Benedict,”³⁰⁴

Dreher argues that “Benedict Option politics begin with recognition that Western society is post-Christian and that absent a miracle, there is no hope of reversing this condition in the foreseeable future.”³⁰⁵ In this extremely fallen condition, then, the only solution is to “create and support ‘parallel structures’ in which the truth can be lived in community.”³⁰⁶ Dreher’s position, which has had enormous influence on right-nonliberals, advocates strongly for bottom-up, “organic” Christian community creation “not handed down by central planners.”³⁰⁷ He advocates for a “antipolitical politics” wherein one must “[s]ecede culturally from the mainstream. Turn off the television. Put the smartphones away. Read books. Play games. Make music. Feast with your neighbors. It is not enough,” he continues, “to avoid what is bad; you must also embrace what is good. Start a church, or a group within your church. Open a classical Christian school, or join and strengthen one that exists.”³⁰⁸ This theme of clarified withdrawal, along with deliberate creation of new, parallel social institutions, points to a strong overlap between accommodationist MacIntyreanism and two of his supposedly more ‘extreme’ readers. One could say that Dreher and Deneen, at least in their 2018 incarnations, claim to offer radical rejections of liberalism when in fact they are offering visions of ‘postliberal’ Christian life that are, in fact, surprisingly concomitant with the structure of a MacIntyrean *modus vivendi*.

304 MacIntyre, *After Virtue*, 263.

305 Dreher, *The Benedict Option*, 89.

306 Dreher, *The Benedict Option*, 93.

307 Dreher, *The Benedict Option*, 95.

308 Dreher, *The Benedict Option*, 98.

Concerns and Conclusions

This will not be enough for some Catholic critics of liberalism, and though those like Vermeule and Pappin will not be satisfied with anything less than explicit federal-level endorsement of religion,³⁰⁹ some steps beyond an educational Benedict option could potentially satisfy members of their audience. To that end, the more radical interpretation of a MacIntyrean *modus vivendi* requires us to blur the line between state and purposive complex association. Whereas the comprehensive liberal often demands that complex associations act more like the neutral liberal state, requiring greater protection of individual liberties than they currently do, a radical MacIntyrean could demand that *state governments* be run more like purposive complex associations, so long as they meet certain standards of voice, covered by MacIntyre's criteria, and exit, covered by the argumentative analogy to purposive association. This may, at first, appear to muddy our waters; states and municipalities are big, messy organizations, and Rawlsian liberalism will not map perfectly onto California Democrats any more than radical MacIntyreanism will map perfectly onto Texas Republicans. This is a reasonable concern, but we must remember that almost all ideological categories are stand-ins for more 'low-resolution' normative dispositions. We must walk the careful line of acknowledging both that actually-existing worldviews are more messy than our specified ideological categories, and that political coalitions are non-random, and not mere expressions of power hierarchies or class domination. Beliefs matter.

All that being said, one powerful argument for allowing nonliberal subnational organizations is the capacity to leave them. As Vallier writes, "if exit is available as well as voice, there is less need to resolve many disputes by consensus since people can form new sub-

309 *Higher Powers*, particularly 33:20.

publics with high degrees of consensus, such as federative units.”³¹⁰ If a state-level government could retain broadly democratic forms of governance, as well as allow for movement across state borders, then a radical MacIntyrean *modus vivendi* could allow for state-level policies that significantly violate current First Amendment legal regimes so long as that state could be convincingly framed as a purposive organization existing under a liberal federal framework. For a radical MacIntyrean, *de facto* Mormon or conservative Protestant jurisdictions (say, Utah, or certain Southern states or municipalities) could begin to express themselves in *de jure* forms, such as by restricting the production and consumption of pornography, or by attempting to limit access to texts deemed too morally deleterious, either in formal educational settings or in the polity writ large.

Restrictions on speech and consumption of speech would need to be framed in terms of conceptions of common goods, as opposed to rank bigotries or simple expression of arbitrary power hierarchies, but this approach has the advantage of being able to triangulate against even more radical critics of liberalism. Gladden Pappin has spoken about how, historically, “churches... made some things accessible to their members and took other things away and presented them with some things and hid other things from them” and, while these interventions technically counted as coercive authority, it is a form of coercion that dovetails with the sort of modern, ‘nudge-like’ public policy interventions that are the stuff of governance in the 21st century.³¹¹ The more radical MacIntyrean *modus vivendi* can even allow for some of the moralistic nudges pursued by self-described Catholic integralists, while putting limits on their project that are comprehensible from within the Catholic tradition itself.³¹²

310 Kevin Vallier, “Exit, Voice, and Public Reason,” *American Political Science Review* 112, no. 4 (November 2018): 1120–24, <https://doi.org/10.1017/S0003055418000539>.

311 *Higher Powers*, 1:05:31.

312 Finnis, “Subsidiarity’s Roots and History,” 137.

However, at ground, this would be a major sacrifice of a federally-applied liberal freedom, with no way to disguise that fact. Some readers may be tempted to treat it as a reductio and reject the subsidiarity *modus vivendi* approach on that basis alone. There are four good reasons not to do this. The first is the simple point raised again and again by those who occupy the *modus vivendi* position; scary outcomes simply *are* a part of politics. Constitutional ‘essentials’ are debated, changed, and altered by the political process; even if one sees this as catastrophic, again, catastrophes demand theorization as much as ideals.

Secondly, viewing the radical MacIntyrean position as catastrophic could inspire a political agent (or a political theorist, for that matter) to take the accommodationist position more seriously. Seeing freedom of expression and information concretely at risk can lead us to avoid Macedo’s mistake of rejecting even opt-out solutions for nonliberals.³¹³ It is true that, from the liberal perspective, there are concrete evils and risks involved in making deals with nonliberals, and dangers associated with a massive increase in the power of intermediate groups or state legislatures. What the *modus vivendi* liberal asks is that we tally costs on both sides of the ledger. A world where liberals never had to negotiate with nonliberals might be preferred, but there are good reasons to believe we do not live in such a world.³¹⁴

Third, the empirical basis of *modus vivendi* approaches can offer us succor as well as stern warning. The United States of America is not a conservative nation or a progressive nation; it is a diverse nation, and many large and powerful states will likely remain aligned with more progressive/comprehensively liberal notions of the good. Even in a scenario where a deal is reached with the more radical MacIntyreans, Texas and Oklahoma will likely be balanced out by

313 Macedo, “Liberal Civic Education and Religious Fundamentalism,” 472, 485.

314 Rod Dreher, “Are There Any American Orbans?,” Publication, *The American Conservative*, April 5, 2022, <https://www.theamericanconservative.com/dreher/are-there-american-viktor-orban-jeremy-carl/>.

California and Oregon. Indeed, one of the advantages of the subsidiarity-oriented *modus vivendi* approach is that, so long as freedom of movement is maintained and facilitated, possibly even through specific federal-level subsidies for relocation, it can harness the animal spirits that drive political polarization and use them to hedge against the emergence of the sort of archipelago of homogeneity Levy fears.³¹⁵ Should we currently be living in a world in which the Great Sort increases,³¹⁶ and political polarization continues apace, it is imperative that, say, Texas reacts to California by attempting to become more like Texas, rather than by trying to seize the national-level high ground and enforce Texasification on California by federal force. The importance of emphasizing freedom of movement, and enconcing it as one of the core limiting conditions of a liberal *modus vivendi*, has become all the more stark as, for example, certain American states have made efforts to ban leaving the state in order to obtain an abortion or to assist someone else in doing so.³¹⁷

Finally, and most importantly, we have to remember that a specifically MacIntyrean *modus vivendi* still has limiting conditions to it, the democratic, welfare, and proxy conditions. These conditions, hopefully more persuasive to nonliberals than principles derived solely from liberal presumptions, can serve both to limit the appeal of the most radical interpretations of

315 Levy, *Rationalism, Pluralism, and Freedom*, 47.

316 Jonathan Rodden, "The Geographic Distribution of Political Preferences," *Annual Review of Political Science* 13, no. 1 (2010): 321–40, <https://doi.org/10.1146/annurev.polisci.12.031607.092945>; Jesse Sussell, "New Support for the Big Sort Hypothesis: An Assessment of Partisan Geographic Sorting in California, 1992–2010," *PS: Political Science & Politics* 46, no. 4 (October 2013): 768–73, <https://doi.org/10.1017/S1049096513001042>; Gregory J. Martin and Steven W. Webster, "Does Residential Sorting Explain Geographic Polarization?," *Political Science Research and Methods* 8, no. 2 (April 2020): 215–31, <https://doi.org/10.1017/psrm.2018.44>.

317 Anna Claire Vollers, "Helping a Minor Travel for an Abortion? Some States Have Made It a Crime. • Idaho Capital Sun," *Idaho Capital Sun* (blog), August 26, 2024, <https://idahocapitalsun.com/2024/08/26/helping-a-minor-travel-for-an-abortion-some-states-have-made-it-a-crime/>; Ian Millhiser, "The Unconstitutional Plan to Stop Women from Traveling out of State for an Abortion, Explained," *Vox*, September 12, 2023, <https://www.vox.com/23868962/texas-abortion-travel-ban-unconstitutional>; Mulvihill, "Things to Know about Efforts to Block People from Crossing State Lines for Abortion," *AP News*, November 10, 2023, <https://apnews.com/article/abortion-texas-idaho-alabama-state-lines-trafficking-d314933f3f7db93858561a0c6ad0b188>.

MacIntyre as well as to provide bulwarks against the most egregious abuses that seem theoretically allowable. Free speech, including consumption of information, may in principle be limited under a MacIntyrean *modus vivendi*, but in practice the democratic condition requires citizens informed well enough to participate in something resembling communal political deliberation. In principle, it is possible that those who do not align with the officially-endorsed conception of the good could be frozen out of various institutions, but in practice a meaningful welfare condition would limit the potential damage such exclusions could achieve. Punishment for violations of shared community standards would, in practice, be limited primarily to social shunning and shaming. These tools can produce harmful outcomes, to be sure, but they are tools that intermediate groups need to have in order to enforce any level of internal coherence.³¹⁸

To clarify, if I have been vague as to whether these limiting conditions will operate as normative constraints, political constraints, or constitutional constraints, the reason is that I envision them operating in different ways at different moments depending on their relative persuasiveness and level of moral ‘uptake’. In the first instance, one hopes these limiting conditions will operate as norms. The optimal situation is that these limiting conditions prove so persuasive, and become such a part of the normative makeup of those living within a MacIntyrean *modus vivendi*, that further political and constitutional provisions are not necessary to safeguard the functional political outcomes. You do not need a 14th Amendment if everyone is already protected equally under the law; you do not need a 19th Amendment in a society where it has never occurred to anyone that women ought not vote. Realistically, however, a strong normative alignment can produce the kind of consensus necessary to establish explicit political or even constitutional provisions enshrining the limiting conditions as enforceable and

318 Levy, *Rationalism, Pluralism, and Freedom*, 75.

actionable legal structures. And realistically, again, the normative uptake of these limiting conditions is likely to be qualified or limited enough to where some kind of federal enforcement of them is necessary. It is important, however, not to lose sight of the *modus vivendi* perspective on constitutional provisions as we clarify this. Constitutional provisions may be more difficult to overturn than legislative provisions, but the fiction that they are in some sense separate from the normal warp and weft of politics is just that: a fiction. In practice, and as we have seen, constitutional provisions are only as strong as the normative consensus undergirding them. As such, for the purposes of this dissertation, I think of these limiting conditions as normative constraints in the first moment, and am mostly concerned with their relative normative plausibility to different nonliberal audiences.

Again, whether and to what extent any of these conditions take hold in a polity is an inescapably empirical question, but this is true for a hundred other theoretical propositions one could discuss. It is possible that, say, Texas will use their power as a launchpad for federal influence. Subsidiarity is a *potential* safety valve against the dangers of polarization, offering us a means of getting the MacIntyrean-minded to accept a liberal *modus vivendi*. The purpose of this chapter is to flesh out what sorts of offers might be on the table from a nonliberal comprehensive doctrine in a potential *modus vivendi* negotiation. The MacIntyrean position, while meaningfully nonliberal, contains limiting conditions, internally coherent from its point of view, which can help stave off some of the nightmare scenarios that skeptics of subsidiarity-oriented *modus vivendi* arrangements can envision. The MacIntyrean *modus vivendi* is not a Kukathasian archipelago where the federal government slowly withers away; the democratic, proxy, and welfare conditions are explicit, if nascent, standards and justifications for federal

intervention, and the national-level government will still need to maintain certain police powers in order to ensure that these conditions meaningfully obtain.

MacIntyre, however, is not the only nonliberal we need to listen to. While his theorizing is undoubtedly highly influential on both left- and right-nonliberals alike, there have been recent and ongoing developments in nonliberal political thought that have co-opted, superseded, or outright rejected MacIntyre's theoretical innovations. As such, we have to examine nonliberal theorists of the current generation, evaluating their theories by the light of the MacIntyrean *modus vivendi*, and identifying which of their demands it can potentially accommodate and which it must reject. Moreover, the demands of nonliberal theorists themselves will partially determine the shape of any potential future *modus vivendi* governance arrangements, so to examine salient nonliberal theorists is to help understand areas of current controversy and predict areas of future controversy. Political liberalism itself, even prior to any collapse (if there was such a time), already separated itself too much from actually-existing nonliberalism, placing itself in a position of detached arbitration that it could never functionally live up to. Sustained, charitable, critical engagement with nonliberals themselves is the only remedy for that original deficiency, and that is the project of the next two chapters.

Chapter 4: Right-Catholicism Beyond Benedict

With our methodological concerns and approach established, we will now move onto the first of our case studies, that of right-nonliberalism. Given that a thorough overview of this broad ‘camp’ is impossible, both due to the political fractiousness of the group itself and due to simple space constraints, we will limit our analysis to two primary examples, those of Patrick Deneen, political theorist at Notre Dame, and Adrian Vermeule, administrative law scholar at Harvard University. Both of these thinkers are Catholics, both are proudly anti-liberal, and both find themselves on the broad political right, but their criticisms of liberalism, and their positive projects for a postliberal future, highlight divisions and disagreements within modern right-nonliberalism that are vital for sketching out the terms of a devolutionary MacIntyrean *modus vivendi*. Deneen’s theory, as we will see, is compatible with a subsidiarity-oriented *modus vivendi* in a way that Vermeule’s simply is not, and remains so even after Vermeule’s notable influence on his intellectual project. The chapter will proceed first with a presentation of Deneen’s intellectual project, including some common liberal criticisms of it, then move into Deneen’s positive political project. From there we will bring in Vermeule as a foil, the ‘radical’ to Deneen’s ‘accommodationist’, and show how Deneen’s theory, even in its later, less compromising form, can still be made to function within a liberal *modus vivendi* framework. Deneen’s positive project as of 2023 can, if modified, serve as a useful middle point between the kind of naive localism many right-nonliberals now see as insufficient, and the totalizing project of integralist state capture on offer from Vermeule.

We begin with Deneen’s 2018 book *Why Liberalism Failed*, and his 2023 book *Regime Change*. The first book serves primarily as a diagnosis of the depredations of liberalism, claiming that “the more completely the sphere of autonomy is secured, the more comprehensive the state must become... With the liberation of individuals from [churches, families, villages], there is more need to regulate behavior through the imposition of positive law. At the same time,” he continues, “as the authority of [enculturated] norms dissipates, they are increasingly felt to be residual, arbitrary, and oppressive, motivating calls for the state to actively work towards their eradication.”³¹⁹ His core claim is his most famous one; liberalism “has failed because it has succeeded... As liberalism has ‘become more fully itself,’ *as its inner logic has become more evident and its self-contradictions manifest*, it has generated pathologies that are at once deformations of its claims yet realizations of liberal ideology.”³²⁰ It is easy for the skeptic to write off this claim as both flashy and incoherent, but the dynamic is not as implausible as it might first appear. To begin with a low-level example of liberalism’s methods undermining its goals, take his analysis of how proliferating identity categories, seemingly a pluralistic development, instead creates nothing but “the ascent of the autonomous individual backed by the power and support of the state and its growing control over institutions, including schools and universities.”³²¹ This may seem counterintuitive, but posit that, when dealing with social norms, a sort of ‘social bandwidth limit’ can be reached; say people can, for whatever reason, keep in mind roughly 3 to 5 different categories of people, and 3 to 5 corresponding sets of divergent social norms they should follow in differing circumstances, but adding more increases their cognitive load past the point of practical use. If this is the case, then adding in many more

319 Deneen, *Why Liberalism Failed*, 38.

320 Deneen, *Why Liberalism Failed*, 3, emphasis in original.

321 Deneen, *Why Liberalism Failed*, 124.

identity categories than five, not to mention varying intersectional (and thus incommensurable) combinations of those categories, will paradoxically push people towards an increasingly bureaucratized and homogenized moral standard for interpersonal interaction. Since most people cannot, in practice, remember the social norms one should observe when speaking to women specifically, *and* trans women specifically, *and* black trans women specifically, et cetera, the default approach in a Weberian world is to make recourse to homogeneous speech codes and formal, HR-inflected language norms aimed at maximum inclusion and minimum social friction. Here we have a genuine attempt at increasing pluralism leading to homogenization and the replacement of organic social norms with bureaucratic interaction procedures.

This example may seem low-stakes, but this is the sort of paradox that Deneen sees *everywhere* in liberalism. In his most recent book, Deneen is clear that he sees John Stuart Mill, comprehensive liberal par excellence, as both the source of the semi-paradoxical dynamics he is describing and the truest example of liberalism as a whole. “Mill,” he writes, “famously sought to replace justifications for the exercise of political power based on appeal to objective standards of justice and right with more minimalist justifications based on the standard of perceived harm done by one person to another.”³²² However, “[e]mbedded in [the harm principle’s] deepest logic was its potential, and inevitability, of being wielded as an aggressive tool of domination and even tyrannical power.”³²³ We may judge this summary as overwrought, especially since his examples often take the form of more quotidian stories of ‘cancel culture’, but when he writes about how, “through its invocation of ‘identity politics,’ the contemporary ruling class uses power not in a traditionally forthright manner, but through a recourse to a weaponized form of John Stuart

322 Deneen, *Regime Change*, 48.

323 Deneen, *Regime Change*, 50.

Mill's 'harm principle' in which perceived slights to identity are used as aggressive tools of control and domination,"³²⁴ and about how "[d]iversity' and 'inclusion' are, on the one hand, commitments to equality, but ones that fit neatly into the meritocratic structure, and leave the winnowing structures of the new aristocratic order firmly in place and allow them to go largely unquestioned,"³²⁵ he is pointing to real social dynamics and cultural shifts that many people who are not right-Catholics also find worrisome. Many on the left can and have agreed that bureaucratized forms of diversity and inclusion have been obstacles to greater social equality and justice, against their stated intentions.³²⁶ Deneen's central theoretical claim is that this is not some fluke, or some tragic element of all worldviews, but a uniquely liberal pathology, though whether what is unique is its presence or its intensity within liberalism is less clear.

Most importantly, this story basically reaffirms our analysis of the political-comprehensive collapse, simply from a right-nonliberal viewpoint; something within liberalism's basic theoretical assumptions fatally undermines the capacity for liberalism to live up to its goals and promises. The political liberal may chastise Deneen for his appeals to the inevitability of the collapse, and his unwillingness to recognize that liberalism, like any historically rich ideology, has multiple competing strains with core commitments that conflict. However, Deneen could reply, we can judge liberalism by its works; John Stuart Mill's claim to be the holotypical liberal is borne out by the failure of political liberalism to provide any sort of durable societal coordination point. Were he inclined to hedge, Deneen could argue that, whether or not this collapse was baked into liberalism from the start, it is by now a mature enough and well-attested-enough trend such that arguing about inevitability is focusing on a distinction without much of a

324 Deneen, *Regime Change*, 28.

325 Deneen, *Regime Change*, 44.

326 Adolph Reed, "Adolph Reed: We Must Avoid Race Reductionism," News/Opinion, Jacobin, May 4, 2023, <https://jacobin.com/2023/05/adolph-reed-race-reductionism-black-freedom-movement-class-politics>.

difference. In the world we live in, the right-nonliberal can say, the collapse *has* occurred, and comprehensive liberalism *has* shown itself to be a much more powerful motivator for political action and coordination than third-personal concerns about the value of diversity or recognizing reason in our political enemies.

For Deneen, North American political culture is a war among liberals, with progressive liberals exhibiting “a deep hostility toward the past, particularly tradition and custom. While widely understood to be future oriented, [progressivism] in fact rests on simultaneous assumptions that contemporary solutions must be liberated from past answers but that the future will have as much regard for our present as we have for the past.”³²⁷ For Deneen, the exemplar of progressive liberalism is the infamous “Life of Julia” campaign advertisement from Barack Obama’s 2012 presidential campaign. The ad, which showed a typical woman named Julia and all the ways in which various government programs had enabled her life and independence, became a metonym on the right for modernization, atomization, and the ways in which the state supports and exacerbates both of these trends.³²⁸ “In Julia’s world,” Deneen summarizes, “there are only Julia and the government, with the very brief exception of a young child who appears in one slide—with no evident father—and is quickly whisked away by a government-sponsored yellow bus, never to be seen again.”³²⁹ This atomization, for Deneen, is the ultimate goal of liberalism, and even “[t]he progressive effort to make economic disparities more equal (without actually ever equalizing them) is driven by a deeper liberal imperative to equalize individuals’ opportunity to be liberated from entanglements with others, particular from the shared cultural norms, institutions, and associations that bind a people’s fate together.”³³⁰

327 Deneen, *Why Liberalism Failed*, 73.

328 Deneen, *Why Liberalism Failed*, 57.

329 Deneen, *Why Liberalism Failed*, 57.

330 Deneen, *Why Liberalism Failed*, 143.

On the other side, “[w]hile ‘conservative’ liberals express undying hostility to state expansion, they consistently turn to its capacity to secure national and international markets as a way of overcoming any local forms of governance or traditional norms that might limit the market’s role in the life of a community.”³³¹ Right-liberalism, which for Deneen is synonymous with both classical liberalism and libertarianism, is the original offender, coming first historically and paving the way for the further expansions and depredations of progressive liberalism.³³² “[P]eculiarly described as ‘conservative’ for a brief period at the end of the twentieth century,” right liberalism “momentarily enjoyed the widespread support of the working classes. Today,” however, “that support has dissipated—a result, ironically, of classical liberalism’s very success in advancing a globalized form of market liberalism that has proved to be unbearable and no longer acceptable.”³³³ Again, and with much higher stakes, the realization of liberal principles produces a condition that undermines liberal promises. As such, “[w]hat has passed as ‘conservatism’ in the United States for the past half century is today exposed as a movement that was never capable of, nor fundamentally committed to, conservation in any meaningful sense.”³³⁴

There are several criticisms one could make of this particular approach to understanding liberalism, but again, given the methodological approach of this dissertation, we should be reticent to do so too quickly. Any criticism we could make of our case studies must be oriented towards taxonomization and elaboration, not refutation and elimination. That being said, the first and most instinctual critique to arise could be from either right- or left-liberals who believe that Deneen is oversimplifying or strawmanning their worldview, recasting contingent outcomes as central intentions. It is not enough for Deneen to say that liberalism failed; rather, he must prove

331 Deneen, *Why Liberalism Failed*, 58.

332 Deneen, *Why Liberalism Failed*, 37.

333 Deneen, *Regime Change*, 77.

334 Deneen, *Regime Change*, 146.

that liberalism “has failed because it has succeeded,”³³⁵ and this is a high bar to clear. The best response to this line of argument, given this project’s emphasis on interpretational charity, is to ask the skeptical right-liberal to appraise Deneen’s critique of left-liberalism, and ask the skeptical left-liberal to appraise Deneen’s critique of right-liberalism. Put another way, much of Deneen’s approach is simply taking those attacks made within the liberal camp against other members of the liberal camp and validating all of them, attributing both the negative characteristics of right-liberalism and the negative characteristics of left-liberalism to liberalism as a whole. In a sense, we should expect nothing less from a nonliberal; from their outside vantage point, they would nod at all the failings of liberalism and want to wash their hands of the entire project.

This response raises another criticism, however, that being the concern that Deneen conflates left-liberalism and right-liberalism, papering over key differences between the two in order to create a hegemonic enemy called ‘liberalism’ against which he can define his ideology and preferred political approach. This criticism is much more apropos, and many of the more confusing moments of these two books come when Deneen attempts this synthesis; is the main sin of liberalism its libertarian willingness to remove all barriers to the expression of individual human autonomy,³³⁶ or its degradation of the kind of Tocquevillian localism that he at times seems to value?³³⁷ Both historically and ideologically, libertarian moral intuitions were key in the establishment of many Tocquevillian communities, especially in the American West. Deneen responds that, “[i]n a marriage of classical and progressive liberalism, required indifference toward the views of others becomes mandatory celebration of individual expressivism, the

335 Deneen, *Why Liberalism Failed*, 3.

336 Deneen, *Why Liberalism Failed*, 34.

337 Deneen, *Why Liberalism Failed*, 178.

ultimate coalescence of anticultural, revolutionary consumer choice as the default human philosophy,”³³⁸ but a skeptical reader would be forgiven for believing that this argumentative approach, in which all bad things about all liberalisms must go together, is too glib or too easy, especially given the number of times that he makes use of it.³³⁹ Given that we are primarily concerned with explaining Deneen’s appeal to nonliberals, rather than making Deneen’s position completely coherent to liberal skeptics, I am content to simply let this criticism stand.

Deneen’s Demands

Moving from the substance of Deneen’s theory into the primary goal of these chapters, identifying or excavating the potential demands to be made by nonliberal comprehensive doctrines within a *modus vivendi* negotiation, we can now discuss Deneen’s positive political project. Pulling more from his recent book, which aims to be “not just another critique of liberalism, but a positive and hopeful vision of a postliberal future,”³⁴⁰ we can identify some policies and social shifts he supports. In possibly his most striking line, he argues that “[w]hat is needed is the application of *Machiavellian means to achieve Aristotelian ends*—the use of powerful political resistance by the populace against the natural advantages of the elite to create mixed constitutions *not* ultimately of the sort imagined by Machiavelli, but in which genuine common good is the result.”³⁴¹ Against our current, degraded form of liberal meritocracy, in which “elites today... veil their status—even, and especially, to themselves—through efforts to eradicate privilege, engaging in a stupendous effort of self-deception about the nature of their

338 Deneen, *Regime Change*, 60.

339 Deneen, *Why Liberalism Failed*, 38, 56, 80, 119, 120–21, 124; Deneen, *Regime Change*, 8, 28, among many others.

340 Deneen, *Regime Change*, xv.

341 Deneen, *Regime Change*, 167.

position,”³⁴² he advocates what he calls “aristopopulism,”³⁴³ in which “harmony must come about by aligning the sympathies and interests of the powerful few to the needs and interests of ordinary citizens to live in a stable and balanced order.”³⁴⁴ The goal is, ultimately, though a program of better higher education and cultural pressure, to turn oligarchs into “genuine aristocrats. Such ‘aristocrats’ are commended not in that contemporary, negative meaning of the word... but in the classical sense: some of virtue, excellence, and, above all, who regards that status as a kind of gift and obligation to be put in the service of those of less advantage and power—in other words, the common good.”³⁴⁵

For our purposes, it is important to highlight that Deneen explicitly frames this project in anti-modus-vivendi terms. In *Why Liberalism Failed*, he is much more open to a kind of MacIntyrean retreat, in which nonliberals “should focus on developing practices that foster new forms of culture, household economics, and polis life,”³⁴⁶ wherein small groups will inculcate “actual human liberty in the form of both civic and individual self-rule.”³⁴⁷ Deneen’s relationship with Alasdair MacIntyre is an odd one; he has been accused of an “attempt to appropriate” MacIntyre for his particular right-nonliberal project,³⁴⁸ but he never actually makes reference to MacIntyre directly in either of his major works. The closest we get is a passing reference to Dreher, stating the broad appeal of his MacIntyre-inspired Benedict Option.³⁴⁹ Similarly, while Adrian Vermeule has stated that “MacIntyre’s famous conclusion to *After Virtue* was partly right,

342 Deneen, *Regime Change*, 155.

343 Deneen, *Regime Change*, 153.

344 Deneen, *Regime Change*, 160.

345 Deneen, *Regime Change*, 185.

346 Deneen, *Why Liberalism Failed*, 183.

347 Deneen, *Why Liberalism Failed*, 187–88.

348 Nathan Pinkoski, “Why Alasdair MacIntyre Is Not a Conservative Post-Liberal,” *The Political Science Reviewer* 43, no. 2 (March 21, 2020): 532.

349 Deneen, *Why Liberalism Failed*, 191.

partly wrong,”³⁵⁰ MacIntyre never comes up in Vermeule’s actual substantive critique of Deneen’s first book. Again, all we receive is a passing reference to Dreher, this time negatively; “There is no hint here of a ‘Benedict Option,’” he writes, “or of a localist Deneen community.”³⁵¹ That these two approaches are equated, or at least considered highly comparable, speaks to the unique position and influence Alasdair MacIntyre has had on this particular right-nonliberal debate. Many right-nonliberals will agree that MacIntyre offers an accurate diagnosis of the conditions of liberal modernity, but because his ‘solution’ comes primarily pre-interpreted by Rod Dreher as a council of retreat and localism, right-nonliberals such as Vermeule disagree with (what they perceive as) his solution. Vermeule, quoting MacIntyre, writes that “[i]t is not exactly that ‘we are waiting . . . for another, doubtless very different, St. Benedict.’ We are waiting for another, doubtless very different, St. Benedict and St. Dominic and St. Ignatius and Esther, and for a universal Church that draws upon the pattern and model of all of its diverse saints and ancestors and identities as necessary, in the spirit of Paul—the strategic Christian.”³⁵²

As we shall see later, for more radical right-nonliberals such as Vermeule, retreat and localism are insufficient strategies for dealing with the hegemonic force of liberal modernity; more explicit strategies of political engagement and state capture will be required. All this is to say that, primarily due to Dreher’s outsize influence, MacIntyreanism in these right-nonliberal debates *simply means* retreat and an attempt to maintain virtuous localism under conditions of bureaucratic liberal modernity. This is, in part, why I interpret MacIntyre as I do in my earlier chapter; his protestations aside,³⁵³ I think there are good reasons, internal to his text, why his

350 Vermeule, “A Christian Strategy.”

351 Adrian Vermeule, “Integration from Within,” *American Affairs Journal* (blog), February 20, 2018, <https://americanaffairsjournal.org/2018/02/integration-from-within/>.

352 Vermeule, “A Christian Strategy.”

353 MacIntyre, “Common Goods, Frequent Evils”, 1:08:09.

theory has come to be interpreted in this way, and regardless of his intent any right-nonliberal arguments that push for localism, such as Deneen’s 2018 book,³⁵⁴ will be interpreted as at the very least inspired by MacIntyre, if not appropriative of him.

And by the time of *Regime Change*, Deneen has broader ambitions than mere localism, arguing that what is needed is a societal “‘mixing’ that must begin with a raw assertion of political power by a new generation of political actors inspired by an ethos of common-good conservatism. In order to achieve this end,” he continues, “control and effective application of political power will have to be direct especially at changing *or at least circumventing* current cultural as well as economic institutions from which progressive parties exercise their considerable power.”³⁵⁵ The italicized words provide at least some connection back to the more MacIntyrean Deneen of 2018, but that is abandoned when he discusses his understanding of a proper mixed constitution. “What’s needed,” he writes, “is not ‘democratic pluralism’ in which the ruling class remains a neoliberal, managerial elite who, purely out of fear, grudgingly, if only temporarily, concedes some wealth and status to its inferiors.”³⁵⁶ Instead, following Aristotle, “the aim of a ‘mixed regime’ is not the ‘checks and balances’ between the classes, but their eventual melding into an entirely different regime—what he called ‘polity,’ or, simply, a ‘constitution.’ More than ‘mixing-as-balancing,’ what is ultimately needed is ‘mixing-as-blending.’”³⁵⁷

It is difficult to imagine a clearer rejection of the ethos of *modus vivendi* without actually saying the words. Despite his admission that this new right-populist “movement from below” is “untutored and ill led” by “a deeply flawed narcissist who at once appealed to the intuitions of

354 Deneen, *Why Liberalism Failed*.

355 Deneen, *Regime Change*, 164, emphasis added.

356 Deneen, *Regime Change*, 163.

357 Deneen, *Regime Change*, 187, emphasis in original.

the populace, but without offering clarifying articulation of their grievances and transforming their resentment into sustained policy and the development of a capable leadership class,”³⁵⁸ he seems to have largely abandoned his past MacIntyrean sympathies and instead gained new, expansive, national-level political ambitions. We see a justification for this in his treatment of the controversy regarding Indiana’s Religious Freedom Restoration Act, in which “it was not the political condemnation from other states or even national political figures that put Indiana’s RFRA in jeopardy, but the reputational and economic threats. Major corporations, including Apple, Salesforce (with a substantial presence in Indianapolis), Eli Lilly, and Angie’s List, among others, threatened to diminish or withdraw their economic presence from the state.”³⁵⁹ Though he does not narrate his intellectual journey in such explicit terms, incidents like this, alongside more quotidian examples such as the Memories Pizza incident,³⁶⁰ could very plausibly have pushed Deneen, and those who sympathize with his criticisms of liberalism, away from more decentralized, modus vivendi arrangements and towards a more muscular, combative political project.

So what is the content of this project? Moving from the broad to the specific, Deneen advocates what he calls “common-good conservatism,” a right-wing view that, in Deneen’s four-part typology,³⁶¹ sides with the populace over the elites, and recognizes that the populace is, in

358 Deneen, *Regime Change*, 152.

359 Deneen, *Regime Change*, 55.

360 Deneen, *Regime Change*, 56; Elisha Fieldstadt, “Fund Raises \$840,000 for Memories Pizza After Attacks Over Gay Marriage Views,” NBC News, April 5, 2015, <https://www.nbcnews.com/news/us-news/fund-site-closes-memories-pizzeria-supported-controversial-indiana-law-n335811>.

361 The typology takes the form of a classic political science two-by-two.

	PEOPLE AS REVOLUTIONARY	PEOPLE AS CONSERVATIVE
Favor Elite—(Liberal)	Classical Liberal (John Locke)	Progressive Liberal (John Stuart Mill)
Favor People— (Nonliberal)	Marxist (Karl Marx)	Conservative (Burke, Disraeli)

general, dispositionally conservative, as opposed to latently or potentially revolutionary.³⁶² This approach, and its cognates in the terms Tory Democracy, distributism, or Red Toryism, is a conservatism that “is not a species *within* liberalism but opposes liberalism’s main commitment of liberty understood above all as individual choice,” beginning “with the primacy of the family, community, and human goods that can only be secured through efforts of the political community.”³⁶³ Common-good conservatism is “pro worker, favoring policies that protect jobs and industries within nations, urging more controlled immigration policies, supporting private-sector unions.” On social issues, it is “socially conservative, preferring ‘traditional’ marriage, rejecting the idea that gender is elastic, opposed to the sexualization rampant in modern culture and especially that aimed at young children.”³⁶⁴ It is friendly to programs that subsidize or incentivize “marriage, family formation, publicly funded child support, and increasing birth rates.”³⁶⁵ Outside of these ‘manifesto’ pages he makes reference to the political loss of permitting no-fault divorce,³⁶⁶ and the desirability of banning pornography.³⁶⁷ Additionally, with his complaints about the deleterious nature of modern (and he would say liberal) higher education across all of his work,³⁶⁸ he would be supportive of initiatives, such as those pursued by

362 Deneen, *Regime Change*, 69.

363 Deneen, *Regime Change*, 94.

364 One common objection to language like this is that it can, and often does, serve as a dog whistle for rank bigotry against all non-normative sexual identities. Every single letter in the LGBT+ initialism has, at one time or another, been accused of sexualizing or ‘grooming’ children to nefarious ends. That being said, bad faith is an incredibly difficult thing to tease out in real-world political debates, with accusations more often than not serving as drivers for affective polarization (‘Marxists don’t *really* care about the poor – they just want to control every aspect of your life’). Within subnational polities controlled by more comprehensively liberal or leftist coalitions, a subsidiarity-oriented *modus vivendi* arrangement allows for comprehensively liberal or leftist subnational governments to treat this insight as a policy-guiding truth, as I will discuss in the conclusion of this dissertation. However, at the global or national-level analysis, appealing to accusations of bad faith is liable to undermine the entire project of charitable ideological analysis before it begins.

365 Deneen, *Regime Change*, 94.

366 Deneen, *Regime Change*, 67.

367 Deneen, *Regime Change*, 180–81.

368 Deneen, “Against Academic Freedom”; Deneen, *Why Liberalism Failed*, 124, 127–28, 132; Deneen, *Regime Change*, 8, 39–40, 46–47.

Governor Ron DeSantis of Florida, to bring institutions of higher education, especially selective ones, to heel via more explicit curriculum control. DeSantis has advocated for “a package of higher-education reforms” which feature “unprecedented political interventions in how state universities operate,” such as eliminating “politically disfavored, though vaguely defined, degree programs at state universities. Majoring in gender studies or critical race theory would be out.” These initiatives, if fully realized, would “ban the teaching of ‘identity politics’ in general-education core courses,” while also mandating “that every student take a general-education course promoting ‘the values necessary to preserve a constitutional republic.’”³⁶⁹ Deneen’s specific list of changes to higher education might well differ from DeSantis’ proposals, but *this level of state intervention* with higher education would certainly be on the table.

All this, in essence, “combines the left’s commitment to a more egalitarian and communal economic order with the right’s support for social values that undergird strong and stable familial, communal, associational, and religious order,”³⁷⁰ and, moreover, the political right is the place to stake this claim, as “[i]t has become clear that the right is more willing to ‘move left’ economically than the left is to ‘move right’ on social issues,” a data point he takes as confirmation of his thesis that the real political divide is about liberal individualism vs. nonliberal communitarianism.³⁷¹

As a specific example of this ideology in practice, Deneen highlights a trend within British conservatism that begins with Burke and culminates with Disraeli. Against Corey Robin’s reading of Burke, Deneen contests that the new conservatism’s defense of the *ancien regime*

369 Keith E Whittington, “DeSantis’s Terrifying Plot Against Higher Ed: Even Conservatives Should Oppose the Florida Governor. Marco Bello, Reuters, Redux,” *The Chronicle of Higher Education*, March 17, 2023, <https://proxy.library.mcgill.ca/login?url=https://www.proquest.com/trade-journals/desantiss-terrifying-plot-against-higher-ed/docview/2801871952/se-2?accountid=12339>.

370 Deneen, *Regime Change*, 96.

371 Deneen, *Regime Change*, xiv.

“was—at its most insightful and prophetic—not an obtuse, reactionary call to defend the existing elite... but a recognition that a self-consciously *conservative* elite was needed to protect the people against the destabilizing threat of a new capitalist oligarchy and class of social revolutionaries that were emerging at the same time.”³⁷² The real enemies are, as they always were, the sophisters, economists, and calculators.³⁷³ Disraeli, then, having “perceived a growing power in the modern world that aligned philosophical radicalism and a new form of commerce that combined large-scale production with powerful financial institutions aimed at fragmenting the institutions of organic society and replacing them with an increasingly centralized government,” proceeds to systematize and politically operationalize Burke, as he “sought to redefine the Tory party as the party not only of a certain traditional set of elites, but one whose traditionalism aligned with the deepest commitments and needs of the working classes.”³⁷⁴

When evaluating this particular worldview from a liberal viewpoint, we must notice its aspirational character. One could, very reasonably, challenge Deneen’s sense that the international political mood fueling right-populist governments from America to Italy to Hungary is, in fact, a cry for Disraeli-style governance. However, if we understand Deneen’s intervention here not merely as an attempt to describe existing trends, but as an attempt to shape them, and shape the leaders who will give them expression,³⁷⁵ then the project appears, from the perspective of liberal pluralism, potentially much more admirable. It matters, for long-term

372 Deneen, *Regime Change*, 136.

373 Deneen, *Regime Change*, 137.

374 Deneen, *Regime Change*, 143.

375 This reading is bolstered by Deneen’s comparatively close relationship with Viktor Orban. (Carla Cabrera Cuadrado and John Chrobak, “Illiberalism and the Deinstitutionalization of Public Diplomacy: The Rise of Hungary and Viktor Orbán in American Conservative Media,” *Communication & Society* 36, no. 2 (2023): 320, <https://doi.org/10.15581/003.36.2.311-324>; Ian Ward, “‘I Don’t Want to Violently Overthrow the Government. I Want Something Far More Revolutionary.’” *POLITICO*, June 8, 2023, <https://www.politico.com/news/magazine/2023/06/08/the-new-right-patrick-deneen-00100279>.)

political stability, whether those who wind up channeling right-populist backlash choose to model themselves after Trumpism or Tory Democracy, after Marine Le Pen or Pierre Poilievre. The latter approaches and avatars can certainly come in for quite forceful moral critique, but they represent a kind of normalcy, stability, and a bounding of political outcomes that is, put mildly, lacking in a figure like Donald Trump. To the extent that Deneen is attempting to argue that Red Toryism can in fact satisfy (or, in the terms of a liberal *modus vivendi*, pacify) right-populist discontent, this aids the stability-generating function of *modus vivendi* liberalism significantly. This is not to say that some of Deneen's demands and policy preferences (eliminating or restricting no-fault divorce, banning pornography, taking a firm hand with state-funded universities) are or ought to be easy asks, especially in 21st century North America, and we will return to feasibility concerns for his approach later on in the chapter. However, in an academic era where the logic and rhetoric of 'democratic backsliding' is still widespread and relevant, it matters that Deneen can examine his intellectual heritage and draw a plausible line from Burke through Disraeli to Diefenbaker.

Secondly, the fact that Deneen offers some genuinely trenchant criticism of modern elites, 'woke capital', and cultural libertinism means that these criticisms, and more importantly the citizens for whom they resonate, *won't be going away*. Even if these ideas and political demands are, in some sense, morally odious, no plausible political arrangement in modern, diverse democracies can exclude encounters with odious views. Worse, those with odious views will, in practice, form power blocks and can achieve electoral victories that will allow them to enforce those views. We are never, especially in an explicitly *modus vivendi* situation, choosing between *whether or not* there will be people who express backward or reactionary political demands.

Indeed, the very notion that one could eliminate reactionary sentiment among the population is in part a result of progressive (or comprehensive) liberal overreach in education.³⁷⁶ We are, if we evaluate our situation soberly, operating much more in Deneen’s register, in which right-populist political energy both exists and will, in practice, find an outlet. The question, even for those who find his political stances repugnant, is what sorts of governance arrangements are possible given the actually-existing constituents within the *modus vivendi* negotiation. If one only theorizes properly ‘domesticated’ negotiating partners, ideological blind spots become unavoidable, and will lead to bad political predictions.

As an example of thinkers too domesticated to serve as useful interlocutors given our relative levels of polarization and the relative intensity of nonliberal sentiment, consider briefly the appeal made by Anderson & George.³⁷⁷ Initially they sound like they would fit in well with the right-nonliberals we have so far discussed, arguing that “[t]he supposed neutrality or (to use John Rawls’s term) ‘anti-perfectionism’ on contemporary progressive liberalism is indeed illusory. Appeals to moral neutrality, however sincerely offered, have functioned in practice as smoke screens to disguise the smuggling in for a certain controversial conception of the good – one that progressives hold and just about everyone else rejects.”³⁷⁸ In the terms of this dissertation, they are clear-eyed about the causes and consequences of the political-comprehensive collapse, and foreground it in their analysis of right-Catholicism and its relationship to liberalism. Despite this, however, they are prepared to defend a version of liberalism. “Representative government, separation of powers, constitutionalism, limited government and respect for the autonomy and integrity of institution of civil society” they write,

376 Deneen, *Regime Change*, 78, 108.

377 Anderson and George, “The Baby and the Bathwater.”

378 Anderson and George, “The Baby and the Bathwater,” 172–73.

alongside “jury trial, freedom of speech, freedom of religion, and other basic civil liberties... are more than defensible (and are indeed better defended) without invoking Lockean philosophical ideas.”³⁷⁹ Following MacIntyre, they hold that the government is a bad tool for enforcing morality,³⁸⁰ “There’s really no *single* and unitary common good within the reach of politics, for each community has its own common good, even if all are ultimately facets of the common good that embraces all others.”³⁸¹

Given the clear connections their argument has with MacIntyre, with Rawlsian theory, and with a *modus vivendi*-friendly recognition of the need to suit one’s politics and one’s moral vision to “the particularities of one’s time and place,”³⁸² it may seem churlish for this dissertation specifically to write off Anderson & George as potential interlocutors. However, while it is true they seem to fit perfectly, there is an important sense in which the perfection is the problem. Anderson & George, for all their stressing of their right-nonliberal bonafides, are essentially doing Rawlsian work, consciously figuring out from within their own comprehensive doctrine how to justify the institutional and normative elements of the overlapping consensus. A claim that one can justify much of liberalism without appeal to Lockean premises sounds radical, but it is *precisely what an overlapping consensus looks like from within the worldview of one of its ideological constituencies*. Their project is not undermining Rawls’ system; it’s doing Rawls’ work for him. This is a meaningfully different footing than the one taken by Deneen and, as we will see, Vermeule, wherein the goal is to preserve a workable form of life *for nonliberals*, and then asking what concessions must be made by or extracted from hegemonic liberalism in order

379 Anderson and George, “The Baby and the Bathwater,” 173.

380 Anderson and George, “The Baby and the Bathwater,” 179.

381 Anderson and George, “The Baby and the Bathwater,” 182, emphasis in original.

382 Anderson and George, “The Baby and the Bathwater,” 175–76.

to achieve this objective. And in an ethos-sensitive discovery process like the negotiation of a new *modus vivendi*, footing and normative emphasis really do matter.

Vermeule's 'Common Good'

Understanding the need for addressing the right negotiating partner and the right coordination point, neither too radical nor too accommodationist, requires a greater understanding of the gradations of nonliberalism that exist on the political right. To that end, examine Adrian Vermeule's recent academic and popular work, starting with his book *Common Good Constitutionalism*.³⁸³ Billing itself initially as a criticism of academic originalism, it becomes increasingly clear as the book goes on that Vermeule has a much more substantive positive argument in mind. "The answer," he writes, "to progressivism's liberationist theory of the good is not to pretend that the law can be identified independent of morality, the answer given by originalism. Instead the answer is to understand that law flourishes *as law* when it incorporates, not liberationism whether of the economic or sexual varieties, but genuine concern for the common good at every higher levels – individual, family, city, nation, and the commonwealth of nations."³⁸⁴ As "all legislation is necessarily founded on some substantive conception of morality and that the promotion of morality is a core and legitimate function of authority... [L]iberal and libertarian constitutional decisions that claim to rule out 'morality' as a ground for public action are incoherent, even fraudulent, for the rest on merely a particular account of morality, an implausible account."³⁸⁵

383 Vermeule, *Common Good Constitutionalism*, 2022.

384 Vermeule, *Common Good Constitutionalism*, 2022, 23.

385 Vermeule, *Common Good Constitutionalism*, 2022, 37.

However, this is where the unavoidable question of honesty has to come forth. Vermeule is famously coy regarding his true political beliefs; Julian Waller accuses Vermeule of exhibiting a “split-persona, a ‘common-good’ conservative legal scholar promoting a form of administrative-oriented statism as well as an open integralist promoting the superiority of the Catholic Church and spiritual authority over secular authority.”³⁸⁶ In his public life has willingly associated himself with the full integralist position which, in “rejecting the liberal separation of politics from concern with the end of human life, holds that political rule must order man to his final goal. Since, however, man has both a temporal and an eternal end, integralism holds that there are two powers that rule him: a temporal power and a spiritual power. And since man’s temporal end is subordinated to his eternal end, the temporal power must be subordinated to the spiritual power.”³⁸⁷ When translated from Thomist to English, as it were, this is a call for (at least partial)³⁸⁸ control of temporal, secular governments by religious leaders and institutions, a genuine writ for a confessional state. He shares Deneen’s core theoretical stance that “liberal intolerance represents not the self-undermining of liberalism, but a fulfillment of its essential nature,”³⁸⁹ but whereas Deneen is inspired by Disraeli, Vermeule takes his prescriptive cues from

386 Julian Waller, “Integralism, Political Catholicism, and Democracy in the Modern West,” SSRN Scholarly Paper (Rochester, NY, June 2, 2023), 17, <https://papers.ssrn.com/abstract=4467465>.

387 Edmund Waldstein, “Integralism in Three Sentences,” *The Josias* (blog), October 17, 2016, <https://thejosias.com/2016/10/17/integralism-in-three-sentences/>.

388 In historical integralist thought, the church lays claim not to direct power, which would imply “that the church can direct state activity in general,” but to a smaller set of spiritual matters that Vallier, following Cardinal Bellarmine, calls the “indirect power.” (Vallier, *All the Kingdoms of the World*, 37.) The indirect power represents “a right [for the Church] to intervene in temporal affairs. Power over temporal affairs covers only moral and spiritual interests.” This entails “that the church may direct states to enforce canon law via civil law” and “prosecute canonical crimes such as simony or heresy.” (Vallier, *All the Kingdoms of the World*, 38.) Per Vallier, “the Pope can’t take over agricultural policy on the grounds that people need to eat to go to mass; that would be a kind of usurpation... but in cases, say, where communications policies, or education policy would bear on our salvation, the Church has a kind of indirect sovereignty over the state in such matters.” (Kevin Vallier, “From Counter-Reformation to Counter-Revolution,” <https://youtu.be/Tt6rSNjWywk>, 8:32.) Note that these areas of concern line up well with Deneen’s political demands; banning pornography is a matter of communications policy, and his demands for greater control of university curricula are squarely in the realm of educational policy.

389 Vermeule, “A Christian Strategy.”

De Maistre. “The Church’s role as liberalism’s principal target and antagonist,” he writes, “is also structurally embedded... Mill’s putatively rational and tolerant liberalism was born out of a patricidal hatred of Christianity, and a desire that the wheel of history should turn once more, and then stop—with the Church replaced by a progressive ‘clerisy,’ enforcing liberal commitments through state education.”³⁹⁰ Again, as with Deneen, this is a right-nonliberal recapitulation of much of our analysis of the political-comprehensive collapse, with Vermeule understanding Mill as the true core of liberalism and civic education as the main vector for its transmission. His 2022 book must be read in this light, especially his invocations of the ‘reasonable’; just as comprehensive liberals use the pluralist-adjacent word ‘reasonable’ to subtly insert a thick conception of the good as determined by the progressive clerisy, Vermeule uses it to smuggle in his own thick conception of the good as determined by literal clerics. To do so while simultaneously deriding progressivism on the grounds that it “presupposes a particular and contestable view of the good” is, charitably, confused and, uncharitably, audacious.³⁹¹

Returning to his book with this warning in hand, his criticism of originalism ties in with his long work on administrative law, leading him to argue that, as the shift towards greater administrative power appears irreversible “at the highest level of the polity, whether it is a single nation-state, a federation, or an empire, there should exist a public authority with the jurisdiction to act, under exceptional circumstances where the operation of subsidiary institutions fails, so as to promote the common good throughout the polity – overriding if necessary the views of any subordinate jurisdiction.”³⁹² As for what he wants this power to do, many things he says align with Deneen. For a start, “[t]he Court’s jurisprudence on free speech, abortion, sexual liberties,

390 Vermeule, “A Christian Strategy.”

391 Vermeule, *Common Good Constitutionalism*, 2022, 23.

392 Vermeule, *Common Good Constitutionalism*, 2022, 158.

and related matters will prove vulnerable under a regime of common good constitutionalism.”³⁹³

The self-determination language in *Planned Parenthood V. Casey* “should not only be rejected but stamped as abominable, beyond the realm of the acceptable forever after.”³⁹⁴ While he begins his critique of First Amendment jurisprudence by rejecting *Ashcroft V. Free Speech Coalition*, a case about virtual child pornography, it becomes rapidly clear, again, that his objection applies to all forms of sexually explicit content. As, again, “one of the core tasks of political authority is to protect the health, safety, and morals of the public from those who would degrade them... [public] prohibition of pornography is a form of environmentalism for morals, and should be left to the reasonable determination of public authorities on the same terms, and under the same deferential limits, as the other issues we have discussed.”³⁹⁵

While much of this aligns with Deneen (except for some core elements which we will discuss later), Vermeule goes much further, making space even for some kind of prohibition of blasphemy. In a characteristic move, he argues that “[e]very polity proclaims and enforces truths that cannot be questioned, at least in certain times or in certain ways; it is idle to pretend otherwise. Our own certainly does.”³⁹⁶ He protests that his “point here is not to urge the reinstatement of blasphemy laws in their classical form, but rather to illustrate the fundamental challenge that the history poses for originalism,”³⁹⁷ but given his split persona, we should be skeptical of taking these protestations at face value.

Moving on to further conflicts, Vermeule, in a well-known and critical review of Deneen’s first book, rejects Deneen’s MacIntyrean tendencies in favor of explicit state

393 Vermeule, *Common Good Constitutionalism*, 2022, 41.

394 Vermeule, *Common Good Constitutionalism*, 2022, 42.

395 Vermeule, *Common Good Constitutionalism*, 2022, 171.

396 Vermeule, *Common Good Constitutionalism*, 2022, 173.

397 Vermeule, *Common Good Constitutionalism*, 2022, 173.

enforcement of Catholic morality. Offering an “alternate ending” to Deneen’s book, Vermeule describes a situation in which, “rather than retreating to a nostalgic localism, nonliberal actors strategically locate themselves within liberal institutions and work to undo the liberalism of the state from within. These actors,” he continues, slipping into Rawlsian language, “possess a substantive comprehensive theory of the good, and seize opportunities to bring about its fulfillment through and by means of the very institutional machinery that the liberal state has providentially created.”³⁹⁸ He laments that “[t]he very causes that have produced the triumph-cum-disaster of liberalism—particularly the fighting faith of the liberal vanguard—also suggest that localist communities after Deneen’s fashion must tremble indefinitely under the axe.”

Somewhat confusingly, Vermeule accuses Deneen of envisioning localist communities that “deliberately eschew any substantive comprehensive theory of the common good,” therefore leaving them “with no more theoretical and intellectual defenses than they have material ones. Absent the strong glue of a common theory of the good, such a community lacks the moral, spiritual, and emotional resources to stand against liberal encroachments.”³⁹⁹ Drawing upon the Biblical stories of Joseph, Mordecai, Esther, and Daniel, Vermeule praises how these figures either become influential upon political power or come to wield political power themselves, allowing themselves “a great deal of discretion to further human dignity and the common good, defined entirely in substantive rather than procedural-technical terms.” In these figures, we see “no hint of retreat into localism. There is instead a determination to co-opt and transform the decaying regime from within its own core.”⁴⁰⁰ Again, Vermeule’s coyness makes his true position harder to interpret, but it would not be unreasonable to characterize this as an exhortation to

398 Vermeule, “Integration from Within.”

399 Vermeule, “Integration from Within.”

400 Vermeule, “Integration from Within.”

impose integralism from above, possibly as a precondition⁴⁰¹ to the kind of virtuous MacIntyrean localism that Deneen envisions in his first book.

It is important to acknowledge the extent to which Deneen seems to have taken many of these criticisms to heart. Some quotes have been marshaled above, but even in the gestalt, it is clear that his previous book leans heavily on the language of localism and MacIntyrean retreat, and his new book talks openly about national-level economic policy and, it seems, national-level enforcement of socially conservative moral principles. However, even in his less localist incarnation, Deneen has several limiting principles to his theory that Vermeule lacks. The first is, ironically, his ties to the populist movement that liberals tend to fear and disparage. Deneen, for his framework to make sense, has to connect his preferred governing policies to something like popular acclaim or political/electoral success. Vermeule, with his framing of integration from within, openly dissociates himself from these sorts of guardrails. “If we have a true account of law,” he writes, “what the great and the mighty make of it is up to them, and is mostly determined by the vagaries of history and politics rather than by anything a book may say.”⁴⁰² Here he speaks of whether his theory may find appeal with those above him in the political hierarchy, but given his endorsement of “Joseph, Mordecai, Esther and Daniel, who in various ways exploit their providential ties to political incumbents with very different views” and who

401 This is also Kevin Vallier’s reading of Vermeule’s current position, which he believes Deneen shares. (Vallier, “From Counter-Reformation to Counter-Revolution”, 1:08:26.) To briefly address his point that Deneen is “in motion.” I am both attempting to, in a sense, ‘hold’ Deneen at his position as stated in *Regime Change*, and by taking up the more radical of his two books as the position to hold him in, attempting to show the robustness of the modus vivendi position. It is not in doubt that a MacIntyrean modus vivendi could accommodate the Deneen of *Why Liberalism Failed*; that it can also, with some modification, accommodate the Deneen of *Regime Change* speaks to its adaptability and value under conditions of persistent and deep political polarization.

402 Vermeule, *Common Good Constitutionalism*, 2022, 183.

“hold posts as elite administrators,” a more plausible reading extends this lack of concern with popular approval of his ideas to the populace as well.⁴⁰³

And, internally, this makes sense; if liberalism is as pervasive and corrosive and Vermeule says it is, then the populace, absent a meaningful period of moral and political tutelage, cannot be relied upon to maintain consistent support for any regime evincing something as nonliberal as Tory Democracy, let alone the more full-fledged confessional state that Vermeule seems to have in mind. Indeed, per Vallier’s “stability argument” against integralism, even under generously ideal conditions “integralism *predicts*” two forms of pluralism, “*unnatural* and *natural* pluralism.” Unnatural pluralism arises from sin, whereas “natural pluralism arises from causes that could confuse a saint.”⁴⁰⁴ As “[s]in – the disposition or choice to violate moral requirements – causes disagreement,” our sinful natures will cause us to exceed even the morally bounded scope of natural pluralism,⁴⁰⁵ and this is all assuming that a confessional state has been successfully established in the first place. As Vallier emphasizes, “[i]f the stability argument works, then the other arguments do not matter... even if the strategists could construct an integralist order, it will collapse,”⁴⁰⁶ and the collapse will be “prompt.”⁴⁰⁷

Secondly, even if Tory Democracy will, especially in Deneen’s iteration, come into conflict with core constitutional provisions in the North American context, it is still ultimately a creature of modernity. It understands the pitfalls of unchecked liberal expressivism, but came into being, as Deneen well acknowledges, in response to the conflation of liberalism with modernity, rejecting such a conflation. For all of his tonal shifts in the 2023 book, a large amount

403 Vermeule, “Integration from Within.”

404 Vallier, *All the Kingdoms of the World*, 166.

405 Vallier, *All the Kingdoms of the World*, 175.

406 Vallier, *All the Kingdoms of the World*, 167.

407 Vallier, *All the Kingdoms of the World*, 168.

of his approach and theorizing is still completely compatible with his famous line from 2018 in which he acknowledges that, “if we hope to create a humane postliberal future, we cannot pretend that the age of liberalism did not happen or that its basic contours can simply be jettisoned in some sort of restoration of an idyllic preliberal age. That age never existed.”⁴⁰⁸

Vermeule does not have these same historical scruples. Apart from his desire to pick up and make use of the tools of the modern administrative state, his willingness to enforce pre-modern moral standards and social hierarchies radiates through the text, as one would expect when comparing a theory inspired by De Maistre to a theory inspired by Disraeli. There is a symmetry here; comprehensive liberals are happy to conflate modernity with liberalism, and Vermeule is happy also to lay any and all blameworthy aspects of modernity at liberalism’s feet. Deneen’s approach, even in his later book, suggests a different way forward, one in which a vision of liberal modernity competes with a vision of nonliberal modernity in a broadly democratic context. Neither the comprehensive liberals nor the integralists are served by this approach, placing it, especially alongside his 2018 localism, in proximity with a MacIntyrean *modus vivendi* in a useful and productive way.

So given that, within Deneen, there is still a core place for democratic legitimacy and democratic contestation, the question is on what level, and with what tools, ought that democratic contestation take place. A subsidiarity-oriented MacIntyrean *modus vivendi* wedded to a program of devolution of national-level power within a federalist system offers a useful middle point between the naive localism that Vermeule rejects and the national-level ambitions that current-day Deneen has adopted. In federal systems, states and provinces, unlike churches or communes, can and do make use of their institutional safeguards and balancing mechanisms to

⁴⁰⁸ Deneen, *Why Liberalism Failed*, 184.

maintain policies that are rejected by the central government. From sanctuary cities in the United States to the increasing use of the Notwithstanding Clause in Canada,⁴⁰⁹ many subnational governments are already beginning to behave in ways that show their understanding of the difficulty of making consensus-oriented national policy under conditions of political polarization and intractable moral disagreement. The Canadian case is particularly apropos, as it matches our theoretical framework almost exactly; for partisans of the use of the clause, they are deliberately and consciously maintaining core elements of their normatively-informed political programs over and against an overexpansive definition of liberal rights being promulgated by institutions that have, in their view, been fully captured by comprehensive liberalism. And they are doing so, they maintain, with a kind of democratic legitimacy, matching Deneen's framework in a way they do not for Vermeule's.⁴¹⁰

Additionally, to manage another of Vermeule's feasibility objections, using and enhancing existing federal structures does not require nearly as much reinvention of the wheel as early Deneen's more strictly MacIntyrean localist mindset. While it is true that communities such as the Amish, Hutterites, and Mormons have had notable success maintaining themselves and resisting the encroachments of liberal individualistic modernity (obviously on a sliding scale and to different degrees), it is always going to be cold comfort to the nonliberal to say 'just form another church or social group that exemplifies virtuous solidarity.' There is an element of this issue that evokes Rene Girard's paradox of scapegoating: scapegoating, as a social practice, served a powerful and useful function that helped avoid the sorts of feuds that could destroy small pre-modern communities. However, once you, due to changing scientific or social factors,

409 Tsvi Kahana, "The Notwithstanding Clause in Canada: The First Forty Years," *Osgoode Hall Law Journal* 60, no. 1 (May 9, 2023): 7, <https://doi.org/10.60082/2817-5069.3875>.

410 Geoffrey Sigalet, "Legislated Rights as Trumps: Why the Notwithstanding Clause Overrides Judicial Review," 2022, 22.

stop believing that a goat can actually take onboard the sins of the community, this means that scapegoating can no longer serve its intended function.⁴¹¹ Moreover, you cannot then turn around and say ‘listen everyone, we’re all going to get together and change our metaphysics such that we regain access to this socially useful ritual.’ Similarly, the kind of deep religious sentiment it takes to form a community that creates deep and durable pro-social outcomes of the type right-liberals value cannot be *generated for the purpose* of achieving desired political ends. Certain things only work if they are genuinely believed. Nonliberal political coalitions will be just that – coalitions: not newly founded bespoke organizations of virtue, but conglomerations of citizens who agree on certain policy outcomes.

As such, it is better to picture the subnational governments as areas of policy coordination among those with differing comprehensive doctrines (though within a narrowed scope compared to national politics) rather than as pure, unadulterated expressions of those doctrines. This, again, better matches both Deneen’s theoretical emphasis on popular political approval and the reality of politics as it is actually practiced. Whether or not something is politically realistic, practically feasible, is a difficult thing to pin down within the theorists we have been treating so far.

Vermeule is, as he always has been, eager to emphasize that the development of the modern administrative state is not something that can be simply undone, that to do so is to demand we turn back the clock in a completely implausible manner. This may well be true, but most any political theory, should it be different enough from the status quo to prove intellectually interesting or analytically useful, features at least one area in which the theory recommends or posits some major, implausible shift from current trends and historical trajectories. Vermeule imagines ‘integration from within,’ wherein judges and educational institutions will, slowly and

411 René Girard, *The Scapegoat* (Baltimore: Johns Hopkins University Press, 1989).

behind the scenes, shape and nudge a liberal populace toward their (specifically and deliberately Roman Catholic) spiritual end. Deneen envisions actual electoral competition, in which nonliberal parties promote nonliberal platforms and pass nonliberal policies through popular mandate.

Depending on one's reading of the status quo, both of these can be difficult to intuitively accept. From a liberal perspective, Deneen's framework is obviously preferable, as it actually features some concessions to liberal modernity that Vermeule cannot countenance. To push the point further, though, even from a right-nonliberal position, one that takes seriously the moral degradation of the populace under liberalism *and* the limits this places on nonliberal governance projects, Deneen's theory also comes out ahead. Populist political movements, flawed and ill-tutored as they are, are *here*, extant and capable of being channeled. Moreover, the coarse-grained, coalitional nature of nonliberal political contestation means that one is more likely to achieve successful nonliberal policy interventions if one hews closer to Deneen's visions. If the populace is as corrupted by liberalism as nonliberals claim, then it is difficult to imagine sustained and coherent support for one particular iteration of nonliberalism. However, many members of many different worldviews can accept and support certain nonliberal policies (banning pornography, nonliberal educational policies, reining in the universities) even if they share little to no spiritual or metaphysical overlap. Deneen's vision of nonliberal politics lowers the threshold for nonliberal political success; moving to states and provinces as the main locus of political contestation lowers it even further, to the realm of the plausible.

A Federalist Benedict Option

This is where nonliberals can make recourse to the ‘devolutionary toolkit’ offered by Horowitz.⁴¹² Mormon-inflected communitarian governance could never succeed, I posit, on the national-level, but it can reach a critical mass of consensus in a place like Utah. Too many people have too many different conceptions of gender for nonliberal gender recognition policies to command every corner of Canada, but they can achieve some kind of stable settlement in Saskatchewan.⁴¹³ Federalism, as we have seen, can be used as a release valve for really quite deep and quite dangerous intranational tensions,⁴¹⁴ and shifting the locus of power from national-level politics to subnational units can ‘quarantine’ certain conflicts within them,⁴¹⁵ lowering the stakes of both national-level and subnational-unit political disputes.⁴¹⁶ For both liberals and nonliberals, application of the devolutionary toolkit both allows them a greater chance of implementing policies that could never achieve either national-level consensus or national-level constitutional imprimatur, and protects them from other subnational units that are run by political coalitions that are deeply hostile to their policies and priorities. While the policies and state capacities of the subnational units may be meaningfully asymmetrical,⁴¹⁷ the structure and incentives of the system promote a kind of symmetrical ‘disarmament’ in the arms race of “dimensionality reduction” that characterizes national-level politics in times of polarization and culture war.⁴¹⁸ Put simply, under devolutionary federalism within a liberal *modus vivendi*, we should expect to see not just a lowering of national-level political tensions, but a diversifying of

412 Horowitz, “The Many Uses of Federalism.”

413 Horowitz, “The Many Uses of Federalism,” 958.

414 Horowitz, “The Many Uses of Federalism,” 959.

415 Horowitz, “The Many Uses of Federalism,” 959.

416 Horowitz, “The Many Uses of Federalism,” 960.

417 Horowitz, “The Many Uses of Federalism,” 959.

418 Törnberg, “How Digital Media Drive Affective Polarization through Partisan Sorting,” 8.

political priorities and disputes across subnational units that would have previously been coalition partners in national politics, further decreasing the likelihood that the national-level government will be captured by any one faction or comprehensive doctrine.⁴¹⁹

Focusing on subnational-level governments as the locus for political competition, even when paired with reforms that would allow those governments to more fully reflect nonliberal comprehensive doctrines, does still demand concessions from Deneen's national-level policy program. In addition to the issues adduced above, where nonliberals would simply have to risk the possibility of cultural interference by cross-state entities like corporations, the more pressing issue is the simple presence within the borders of the United States of subnational governments reflecting the morality of communities that are radically different from your own. We could call this, from the right-wing perspective, the "drag queen story hour" problem, after the unique cultural practice within several progressive states that led Sohrab Ahmari, another influential right-Catholic nonliberal, to abandon his support for right-liberal legalism.⁴²⁰

To ameliorate this concern, it is not quite accurate to say that the playing field between differing states needs to be 'neutral', as this would reintroduce the precise liberal bugbear that MacIntyre, Deneen, and Vermeule all reject. Nor can we appeal to some sense of symmetry in state capacity, since one of the benefits of the devolutionary toolkit is its capacity for asymmetrical policies and levels of state capacity across subnational units. However, there is still a possibility, indeed even the institutionally incentivized probability, that subnational units will have symmetrical power to influence the policies of other states, insofar as those powers will be symmetrically limited by similar pragmatic considerations. Charitably, it is a desire for this kind

419 Horowitz, "The Many Uses of Federalism," 961.

420 Sohrab Ahmari, "Against David French-ism," *First Things*, May 29, 2019, <https://www.firstthings.com/web-exclusives/2019/05/against-david-french-ism>.

of symmetry that lies behind the tendency for even dedicated nonliberals like Deneen and Vermeule to occasionally still dip into the language of reasonableness, complaining of liberalism’s “debatable political and social decisions”⁴²¹ stemming from its “implausible account” of morality.⁴²² Rather than an unprincipled return to the language of political liberalism for the sole purpose of undermining it, this complaint is founded in the recognition that, at this point, it is functionally acceptable for national and subnational governments to take actions aimed at maximizing the autonomy of their citizens, with autonomy being seen as a self-justifying policy-end. However, efforts to organize those same governments around other, nonliberal conceptions of the good are always subject to, and often fall to, challenges in the courts.

Therefore, under this basic imbalance, wherein the ultimate good of comprehensive liberalism is allowed access to the levers of government in a way that ultimate goods of nonliberal doctrines are not, it creates at least the perception that even minor cultural encroachments, such as Budweiser beer reaching out to a trans influencer,⁴²³ will ultimately lead to a novel and untested comprehensive liberal conception being imposed upon nonliberals by state force. This force, it then becomes tempting to believe, can only be alleviated by “counter pressure” in the form of a robust nonliberal national-level political program.⁴²⁴ What is needed to alleviate this felt sensation of defeat is the existence, and durability, of differing settlements on questions of deep and intractable moral disagreement shared across subnational governments that

421 Deneen, *Regime Change*, 101.

422 Vermeule, *Common Good Constitutionalism*, 2022, 37.

423 Elizabeth Napolitano, “Anheuser-Busch Exec Steps down after Bud Light Sales Slump Following Dylan Mulvaney Controversy - CBS News,” November 16, 2023, <https://www.cbsnews.com/news/bud-light-anheuser-busch-marketing-chief-steps-down-boycott-dylan-mulvaney/>.

424 Ahmari, *Tyranny, Inc.*, 178.

more closely match the comprehensive doctrines shared by a coalitional majority of that subnational units' constituents.

Understanding the liberal *modus vivendi* in this way also helps to address a common criticism from comparative political science, that being that populism, including the sort that Deneen wishes to harness, is constitutively anti-pluralistic.⁴²⁵ Given this, it would seem that my attempt to make Deneen's populism safe for pluralism is doomed from the start. This is an understandable criticism, but it misses the importance of the shift in governance level, from the national level to subnational units. The goal is not to maintain pluralism *within* subnational units; indeed, very few actually-existing subnational units, regardless of their political ideology, seem interested in maintaining pluralism *qua* pluralism within their borders. Those on the left are correct that right-wing subnational governments are interested in imposing religious values on their population at large, and those on the right are correct that left-wing appeals to diversity only cover, in practice, a rather narrow range of modes of living, usually those valued by educated urbanites. When proposing devolution of federal power under conditions of political polarization, the hope is not that subnational units will suddenly see the value of pluralism; it is rather that, by allowing relative ideological hegemony within subnational units, this will create the conditions for *de facto* pluralism on the national level.

Indeed, when one recognizes the amount of hegemony that already exists within subnational units (how few 'purple' states there truly are, how rare state-level changeovers of power have actually become), this strategy begins to look like the *only* plausible way of maintaining *de facto* pluralism. There is all the difference in the world between a populism aimed at taking the national government, perhaps by force, and a diverse and fractious set of

425 Jan-Werner Müller, *What Is Populism?* (University of Pennsylvania Press, 2016), most famously.

populisms each aimed at their relevant subnational governments, bringing their policy platforms more in line with the normative worldview that predominates among their local polities. As I have discussed earlier and will discuss again below, the latter stands a chance of breaking up dangerous national-level coalitions and preserving some semblance of pluralism, whereas the former is the stuff of nightmares for theorists of democratic backsliding. That Deneen's most uncompromising work yet can be brought in line with the latter can offer us some hope.

We are, it bears repeating, already seeing examples of subnational differentiation and internal hegemony, not just on issues that have long since faded from political consciousness, such as physician-assisted suicide in the United States,⁴²⁶ but on current issues of intense controversy. Take the question of gender identity among legal minors; currently, many 'red states' have taken steps to restrict or outright ban forms of gender-affirming care among minors, even going so far as to invoke terms such as 'grooming' or 'child abuse.' Some of these policies even allow for the state to remove children from their parents' custody should the parents fully engage in a mode of life that features at its core a fundamentally different conception of gender identity than that held by Republican majorities and legislators. This has received widespread coverage and condemnation by those institutions and coalitions sympathetic to the

⁴²⁶ Physician-assisted suicide in Oregon is an excellent example of a formerly highly-salient and morally divisive policy question that has largely been settled on a state-by-state basis and mostly faded from public view. The states predisposed to legalize medical assistance in dying have largely done so, and those who are not are neither experiencing either national-level pressure to do so, nor are they experiencing further affective polarization due to the drop in the issue's salience. One counterargument could be that, since 1997, we have seen a steady stream of states legalizing and liberalizing physician-assisted suicide, and this pattern could serve as evidence of a slippery slope. However, the states that have done so have largely been blue states, which is to say members of the national-level political coalition that has adopted support for physician-assisted suicide as a cultural marker as much as anything else. Devolutionary federalism of the kind required by a subsidiarity-oriented modus vivendi weakens the incentives for those kind of homogeneous national-level coalitions, and we should not blame subsidiarity for a political trend incentivized by centralism. Furthermore, the comparison between the current low salience of physician assisted suicide in the United States and the relatively high level of salience of the MAID debate in Canada shows the difference between a policy pursued at the subnational level, piecemeal, with allowance for different political contexts, as opposed to the imposition of a new policy paradigm handed down from a supreme court.

comprehensive liberal prioritization of individual autonomy. However, somewhat less covered has been the bill recently passed by the California Legislature requiring judges in custody cases to take into account whether or not one or both of the parents has been properly affirming of a child's stated gender identity.⁴²⁷ While both earlier in its legislative existence and arguably less intense than the red-state policy platform, this proposed policy nonetheless features the same basic stakes; if you disagree with the understanding of the relationship between gender and sex held by your relevant subnational government, and seek to raise your child according to your views on the matter, the state reserves the right to take your child away from you and place them in care it deems more suitable to their flourishing, either as a fully autonomous self-creating individual or as a grounded member of a community that follows a shared set of gender norms.

From the perspective of a pluralist liberal, both of these outcomes are deeply lamentable. In a world where we adequately grappled with the existence of deep, persistent, reasonable disagreement on matters of gender, a parents' right to raise their child in accordance with their conception of gender would be, if not absolute, certainly not so disposable. However, to return to a theme of this dissertation, very few people are felt pluralists, and as such the best a pluralist liberal can hope for is that a few states among many will adopt, internally, a more pluralistic policy arrangement to settle these issues. They can also demand that freedom of movement be maintained in order to allow proper Tiebout sorting to occur. But they will have to give up the

⁴²⁷ Governor Gavin Newsom has since vetoed the bill, arguing that California already possesses and exercises this particular state capacity ("California Bill Requiring Custody Courts Consider Gender Identity Vetoed - CBS San Francisco," September 23, 2023, <https://www.cbsnews.com/sanfrancisco/news/california-bill-requiring-custody-courts-consider-gender-identity-veto/>; Ashley Zavala, "Judges in California May Have to Consider a Parent's Affirmation of Their Child's Identity in Custody Cases," KCRA, September 8, 2023, <https://www.kcra.com/article/california-judges-parent-affirmation-child-identity/45051872>.) Newsom is widely suspected to have done so as a result of his national-level political ambitions, providing an example for comprehensive liberals of how the dimensionality reduction encouraged by centralized governance structures can put limits on the sorts of policies they would like to enforce.

idea that pluralism *qua pluralism* will ever reign uniformly across all subnational units, or even within subnational units, under even a liberal subsidiarity-oriented *modus vivendi* arrangement. Similarly, both comprehensive liberals and right-nonliberals (the only potential members of the pact we have yet discussed) will have to accept that the mere existence of subnational governments in which people live according to moral doctrines and modes of life that they find abhorrent will not lead to the erosion of their own modes of living. This requires a kind of inversion of salience; whereas the comprehensive liberal spends much time living in fear of the seemingly-ineradicable right-populist backlash, and the right-nonliberal cannot turn on their television without seeing the overwhelming dominance of comprehensive liberals in the most influential areas of academia and entertainment, both of these worldviews can take succor from the fact that their opponent is, in some sense, correct. And, should the recognition that they have powerful political and cultural resources on their side lead either of these worldviews to premature triumphalism, the fear that has so far guided their political actions can serve more productively as a spur for retrenchment within the subnational governments that they control. This, plausibly, could lead to a meaningful process of de-escalation, wherein coverage of the evils done in another state or province leads to further policy expressions of your relevant comprehensive doctrine within your own subnational unit, leading to more stability over time as said retrenchment makes the regime of your choice appear stronger, which decreases the felt need for national conquest, which allows for more careful and deliberate motion towards your own comprehensive doctrine within your borders, leading to more policy stability over time, and so on.

If this prognosis sounds overly optimistic, recall the previously discussed research showing that state level retrenchment and Tiebout competition is already the order of the day.⁴²⁸ As I examined in Chapter 1, while increasing ideological hegemony at the state level could in theory make national-level political polarization worse, there are just as many, if not more, reasons to expect that it can serve as a means of ameliorating the institutional incentives which currently feed national-level political polarization. What I have been calling Horowitz's 'devolutionary toolkit'⁴²⁹ can be used to break up the current coalitional bonds that are required for any ambition to realize a single comprehensive doctrine at the national level. As states/provinces gain more power, a 'conservative' party in Alabama will begin to differ in significant ways from a 'conservative' party in Utah, and a 'progressive' party in Oregon will discover it has some noticeably different regional and economic interests than a 'progressive' party in Massachusetts. Canada's history of strong provincial federalism contains valuable lessons for the United States on this question; Quebec politics has developed many political axes that are orthogonal to the political dynamics of Anglophone Canada, and something similar may today be happening with the western Canadian provinces as well, something we westerners in the United States already have some experience of.

Recall from the literature review on polarization that the main issue is not local hegemony, but rather "dimensionality reduction."⁴³⁰ Different states and different regions do *in fact* have different political interests, and different ideological and normative makeups that interact recursively with these differing interests. National-level political polarization, and the dimensionality reduction that it both engenders and draws strength from, is best understood as a

428 Mason, "I Disrespectfully Agree"; Brown and Enos, "The Measurement of Partisan Sorting for 180 Million Voters"; Kaplan, Spenkuch, and Sullivan, "Partisan Spatial Sorting in the United States."

429 Horowitz, "The Many Uses of Federalism," 958–62.

430 Törnberg, "How Digital Media Drive Affective Polarization through Partisan Sorting," 8.

means of making subnational political populations forget this fact, and focus on issues that are ultimately less morally salient to them than ones they would choose to debate under conditions of greater devolution of federal power. Even worse, to the extent that this dimensionality reduction distracts subnational populations from potential issues of greater moral salience, it can feed a felt sense of political helplessness, which is a major driver of political polarization.⁴³¹ If subnational governments are permitted to make policy decisions of high salience and significant normative weight, without being preempted either by national-level legislation or decisions by a supreme court, this felt sense of helplessness can be alleviated through local policies that meaningfully align subnational governments with the comprehensive views of their constituents. If, however, national-level politics continues to be the main locus of political ambition, both institutionally and in the popular imagination, then this felt sense of helplessness will increase, and be channeled into the governance level where the normative ambitions of the citizens are least likely to be achieved, yet where the unintended consequences of their policy ambitions are most likely to be dangerous.

Moreover, while it is true that, under normal conditions, Tiebout sorting is a marginal phenomenon, and people rarely move across state borders for ideological reasons, this underplays the ways in which economic migration, a much more common event, can contain or represent ideological balancing decisions. Someone who chooses to move from Corona, California to Austin, Texas, is making a judgment, not just about their preferred economic situation, but about the governance priorities and normative outlook of the target polity in question. Texas' particular policy cocktail of a relatively stingy welfare state, coupled with abortion restrictions and an eagerness to lower housing costs, is not merely an accidental

431 Levy, "The Sovereign Myth."

arrangement of the priorities of locally powerful interest groups; it can be plausibly read to flow from an *ethos* of self-sufficiency, family formation, and upward social mobility. It is not as though economic policy choices are, or could possibly be, siloed from ideological choices. More often than political scientists realize, economic policy choices originate from ideological stances and normative intuitions, even if those intuitions are relatively unrefined or ‘grainy.’ The California-to-Texas migrant, far from a rare species,⁴³² may decry local restrictions on abortion, and may even push to change them. But their act of moving already contains within it a statement on ideological and normative prioritization; whether or not a fetus is a child is an inescapably moral matter, but so is whether people without six-figure salaries ought to be able to afford a mortgage. The goal is not for everyone in the United States to reach a one-to-one correlation between their moral views and that of the polity they live in, but to create the institutional conditions for a wider range of normative governance arrangements than currently exists. This increases the likelihood that a polity *more closely* matching one’s felt normative prioritization will be physically nearer, and therefore cheaper to move to, and therefore more accessible.⁴³³

Finally, and for those still skeptical of Tiebout sorting as a sufficient mechanism to ameliorate increasing ideological polarization, an explicit focus on Tiebout sorting as conflict amelioration opens up new institutional options to us. Most notably, policies deliberately

432 US Census Bureau, “Number and Percentage of State-to-State Movers Increased Between 2021 and 2022,” Census.gov, accessed March 8, 2024, <https://www.census.gov/library/stories/2023/11/state-to-state-migration.html>.

433 In some cases, there are even organizational reforms on the table that allow for sizable population shifts without anybody needing to physically move. In my home state of Oregon, the Greater Idaho Movement (“The Greater Idaho Movement,” accessed March 9, 2024, <https://www.greateridaho.org/>.) has marshaled significant popular support in the more conservative, eastern parts of the state for simply moving the Idaho border west to encompass them. Border reforms such as these, and (in another, more common case), devolution of state-level power even further to blue cities in red states, show ways that we can bring state subpopulations under subnational governments that much more closely align with their comprehensive worldviews without all of the structural barriers that arise when considering literal physical movement of people.

intended to subsidize Tiebout relocation could be undertaken, both by subnational units and, justifiably, as a national-level policy intended to bolster an increasingly subsidiarity-oriented *modus vivendi* governance arrangement. State level political actors are already incentivized to compete for skilled labor, especially those states, like California, which are losing population from what could otherwise be productive members of a middle-class tax base. But a *modus vivendi* liberal governance arrangement would have a strong case *at the national level* for offering relocation assistance between states or provinces. This could be undertaken in a plausibly neutral manner, framed as incentivizing competition between states for population, as opposed to the current incentives for competition among state-level actors for control of the federal government. Importantly, subsidies of this sort are already being offered in areas of high political salience, such as abortion access, both by private companies⁴³⁴ and charitable organizations such as the Brigid Alliance, with these strategies being much more legally robust both under the current post-Roe legal regime⁴³⁵ and my proposed MacIntyrean *modus vivendi*. Should Tiebout sorting prove in practice to be either a highly effective mechanism for amelioration of polarization, or be harder to achieve under *modus vivendi* conditions that I predict, these proposed national-level subsidies for relocation could be, in a sense, ‘upgraded’ from a laudable institutional arrangement for a liberal *modus vivendi* to a *necessary* institutional arrangement for a liberal *modus vivendi*.

More importantly, I would emphasize that the two sides we have discussed so far are in a condition of strategic ambiguity, and, leaving aside simplistic game-theoretical models of

434 Emma Goldberg, “These Companies Will Cover Travel Expenses for Employee Abortions,” *The New York Times*, August 19, 2022, sec. Business, <https://www.nytimes.com/article/abortion-companies-travel-expenses.html>.

435 Leslie Francis and John Francis, “Federalism and the Right to Travel: Medical Aid in Dying and Abortion,” *Journal of Health Care Law and Policy* 26 (2023): 49.

conflict, whether or not strategic ambiguity leads one to escalate hostilities or sue for peace is a matter of careful framing and political wisdom. In the most optimistic reading, the constituents of the federal republics of Canada and the United States are already recognizing the condition they are in, where the national-level institutions they could use to enforce their comprehensive doctrine nationwide are in decline both in terms of their capability to command consensus as well as in their sheer state capacity, with those two dynamics informing and exacerbating each other. As such, they are in a sense ‘backing into’ a modus vivendi arrangement without fully realizing it. Should this situation hold true, then the task of responsible people is simply not to stand in its way, recognizing that constitutional principles and interpretations thereof will shift to accommodate this new, more robust federalist regime.

Should our situation be more dire, however, and should strategic ambiguity be as dangerous a condition as we know it to sometimes be, then perhaps the modus vivendi option looks more attractive as an alternative to mass street violence and iterative constitutional crisis. After the riots associated with the 2020 George Floyd protests and the attempted coup of January 6th 2021, it is less clear than ever which ‘side’ of our current political disputes would have an upper hand in such an awful eventuality, and poll after poll shows that Americans, barring the extreme fringe, still react to street violence with abhorrence rather than support.⁴³⁶ It may be the case that deescalation is truly, at this point, off the table, but should that be true, we have much worse problems than that one particular chapter of this dissertation is misguided.

So, to summarize, from examination of key right-nonliberal texts and key arguments among right-nonliberals, we see that, aligning with the MacIntyrean modus vivendi we discussed

436 Garen J. Wintemute et al., “Views of Democracy and Society and Support for Political Violence in the USA: Findings from a Nationally Representative Survey,” *Injury Epidemiology* 10, no. 1 (September 29, 2023): 4, <https://doi.org/10.1186/s40621-023-00456-3>.

in Chapter 3, a *modus vivendi* that takes into account the actual state of right-nonliberalism and the appeal of right-nonliberal views and beliefs requires several meaningful sacrifices from the liberal status quo. Namely, subnational units will be permitted to restrict certain forms of currently-constitutionally-protected speech and communication (pornography foremost among these), social services will be permitted to interfere with households that hold to controversial understandings of gender, and subnational unit control over higher education and curricula will be expanded and deepened, at the cost of academic freedom. Moreover, with the possible exception of the first example,⁴³⁷ these shifts are already occurring, both within right-nonliberal polities and, as we will discuss in a later chapter, comprehensive liberal polities as well. Despite this, these are still significant concessions to extract, balanced out notably by the limiting conditions present in a theory like Deneen's. Not only does Deneen offer us a coordination point that rules out a Vermeulean, national-level integration from within, but I have shown how his own moral assumptions, if taken seriously, point towards subnational governments as the appropriate and most effective areas of right-nonliberal contestation, as opposed to the national-level political project of Disraeli-style Tory Democracy that he imagines is necessary to break the stranglehold of political and cultural liberalism.

The space this allows for both pluralist and comprehensive liberal coalitions to retrench and flourish within their own subnational governments is difficult to overvalue, especially given the rarity of liberal sentiments among the general population. The liberal can hope that, upon

437 But also possibly not: recent state laws requiring government identification for age verification on pornography websites have caused Pornhub to cease operation in several states. (Marc Novicoff, "A Simple Law Is Doing the Impossible. It's Making the Online Porn Industry Retreat.," *POLITICO*, August 8, 2023, <https://www.politico.com/news/magazine/2023/08/08/age-law-online-porn-00110148>.) This serves as an additional example of right-nonliberal legislative ingenuity, showing that national-level control may not be needed in order to establish quite powerful obstacles to, as they would have it, the depredations of individualistic liberal modernity.

contending for and attaining power within sympathetic subnational units, nonliberal citizens and the political actors they choose to represent themselves will be confronted with the sorts of inconvenient governing realities that liberals, long in power, are well-familiar with. Moreover, they can reasonably hope that different subnational units will experience different political pressures due to geographic, economic, or cultural factors, and these varied pressures will create a more diverse and, more importantly, fractured landscape of nonliberal political opinion and salience. In a more fractured landscape, one less beholden to the current dimensionality reduction of national-level culture-war politics, nonliberal citizens, already a fractious group, will be less likely to be able to form the sort of cohesive cross-provincial political coalition that could damage the capacity for liberal subnational units to govern in liberal ways. But, ultimately and in full honesty, these are hopes: reasonable hopes, but hopes nonetheless. The only thing the modus vivendi structure can *promise* is that conditions of strategic ambiguity are good conditions to set up norms of non-interference and reciprocity, and that the analysis contained within this chapter shows that right-nonliberals, at least, have good reasons to recognize large amounts of autonomy for subnational units and good reasons to reject the national-level government as the locus of their political aims and desires. We will discover whether or not this is true of left-nonliberals as well in the following chapter.

Chapter 5: Left-Indigenous Resurgence & Requirements

I turn now to my primary case study in left-nonliberalism, what some call “degrowth” leftism. As we shall shortly see, this is a less cohesive and delineable category than the previous chapter’s category of right-Catholicism/Catholic integralism; indeed, at first glance it may appear that degrowth leftism is something closer to an inclination or an impulse than a full-blown comprehensive doctrine. However, as I shall show, this genre of leftism contains within it clear ideas about the nature of the good life, clear ideas which, like the right-Catholics, put it into serious conflict with modern capitalistic liberalism as it currently exists. Degrowth leftists “criticize... the belief that growth will eradicate poverty through national economic enhancement. Their aim is to bring us to the realization that we can’t continue to grow by extracting and exploiting recklessly and haphazardly in a world with limited material goods.”⁴³⁸ Adherents of this worldview call for “voluntary, equitable, and democratically led reduction of the materials and energy that a society extracts, processes, and disposes of as waste.”⁴³⁹ Put broadly, degrowth leftism “critiques the global capitalist system which pursues growth at all costs, causing human exploitation and environmental destruction,” with a positive project involving “radical redistribution, reduction in the material size of the global economy, and a *shift in common values* towards care, solidarity, and autonomy.”⁴⁴⁰ This may seem to be, at first blush, a challenging candidate ideology for a devolutionary, decentralized *modus vivendi* to accommodate, but my analysis will show that, much like with the right-Catholics, this nonliberal

438 Raquel Neyra, “Constructing the People: Left Populism and Degrowth Movements,” *The European Legacy* 24, no. 5 (July 4, 2019): 566, <https://doi.org/10.1080/10848770.2018.1550896>.

439 Bengi Akbulut, “Degrowth,” *Rethinking Marxism* 33, no. 1 (January 2, 2021): 98, <https://doi.org/10.1080/08935696.2020.1847014>.

440 “Degrowth,” Degrowth, accessed June 5, 2024, <https://degrowth.info/en/degrowth>, emphasis added.

political tendency contains strong localist strains, strains which align well with the emerging devolutionary *modus vivendi*. Indeed, much as with the right-Catholics, the internal tensions within this family of nonliberalism may *require* it to be angled towards devolutionary institutions and local institutional forms, despite its stated national and even global ambitions. Should there be inescapable empirical and theoretical obstacles to the realization of national-level left-nonliberal objectives, the local may be, in some sense, the only realistic option.

To establish this, I will need to treat more thinkers at a somewhat briefer duration than I did in the previous chapter, to help establish the general sensibility.⁴⁴¹ Given that many of these thinkers draw upon Indigenous values, practices, and ways of life, or at least their understandings of Indigenous values, practices, and ways of life, I will then turn to actual left-Indigenous thinkers⁴⁴² and a telling interpreter⁴⁴³ in order to provide a clearer example of this political tendency as a fully fleshed-out comprehensive doctrine. While the relationship between the Indigenous leftists and the non-Indigenous leftists is fraught and complicated, as we shall shortly discuss, they are ultimately united in their nonliberalism. They reject capitalism (and arguably liberal property/commercial relations) for the sake of a different comprehensive vision of human's relationship to resources, wealth, and the natural environment.

441 Heinberg, *The End of Growth*; David Graeber and David Wengrow, *The Dawn of Everything: A New History of Humanity*, First American edition (New York: Farrar, Straus and Giroux, 2021); James C. Scott, *Against the Grain: A Deep History of the Earliest States*, Yale Agrarian Studies (New Haven: Yale University Press, 2017); James C. Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*, Yale Agrarian Studies Series (New Haven: Yale University Press, 2009); James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*, Veritas paperback edition, Yale Agrarian Studies (New Haven, CT London: Yale University Press, 2020).

442 Coulthard, *Red Skin, White Masks*; T. Alfred, *It's All about the Land: Collected Talks and Interviews on Indigenous Resurgence*, ed. A. Rogers (University of Toronto Press, 2023), https://books.google.ca/books?id=Up_UEAAAQBAJ; Simpson, "Land as Pedagogy."

443 Federici, *Re-Enchanting the World*.

While the analogies are not perfect, broadly speaking I will treat Heinberg as an analogue to Anderson & George,⁴⁴⁴ Coulthard as an analogue to Deneen,⁴⁴⁵ and Federici as an analogue to Vermeule.⁴⁴⁶ Heinberg, while illuminating, ultimately offers a form of degrowth leftism that is too ‘domesticated’ and convenient a bargaining partner for the existing forms of liberalism, such that his approach is unlikely to adequately represent the depth of the rejection of capitalistic neoliberalism that we are currently seeing among left-nonliberals. Glen Coulthard and Leanne Betasamosake Simpson⁴⁴⁷ are closer to the characterization we found in Deneen’s work, wherein a political theory that is openly and self-consciously radical can be reinterpreted to function within a federal liberal modus vivendi featuring significant devolution of political power to subnational units. This is in contrast to Sylvia Federici, who also draws inspiration from Indigenous political thought to support a left-nonliberal comprehensive notion of the good, but who, unlike Coulthard and Alfred, does so in a totalizing manner, imagining a new moral and political relationship between individuals, communities, and “the commons” that explicitly rejects geographically/demographically limited forms of left-nonliberalism on the grounds that “they are quite compatible [with] capitalist relations.”⁴⁴⁸ Her plans for national politics are not as deliberate and systematic as Vermeule’s,⁴⁴⁹ but they share an equivalent conviction that localist, bounded forms of nonliberalism are insufficiently challenging to, and insufficiently protected from, the hegemonic liberalism they both oppose.

444 Anderson and George, “The Baby and the Bathwater.”

445 Deneen, *Why Liberalism Failed*; Deneen, “Against Academic Freedom”; Deneen, *Regime Change*.

446 Vermeule, “Integration from Within”; Vermeule, *Common Good Constitutionalism*, 2022; Vermeule, “A Christian Strategy.”

447 Simpson, “Land as Pedagogy.”

448 Federici, *Re-Enchanting the World*, 90.

449 Vermeule, “Integration from Within”; Vermeule, “A Christian Strategy.”

Ultimately, our analysis of left-nonliberalism, particularly the left-Indigenous thinkers, will add two main desiderata to the emerging devolutionary *modus vivendi* arrangement we have been sketching: the weakening or outright removal of legal regimes guaranteeing economic integration of subnational units, and the permissibility of race- and ethnicity-conscious legislation and legal structures within bounded territories. The left-Indigenous rejection of capitalism and market relations is too tied to their comprehensive worldview for our current legal regime of economic integration, represented through the Interstate Commerce Clause in the United States and the Agreement on Internal Trade/Canadian Free Trade Agreement in Canada, to stand. Furthermore, the need to preserve rituals, communities, and ancestral lands through explicit legal protection requires deviations from naive liberal conceptions of racial discrimination and equality under the law, conceptions which, as Coulthard catalogs, have been used to thwart any plan for Indigenous self-determination that could have any legal teeth.⁴⁵⁰ These are major changes to our current institutional and legal regimes, but our analysis of our left-nonliberals, particularly the left-Indigenous thinkers that make up the core of this chapter, will show why they are necessary.

An important point to highlight is that the signifier “left-Indigenous” is chosen very specifically and carefully. That formulation is in no way meant to imply that all Indigenous thinkers, let alone Indigenous individuals, are leftists. I intend the exact opposite; Indigenous leftists are one group of their broader Indigenous nations and coalitions. John Borrows, for instance, highlights that Indigenous governance arrangements can be made at least partially concomitant with settler conceptions of property and ownership. “Indigenous peoples’ own laws,” he writes, “can accommodate a wide variety of interests. If private owners have accrued

450 Coulthard, *Red Skin, White Masks*, 70–71.

entitlements under Indigenous law through their long presence on Indigenous lands it could be possible to continue to protect these interests... Furthermore, the Crown could recognize this result through treaties, which would likewise secure constitutional protection for private ownership within Indigenous legal systems.”⁴⁵¹ Rejecting an interpretational status quo in which “historically Aboriginal peoples’ land rights were meant to be subordinated in Canadian law,”⁴⁵² Borrows argues that “with Aboriginal title now recognized and affirmed new forms of property must be recognized to accommodate its existence.”⁴⁵³ While Borrows likely considers himself on the broad political left, his body of work shows that not all Indigenous scholars, let alone Indigenous citizens, adopt the more radical political positions of actual Indigenous leftists like Coulthard and Simpson. A failure to recognize this internal diversity risks reifying the bigoted notion of the economically enlightened “21st-century noble savage,”⁴⁵⁴ who’s expected to “spout mystical-sounding ecological wisdom” and “know the entire histories and cultural practices of every tribe that occupied this land.”⁴⁵⁵ Even within subnational units that are governed wholly by Indigenous groups, Indigenous leftists will need to argue for, balance, and temper their political projects in light of disagreements that exist within Indigenous communities.

Furthermore, in the spirit of doing this theoretical work with the due diligence it deserves, any settler usage of Indigenous political thought requires us to evaluate it with a careful, perhaps even jaundiced, eye, given the history of motivated misinterpretation of Indigenous beliefs,

451 John Borrows, “Aboriginal Title and Private Property,” *The Supreme Court Law Review: Osgoode’s Annual Constitutional Cases Conference* 71, no. 1 (December 31, 2015): 112, <https://doi.org/10.60082/2563-8505.1307>.

452 Borrows, “Aboriginal Title and Private Property,” 128.

453 Borrows, “Aboriginal Title and Private Property,” 130.

454 Kim TallBear, “Close Encounters of the Colonial Kind,” *American Indian Culture and Research Journal* 45, no. 1 (January 1, 2021): 166, <https://doi.org/10.17953/AICRJ.45.1.TALLBEAR>.

455 Kim TallBear, “Shepard Krech’s The Ecological Indian: One Indian’s Perspective,” *International Institute for Indigenous Resource Management [IIIRM] Publications* 30 (2000): 1.

worldviews, arguments, and political positions. Heinberg,⁴⁵⁶ Graeber & Wengrow,⁴⁵⁷ Federici,⁴⁵⁸ and even MacIntyre⁴⁵⁹ all, to greater or lesser degrees, draw upon Indigenous political thought in order to bolster their left-nonliberal worldviews, preferences, and policy outcomes. This raises concerns that, as degrowth left-nonliberalism sometimes takes inspiration from indigenous theory, and sometimes from reconstructed (or actively romanticized) understandings of indigenous ideas and beliefs, it risks operationalizing Indigenous political thought in tokenizing and ahistorical ways. These concerns are well-founded; Graeber & Wengrow treat settler travel narratives as essentially accurate representations of Indigenous political thought, and Federici, as we shall later see, mobilizes a flattened and sanitized version of Indigenous culture and history in order to provide normative grounding for her ‘re-commoning’ of the United States. These sorts of slapdash utilizations will not be news to Indigenous scholars themselves, but in analyzing the connections between left-Indigenous political thought and the non-Indigenous leftists who claim to draw on it, they cannot be ignored, and have concrete consequences for the way in which we understand the differences between the left-Indigenous project and left-nonliberalism as a whole. There are genuine areas of overlap, but use and adaptation must be done carefully, lest adaptation turn into co-optation.

Naturally, as I am a settler myself, my own analyses and uses of Indigenous political thought must also come under the same level of scrutiny, especially given my methodological approach of counterintuitive exegesis, wherein I offer alternative interpretations of a thinker’s work, sometimes even interpretations that the original author might disagree with. The possibility of engaging in co-optation myself greatly concerns me, and I intend to practice my

456 Heinberg, *The End of Growth*, 68, 472–73.

457 Graeber and Wengrow, *The Dawn of Everything*, 44, 53, 54, 69, among others.

458 Federici, *Re-Enchanting the World*, 93.

459 MacIntyre, *Dependent Rational Animals*, 120–21.

interpretive method with great care and conscientiousness, but even then some might say that my particular positionality creates too many stumbling blocks for my analysis, and therefore I ought either not to treat Indigenous political thought or I ought to do so in a way qualitatively different than how I treat the settler political theorists I have drawn upon so far. There are two main reasons I will not be changing my approach for this chapter of the thesis, one moral and one methodological. The moral reason is simple; to treat Indigenous thinkers in a way categorically different than the way I treat luminaries of political philosophy and theory is, to my conscience, disrespectful and ghettoizing. When scholars present their ideas to the scholarly public, they do so with the full awareness that others will use their ideas in ways they may not fully approve of, and the Indigenous thinkers I cite are scholars of the highest caliber. To refrain from full engagement with their ideas, on the same terms as I would treat any other form of sophisticated nonliberal thinking, is a moral nonstarter, and while the project ought to be undertaken with care, I believe it still ought to be undertaken.

The methodological reason is equally salient; the positionality critique made above, while well-taken, depends upon, as a premise, a particular conception of the existence and character of background hierarchies of oppression. I, myself, believe that that conception is largely correct; when I look at the evidence, it seems obvious to me that Indigenous peoples are subject to hierarchies of oppression and domination, and when I see polling showing that a large number of Americans believe that white people are oppressed in modern-day America, that conclusion strikes me as obviously ridiculous. However, this dissertation is my attempt to identify and excavate an emerging *modus vivendi* relationship that is being negotiated between groups and peoples with wildly different ideologies and lifeworlds, who disagree with each other

incommensurably about core elements of their worldviews. As such, I cannot rely, for my argumentation, upon one particular understanding of the existence and character of background hierarchies of oppression and domination, since the existence and character of background hierarchies of oppression and domination is one of the most important things that these different groups disagree about. Moreover, I cannot, due to my rejection of political liberalism, appeal to naive notions of ‘reasonableness’ as a standard for accepting certain conceptions of background power hierarchies while rejecting others, as it is precisely the co-optation of the conception of the reasonable that forms the basis of the political-comprehensive collapse, and of which both right-nonliberals and left-nonliberals are justifiably skeptical.

This may appear as yet another stab at liberal neutrality from someone without sufficient political and normative investment in the struggles of marginalized peoples. However, to the extent that what I’m doing is a form of neutrality, mine is a neutrality that validates many of the concerns and fears that nonliberals of all stripes have under the conditions of the political-comprehensive collapse. Both of these analysis chapters begin with the premise that the nonliberals in question *are in fact* prevented from living according to their comprehensive conceptions of the good due to an overbearing liberalism that fakes neutrality and rigs the game in its favor. My refusal to put an analytical ‘thumb on the scale’ in favor of one particular sectarian conception of the existence and nature of background hierarchies of domination and oppression has its downsides; I cannot, in my analysis of the emerging devolutionary *modus vivendi*, logically or rhetorically support certain positions that would depend on the conception of background power hierarchies that the Indigenous theorists and I share, such as allowing legislation that only benefits groups left-nonliberals recognize as marginalized.

However, I contend, my approach does have its upsides; a *modus vivendi* that does not rely on one particular contested conception of the nature of background power hierarchies will be more stable under the conditions of deep disagreement and political polarization in which we currently find ourselves. I cannot offer certain universalistic solutions that many left-nonliberals wish to see implemented, but the space within subnational units for left-nonliberals, especially left-Indigenous nonliberals, to engage in concrete actions to realize their comprehensive notions of the good will be more secure. As with the right-nonliberals, left-nonliberals have broad goals that would be much more easily achieved using the power of the centralized state, but that same centralized state has shown itself to be, time and again, hostile to their attempts to live according to their comprehensive notions of the good. Against this backdrop, then, a theoretical and normative basis for achieving smaller, but meaningful, spheres of political and normative autonomy is more valuable, and that is something the emerging devolutionary *modus vivendi* is well-situated to provide.

Settler Degrowthers

Turning now to Heinberg, we can see some of the core claims of the degrowth leftism outlook. The book begins with the bold declaration that “*Economic growth as we have known it is over and done with.*”⁴⁶⁰ There may be ups and downs in various economic metrics, but, “when the bumps are averaged out, the general trend-line of the economy (measured in terms of production and consumption of real goods) will be level or downward rather than upward from now on.”⁴⁶¹ This means that, going forward, “only *relative growth* is possible: the global

460 Heinberg, *The End of Growth*, 23, emphasis in original.

461 Heinberg, *The End of Growth*, 23.

economy is playing a zero-sum game, with an ever-shrinking pot to be divided among the winners.”⁴⁶² Heinberg identifies that, in “Europe, a ‘degrowth’ movement has taken root,” and while “[i]n the United States the term ‘degrowth’ is seldom mentioned... over the past twenty years a similar trend in thinking has spurred the ‘voluntary simplicity’ movement, which questions the environmental, psychological, and social costs of ever-growing consumption.”⁴⁶³ These economic claims are, of course, highly contestable, emerging as they did in the aftermath of the 2008 financial crisis; his concrete claims about permanent high unemployment, for instance, did not in fact pan out.⁴⁶⁴ Recall, however, our broader methodological commitments; the purpose of engagement with these nonliberal theorists is not to refute or debunk their worldviews, but to apprehend them and examine what these claims require them to demand from any emerging *modus vivendi* arrangement.

And Heinberg does indeed have demands. “The following four fundamental principles must be established at the core of economic theory if economics is to have any relevance in the future,” he writes. “Growth in population and consumption rates cannot be sustained. Renewable resources must be consumed at rates below those of natural replenishment. Non-renewable resources must be consumed at declining rates (with rates of decline at least equaling rates of depletion), and recycled wherever possible. Waste must be minimized, rendered non-toxic to humans and the environment, and made into ‘food’ for natural system of human production processes.”⁴⁶⁵ These are large goals, but Heinberg is clear that archetypal methods of collective-action-problem-solving, such as government intervention, will not work due to the inherent economic and political incentives experienced by national-level governments. “[I]f we wait for

462 Heinberg, *The End of Growth*, 24.

463 Heinberg, *The End of Growth*, 444–45.

464 Heinberg, *The End of Growth*, 34.

465 Heinberg, *The End of Growth*, 441–42.

governments,” he writes, “it’ll be too little too late, if we act as individuals, it’ll be too little, but *if we act as communities*, it might just be enough, just in time.”⁴⁶⁶

The communitarian bent of his actual practical recommendations is hard to overstate; “Get to know your neighbors,” he writes. “These may be people with whom you share very little in terms of politics, religion, or cultural interests; that fact is beside the point. When push comes to shove, these are people you may need to depend upon.”⁴⁶⁷ The remainder of the book is a list of various forms of intentional communities as they existed in 2011, from “Transition Towns”⁴⁶⁸ to “Common Security Clubs,”⁴⁶⁹ to “Community Economic Laboratories,”⁴⁷⁰ all planted in identifiable locations and all aimed at building “community resilience, taking account of local vulnerabilities and opportunities.”⁴⁷¹ “The work of local groups,” he continues, “should include the sharing of practical skills such as food production and storage, home insulation, and the development and use of energy conserving technologies. The movement should be non-authoritarian but should hold efficient meetings, training participants in effective, inclusive decision-making models.”⁴⁷² Whether or not this new system can deliver all the creature comforts of modern consumer capitalism does not, for Heinberg, matter. “The only efforts that will aid in the long run,” he writes, “are those that contribute, in some tangible way, to the realization of a pattern of human settlement that is culturally and psychologically rewarding, and that supports rather than undermines the integrity of Earth’s living skin, our only home.”⁴⁷³ Drawing, as we have discussed, upon appeals to Indigenous notions of the good, Heinberg contends we need to

466 Heinberg, *The End of Growth*, 482, emphasis added.

467 Heinberg, *The End of Growth*, 479–80.

468 Heinberg, *The End of Growth*, 481.

469 Heinberg, *The End of Growth*, 487.

470 Heinberg, *The End of Growth*, 491.

471 Heinberg, *The End of Growth*, 480.

472 Heinberg, *The End of Growth*, 480–81.

473 Heinberg, *The End of Growth*, 508.

rely on “countervailing human tendencies exemplified in the traditions of indigenous [sic] peoples who made decisions based on the likely impacts on the seventh generation yet to come.”⁴⁷⁴

One thing to note at this early stage of fleshing out the left-nonliberal worldview is how relatively ideologically ecumenical it is, especially at the popular level. While at some points sounding clearly left wing, decrying the influence of Friedman and Hayek on Reagan and Thatcher,⁴⁷⁵ at other points he acknowledges that “Austrian-School and post-Keynesian economists have contributed” key insights for his argument.⁴⁷⁶ He’s happy to cite Niall Ferguson and criticize the departure from the gold standard in ways that echo right-wing/libertarian arguments which were common in the wake of the 2008 financial crisis.⁴⁷⁷ More importantly, this *level* of ideological inchoateness creates, ultimately, a political position that is a bit too easy to fit within the emerging devolutionary *modus vivendi*. Heinberg, unlike many leftists, is *thoroughly* localist, *thoroughly* satisfied with voluntaristic attempts at collective-action-problem solving on the community level. And those solutions have also not always panned out well; to take an example close to my home, The Hive, a ‘cultural collective’ that Heinberg highlights⁴⁷⁸ has remained, over the intervening years, relegated to one house in Northeast Portland. While many left-nonliberals might be happy to acknowledge that intentional communities of the sort Heinberg hangs his hopes on will be *part* of the solution to the crises of late capitalism, any left-nonliberal seriously engaged with the social ills of 2024 will be unlikely to believe that intentional communities *alone* can serve as a meaningful bulwark against the depredations of

474 Heinberg, *The End of Growth*, 472–73.

475 Heinberg, *The End of Growth*, 86.

476 Heinberg, *The End of Growth*, 183.

477 Heinberg, *The End of Growth*, 423–24, 110.

478 Heinberg, *The End of Growth*, 495–96.

hegemonic neoliberalism. In the terms of this dissertation, then, Heinberg’s approach is far too accommodationist to actually persuade the broad left-nonliberal constituency, even if they are meaningfully skeptical of state power and see value in voluntarism as one mode of prefigurative political praxis.

And that skepticism of state power has a long history in leftist and leftist-adjacent academic thought. Take two influential histories of state development, James C. Scott’s *Against the Grain*⁴⁷⁹ and *The Dawn of Everything*, by David Graeber and David Wengrow.⁴⁸⁰ Beginning with Scott, the less explicitly ideological of the two works, *Against the Grain* exists to attack the “basic assumption of the superiority and attraction of fixed-field farming over all previous forms of subsistence.” Indeed, “[t]he place of the domus and of fixed residence in the civilizational narrative is so deep as to be invisible,” he laments.⁴⁸¹ Just as domestication in animals had a wide variety of negative effects – reduction in sexual dimorphism, repeated infections, mental stress from confinement – so too did the ‘domestication’ of humans as they were, effectively, locked within city walls.⁴⁸² And they were locked inside for a logical but nefarious reason; “The dense concentration of grain and manpower on the only soils capable of sustaining them in such numbers—alluvial or loess soils—maximized the possibilities of appropriation, stratification, and inequality. The state form,” he continues, “colonizes this nucleus as its productive base, scales it up, intensifies it, and occasionally adds infrastructure—such as canals for transport and irrigation—in the interest of fattening and protecting the goose that lays the golden eggs.”⁴⁸³

Following a similar logic as seen in his earlier classic, *Seeing Like a State*,⁴⁸⁴ Scott argues that

479 Scott, *Against the Grain*.

480 Graeber and Wengrow, *The Dawn of Everything*.

481 Scott, *Against the Grain*, 7–8.

482 Scott, *Against the Grain*, 83.

483 Scott, *Against the Grain*, 122.

484 Scott, *Seeing Like a State*.

cereal grains formed the basis of the foundational state forms because “only the cereal grains can serve as a basis for taxation: visible, divisible, assessable, storable, transportable, and ‘rationable.’”⁴⁸⁵

Furthermore, in *The Art of Not Being Governed*, he highlights how this institutional form went hand-in-hand with a kind of justificatory ideology; “British and French colonial administrators,” he writes, “justifying the novel tax burdens they were imposing on their subjects, often explained that taxes were the inevitable price one paid for living in a ‘civilized society.’” This rhetorical project contained three “tricks: they described their subjects as effective ‘precivilized,’ they substituted imperial ideals for colonial reality, and above all, they confounded ‘civilization’ with what was, in fact, state making.”⁴⁸⁶ Counterintuitively, he writes, “barbarians⁴⁸⁷ were not subordinated or domesticated to the hierarchical social order of sedentary agriculture and the state. They were in almost every respect *freer* than the celebrated yeoman farmer.”⁴⁸⁸ Following our understanding of the broad contours of the degrowth worldview, states, by gathering unprecedented numbers of people to live in one place, essentially guaranteed ecological destabilization⁴⁸⁹ and the sudden, sharp spread of zoonotic viruses.⁴⁹⁰ And much of this behavior is ultimately profit driven; the project “to bring nonstate spaces and people to heel... is, in part, an effort to integrate and monetize the people, lands, and resources of the periphery so that they become, to use the French term, *rentable*—auditable contributors to the gross national

485 Scott, *Against the Grain*, 129.

486 Scott, *The Art of Not Being Governed*, 335.

487 Scott’s usage of this term is deliberately tongue-in-cheek; examination of his body of work makes it clear his deep sympathies for peoples and civilizations that do not acquiesce easily to modern, or even pre-modern, state models.

488 Scott, *Against the Grain*, 255, emphasis added.

489 Scott, *Against the Grain*, 195.

490 Scott, *Against the Grain*, 93.

product.”⁴⁹¹ The theme of enforcing specific and oppressive conceptions of ‘civilization’ will also, unsurprisingly, return as we treat the Indigenous political theorists later on in this chapter.

Whereas Scott is more reluctant to lay out explicit ideological lessons to take from his alternate history, being mostly content to disrupt received narratives, Graeber and Wengrow⁴⁹² make the connection between this brand of argument and degrowth left-nonliberalism much more explicit. Similarly, their book argues, against their foil Steven Pinker,⁴⁹³ that civilization as we commonly understand it has been a decidedly mixed blessing in terms of both freedom and basic human goods. “Social science,” they write, has been largely a study of the ways in which human beings are not free: the way that our actions and understandings might be said to be determined by forces outside our control.”⁴⁹⁴ Rather than seeing ourselves first trapped by agriculture, then by industrialization, then by late capitalistic modernity, we must “treat people, from the beginning [most importantly, for the authors, those in ‘primitive’ or ‘pre-modern’ societies], as imaginative, intelligent, playful creatures who deserve to be understood as such.”⁴⁹⁵

Indeed, their argument draws heavily upon a representation of the Wendat Chief Kandiaronk⁴⁹⁶ in a book by the French traveler and aristocrat Lahontan, and takes this up as a mostly unproblematic representation of Kandiaronk’s own beliefs. Kandiaronk, as interpreted through Lahontan, argues that the Wendat effectively had no need for coercive or punitive law,⁴⁹⁷ because of their greater ties of reciprocity and greater levels of economic equality. “Equality here,” they write, “is a direct extension of freedom; indeed, is its expression. It also has almost

491 Scott, *The Art of Not Being Governed*, 4.

492 Graeber and Wengrow, *The Dawn of Everything*.

493 Steven Pinker, *The Better Angels of Our Nature: Why Violence Has Declined*, New York Times Bestseller (New York, NY Toronto, Ontario London: Penguin Books, 2012).

494 Graeber and Wengrow, *The Dawn of Everything*, 498.

495 Graeber and Wengrow, *The Dawn of Everything*, 9.

496 Sometimes spelled Kondiaronk.

497 Graeber and Wengrow, *The Dawn of Everything*, 53.

nothing in common with the more familiar (Eurasian) notes of ‘equality before the law’, which is ultimately equality before the sovereign – that is, once again, equality in common subjection.”⁴⁹⁸

“Do you seriously imagine,” they paraphrase Kandiaronk as saying, “that I would be happy to live like one of the inhabitants of Paris, to take two hours every morning just to put on my shirt and make-up, to bow and scrape... Do you really imagine I could carry a purse full of coins and not immediately hand them over to people who are hungry; that I would carry a sword but not immediately draw it on the first band of thugs I see rounding up the destitute to press them into naval service?”⁴⁹⁹

In a questionable move, Graeber and Wengrow write that “neither side – not the colonists of New France, nor their indigenous interlocutors – had much to say about ‘equality’. Rather, the argument was about liberty and mutual aid, or what might even better be called freedom and communism.”⁵⁰⁰ This surprising statement is made more explicable when they lay out their broad definition of communism, “not as a property regime but in the original sense of ‘from each according to their abilities, to each according to their needs.’ There’s also,” they continue, “a certain minimal, ‘baseline’ communism which applies in all societies; a feeling that if another person’s needs are great enough (say, they are drowning), and the cost of meeting them is modest enough (say, they are asking for you to throw them a rope), then of course any decent person would comply. Baseline communism of this sort could even be considered the very grounds of human sociability.”⁵⁰¹

To emphasize, this broadening of the definition of communism to something like ‘social reciprocity’ is tendentious, perhaps not least to committed Communists. But for our purpose, that

498 Graeber and Wengrow, *The Dawn of Everything*, 44.

499 Graeber and Wengrow, *The Dawn of Everything*, 54.

500 Graeber and Wengrow, *The Dawn of Everything*, 46.

501 Graeber and Wengrow, *The Dawn of Everything*, 47.

being the delineation and elaboration of an influential view in nonliberal politics, it is enlightening, for two reasons. First, it adds explicit political content to what has been so far a much more ideologically ecumenical critique of ecological ruination and state control. This step in the (so far mostly popular) argument is when this brand of nonliberalism becomes definitively *left*-nonliberalism, especially when they, echoing Scott, highlight the ways in which economic development and legibility tie into and justify the centralized state's oppressive social structures. "It is hard to escape the impression," they write, that in all cases of initial state 'enclosure', "the apparent heavy-handedness, the insistence on following the rules even when they make no sense, is really half the point... By ignoring the unique history of every household, each individual, by reducing everything to numbers one provides a language of equity – but simultaneously ensures that there will always be some who fail to meet their quotas, and therefore that there will always be a supply of peons, pawns, or slaves."⁵⁰² Again, following the contours of the broad degrowth worldview, state development is inextricably linked with economic growth and acquisition, growth and acquisition which is then used to justify the domination of their subject populations.

Secondly, as we have already flagged, Graeber and Wengrow are trying to ground the origin of the modern Left in Indigenous critiques of European society. Per their story, Indigenous people, as represented essentially accurately through missionary and travel literature of the period, criticize European society, which causes the modern concepts of equality and inequality to form, and the group which defends equality in Europe becomes the left, while the group that opposes it becomes the Right.⁵⁰³ Whereas their approach could potentially rhyme with

Rousseau's 'noble savage'⁵⁰⁴ view of man in the state of nature, they hasten to clarify that theirs

502 Graeber and Wengrow, *The Dawn of Everything*, 424.

503 Graeber and Wengrow, *The Dawn of Everything*, 69.

504 While, as I contend, their treatment of some of these cultures is reductive or misleading, we must take pains to notice that theirs is very much not a noble savage story. The evidence they provide for large feasts among

is not a Rousseauian view, since, “as he insisted, any ongoing human relationship, even of mutual aid, is itself a restraint on liberty.”⁵⁰⁵ Their conception of folk communism is directly at odds with the individualistic liberal contractarianism of Rousseau. But, importantly for this thesis, it is also explicitly an anti-Hobbesian worldview, identifying their bugbear Pinker as “our quintessential modern Hobbesian” and rejecting his characterization of pre-modernity as nasty and brutish.⁵⁰⁶ In the ongoing debate in the popular mind about whether or not humans are basically good or basically evil in their pre-political state, with Rousseau and Hobbes as (very reduced) representatives, respectively, Graeber and Wengrow officially take neither side, but save most of their ire for the pop-Hobbesian outlook that without government, all that awaits us is the war of all against all.

This is a potential problem with the *modus vivendi* outlook, tied so tightly as it is to Hobbesian understandings of power and the reasons for cooperation. As we have previously discussed, the *modus vivendi* outlook takes up the Hobbesian positions that A: there is no prime moral reason why people ought to accede to control by a state (such as justice or mutual respect or diversity or any of the other failed values we discussed in Chapter 3) and therefore B: in this context, safety and social peace are usually the values that people hold most strongly, and most strongly value in agreeing to social arrangements. If a rejection of Hobbesianism, even pop-Hobbesianism, is the dominant view on the nonliberal left, then the *modus vivendi* outlook already finds itself in an awkward position.

Northwest Coast societies which “sometimes culminat[ed] in the ostentatious destruction of heirloom copper shields and other treasures” or “in the sacrificial killing of slaves,” both as signals of conspicuous consumption by wealthy members of the society, (Graeber and Wengrow, *The Dawn of Everything*, 181.) exonerates them from this particularly common and egregious error.

505 Graeber and Wengrow, *The Dawn of Everything*, 67.

506 Graeber and Wengrow, *The Dawn of Everything*, 13.

This approach also creates more MacIntyrean connections, though less explicit and intentional than in our right-nonliberal case study. MacIntyre, in his book *Dependent Rational Animals*,⁵⁰⁷ uses the Lakota concept of “wancantognaka” to describe the core virtue that enables virtuous relationships of dependence and reciprocity. Wancantognaka “names the virtue of individuals who recognize responsibilities to immediate family, extended family, and tribe and who express that recognition by their participation in ceremonial acts of uncalculated giving, ceremonies of thanks-giving, of remembrance, and of the conferring of honor.”⁵⁰⁸ He connects this with Thomas Aquinas’ analysis of the virtues of charity and liberality, highlighting how, if we “[s]uppose that someone gives to another in significant need ungrudgingly, from a regard for the other as a human being in need, because it is the minimum owed to that other, and because in relieving the other’s distress I relieve my distress at her or his distress,” then “[o]n Aquinas’s account that individual at once acts liberally, from the beneficence of charity, justly, and out of taking pity,” and “what the virtues require from us are characteristically types of actions that are at once just, generous, beneficent, and done from pity.”⁵⁰⁹ Against Graeber and Wengrow’s contention that these concepts were absent both from pre-Indigenous-contact European society in general and Aquinas’ thought in particular,⁵¹⁰ MacIntyre maintains that, even in Aquinas, “[t]he education of dispositions to perform just this type of act,” the type of act demanded by wancantognaka, “is what is needed to sustain relationships of uncalculated giving and graceful receiving.”⁵¹¹

507 MacIntyre, *Dependent Rational Animals*.

508 MacIntyre, *Dependent Rational Animals*, 120.

509 MacIntyre, *Dependent Rational Animals*, 121.

510 Graeber and Wengrow, *The Dawn of Everything*, 31.

511 MacIntyre, *Dependent Rational Animals*, 121.

In summary, we are seeing, through this development of a kind of degrowth left-nonliberalism, several throughlines emerge. One throughline is a thorough skepticism of state power; Heinberg, Graeber and Wengrow, Scott, and MacIntyre (in his left-nonliberal moods) all agree that governmental institutions are, to various degrees, too corrupt, too co-opted, or simply intrinsically opposed to the kind of personal liberty and modes of living that a healthy society, featuring a healthy relationship with production and consumption, would need to adopt. This is, from the perspective of the emerging devolutionary liberal *modus vivendi* we have been sketching out, a generally positive disposition to take; it inoculates this brand of left-nonliberalism against the impulse towards totalizing, top-down control that we see in someone like Vermeule (and which we will see later, in a degrowth guise, from Federici).⁵¹² This tendency is, however, counterbalanced by a throughline of ecological concern. While this throughline is surprisingly absent from Graeber and Wengrow, Heinberg and Scott both argue, with different levels of emphasis, that the use of the state and of our economic modes of production to ‘terraform’ the earth for human interests has been, at best, a mixed blessing⁵¹³ and at worst put us on an inevitable collision course with Earth’s basic “environmental limits.”⁵¹⁴ I say ‘counterbalanced’ because, in discussions of political strategy and tactics, global environmental issues are the paradigmatic case where not just national-level policy, but international coordination between states, is the only way to prevent or mitigate disaster.

This creates a tension within degrowth leftism, a tension which mirrors the tension we saw earlier in our right-nonliberal case study – both the right-nonliberals and the left-nonliberals have goals that are much more easily achieved through large, centralized or nationalized

512 Federici, *Re-Enchanting the World*.

513 Scott, *Against the Grain*, 20, 38, 92, 102.

514 Heinberg, *The End of Growth*, 508.

governmental structures, and also have good reason to believe that the centralized, modern, liberal, Weberian state they live under cannot or will not serve as an actual functioning tool toward achieving those goals. Whether you believe that the national-level government will undermine your goals and your way of life because it is corrupted by sin or corrupted by capitalism is, from the inside, not such a different claim, both in terms of how it feels for the average person who is persuaded by one of these doctrines and in terms of the sorts of ideological and institutional tensions it creates within the worldviews themselves.

The final throughline, impossible to ignore, is the throughline of indigeneity. All of these works, to greater and lesser degrees, draw upon conceptions of Indigenous moral claims and political thought in order to ground, bolster, or justify their criticism of the modern state and the modern capitalistic economy, as well as the moral deformations those institutional forms produce. Scott frames his work as, in a sense, advocating for those peoples who refused the increasingly hegemonic centralized state form, many of whom were Indigenous or otherwise subject to colonization, and Graeber and Wengrow go so far as to claim that the early modern European debates about economic equality literally arose because of Indigenous criticisms of European society. Again, this case is historically overstated, but the trend is hard to miss; we have here a set of white male left-nonliberals, all of whom see genuine appeal in their conceptions of Indigenous relationships between production, consumption, and ecological stability.

To frame this positively, it is both morally good for privileged individuals to look to the claims and attitudes of those at the bottom rung of current hierarchies of domination if the structures enforcing those hierarchies are to be overcome, and it makes strategic sense to look to

those groups whose institutions formed outside of the hegemonic context of the capitalistic centralized-state system. However, to frame things more negatively, this approach of potentially loose adaptation of Indigenous claims, outlooks, concepts and worldviews risks misinterpretation at best and outright cooptation at worst. To mitigate this risk, we will now turn to the Indigenous theorists who will make up the core of this chapter, Glen Coulthard and Leanne Betasamosake Simpson, for a more theoretically sophisticated approach that avoids many of the standpoint issues we are rightfully concerned with.

Indigenous Approaches

Glen Coulthard, in his seminal 2014 work *Red Skin, White Masks*,⁵¹⁵ explicitly rejects what he terms the “politics of recognition” that have become the norm in Indigenous/state relations, primarily in Canada but also in the United States.⁵¹⁶ He defines the politics of recognition as referring to “the now expansive range of recognition-based models of liberal pluralism that seek to ‘reconcile’ indigenous assertions of nationhood with settler-state sovereignty via the accommodation of Indigenous identity claims in some form of renewed legal and political relationship with the Canadian state. Although these models tend to vary,” he continues, “most call for the delegation of land, capital, and political power from the state to Indigenous communities through a combination of land claim settlements, economic development initiatives, and self-government agreements.”⁵¹⁷ One reason this isn’t enough is due to the structural makeup and incentives of the institutions offering these sorts of recognition deals. As he delineates, “the expression of Indigenous anticolonial nationalism... forced colonial

515 Coulthard, *Red Skin, White Masks*.

516 Coulthard, *Red Skin, White Masks*, 2.

517 Coulthard, *Red Skin, White Masks*, 3.

power to modify itself from a structure that was one primarily reinforced by policies, techniques, and ideologies explicitly oriented around the genocidal exclusion/assimilation double, to one that is now reproduced through a seemingly more conciliatory set of discourse and institutional practices that emphasize our *recognition* and *accommodation*. Regardless of this modification, however, the relationship between Indigenous peoples and the state has remained *colonial* to its foundation.”⁵¹⁸

So what could assure us that a change in the power relations between Indigenous communities and the settler-colonial state is actually, in fact, a change? Putting his argument in the terms of this thesis, Coulthard appeals to what we would call a comprehensive notion of the good. “Stated bluntly,” he writes, “the theory and practice of Indigenous anticolonialism, including Indigenous anticapitalism, is best understood as a struggle primarily inspired by and oriented around *the question of land*—a struggle not only *for* land in the material sense, but also deeply *informed* by what the land *as system of reciprocal relations and obligations* can teach us about living our lives in relation to one another and the natural world in nondominating and nonexploitative ways.”⁵¹⁹ Though the word is Lakota, and Coulthard is Dene, this seems like a vision of putting something very much like wancantognaka at the core of Indigenous modes of life, not just as a recommendation for the policies of the settler-colonial state but as a normative lodestar of Indigenous governance institutions themselves. Moreover, this political-normative realignment will need meaningful institutional support; “the logic informing this dimension—where ‘recognition’ is conceived of something that is ultimately ‘granted’ or ‘accorded’ a

518 Coulthard, *Red Skin, White Masks*, 6, emphasis in original.

519 Coulthard, *Red Skin, White Masks*, 13, emphasis in original.

subaltern group or entity by a dominant group or entity—prefigures its failure to significantly modify, let alone transcend, the breadth of power at play in colonial relationships.”⁵²⁰

One potential objection to this understanding of Coulthard’s project is that his emphasis on grounded normativity is ultimately a methodological point about centering the land in normative theoretical work, rather than a metaphysical claim that the land *is in fact and ought to be* the center of normative inquiry generally or Indigenous normative inquiry specifically. This point is well taken, especially when contrasted with the more explicitly metaphysical work of a scholar like Vine Deloria Jr..⁵²¹ This understanding of Coulthard’s theoretical innovation is supported by an argument I will make later in the chapter, claiming that we can understand other comprehensive doctrines as being more ‘grounded’, more located in and influenced by time, place, climate and culture, than we currently do. If grounded normativity were itself the comprehensive notion of the good, then I could not apply the methodology of grounded normativity to other, incommensurable comprehensive notions of the good.

Thankfully I can affirm this understanding of Coulthard’s innovation, since grounded normativity, even as a methodological approach, contains normative content and angles the outcomes of its analysis toward a certain constellation of normative language and conclusions. Coulthard has not invented/identified grounded normativity for purely intellectual reasons; he believes that grounded normativity is an important tool *in pursuit of* achieving a particular, and particularly Dene, notion of the good. For the purposes of my argument, it matters less whether or not grounded normativity is itself the comprehensive notion of the good, or the means by which the Dene (and other Indigenous tribes, bands, and groups, should the concept inspire

520 Coulthard, *Red Skin, White Masks*, 30–31.

521 Jefferey D. Anderson, “Space, Time and Unified Knowledge: Following the Path of Vine Deloria, Jr.,” *Counterpoints* 379 (2011): 93, 95.

them) realize their comprehensive notion of the good. Indeed, to push the point further, the grounded and interconnected nature of the theoretical project that Coulthard is asking us to undertake likely demands one recognize that one's methodological lens contains at least nascent, if not quite robust, normative underpinnings and implications that cannot be neatly separated in the way certain forms of settler analytic theorizing would demand or prefer.

There will be further nuances and complications to this, but at this initial phase we should note how understanding Indigenous peoples, communities, and nations as agents in an ongoing and emerging *modus vivendi* relationship with the state avoids several of the conceptual and theoretical pitfalls Coulthard is warning us against. For one, understanding the state in *modus vivendi* terms avoids imputing any moral legitimacy to arrangements that many Indigenous people and peoples would condemn as fundamentally colonial and based in force. *Modus vivendi* theorizing recognizes the state as based in force, and has conceptual room to understand the subsequent pragmatic decisions made both by it, and those who are forced to live under it. This conception of the state, I submit, has a better chance of resonating with groups who have been historically oppressed by the settler-colonial state than the semi-contractarian, pseudo-Rawlsian logic behind the political-comprehensive collapse.

Secondly, understanding Indigenous people and peoples as active agents within this *modus vivendi* negotiation helps avoid conceptualizing Indigenous sovereignty as something that is granted (read: delegated or paternalistically handed down)⁵²² by a purportedly legitimate liberal state to a petitioning subaltern group. As we saw in the right-nonliberalism chapter, many of the constitutional challenges made to the existing comprehensively liberal order are done so without the initial permission of the comprehensively liberal state. Legislative and economic

⁵²² I want to thank Kelsey Brady for this phrasing.

innovations undertaken by subnational units guided by different comprehensive notions of the good are *already in the process* of undermining the US constitutional consensus, and a *modus vivendi* conception has the resources for understanding these rejections of the extant governing order as agentic actions, not simply as preludes to an orchestrated and ultimately meaningless ‘transfer’ of political power.

Moreover, it can also understand many non-state or protest actions not merely as bargaining chips to later be cashed in through some established legal process, but as the genuine challenges they are, challenges to colonial understandings and modes of being, and the institutional ways in which these modes of being are insinuated upon colonized subjects, up to and including the corruption of their very comprehensive notions of the good. For Coulthard, it is not just that the settler-colonial state is being disingenuous when it ‘gives rights’ to the colonized; even if it were being sincere, this framework denies the colonized the opportunity to struggle for their own recognition, subverting the intrinsically conflictual process of political self-creation.⁵²³ The *modus vivendi* framework, with its intrinsically conflictual model of politics and its denial of the presumptive normative legitimacy of the liberal state, is best situated to avoid these pitfalls. The MacIntyrean democratic condition, with its wider institutional leeway for veto mechanisms, weighted voting schemes, and the like, can help counterbalance the persistent minority status that Indigenous peoples often, as a result of colonialism, find themselves in, even within their own lands and territories.

Finally, while simple land claim settlements are not enough (what is the point of being given land to govern if your governance ultimately must aim at comprehensively liberal notions of the good?), the specific devolutionary *modus vivendi* that I am sketching here is particularly

523 Coulthard, *Red Skin, White Masks*, 38.

useful as it keeps land, meaningful territorially-bounded political control, at the center of the analysis. Against broader, more totalizing conceptions of political normativity (and, as we shall see, against Coulthard in his more totalizing moods), the MacIntyrean *modus vivendi* approach understands and endorses the *rootedness* of comprehensive notions of the good. Coulthard emphasizes the “place-based cultural foundation undergirding the Dene Nation’s critique of capitalist imperialism,” calling this place-based foundation “*grounded normativity*.”⁵²⁴ The MacIntyrean connections are hard to ignore; comprehensive notions of the good are not free-floating, philosophically pliable constructs from which one can pick and choose. They are the modes of being of particular peoples in particular places, generated socially and recursively, and not easily transplanted from one people, one region, one political context to another.

Even further, Coulthard, in his own theoretical terms, recognizes and recapitulates the problems with universally applied liberal rights that we recognize from our analysis of the political-comprehensive collapse. Recounting the Dene Nation’s early attempts to claim territorial sovereignty in Northern Canada, he highlights how “most government officials rejected the Dene position based on the view that it violated the liberal value of equality underwriting universal representation within Canadian political institutions.” They “denounced the Dene claim, arguing that it would amount to an exclusionary, indeed ‘race-based,’ jurisdiction in Northern Canada.”⁵²⁵ Fascinatingly, when confronted with this, the Dene made recourse to the devolutionary toolkit, tweaking the proposal to make it more federalized and more neutral.⁵²⁶ They proposed “that the NWT [Northwest Territories] be divided into three geographical territories, ‘one where the Dene are a majority, one where the Inuit are a majority, and finally

524 Coulthard, *Red Skin, White Masks*, 53.

525 Coulthard, *Red Skin, White Masks*, 70.

526 Coulthard, *Red Skin, White Masks*, 70–71.

where where the non-native people are the majority,” and “that each of these three territories uphold the political rights of all its citizens through the establishment of government institutions based on each group’s respective traditions and in accordance with the desires and aspirations of their respective constituencies; that each territories government divide powers and relate with the federal government in a manner similar to the current federal or provincial relation.”⁵²⁷ This proposal, which as we can see makes rich use of the devolutionary toolkit nearly 40 years before Horowitz⁵²⁸ wrote it down, was ultimately rejected, as “the federal government insisted that it would not endorse a call for the establishment of political jurisdictions allocated ‘on grounds that differentiate between people on the basis of race,’”⁵²⁹ and instead the government defaulted to a “land-claims process” that “constitutes a crucial vehicle for the ‘domestication’ of Indigenous claims to nationhood.”⁵³⁰

The example of Nunavut helps bolster Coulthard’s skepticism of making pacifying deals with the settler-colonial state, as “Nunavut communities are struggling with resource and other development despite their ostensible self-determination via a settled land claim and established Inuit governance institutions.”⁵³¹ As a result, there is a widespread sense among Nunavut residents that “we are not steering our own ship.”⁵³² On some level, this should be expected; “[g]rowing pains related to the implementation of a land claim and the maturing of relatively new and formal Aboriginal institutions is expected. It can take generations to shed the history of

527 Coulthard, *Red Skin, White Masks*, 71.

528 Horowitz, “The Many Uses of Federalism.”

529 Coulthard, *Red Skin, White Masks*, 72.

530 Coulthard, *Red Skin, White Masks*, 67.

531 Roger Ritsema et al., “‘Steering Our Own Ship?’ An Assessment of Self-Determination and Self-Governance for Community Development in Nunavut,” *The Northern Review* 41 (September 25, 2015): 173, <https://doi.org/10.22584/nr41.2015.007>.

532 Ritsema et al., “Steering Our Own Ship?,” 174.

colonization and for communities and societies to re-organize themselves.”⁵³³ However, the problems that have emerged in Nunavut, even in a relatively decentralized federation such as Canada, are still due in large part to the centralization that still exists; “there is a complex institutional structure that lends more power to the federal government than may be desirable; there was a rapid transition from traditional consensus decision-making practices to current hierarchical structures” and “there is a lack of sufficient communication between levels of government and regional organizations.”⁵³⁴ The government of Nunavut is *itself* highly decentralized,⁵³⁵ but the remaining elements of Canadian centralization put limits on the capacity for, and outcomes of, the kinds of social and political innovations that are the upside of a devolutionary *modus vivendi* framework. This problem, however, would be at least partially ameliorated by further decentralization of the Canadian federation as a whole, the kind of province-driven decentralization that my theory both analyzes and predicts.

Again, there are some key lessons for us to take from this history. First, Coulthard, like the right-nonliberals from before, shares this fear of ‘domestication’; whereas for the right-nonliberals I provided the metaphor, Coulthard uses it explicitly. This becomes clearer as Coulthard discusses some of the thinkers we will soon turn to. “For both Alfred and Simpson,” he writes approvingly, “settler-colonial rule is a form of *governmentality*: a relatively diffuse set of governing relations that... [produces] neocolonial subjectivities that coopt indigenous people into becoming instruments of their own dispossession. According to this view,” he continues, “contemporary colonialism works *through* rather than entirely *against* freedom... many

Indigenous people, particularly those leaders and community organizers heavily invested in the

533 Ritsema et al., “Steering Our Own Ship?,” 174.

534 Ritsema et al., “Steering Our Own Ship?,” 174.

535 Roberta Rice, “How to Decolonize Democracy: Indigenous Governance Innovation in Bolivia and Nunavut, Canada,” *Bolivian Studies Journal*, March 27, 2017, 231, <https://doi.org/10.5195/bsj.2016.169>.

colonial politics of recognition, have come to associate this externally imposed field of maneuver with freedom or decolonization itself.”⁵³⁶ The comparisons with Vermeule and Deneen are obvious; hegemonic liberalism (here synonymous with colonialism) does not just do brute harm; it corrupts people’s normative judgments and limits their moral horizons to the terms set by liberalism itself, not through explicit prohibitions but through the very temptations that certain kinds of naive freedom can offer. Liberalism/settler colonialism does not merely operate through force and domination, but also through temptation, co-optation, and corrupted forms of ‘education’. We will return to this theme in our discussion of Simpson⁵³⁷ on Indigenous pedagogy.

Secondly, we can see how the Canadian state’s rejection of the Dene people’s initial (generous) proposal represents a denial of one of the most useful elements of the devolutionary toolkit, that being the power of asymmetrical federalism. Allowing certain ethnicity-based policies (which the Dene nation then revised out of their proposals) need not lead to the existence of these policies in all provinces or all areas of Canadian law, unless the state is committed to a particular conception of universal rights, a conception that has been coopted and rigged by comprehensive liberals to privilege their conception of the good over all others. This is the final parallel I want to highlight; while they certainly have different normative stakes attached, Coulthard’s criticism of the supposed ‘race-neutrality’ of the settler-colonial state shares the same shape, the same ideological and argumentative contours, as right-nonliberal criticism of the political-comprehensive collapse. For a state run predominantly by settlers, for settler interests, with settler institutions that inculcate settler understandings of what constitutes a good life, to

536 Coulthard, *Red Skin, White Masks*, 156.

537 Simpson, “Land as Pedagogy.”

turn around and tell the Dene that they will not be allowed to ‘engage in ethnic discrimination,’ strains moral credulity in a way that one need not be Dene to recognize.

Similarly, a comprehensively liberal state, run overwhelmingly by those who adopt this view, which allows the creation and cultivation of autonomy as a central purpose of the state, and within a legal system that privileges it, turning around and telling subnational units they may not ensconce their comprehensive notion of the good at the center of their local governance arrangements because liberalism does not permit that, is both similarly structured and equally unpersuasive. Indeed, as Allard-Tremblay highlights, the Rawlsian conception of “public political culture... is fundamentally anti-pluralist and can justify coercive assimilation... and disqualify and disavow Indigenous political difference, notably by imposing specific democratic forms of governance, ironically legitimated as inclusive and emancipatory.”⁵³⁸ These two normative mistakes (or, less charitably, tricks) may not be of equal moral importance, but they share the same structure, the same set of incentives, and invite similar solutions. Most importantly, *they work together*. Criticism of the political-comprehensive collapse is not some ancillary concern to be grafted onto Indigenous political thought; the basic recognition of it is written into some of the most important recent theorizing in the academic Indigenous corpus.

So now that we have established that Coulthard’s critiques rhyme with both the complaints of the right-nonliberals and our analysis of the political-comprehensive collapse, we can turn to his positive vision, and it is here, as with Deneen, that some conflicts become apparent. Coulthard offers some core guidelines to achieving “Indigenous resurgence and decolonization,” the first of those being that direct action is necessary.⁵³⁹ This aligns well with

538 Yann Allard-Tremblay, “The Two Row Wampum: Decolonizing and Indigenizing Democratic Autonomy,” *Polity* 54, no. 2 (April 1, 2022): 227–28, <https://doi.org/10.1086/718331>.

539 Coulthard, *Red Skin, White Masks*, 165.

the conceptual advantages of the *modus vivendi* framework; as he says earlier, “Indigenous resurgence is at its core a *prefigurative* politics—the methods of decolonization prefigure its aims,” and as we have discussed earlier, the *modus vivendi* framework has particular room within it for conceptualizing and accepting prefigurative, even conflictual, political practices. More potential issues emerge with his second ‘thesis,’ that being the need to revitalize “bush modes of production” within Indigenous communities, particularly on Indigenous-controlled lands.⁵⁴⁰ This section begins with praise for “Indigenous forms of economic disruption,” such as blockades, “insofar as they seek to impede or block the flow of resources currently being transported or international markets from oil and gas field, refineries, lumber mills, mining operations, and hydroelectric facilities located on the dispossessed lands of Indigenous nations.” He initially frames this as a negotiation tactic, but acknowledges that this alone will not be enough. “Without such a massive transformation in the political economy of contemporary settler-colonialism,” he writes, “any efforts to rebuild our nations will remain parasitic on capitalism, and thus on the perpetual exploitation of our lands and labor.”⁵⁴¹

This, as phrased, sounds like a complete dealbreaker from the perspective of the emerging devolutionary *modus vivendi* we have been sketching. Extensive control and economic policy latitude *within* subnational units can and must be acceptable, but no workable *modus vivendi* can feature something as incoherent as a reciprocal capacity of subnational units to cripple the economic activities of other subnational units via direct action protest. However, the very next sentences show the deep ambiguity of Coulthard’s proposals here. Immediately after his declaration about radical change of the core economic structures of settler-colonial society, he

540 Coulthard, *Red Skin, White Masks*, 171.

541 Coulthard, *Red Skin, White Masks*, 171.

suggests “an approach to resurgence that would see Indigenous people begin to reconnect with their lands and land-based practices on either an individual or small-scale collective basis,” featuring such prefigurative activities as “‘walking the land’ in an effort to refamiliarize ourselves with the landscapes... to revitalizing and engaging in land-based harvesting practices like hunting, fishing, and gathering, and/or cultural productive activities like hide-tanning and carving, all of which also serve to assert our sovereign presence on our territories in ways that can be profoundly educational and empowering.”⁵⁴² As his analysis proceeds, he speaks less about the elimination or destruction of capitalism, instead speaking the (much more modus-vivendi-friendly) language of territorially-bounded alternatives to capitalism. “What forms,” he asks, “might an Indigenous political-economic alternative to the intensification of capitalism *within our territories* take?”⁵⁴³

He approvingly cites how “in the 1970s the Dene Nation sought to curtail the negative environmental and cultural impacts of capitalist extractivism by proposing to establish an economy that would apply traditional concepts of Dene governance—decentralized, regional political structures based on participatory, consensus decision-making—to the realm of the economy. At the time, this would have seen a revitalization of a bush mode of production, with emphasis placed on the harvesting and manufacturing of local renewable resources through traditional activities like hunting, fishing, and trapping, potentially combined with and partially subsidized by other economic activities on land communally held and managed by the Dene Nation.”⁵⁴⁴ He is optimistic about this, describing three ways in which “[r]evisiting Indigenous political-economic alternatives such as these could pose a real threat to the accumulation of

542 Coulthard, *Red Skin, White Masks*, 171.

543 Coulthard, *Red Skin, White Masks*, 171, emphasis added.

544 Coulthard, *Red Skin, White Masks*, 171–72.

capital on Indigenous lands,” the first being that “through mentorship and education these economies reconnect Indigenous people to land-based practices and forms of knowledge that emphasize radical sustainability,” a form of “grounded normativity” that “is antithetical to capitalist accumulation.”⁵⁴⁵ Secondly, bush production “over time can help break our dependence on the capitalist market by cultivating self-sufficiency through the localized and sustainable production of core foods and life materials that we distribute and consume within our own communities on a regular basis.” And third, “through the application of Indigenous governance principles to nontraditional economic activities we open up a way of engaging in contemporary economic ventures in an Indigenous way that is better suited to foster sustainable economic decision-making, an equitable distribution of resources within and between Indigenous communities, Native women’s political and economic emancipation, and empowerment of Indigenous citizens and workers who may or must pursue livelihoods in sectors of the economy outside the bush.”⁵⁴⁶

There are many criticisms we could make of this arguably-too-sanguine understanding of the moral and economic effects of autarky, but fortunately, the localist bent of Coulthard’s arguments alleviates many of these argumentative pressures. While, again, some of his rhetoric angles us towards believing he is proposing a radical restructuring of the capitalist economy *as a whole*, i.e. across subnational units, his elucidation of his proposals again and again return to a proposed mode of the good life *for* Indigenous peoples, *on* Indigenous lands. In a similar register, Allard-Tremblay advocates the “Two Row Wampum” as a useful normative approach for understanding the relationship between Indigenous nations and the settler-colonial state. The

545 Coulthard, *Red Skin, White Masks*, 172.

546 Coulthard, *Red Skin, White Masks*, 172.

two rows of the wampum belt “symbolize two paths or two vessels, traveling down the same river together. One, a birch bark canoe, will be for the Indian people, their laws, their customs and their ways. The other, a ship, will be for the white people and their laws, their customs and their ways.”⁵⁴⁷ This approach “affirms the political difference of Indigenous peoples and settlers. While the two polities are entering a treaty, no party is subjecting itself to the other or transferring its lands or authority. In fact,” he continues, “the image of the two distinct ships and the requirement that each must remain in their own vessel affirm the authority of each party over their respective laws, customs and ways.”⁵⁴⁸

Reading Coulthard in this light, the deliberate territorial bounding of his moral project makes his normative outlook compatible with a devolutionary *modus vivendi*, and the advantages of the devolutionary *modus vivendi* allow us to sidestep making concrete moral or feasibility judgments regarding his economic vision of the good life. Put another way, if Coulthard is right, and capitalism is ultimately unsustainable, then there is a concrete advantage towards having a subnational population that has millennia of knowledge, now instantiated in their institutions, about living in autarkic (or, in his terms, radically self-sufficient) ways. Even better, if Coulthard is wrong, the freedom of movement provision of the devolutionary *modus vivendi* means that whether or not he is wrong becomes a dispute *among Indigenous people*, rather than a dispute where settlers are trying to show Indigenous people how much better life is in ‘developed, civilized’ society.

Put in a more quotidian way, if the self-governing Indigenous societies Coulthard envisions cannot lock Indigenous people inside Indigenous territory, *forcing* them to live in bush-

547 Allard-Tremblay, “The Two Row Wampum,” 230.

548 Allard-Tremblay, “The Two Row Wampum,” 231.

production economies, then it becomes an empirical question whether Coulthard's preferred methods of Indigenous preference formation⁵⁴⁹ (bush production and Indigenous modes of knowledge as instantiated in official education policy) convince enough Indigenous citizens not to desire the comforts of modern capitalism in the first place. Perhaps they do, and much as with the right-Catholics under the emerging *modus vivendi*, the left-Indigenous thinkers need to have confidence in their educational and economic policies to properly sculpt their citizens within a federal system that features pluralism at the national level, guaranteed through sectarianism at the subnational level. Under conditions of violated economic sovereignty and enforced, standardized education, Coulthard and his more passionate ideological constituents can always blame the false consciousness induced by colonial oppression as the reason why their preference formation mechanisms are not currently taking hold. As I argued in our previous case study, while this argument will still be around after the devolutionary *modus vivendi* arrangement solidifies itself, it will be less persuasive to the larger number of less-ideologically-activated Indigenous citizens.

These citizens may well want to live under a governmental and economic arrangement that connects them more with their lands and ancestral traditions, and which educates their children in ways that go thoroughly against standardized comprehensive liberal conceptions of the good life, but they may also want to indulge, even in some small ways, in the material products of consumer capitalism. This is another important example of how allowing holders of comprehensive doctrines to take meaningful control of subnational governments can have a moderating effect. As Coulthard himself even acknowledges, the extent to which different Indigenous governments choose to engage in bush production vs. more typical modes of

549 To use the terminology from our earlier discussion of civic education.

economic engagement is an empirical consideration, but our theories both emphasize that it is an empirical consideration that should be driven by the beliefs and interests of those citizens who have bought into the Indigenous governance project as a whole, not dictated externally through illegal economic exploitation of Indigenous lands or through (in Coulthard's view) corrosive and shortsighted liberal notions of 'freedom.'

And much like the right-Catholics of the previous chapter, the left-Indigenous thinkers we are examining place education at the core of their projects of political reform and normative preference formation. Leanne Betasamosake Simpson, at the beginning of her influential article "Land as Pedagogy,"⁵⁵⁰ recounts a Michi Saagiig Nishnaabeg story which depicts a young girl, Kwezens,⁵⁵¹ observing and interacting with nature, and through that interaction inventing a new method of drawing sugar from a tree, which she then shares with her tribe and for which she gives thanks to the trees.⁵⁵² "Kwezens," she notes, "learned a tremendous amount over a two-day period – self-led, driven by both her own curiosity and her own personal desire to learn... To me," she continues, "this is what coming into wisdom within a Michi Saagiig Nishnaabe epistemology looks like – it takes place in the context of family, community and relations. It lacks overt coercion and authority, values so normalized within mainstream western pedagogy that they are rarely ever critiqued."⁵⁵³

Again, the conception of the good life that both informs and is instantiated in/produced by these traditional educational forms is deeply tied to specific land in specific places.

"Indigenous education," Simpson writes, "is not Indigenous or education from within our intellectual traditions unless it comes through the land, unless it occurs in an Indigenous context

550 Simpson, "Land as Pedagogy."

551 "Kwezens" being the word for girl, literally meaning "little woman."

552 Simpson, "Land as Pedagogy," 2–5.

553 Simpson, "Land as Pedagogy," 7.

using Indigenous processes. To re-create the world that compelled Kwezens to learn how to make maple sugar, we should be concerned with re-creating the condition within which this learning occurred, not merely the content of the practice itself.”⁵⁵⁴ The self-directed, non-hierarchical nature of the process is, for Simpson, difficult to overemphasize. “Coming to know,” she writes, “also requires complex, committed, *consensual* engagement. Relationships within Nishnaabewin are based upon the consent – the informed (honest) consent – of all beings involved. The word consensual here is key because if children learn to normalize dominance and non-consent within the context of education, then non-consent becomes a normalized part of the ‘tool kit’ of those who wield power.”⁵⁵⁵

For those worried about this potentially radical replacement of the current system of standardized state education, Simpson, echoing the prudence we saw in Coulthard’s discussion of balance in the economic structure, or Deneen’s prudence in saying “we cannot pretend that the age of liberalism did not happen,”⁵⁵⁶ acknowledges that Ajidamoo⁵⁵⁷ may not be able to teach everything worth knowing. “I am not saying,” she writes, “that Indigenous peoples should forgo leaning western based skills, but we currently have a situation where our greatest minds, our children and youth, are spending 40 hours a week in state run education systems, from age 4 to 22 if they complete an undergraduate degree... In order to foster expertise within Nishinaabeg intelligence, we need people engaged with land as curriculum and engaged in our languages for decades, not weeks.”⁵⁵⁸ However revolutionary it may be, it does not seem to be completely incompatible with the modern university system; even though “[t]he academy does not and

554 Simpson, “Land as Pedagogy,” 9.

555 Simpson, “Land as Pedagogy,” 15.

556 Deneen, *Why Liberalism Failed*, 184.

557 The red squirrel, who in the story inspired/taught Kwezens to draw sugar from the maple tree.

558 Simpson, “Land as Pedagogy,” 22–23.

cannot provide the proper context for Nishnaabeg intelligence,” her proposed reform involves “fully funding the re-generation of Indigenous thinkers as a matter of restitution for the on-going damage it has caused and continues to cause Indigenous Knowledge systems through centuries of out right [sic] attack,” making her critique a question of resource management rather than institutional deconstruction or complete curricular control.⁵⁵⁹ Indeed, for Simpson, demands for curricular control analogous to those made by the right-Catholics would be, from an Indigenous perspective, incoherent, as “[w]ithin this system there is no standard curriculum because it is impossible to generate a curriculum for ‘that which is giving to us lovingly from the spirits,’ and because it doesn’t make sense for everyone to master the same body of factual information. Nishnaabeg society,” she continues, “in its fullest realization, requires a diversity of excellence to continue to produce an abundance of supportive relationships.”⁵⁶⁰

Once again, the extent to which we deem this project reasonable or feasible is likely related to our relative tolerance for the vicissitudes and hiccups innate to prefigurative practices. But, once again, the advantage of the *modus vivendi* arrangement is that those questions can become disputes among Indigenous peoples, occurring on Indigenous territories, within a normative-legal context that privileges Indigenous conceptions of the good life. Under this arrangement, the left-Indigenous thinkers will need to be confident in their preference-formation mechanisms, and the skeptics of those mechanisms will have to be confident in the moderating effects of power and the desires of non-ideologically-activated Indigenous citizens. There is a tension here; indeed, it is precisely the same tension we saw when discussing the right-nonliberals. Even with heavy devolution of power to more-homogeneous subnational units, there

559 Simpson, “Land as Pedagogy,” 17.

560 Simpson, “Land as Pedagogy,” 10.

will still be coalitional politics, and those coalitional politics will become more complicated and specific due to a slackening of the incentives that lead to political dimensionality reduction.⁵⁶¹

While, as with Deneen, this is unlikely to have a moderating effect on Coulthard himself, that was never how this thesis envisioned the depolarization process as working. The person in question who might be persuaded by this, again, is Coulthard's 'ideological constituent,' the average Indigenous citizen who shares many of Coulthard's normative impulses and some of his political outlook, but who may still desire some of the complex industrial products that market liberalism can provide, such as electric cars or solar panels (alongside some perhaps more quotidian creature comforts). This person, in a nationwide binary political arrangement subject to dimensionality reduction, would be more likely to spend their time protesting any one of a hundred left-wing coalitional issues that do not in fact bear on their best lives as Indigenous people. With those pressures and polarization incentives removed or relaxed, more time and more moral energy will be available to hunt, fish, and 'walk the land.'⁵⁶²

Gatekeeping the Commons

For an instructive comparison, similar to the comparison between Deneen and Vermeule, compare Coulthard and Simpson to Silvia Federici's mobilization of Indigenous conceptions of the good in her essay collection *Re-Enchanting the World*.⁵⁶³ Federici, who has similar politics to Coulthard and Simpson, argues explicitly that "a book on the commons written in the United States must start by acknowledging our debt to the first commoners on this continent; the Native American populations." For Federici, "what remains alive of the First Nations' world is a

561 Törnberg, "How Digital Media Drive Affective Polarization through Partisan Sorting."

562 Coulthard, *Red Skin, White Masks*, 171.

563 Federici, *Re-Enchanting the World*.

conception of people's relation to property and the land that still nourishes our imagination."⁵⁶⁴

Much like Vermeule, she argues that "[t]hese [historical] considerations are important not because we wish to model our concept of the commons and attending practices on the past. We will not construct an alternative society by nostalgic returns to social forms that have already proven unable to resist the attack of capitalist relations against them."⁵⁶⁵ Instead, she advocates a re-commoning of wide swathes of the United States, commons which "are shaped by collective decision-making, through assemblies and other forms of direct democracy. Grassroots power, power from the ground up, power derived from tested abilities, and continual rotation of leadership and authority through different subjects, depending on the task to be performed, is the source of decision-making."⁵⁶⁶

While this may sound well aligned with the regionally-specific grounded normativity of Coulthard and Simpson, Federici makes some key argumentative moves which reveal how much more expansive her vision is. Firstly, in a telling passage, she emphasizes how "important for the purpose of this book is the power that women had in Native communities, very likely related to the latter's lack of desire for private property and accumulation."⁵⁶⁷ Compare this rosy outsider's picture of historical Indigenous gender politics with Coulthard and Simpson's careful analysis of the interaction of "rigid [colonial] gender roles" with existing gender biases that were present in historical Indigenous societies.⁵⁶⁸ While she protests that she is avoiding the temptation to "romanticize an artificially constructed Indian subject or naturalize an ethnicized identity produced by the colonizer's gaze,"⁵⁶⁹ her vision of how to politically operationalize Indigenous

564 Federici, *Re-Enchanting the World*, 79, emphasis in original.

565 Federici, *Re-Enchanting the World*, 87.

566 Federici, *Re-Enchanting the World*, 96–97.

567 Federici, *Re-Enchanting the World*, 81.

568 Coulthard, *Red Skin, White Masks*, 158.

569 Federici, *Re-Enchanting the World*, 81.

conceptions of property and the commons gives us reason to doubt this. For Federici, it is not, as Alfred emphasizes, “all about the land.”⁵⁷⁰ Indeed, she critiques what she and her co-author call “gated” commons, which include the “wide spectrum of commons (ranging from closed residential communities through consumer co-ops to certain kinds of land trusts and housing co-ops where people share access to common resources fairly and democratically but are indifferent or even hostile to the interests of ‘outsiders.’”⁵⁷¹ “Together,” she continues, “these ‘gated’ commons satisfy the basic needs (for food, housing, recreation) of millions of people on a daily basis. This is power of collective action. But they do not construct different social relations and may even deepen racial and intra-class divisions.”⁵⁷²

This argument, as phrased, implies that bounded areas of Indigenous-inspired social and economic relations are not enough, and that the Indigenous model (as Federici interprets it, unitary and homogeneous) ought to serve as a broader inspiration, even institutional model, for our society as a whole.⁵⁷³ Now, it would be wrong to claim that Coulthard, Simpson, or Alfred are ‘indifferent or hostile’ to those communities of non-Indigenous peoples who do not live on Indigenous lands. But the Indigenous historical experience, and the left-MacIntyrean recognition of the importance and centrality of *grounded* normativity, exposes a deep conflict between how the Indigenous scholars we have examined understand the relationship between their normative outlook and their broader statewide political projects, and how Federici wishes to mobilize them. Though Coulthard, Simpson, and Alfred may well be glad for the possibility to inform, through prefigurative practice and Indigenous subnational political policy, a new set of more communal, anticapitalistic social relations, that is not the *primary purpose* of Indigenous resurgence.

570 Alfred, *It's All about the Land: Collected Talks and Interviews on Indigenous Resurgence*.

571 Federici, *Re-Enchanting the World*, 90.

572 Federici, *Re-Enchanting the World*, 91.

573 Federici, *Re-Enchanting the World*, 93.

Put bluntly, the ultimate end of Indigenous sovereignty and pedagogy is to ensure a better life *for Indigenous people and peoples*, not to ennoble the white settlers or the settler-colonial state that previously oppressed them. Indeed, the very notion of grounded normativity, understood as connected directly to specific modes of being in specific physical places, would seem to preclude this possibility, at least in the kind of sweeping, nationwide way that Federici seems to be imagining. It makes no sense for a white woman in Greenwich, Connecticut to ‘learn to fish like the Celilo Wy’am’ when she has never even seen the Columbia River Gorge. To push the point further, any attempt to identify some kind of common ‘Indigenous outlook’ on politics, property, community, etc., the way Federici and Graeber & Wengrow would, prior to the solidification of Indigenous resurgence and the recovery of meaningful Indigenous self-determination, runs the severe risk of homogenizing the outcomes of different Indigenous governance arrangements and institutional innovations that would, under a *modus vivendi* arrangement, have the time and space to differentiate and specify themselves to the unique political and normative needs of their constituents.

To borrow, as Heinberg does, from the Austrian School economists, a devolutionary *modus vivendi* arrangement is not just a set of static institutional safeguards, or even a shifting set of power arrangements and the policy divisions that flow from them. A devolutionary *modus vivendi* arrangement is a *discovery process*, an arena of institutional and normative experimentation where the outcome cannot be determined or promised in advance.⁵⁷⁴ For the Austrians, price mechanisms need to be left alone, providing an arena of competition in order to discover what the actual productive avenues of human endeavor are given the current state of the

574 Israel M. Kirzner, “Entrepreneurial Discovery and the Competitive Market Process: An Austrian Approach,” *Journal of Economic Literature* 35, no. 1 (1997): 67–69; Friedrich August Hayek, “Competition as a Discovery Procedure,” trans. Marcellus S. Snow, *The Quarterly Journal of Austrian Economics* 5, no. 3 (September 2002): 9–10, <https://doi.org/10.1007/s12113-002-1029-0>.

shifting landscape of production and consumption.⁵⁷⁵ Moving this analysis to the political realm, “federalism generates a discovery machine that creates feedback information on a range of possible choices as states experiment with different sets of rights.”⁵⁷⁶ Analogously to the enforcement of contracts and punishment of fraud to aid the price mechanism in a market system, the geographic bounds of a devolutionary *modus vivendi*, supported by Coulthard’s theory of grounded normativity, are needed in order for subnational moral communities to discover what their workable model of the good life actually is, and how to instantiate and ‘live it out’ through their laws, customs, and moral norms.

Erik Olin Wright makes a similar point from the left, and his work is more relevant to the case of left-Indigenous theorizing than it may first appear. For anybody with a vested interest in prefigurative practices and the necessity of envisioning governance arrangements radically different than those that currently obtain, his typology of change is a valuable resource. In his book *Envisioning Real Utopias*,⁵⁷⁷ he strikes a Hayekian note of his own when he acknowledges that a complete “theory of structural possibility... is impossible even in principle – the process of social change is too complex and too deeply affected by contingent concatenations of causal processes to be represented.”⁵⁷⁸ Instead, he advocates an exploratory process guided by “a strong normative vision of life beyond capitalism, but [which] acknowledges the limitations of our scientific knowledge of the real possibilities of transcending capitalism.”⁵⁷⁹ To preempt, so soon, this discovery process in the name of nationwide political priorities is, at best, to reduce the wide

575 Hayek, “Competition as a Discovery Procedure,” 22.

576 John O. McGinnis, “Federalism as a Discovery Process and a Catalyst for Humility Capitalism, Markets, and the Constitution: The Thirtieth Annual Federalist Society National Student Symposium on Law and Public Policy 2011: III. Federalism and Interstate Competition,” *Harvard Journal of Law & Public Policy* 35, no. 1 (2012): 118.

577 Erik Olin Wright, *Envisioning Real Utopias* (London ; New York: Verso, 2010).

578 Wright, *Envisioning Real Utopias*, 70.

579 Wright, *Envisioning Real Utopias*, 71.

range of Indigenous cultures across North America into a politically convenient caricature and, at worst, to do genuine epistemic violence against Indigenous peoples such that you block their capacity to meaningfully explore, modify, and instantiate their (self-consciously nascent, often prefigurative) institutional innovations. This tool of the *modus vivendi* discovery process must be placed in the hands of Indigenous peoples *themselves*, for them to guide according to their own interests and their own varying and evolving comprehensive notions of the good. Other subnational units and normative communities may find themselves inspired by these efforts and the institutional innovations that arise from them, but that can be considered a tertiary benefit at best, which can never be allowed to supplant the primary purpose of the discovery process, that being Indigenous resurgence.

This caution serves both as a reason for Federici and Graeber & Wengrow to not take too much ‘inspiration’ from Indigenous peoples, as well as reason for left-Indigenous thinkers to perhaps not want to be too ‘inspiring.’ Federici complains about the supposed exclusionary shortsightedness of ‘gated’ commons, but the desire to keep the gate is more understandable and excusable when every gate you have ever erected has been promptly torn down or smashed open. In other words, it is relatively easy for a member of the settler class to decry subaltern groups who wish to normatively prioritize their own way of life, given that the settler class rarely has to worry about their way of life being normatively prioritized. To put my case in its strongest terms, properly acknowledging the history of repression of Indigenous cultures in North America *requires* geographically-bounded subnational units with the ability to instantiate their vision of the good life in subnational political policy. Differentiation must be allowed, not just between Indigenous and settler communities, but between different Indigenous communities and

coalitions as well. Walking the land means something very different for the Dene than it means for the Confederated Tribes of the Grand Ronde, and even between different tribes within that confederation.

This argument rhymes with a position taken by Paulina Ochoa Espejo, when she emphasizes that “rights cannot be upheld unless the beneficiaries participate in common institutions with others” and “such institutions, including the rule of law... require a concrete physical environment and a common sense of place, so the institutions exist in concrete places.”⁵⁸⁰ Therefore, at ground level, “borders are justified—at least to those who want to uphold the liberal principles of equality of persons under the law.”⁵⁸¹ Rather than the current set of borders, Espejo proposes that “we draw jurisdictions roughly around the areas defined by water conservation,” as “the Watershed Model proposes that borders be drawn from the bottom up, by appeal to the relations that arise from specific places and then scaffold up into larger networks of such relations.”⁵⁸² Grounded normativity demands that I endorse the former claim, but the *modus vivendi* footing of this dissertation requires that I deny the latter. While the Watershed Model may well be a useful approach that aligns well with the contingent, bottom-up bases of *modus vivendi* theorizing, our commitment to institutional contingency means that *modus vivendi* theorizing cannot endorse the Watershed model that Espejo proposes as a universal solution any more than it can tolerate universal adherence to the Desert Island model that she rejects.⁵⁸³

580 Paulina Ochoa Espejo, *On Borders: Territories, Legitimacy, and the Rights of Place* (New York, NY: Oxford University Press, 2020), 170–71.

581 Espejo, *On Borders*, 171.

582 Espejo, *On Borders*, 197–98.

583 Espejo, *On Borders*, 6–7.

The lesson we ought to draw from the Indigenous political theorizing we have analyzed is not that more groups ought to behave like Indigenous peoples, the way Federici would have it, but rather we should probably understand other political normativities to be more ‘grounded,’ more tied to culture and climate and people and place, than we currently do. A devolutionary modus vivendi arrangement, again, need not be symmetrical; there are already policies protecting Indigenous lands and rituals that could be framed as ‘ethnically discriminatory’⁵⁸⁴ which have not led to the immediate reinstatement of Jim Crow in the southern states. However, if not symmetry, then, as we have discussed earlier, some form of normative reciprocity would likely aid in the stabilization of any devolutionary modus vivendi arrangement. ‘Grounded normativity for me, not for thee’ will likely not be persuasive across the wide body of nonliberal and nonliberal-sympathetic citizens as subnational governments continue to assert themselves.

584 The current state of Indian law (the official term of art) in the United States allows tribes to “impose tribal employment preference laws when hiring personnel to carry out contracted responsibilities,” (Geoffrey D. Strommer and Stephen Osborne, “The History, Status, and Future of Tribal Self-Governance Under the Indian Self-Determination and Education Assistance Act,” *American Indian Law Review* 39 (2014): 25.) and the Tribal Forest Protection Act of 2004 “essentially authorizes the Secretaries of Agriculture and the Interior to give special consideration to tribally proposed Stewardship Contracting (or other projects) or Forest Service and Bureau of Land Management (BLM) land bordering or adjacent to Indian trust land.” (Strommer and Osborne, “The History, Status, and Future of Tribal Self-Governance Under the Indian Self-Determination and Education Assistance Act,” 71.) In the Pacific Northwest, certain tribes are allowed to fish for salmon in ways and at times that depart from otherwise-universal hunting schedules, (Michael McNally, “Defend the Sacred: Native American Religious Freedom,” Berkley Center for Religion, Peace and World, accessed May 10, 2024, <https://berkeleycenter.georgetown.edu/responses/defend-the-sacred-native-american-religious-freedom>.) and are allowed to “gather forest products for traditional and cultural purposes without fees.” (Jonathan W. Long and Frank K. Lake, “Escaping Social-Ecological Traps Through Tribal Stewardship on National Forest Lands in the Pacific Northwest, United States of America,” *Ecology and Society* 23, no. 2 (2018): 8, <https://www.jstor-org.proxy3.library.mcgill.ca/stable/26799109>.) Furthermore, tribes are allowed to operate healthcare clinics in ways specifically designed to meet tribal needs, arguably prioritizing the medical needs of tribal members over those from outside the tribe. (Strommer and Osborne, “The History, Status, and Future of Tribal Self-Governance Under the Indian Self-Determination and Education Assistance Act,” 21.)

The Requirements of Resurgence

So, after our analysis, what desiderata do our left-nonliberals bring to the metaphorical ‘negotiating table’ when we discuss the likely shape of the emerging devolutionary modus vivendi? There seem to be two main additions, one which has been prefigured by our right-nonliberals and one of which has not. The former is economic sovereignty; subnational governments, whether they be state/province or tribal governments, will require much more power than they currently have to regulate, limit, or even ban major industries within their jurisdictions. Among other things, this requires essentially a complete rethinking, if not a complete removal, of the federal principle of economic integration, as represented by the Interstate Commerce Clause in the United States and the Canadian Free Trade Agreement in Canada. Whereas the right-nonliberals wanted to ban or severely limit certain industries (most notably the pornography industry) from operating within their jurisdictions, there was some evidence that this could be achieved largely through clever legislation and age restriction requirements. These more piecemeal approaches will, as we have seen, not be sufficient to achieve anything like this particular left-nonliberal understanding of the good life.

Bush production cannot be meaningfully reinstated as a primary mode of production under conditions where nearly anything that even tangentially restricts, limits, or interferes with interstate commerce⁵⁸⁵ can be stopped by national-level fiat.⁵⁸⁶ Again, market liberals (such as

585 Take the famous case of *Gonzales v. Raich*, which held that a private individual growing their own marijuana in a state where it was legal to do so for their personal marijuana use was capable of being regulated under the Interstate Commerce Clause, as even local/individual growth and use of marijuana has an effect on local marijuana prices, which in turn have an effect on the national marijuana market. (“*Gonzales v. Raich*,” Oyez, accessed May 3, 2024, <https://www.oyez.org/cases/2004/03-1454>.) Under a regime of national-level interference this expansive and broadly defined, the economic vision of the good life laid out by Coulthard is, to my eye, flatly impossible.

586 This is also the thesis of upcoming work entitled “Towards an Indigenous Political Economy” from Kelsey Brady, an Indigenous scholar at the University of British Columbia.

myself) have deep reservations about the levels of economic autarky that Coulthard seems, in certain moods, to be advocating, but skeptics will simply have to place their faith in the average Indigenous citizen to not accept a sudden, sharp reduction in their standard of living, especially when they are permitted (and again, under some potential conjugations of this system, even subsidized) to leave. It is here that the skeptics can maybe take some heart from the left-nonliberal worldview; markets are adaptive things, and can adjust to a wide arrange of circumstances, including subnational polities that reject them.

The second element the left-nonliberal worldview adds to the makeup of the emerging devolutionary *modus vivendi* has, in a sense, been the proverbial ‘elephant in the room’ during these discussions of ethnic solidarity and ethnic oppression: the capacity of subnational governments to pass laws that are based explicitly on ethnicity as a criterion for inclusion and exclusion. When, under conditions of liberal neutrality, Indigenous ceremonies are effectively matters of free association, limiting participation in those ceremonies to those of certain ethnic or tribal backgrounds is legally, and I would argue morally, unproblematic. However, if these ceremonies and modes of communal bonding are to become official government policy on the subnational level, receiving government funds and gaining governmental imprimatur, then we have explicit ethnic discrimination on the part of certain subnational governments, with no real way around that fact. The standard left-nonliberal attempt to grapple with this is to argue that those who have been subject to hierarchies of oppression and domination ought to be treated differently than those who have established and prosecuted said hierarchies of oppression and domination, but given my methodological constraints, that response is unavailable to me. We cannot, when evaluating the emerging devolutionary *modus vivendi*, privilege one particular

sectarian understanding of the existence and nature of hierarchies of domination and oppression, because one of the most important things citizens disagree about is the existence and nature of hierarchies of oppression and domination. As such, concern about allowing official ethnic discrimination on the subnational level is reasonable.

An objection here specific to the Indigenous governance case is that ethnicity is just one criterion for tribal membership, but not a necessary nor sufficient one, and it is tribal membership that structures legal rights and exemptions. These are not ethnic distinctions, the argument goes, but national-political distinctions. This point is well taken, and one could imagine another potential institutional coordination point where Indigenous tribal membership benefits are upheld under this standard while the impermissibility of true ethnic discrimination rules out the kinds of deleterious policies we worry about from other subnational governance units. However, I frame the policy as ethnic discrimination here for three main reasons. For one, ethnicity, while neither strictly necessary nor sufficient, is often enough an important criterion for determining tribal membership, such that there will be in practice cases of ethnic discrimination by Indigenous subnational governance units. Secondly, framing this in broader terms as race- or ethnicity-conscious legislation allows us to deal with several other policies that are important to left-nonliberals and comprehensive liberals alike, such as affirmative action, specific exemptions for racialized minorities from certain otherwise-universal legal requirements, or even racially/ethnically-weighted voting systems. We will treat some of these in my concluding chapter on comprehensive liberalism, but in short, it is in the interest of the broad left, comprehensive liberal and left-nonliberal alike, to live under a governance arrangement that

allows for race- and ethnicity-conscious legislation; too many of their political priorities depend on that capacity.

The third reason to frame the particular institutional capacity we are debating as a capacity for ethnic discrimination is because, as we saw in the Dene case study in Coulthard. *this is how the liberal/settler state will understand it.*⁵⁸⁷ To help justify this particular rhetorical concession, consider: Burke Hendrix, in his book *Strategies of Justice*,⁵⁸⁸ highlights how Indigenous peoples “must be carefully strategic to defend [their] just moral claims... recognizing that words are tools of political action that bring positive change only when correctly calibrated.” Following Dale Turner, he emphasizes what Indigenous people of all stripes know, that this process “involves careful engagement with dominant political and intellectual structures in unequal conditions: because law and patterns of political argumentation continue to be shaped by colonial presumptions, word warriors⁵⁸⁹ must work to expose those flawed presumptions where possible, and must act in self-defense against them through other means where this is not possible.”⁵⁹⁰ These justified strategic actions even extend to “permissions to act in highly strategic, nontransparent terms, even to the extent of saying things that are untrue... such actions might be described as *speaking untruth to power.*”⁵⁹¹

Framing the institutional capacity to regulate and restrict tribal membership in various ways as ethnic discrimination rings false to many Indigenous people and peoples, but Turner’s point, through Hendrix, is that *it need not ring true.* Under the Indian Act in Canada, and under

587 Coulthard, *Red Skin, White Masks*, 70–71.

588 Burke A. Hendrix, *Strategies of Justice: Aboriginal Peoples, Persistent Injustice, and the Ethics of Political Action*, Oxford Political Theory (Oxford New York, NY: Oxford University Press, 2019).

589 Turner’s term. (Dale A. Turner, *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy* (Toronto: University of Toronto Press, 2006), 7–11.)

590 Hendrix, *Strategies of Justice*, 72.

591 Hendrix, *Strategies of Justice*, 77, emphasis added.

Indian law in the United States, Indigenous peoples have grown accustomed to oversimplifying and even outright misrepresenting elements of their cultures, worldviews, and history in order to extract even the limited self-determination they have achieved. I am suggesting, in short, that this is another one of those circumstances. It may well not be advisable for Indigenous citizens to actively acknowledge their tribal membership policies and the rights/responsibilities that accrue to tribal members as forms of ethnic discrimination. However, understanding the strategic role of dishonesty under conditions of systemic oppression allows us to separate out the colonial state's *perception* of certain institutional powers from the actual nature of those powers themselves.

Put simply, that the settler-liberal state will, even after further devolution occurs, understand certain Indigenous practices as ethnic discrimination does not mean that Indigenous peoples, within their own communities, are obliged to agree with them. Moreover, to the extent that they do agree, and do find ethnic discrimination unpalatable or unacceptable, Indigenous peoples will have far more institutional room under a devolutionary MacIntyrean *modus vivendi* to engage in and explore other modes and understandings of tribal membership. Many brute-force measures of tribal identity, such as blood quanta, are either incentivized or actively enforced by the settler-colonial state itself. Moving to a *modus vivendi* arrangement where subnational units have much more leeway for self-determination will create space for new modes of identity formation, and new institutional innovations, that are currently infeasible under the current conditions of colonial domination.

With it now understood both that the settler-colonial state will understand this particular institutional power as the power to ethnically discriminate, and that Indigenous people need not take this understanding onboard themselves, it is vital to remember that even the devolutionary

modus vivendi we have been sketching requires some form of representation for marginalized groups along the lines of MacIntyre's representation condition. The representation may be along ethnic lines, the way we see in some societies with strong ethnic divisions,⁵⁹² but no subnational government, Indigenous or otherwise, could take steps to meaningfully *freeze out* an ethnic group from presenting and advocating their interests within the relevant bodies of the subnational governments. This is not a surprise to the Indigenous thinkers we have been discussing, all of whom take pains to clarify that their preferred methods of governance, usually deliberative and democratic, would not prevent non-Indigenous citizens from having their concerns heard and addressed. Similarly, the welfare condition requires that a basic level of economic well-being is demanded of all members of all subnational units. This level, as we have discussed, cannot be put so high as to rule out the kinds of economic changes that might occur should an Indigenous subnational government institute widespread bush production, but a floor does exist. This is not, I stress again, a Kukathasian theory⁵⁹³ where right of exit is the only method by which permanent minorities or marginalized groups may express their discontent or incentivize redress of their grievances. We pulled criteria from MacIntyre, a nonliberal with a foot each in left-nonliberalism and right-nonliberalism, that are thicker than that. These criteria can, when enforced by a national-level government, meaningfully prevent the sorts of negative social equilibria people worry about when they reject race- and ethnicity-conscious legislation.

Finally, though it violates our latent liberal notions of reciprocity and equality under the law, one of the primary empirical lessons of the devolutionary toolkit is that different subnational governments need not have entirely symmetrical state capacities. Nothing about a devolutionary

592 Horowitz, "The Many Uses of Federalism."

593 Kukathas, *The Liberal Archipelago*.

modus vivendi arrangement, neither as we are theoretically sketching it here nor as it has been observed in ethnically divided societies, requires all subnational governments to have the capacity to discriminate ethnically simply because one subnational government (or subset of subnational governments) has the capacity to discriminate ethnically. Whether or not the governance arrangements actually do form that way is heavily dependent on empirical factors, including how various coalitions rank their relative political priorities. Put another way, whereas *this theory* is prevented from leaning on sectarian notions of the existence and nature of hierarchies of oppression and domination, nobody within the evolving modus vivendi scrum is prevented from doing so. It is likely that many citizens, especially that wide middle swath that are ideologically inspired but not ideologically 'activated,' would see the wisdom of allowing Indigenous peoples modes and avenues of ethnicity-conscious policy that would and ought to be unavailable to white citizens.

To be completely clear, ethnic discrimination and racial resentment remain major issues in North American politics to this day. But we are not embarking on this devolutionary institutional path from the same position we were in during the height of Jim Crow. The past fifty to seventy years have seen strong social taboos develop around the possession and promulgation of openly racist beliefs and ideas, and now that our national-level consensus appears to be, as an empirical fact, breaking down, we may have to lean on that taboo, alongside national-level enforcement of our exit, representation, and welfare conditions, to sustain a morally valuable asymmetry around the capacity for certain subnational polities to pass ethnicity-conscious legislation. This is, I acknowledge, cold comfort for the antiracist left, but given the centrality of race- and ethnicity-conscious legislation to many of their most cherished political goals, this

tension seems inevitable, especially as the rhetorical and theoretical ‘trick’ at the core of the political-comprehensive collapse becomes less persuasive by the year. Indeed, as these last two chapters have proceeded, comprehensive liberals reading my argument may be wondering why they would ever want to acquiesce to this new arrangement, thereby giving up their privileged position wherein their substantive view of the good, autonomy, may receive legal and educational imprimatur while others cannot. That concern, among others, will be the subject of my next and final chapter.

Chapter 6: Comprehensive Conclusions, Comprehensive Concerns

So, to summarize the case so far, most liberal approaches to handling the problems of deep disagreement have, as we have previously discussed, essentially assumed the problem away, by suggesting that if we could only get everybody to sign onto one understanding of respect,⁵⁹⁴ or diversity,⁵⁹⁵ or reason,⁵⁹⁶ then a liberal governance order and set of social beliefs could feasibly command meaningful long-term allegiance. If we could get everybody to agree on the important stuff, they seem to say, then we could handle the problem of people disagreeing about important stuff. These approaches are, put bluntly, self-refuting, and ill-suited to the problems of pluralism we are increasingly experiencing in North America under conditions of pluralism and increasing political polarization.

The most sophisticated and subtle attempt at managing the problems of deep, intractable disagreement, political liberalism, suffers from an appropriately sophisticated and subtle failure. Political liberalism, in the areas that matter most for the moral construction of liberal subjects, namely civic education, has been shown to be meaningfully co-opted by comprehensive liberalism, such that it can be said to be ‘collapsing into’ comprehensive liberalism. This ‘political-comprehensive collapse’ causes severe damage to the capacity for political liberalism to serve its purpose as a stability-generating force under conditions of deep, intractable disagreement. By allowing the comprehensively liberal ‘inmates’ to ‘run the asylum’, political liberalism ceases to serve as an arbiter of the disputes between various comprehensive doctrines,

594 Nussbaum, “Perfectionist Liberalism and Political Liberalism.”

595 Galston, “Two Concepts of Liberalism.”

596 Quong, *Liberalism without Perfection*.

instead becoming just another disputant, using state force to inculcate comprehensively liberal ideology through the education system.

This puts the liberal who wishes to *actually* cope with deep disagreement in a bind. They cannot appeal to arguments that originate in liberalism as a whole, since, due to the political-comprehensive collapse (and simple numerical disparities), comprehensive liberalism is the dominant force within political liberalism. They cannot appeal to arguments in favor of political liberalism, since political liberalism has collapsed into comprehensive liberalism. Nonliberals have noticed, indeed claiming that this collapse has shown that political liberalism was *always* a front for pushing indoctrination of liberal conceptions of autonomy as the only acceptable form of the good life. And, finally, the liberal cannot appeal to comprehensive liberalism itself, as comprehensive liberalism has no interest in accommodating nonliberal comprehensive doctrines, and to draw upon comprehensive liberal arguments to bolster political liberalism *is to accelerate* the political-comprehensive collapse. This left us with no recourse other than to attempt to draw support and justification for a liberal modus vivendi from within nonliberal ideologies themselves, the liberal conceptual space having been compromised and exhausted, collapsing due to its bad foundations.

Alasdair MacIntyre served as our proof-of-concept for this project, chosen because his positions, taken together, sit almost exactly between right-nonliberalism and left-nonliberalism, given his extensive Catholic and Marxist background. From MacIntyre's theory, we excavated the limiting conditions of a nonliberal modus vivendi that could potentially appeal to those members of nonliberal ideologies who do not, as a first principle, seek the destruction or dissolution of the liberal governing order (and, as we later discovered, even some of those who

do). From MacIntyre's theory, we drew three limiting conditions that allow us to determine which modus vivendi arrangements are acceptable: the democratic condition, the welfare condition, and the proxy condition.

The democratic condition states that the forms of various subnational units within a devolved federal liberal polity must be minimally democratic,⁵⁹⁷ whereas the proxy condition states that those who are not formally represented within the political system of a subnational unit must have at least some external or parallel set of institutions within which they have an opportunity to influence policy. Finally, the welfare condition acts as a backstop against extremely negative outcomes that could arise as a result of the limited forms of disenfranchisement that are technically possible under the democratic and proxy conditions. If some significant subset of the population of a subnational unit is consistently living below a minimal threshold of material well-being, then federal action to rectify this situation is justified. Indeed, federal action is justified if any of these conditions are repeatedly and consistently violated. Whereas freedom of movement, our fourth condition, is the one we draw directly from liberalism, these additional conditions are what makes my theory thicker than that of Chandran Kukathas.⁵⁹⁸ While still limited and minimalistic, the federal government has far more responsibility to police specific outcomes of subnational unit policy than it would within Kukathas' liberal archipelago, an outcome we should perhaps expect given that these three additional conditions, the democratic, proxy, and welfare conditions, are drawn from a nonliberal theorist.

597 Adam Przeworski, "Minimalist Conception of Democracy: A Defense," in *Democracy's Value* (Cambridge University Press, 1999).

598 Kukathas, *The Liberal Archipelago*.

Armed with our criteria, we turned to our case studies on right- and left-nonliberalism, exemplified by right-Catholic political thinkers and left-Indigenous political thinkers, respectively. Using our devolutionary MacIntyrean *modus vivendi* as a guide, we separated out those theorists who could, at least conceptually, come to some kind of accord under MacIntyre's criteria⁵⁹⁹ from those who never could,⁶⁰⁰ and put together a list of 'demands' made by nonliberals that any near-future *modus vivendi* arrangement would have to countenance in order to function stably. These demands were:

Right-Nonliberalism:

R1: Elimination or severe qualification of constitutional free speech protections, to the extent that subnational units can endorse specific religions, and ban pornography.

R2: Social services will be allowed to interfere with households and parental rights when those households or parents hold to conceptions of the family, of marriage, of gender, etc., not shared by the relevant subnational unit.

R3: Subnational units will have more direct control over educational curricula (in part stemming from R1), at the primary, secondary, and collegiate level, and at the expense of current understandings of academic freedom.

Left-Nonliberalism:

L1: Subnational units will need a much greater capacity for economic sovereignty, to the point of elimination or severe qualification of the federal principle of economic integration.

L2: Subnational units must be permitted to pass laws and accord benefits explicitly on the basis of ethnicity.

599 Coulthard, *Red Skin, White Masks*; Deneen, *Regime Change*.

600 Federici, *Re-Enchanting the World*; Vermeule, "Integration from Within."

With all these demands/desiderata gathered in one place, the outlook for liberals looks very dire indeed. I want to briefly offer some clarifications and qualifications that can, hopefully, soften the blow somewhat. The first is a reminder that, while *modus vivendi* negotiations⁶⁰¹ tend to be conceptually reciprocal, they need not be *symmetrical*. Put more simply, while *in theory* any and all subnational units under a MacIntyrean *modus vivendi* could avail themselves of any or all of these concessions (insofar as they do not violate freedom of movement or the democratic, proxy, and welfare conditions), it is a matter of empirical political outcomes and local political preferences whether or not any subnational unit *will in fact* avail itself of any of these concessions. Political change and institutional upheaval is itself a messy thing, highly path-dependent and reliant on a wide variety of seemingly-arbitrary political factors. Acknowledging this omnipresent fact of politics is key to doing non-ideal theory in general and *modus vivendi* theorizing in particular.

Moreover, it is important to clarify that I am not attaching any particular intrinsic normative significance to this set of demands. The normative work of this theory is largely complete in the moment of identifying the guardrails present in a MacIntyrean *modus vivendi*; the above list is simply what we discovered when we, again metaphorically, asked nonliberals what they want with MacIntyre's criteria in mind. The additional hope we have, building on Rawlsian intuitions but not Rawlsian commitments, is that MacIntyre's guardrails will be more normatively plausible to nonliberals, given that they emerge from a highly influential nonliberal theorist who speaks intimately to the objections that nonliberals have against liberalism. Rather than the model of the overlapping consensus, in which liberal theorists derive liberal principles

⁶⁰¹ Negotiations being a term understood, again, in a very broad sense, not just as actions and debates held in legislatures and during political contexts but also through attempts to attract more citizens to their relevant subnational unit, and through policy initiatives that explicitly violate federal law, among others.

from liberalism and invite nonliberals to find their own internal reasons to support those liberal principles (deeming any who do not or cannot do so as ‘unreasonable’), my nonliberalism-first approach creates a situation where principles *concomitant with* a minimalistic, thin form of liberalism are derived *from within* nonliberal political thought, making the demand that nonliberals reconcile themselves to these limitations, hopefully, easier to swallow. You do not have to be liberal to see the value of the democratic, proxy, and welfare conditions, and while the high standard of ‘stability for the right reasons’ is not meaningfully within reach, this offers us reasons to think a MacIntyrean *modus vivendi* will be more stable under conditions of political polarization and deep disagreement than other potential *modus vivendi* coordination points. A balance is struck between taking political normativity/ideological motivation seriously, while not allowing the contours of one ideology to shape our understanding of the conceptual space of potential governance arrangements in an outside way.

To stress again, *this is not a Kukathasian theory*, in which the duties and responsibilities of the federal government wither away in the face of the overwhelming force of deep disagreement. In no small part because these conditions derive from a holotypical nonliberal theorist, *the existence of deep disagreement cannot consistently be appealed to in order to justify a subnational unit violating the democratic, proxy, or welfare conditions*. Violations of these (admittedly fairly minimalistic) conditions will, under a MacIntyrean *modus vivendi*, still justify federal intervention and correction of subnational unit policies, politicians, and even governance structures. While subnational units will have much more power under this potential future schema, certainly compared to the overly-nationalized federal regimes of Canada and the United States, this is not a story in which subnational units get whatever they want, and in which the

federal government has no remaining power or role beyond foreign policy. This coordination point, I argue, strikes another useful balance between the overly-devolved federalism of the Kukathasian liberal archipelago, and the far-too-centralized moderate centralism of McCabe's modus vivendi theorizing.⁶⁰²

There are, however, objections that deal with the most Kukathasian element of my theory, the bedrock provision for freedom of movement between subnational units. I will treat two of these in turn, one from the nonliberal perspective and one from the liberal perspective. The objection from the nonliberal perspective is the argument that allowing unrestricted freedom of movement between subnational units can undermine the capacity for those subnational units to set up and maintain the standards they need to follow their substantive notion of the good life. Lemke⁶⁰³ shows a proof-of-concept for this dynamic, wherein states that experienced greater interjurisdictional competition, of the exact kind I extol my modus vivendi arrangement for providing, were more likely to pass Married Women's Property Acts (MWPAs), which allowed women "to create enforceable wills, to engage in independent business activities, to refuse to pay their husbands debts, to access their husbands estate after his death, or," most importantly, "keep wages independent earned and/or maintain separate property."⁶⁰⁴ In situations where lawmakers "have a vested interest in attracting or maintaining population" and where individuals "have the knowledge and means to actively move from less preferred to more preferred jurisdictions,"⁶⁰⁵ those lawmakers, particularly in the Western territories which "had particularly strong incentive to attract population because of the requirements associated with entry to the Union,"⁶⁰⁶ passed

602 McCabe, *Modus Vivendi Liberalism*.

603 Jayme S. Lemke, "Interjurisdictional Competition and the Married Women's Property Acts," *Public Choice* 166, no. 3–4 (March 2016): 291–313, <https://doi.org/10.1007/s11127-016-0323-x>.

604 Lemke, "Interjurisdictional Competition and the Married Women's Property Acts," 292.

605 Lemke, "Interjurisdictional Competition and the Married Women's Property Acts," 293.

606 Lemke, "Interjurisdictional Competition and the Married Women's Property Acts," 306.

MWPAs in order to draw more settlers and even out the massive gender imbalances that predominated in the Pacific and Mountain regions of the United States in the middle of the 19th century.⁶⁰⁷ To sharpen this point, this effect was most pronounced directly along major railway corridors,⁶⁰⁸ making the connection between freedom of movement and socially progressive legislation under conditions of robust interjurisdictional competition hard to deny.

To echo a criticism I made of McCabe and apply it to myself, this is a fine thing to emphasize if one were trying to convince a comprehensive liberal that nothing much would change under a potential future devolutionary *modus vivendi*, but it directly undermines the appeal of such an arrangement for nonliberals. This is not to say that current nonliberals, either of the left- or right- varieties, want married women to be unable to own property in anything like representative numbers, but this is an example of a mechanism wherein subnational units competing for different populations can create incentives that undermine the space for traditional/intentional modes of living, in two ways. The first, and most basic, mechanism by which this would happen is that the existence of states with differing policy arrangements would tempt away populations that would be better served to stay within their current subnational unit and follow the vision of the good that that subnational unit enforces, an objection I have dealt with in the previous chapters. But Lemke's argument points to a bigger problem; the entire point of a devolutionary *modus vivendi* with a freedom of movement provision is to ensure that there are a variety of subnational units with a variety of different governance structures and normative commitments to choose from, as frictionlessly as possible. However, should Lemke's analysis be correct, the very mechanism required to make interjurisdictional competition work, freedom of

607 Lemke, "Interjurisdictional Competition and the Married Women's Property Acts," 305.

608 Lemke, "Interjurisdictional Competition and the Married Women's Property Acts," 298, 305.

movement, can create institutional *homogeneity*, which undermines the purpose and value of interjurisdictional competition in the first place. Again, the purpose of federalism, for the argument of this dissertation, cannot be to legislate itself out of existence, experimenting with institutional variation only for all subnational units to converge on one ‘correct’ set of institutional forms. There needs to be good reason to believe that institutional variation will exist *and persist*, not get smoothed over through public and private incentives.

The most powerful reason from within the nonliberal worldview that undercuts this concern is that, as we have seen, all the nonliberal worldviews we have examined take, as one of their premises, that there is growing discontent with liberal, individualistic, capitalistic modernity as it is currently experienced in Canada and the United States. Many people do want to and do in fact experiment with nonliberal communities and modes of living, but those experiments are limited in breadth and depth by the current *actively enforced* institutional homogeneity imposed by our overly-constitutionalized and overly-centralized federal systems. If we can achieve, consciously or gradually or both, the kinds of institutional reforms that I have so far sketched in this dissertation, nonliberals would have good reason to believe that they would have meaningful incentives to compete with on the field of interjurisdictional competition, especially with a freer hand to educate and reinforce their substantive conceptions of the good through their educational systems. When the schools in your own district are quietly and subtly educating your children to comprehensive liberalism, competition with liberal, capitalistic, individualistic modernity (and the subnational units that invariably exist to represent it) is a mug’s game, hopelessly skewed from the start. A nonliberal could argue that, once they have meaningful control over their educational systems and governance structures, Tiebout competition between subnational units

could be an actual choice, rather than a foregone conclusion. There is, of course, still the possibility that this would be an overly-optimistic statement, given the incredible influencing power of liberal modernity, but with a full appreciation of the quite-expansive set of new powers that would be granted to subnational units under R1 through L2, it seems at least plausible to give the MacIntyrean *modus vivendi* the benefit of the doubt.

There is an additional concern with Tiebout sorting in our specific case of ideological difference and disagreement that I want to briefly address. I have appealed to existing and rising political polarization as evidence of the need for a new devolutionary *modus vivendi*, and Tiebout sorting as a potential method of fixing this issue. However, even with subsidies for movement and new ideological space for cross-cutting cleavages to express themselves, Tiebout sorting will remain, the criticism goes, a marginal phenomenon. It is not just marginal in the sense that it is rare, but in the sense that those who engage in it will be those on the margins, those ideological constituents who are maximally motivated to uproot their lives and move to a particular location *for ideological reasons*. This effect, bunching people together who have extreme ideological views, could meaningfully increase political and geographical polarization, the precise social ills that my *modus vivendi* was identified in part to help cure.

There are a few responses to this. One, which most bites the bullet, states that ideological quarantining can actually be a positive benefit of a devolutionary *modus vivendi*. If there yet emerges some subnational unit that is implementing right-nonliberal policies and conceptions of the good, all polities who do not wish to do so will be meaningfully and concretely benefited by their most ideologically activated right-nonliberals picking up stakes and moving away. Additionally, the existence of a rising polity that is functionally implementing their conception of

the good can change the calculus for more moderate ideological constituents, making it more feasible and more appealing for more moderate right-nonliberals to pick up stakes as well. These moderates, if and when they move, will inevitably come into conflict with the more extreme members of their ideological constituency, but this, from the perspective of both the moderates and the ‘early adopters’, is an improvement on the status quo, giving them voice in disputes that are directly relevant to the most morally salient aspects of their worldviews, rather than being a permanent minority in their subnational unit of origin. Should we ‘back into’ a devolutionary modus vivendi in the way I predict, these moments of ideological equilibration are best understood as a feature of the theory, rather than a bug.

This story only works, however, if those who do the moving have some reasonable expectation of being able to meaningfully guide their new subnational unit towards their comprehensive notion of the good. Take the case of the Free State project⁶⁰⁹ an effort founded by political scientist Jason Sorens to convince a critical mass of libertarians to move to New Hampshire in order to turn a vaguely-libertarian state into a meaningful stronghold of libertarian ideas, policy, and governance. This movement, nearly 25 years after its founding, is widely recognized to be a failure, not merely because the project received nowhere near the level of participation it needed in order to succeed,⁶¹⁰ but also because those libertarians that did move turned out to be the most rabid and ideologically-activated members of that political coalition, which has led to the New Hampshire Libertarian Party becoming a notorious beacon for the worst tendencies of libertarianism as a whole.

609 Pam Belluck, “Libertarians Pursue New Political Goal: State of Their Own,” *The New York Times*, October 27, 2003, sec. U.S., <https://www.nytimes.com/2003/10/27/us/libertarians-pursue-new-political-goal-state-of-their-own.html>.

610 Michael Kitch, “Its Founder Reflects on the Free State Project,” *New Hampshire Business Review*, October 22, 2021, <https://read.nhbr.com/nh-business-review/2021/10/22/#?article=3886193>.

The problem with using this example to discredit ideological Tiebout sorting in general is that it largely occurred under conditions of overcentralization and overconstitutionalization, conditions where any realistic libertarian would understand that there was no hope of achieving the goals set out by the movement in the first place, given the level of institutional homogeneity imposed upon subnational units in the United States. As such, only the unrealistic libertarians moved, and ideological Tiebout sorting looks like a recipe for extremism. Should we, again, either deliberately or de facto shift to a more decentralized *modus vivendi*, wherein states have more power to genuinely vary their policies based on the moral beliefs of their constituents, then the incentives for ideological Tiebout sorting change drastically, which should lead to a drastic change in those who are sorted. Under conditions of overconstitutionalization, the Free State Project was an exercise mostly in extremely expensive signaling, and as such we should not be surprised when those who choose to spend their lives this way are bigoted, impractical, and ideologically brittle. If there is, however, actual hope of success, then the projects that emerge under those conditions will be meaningfully more hopeful, not merely in terms of their outlook but in terms of their actual chances for stable, long-lasting emergence of new, ideologically-informed polities.

The most salient response, however, to this worry about ideological Tiebout sorting, is that it has too narrow a definition of what ideological Tiebout sorting actually looks like. As stated elsewhere in this dissertation, people who ostensibly move for ‘economic’ or ‘policy’ reasons are often indirectly moving for ideological reasons, and their choices have ideological implications. The low-tax, low-assistance, low-friction economy of Texas, for instance (a state

which is attracting significant internal migration in the United States, especially from blue states)⁶¹¹ reflects a particular normative outlook and ordering of priorities. It is perhaps pro-family to implement, say, free or subsidized childcare, the way that blue states do, but it is also pro-family to create an economy in which one can cheaply buy or rent a house of the square footage necessary to support multiple children, something blue states have proven themselves broadly bad at. Those who move from the latter polities to the former are themselves making a judgment, not just about a particular set of economic outcomes, but about the ideological and normative outlook informing them, and are as likely to become influenced by their new home as they are to influence it to be like their old one.

Again, the *modus vivendi* framework can offer no guarantees as to how these moments of ideological calibration and equilibration will play out, but understanding ideological Tiebout sorting in this broader way helps ‘normalize’ the process, showing that a republic of devolved and macro-diverse polities need not be a republic of siloed extremists. In this light, then, the nonliberal demands I have sketched out above are not what nonliberals will bring to the some hypothetical future negotiating table in some hypothetical future moment of constitution creation, but as areas where we should expect recurring political conflict and areas where the devolutionary toolkit can help minimize and alleviate that conflict.

In that vein, it bears repeating that this set of demands is not a proposal, made *by me*, for a future governance arrangement that I believe is *better or optimal* compared to all other potential governance arrangements. Like everyone in a pluralistic liberal polity, I have my views on what is normatively right and my views on what is politically possible, and those two rarely

611 Roy Kent, “Migrants from Other States More Likely to Call Texas Their New Home,” Kinder Institute for Urban Research | Rice University, December 4, 2023, <https://kinder.rice.edu/urbanedge/california-heads-to-texas>.

intersect. It is easy to read a theorist offering a list of bullet points and conclude that they believe those bullet points to be the set of policy arrangements and constitutional reforms that they would wish to see enacted, but I, in a Gaussian spirit, reject that imperious brand of theorizing.⁶¹² To repeat my clarification from the introduction, this set of demands is best understood, not as my proposal for a better possible world, but my attempt to identify the nearest stable coordination point in conceptual space given that we live in a deeply imperfect world. Given the empirical conditions we face (political polarization, deep disagreement, rising nonliberal sentiment and its expression in authoritarian politics) and the empirical demands of nonliberal theorists (listed above), this point is further away from us in conceptual space than a pluralistic liberal might have hoped, certainly further away than I had hoped for at the start of this project. However, it is very likely that other potential points are worse, characterized by friend-enemy politics at best⁶¹³ and violent conflict or domination at worst.

Moreover, knowing the shape of a future tolerable *modus vivendi* can allow those concerned about slipping further down the devolutionary slope to better interact with the political status quo, encouraging those tendencies and arrangements which support the MacIntyrean *modus vivendi* (interstate competition for citizens, opt-out solutions for minority groups, strong taboos around limiting freedom of movement) and not rejecting proposed institutional forms which comport with it, as the Canadian government rejected the initial institutional design offered by the Dene.⁶¹⁴ While many of the shifts towards this new coordination point have been, and will for some time remain, unorganized, ad hoc, and intuitive, eventually the contours of a new normative ‘deal’ will have to form in the minds of its adherents should it command any form

612 Gaus, “The Open Society and Its ‘Friends.’”

613 Carl Schmitt, *The Concept of the Political*, Expanded edition (Chicago: University of Chicago Press, 2007).

614 Coulthard, *Red Skin, White Masks*, 70.

of lasting allegiance. Knowing even the vague shape of the deal in advance is a tremendously useful advantage in a political and normative landscape where the Vermeules and Federicis of the world continue to work for coordination points that liberals, and even many nonliberals, would find concretely worse.

Finally, we must remember that this set of demands has been a sketch, a first stab at identifying a set of nonliberal priorities and concerns made by examining two reasonably large, reasonably salient factions of nonliberals and drawing together demands made by their two ‘camps’, some of which overlap and some of which do not. While I believe this methodology is necessary to avoid the pitfalls of the political-comprehensive collapse, it does raise an important objection; there are many more nonliberals than just right-Catholics and the left-Indigenous. These two factions have outsized intellectual influence on their respective political coalitions, it is true, but A: if the size of the faction is what matters, what stops us from needing to accommodate larger, less-principled/identifiable nonliberal groups that have much more dangerous designs on North American political life, and B: where do we stop with analyzing factions? Even with my protestations accounted for, the selection of right-Catholics and left-Indigenous thinkers can seem somewhat ad hoc. What’s to stop each new nonliberal group (comprehensive feminism, deep ecologists, Nozickean libertarianism)⁶¹⁵ from coming in and demanding more and more concessions from liberalism until the system as a whole collapses

615 Nozickean libertarianism may seem like an odd candidate to raise as a potential ‘nonliberal’ ideology, given its incredible debt to Locke and the natural law branch of liberal political thought. However, I include it here because, for Rawls, it was one of the paradigmatic examples of an ‘unreasonable’ ideology, (Rawls, *Political Liberalism*, 262–65.) equally unable to be accommodated by political liberalism as fascism or theocracy. As such, showing that minarchism can be accommodated under a MacIntyrean *modus vivendi* is still evidence that this new potential governance arrangement is meaningfully serving to alleviate the problems of accommodation caused by the political-comprehensive collapse.

under the weight of deep disagreement? Don't we have to, as Quong or Macedo would insist, hold the line somewhere?⁶¹⁶

First of all, yes, we do have to hold the line somewhere, and that line is constituted by the limiting conditions of the MacIntyrean *modus vivendi*, plus the additional liberal condition of thick freedom of movement. Again, to use Rawlsian intuitions without Rawlsian commitments, a 'line' that we choose to hold will be held more easily if the intuitions undergirding it and the beliefs constructing it are not drawn from liberalism, but instead from within the nonliberal ideologies that the line has to most directly police. Nonliberals are tired of liberals drawing liberal lines and placing liberal boundaries justified by liberal arguments, and they have begun to do politics without our permission. As for the second concern, this is a more worrisome objection, and I have two responses. For one, while I cannot *rule out* the possibility of a nonliberal cascade effect, neither can liberalism as it is currently being practiced in North America, it seems. Furthermore, as discussed in earlier chapters, drawing upon nonliberal ideology as a guide for what concessions to nonliberals are potentially acceptable and which are definitively morally out-of-bounds gives liberals the capacity to differentiate between those nonliberals that can reach some kind of comity with others in a highly-devolved pluralistic federal republic, and which cannot. This is not a naive theory of accommodation saying that any demand that musters up enough empirical support must be bent over backwards for; the MacIntyrean *modus vivendi* has meaningful moral content that allows certain kinds of concessions to nonliberalism and disallows others.

This is not just a utility for liberals; nonliberals, too, can use the limiting conditions of the MacIntyrean *modus vivendi* as a litmus test for identifying whether or not the limitations they're

⁶¹⁶ Quong, *Liberalism without Perfection*; Macedo, "Liberal Civic Education and Religious Fundamentalism."

accepting make sense from within their own nonliberal paradigms. One of the major risks of the political-comprehensive collapse, as recognized by nonliberals, is the endless addition of new rights and protected classes, the never-ending quest to ensconce the comprehensive liberal worldview as the legal and constitutional default, removing from politics outcomes that ought to be meaningfully up for political dispute. In simpler terms, comprehensive liberals are not just rigging the game of public reason to favor their outcomes, but they are also rigging the legal system itself to make only their stances and beliefs legally possible or institutionally sustainable.⁶¹⁷ Just as the MacIntyrean *modus vivendi* tells the nonliberal polities who accede to it ‘these are your limits; you may go no further’, it also says the same thing to those liberals, comprehensive and otherwise, who are tempted to add more and more desiderata to the liberal constitutional scheme until plurality is crowded out in the name of pluralism.

Again, as I am not operating in a theoretical mode in which we are imagining perfect compliance or stability for the right reasons, these limiting conditions are best understood not as hard moral or constitutional prohibitions,⁶¹⁸ but as aids to clear signaling and coordination between opposed ideological groups operating in an open-ended struggle for control, preservation, and ideological retrenchment. Treating political life as radically unsettled, in the way *modus vivendi* theorizing demands, requires rethinking the purpose and function of constitutional provisions, especially as the current liberal constitutional regimes of North America experience increasing challenges from their relevant subnational units.

617 Vermeule, *Common Good Constitutionalism*, 2022.

618 Though, on a long enough timescale, a polity that has lived in and adapted itself to the MacIntyrean *modus vivendi* could indeed ensconce some of these limiting conditions as delineated written constitutional principles, likely with democratic/nonliberal safeguards in the style of the notwithstanding clause. (Sigalet, “Legislated Rights as Trumps: Why the Notwithstanding Clause Overrides Judicial Review.”) Remember from earlier, though, our core *analytical* commitments from the *modus vivendi* lens; constitutional provisions are best understood as reflecting existing governing consensuses, rather than enforcing or generating new ones.

There is, however, one more reply to be given to the liberal who worries that there will simply be a never-ending stream of nonliberals demanding accommodation and pushing the polity further and further away from even the highly-circumscribed liberalism I have so far sketched in this dissertation. The reply is that a meaningfully-instantiated MacIntyrean *modus vivendi*, even in the brief form in which I have sketched it here, can still satisfy more nonliberal groups than just right-Catholics and the left-Indigenous. The goal in examining the right-Catholic and left-Indigenous thinkers in such detail was more than mere ideological tourism; it was to identify certain nonliberal demands that could generalize beyond those two groups and perhaps serve as a coordination point for nonliberal ideologies more broadly. Therefore, in the next section, I will show how the concessions so far identified to (at least partially) satisfy right-nonliberals and the left-Indigenous can also satisfy other salient nonliberal groups such that, hopefully, enough of their constituents could find reasons to accede to a highly-devolved liberal federal polity.

Scenes from a Modus Vivendi

Take comprehensive feminism, for instance, the viewpoint holding that gender equality is valuable not as a stepping stone to the greater autonomy of women, but for its own sake and the sake of the intrinsic dignity of women. It is not a stretch to understand how R1, the elimination or severe qualification of constitutional free speech protections, could make room for the political projects of some second-wave feminists, such as Catherine MacKinnon, who want to ban pornography.⁶¹⁹ Rather than pursue what turned out to be an unworkable alliance between

⁶¹⁹ Catherine A. MacKinnon, "Sexuality, Pornography, and Method: "Pleasure under Patriarchy," *Ethics* 99, no. 2 (1989): 344; Emerson, "Pornography and the First Amendment: A Reply to Professor MacKinnon," *Yale Law and Policy Review* 3 (1984): 130, <https://mcgill.on.worldcat.org/443/atoztitles/link?sid=google>.

Moral Majority conservatives and second-wave feminists, a devolved MacIntyrean *modus vivendi* would allow subnational units with a preponderance of anti-pornography feminists (or, put more realistically, a preponderance of citizens convinced by the arguments of anti-pornography feminists) to implement pornography bans alongside a broader suite of progressive gender policies and legislation. This unrealized political possibility is one of the fruits of using a devolved *modus vivendi* to counter the nationalization of politics and political dimensionality reduction.⁶²⁰ Whether or not pornography should be banned or otherwise curtailed in ways inconsistent with the First Amendment is a live and increasingly salient debate among feminists, but a political structure in which all debates are nationalized and sorted into two political factions has, so far, prevented this debate from occurring in earnest within polities that otherwise substantively agree on the nature and content of women's liberation. On the face of it, there is no reason to imagine that progressive bans or limitations on pornography would have the same character or the same effects as conservative bans or limitations on pornography, and a process of deconstitutionalization would allow us the ideological and institutional space to discover the difference. Quebec can serve as an example of instantiating certain nonliberal feminist principles in policy, such as prohibiting name change at marriage,⁶²¹ or forbidding the hijab.⁶²²

Additionally, there has been, since MacKinnon's time, a recognizable shift towards intersectional feminism, a feminist ideology which "shows the way that people's social identities can overlap, creating compounding experiences of discrimination."⁶²³ This theoretical approach,

620 Törnberg, "How Digital Media Drive Affective Polarization through Partisan Sorting," 8.

621 "Married Name," Gouvernement du Québec, accessed October 12, 2024, <https://www.quebec.ca/en/famille-et-soutien-aux-personnes/couple-famille/mariage-union-civile-ou-union-de-fait/mariage/married-name>.

622 Amanda Coletta, "Court Rules Quebec Can Bar Government Workers from Wearing Hijabs, Turbans, Other Religious Items," *Washington Post*, April 20, 2021, <https://www.washingtonpost.com/world/2021/04/20/quebec-canada-religious-hijab-turban-ban/>.

623 UN Women, "Intersectional Feminism: What It Means and Why It Matters Right Now," *UN Women* 1 (2020): 2.

similarly to the grounded normativity advocated by Coulthard, emphasizes the need for specificity of focus on specific forms of oppression. As one activist says, quoted in the UN Women report, “[w]e don’t want others to speak for black feminists – neither white feminists nor black men. It’s necessary for young black women to take on this fight.”⁶²⁴ While this worldview also has elements that angle it towards totalizing governance solutions,⁶²⁵ this emphasis on the need for targeted interventions informed by sometimes very small subpopulations of citizens fits well within a decentralized *modus vivendi* arrangement. Yildirim, working specifically within an intersectional framework, writes that, despite a general and broad-spectrum focus on “issues relating care, harm, and the empowerment of the needy... women are very heterogeneous as a group,” with women from different partisan and racial backgrounds often sharing similar views as men from those backgrounds.⁶²⁶

This insight, again, points us towards decentralization and away from dimensionality reduction; the wide variation among women as to what they consider to be ‘women’s interests’ speaks to the necessity for institutional variation and experimentation, both to discover what women’s issues *are*, or if there is even a consensus to be discovered in the first place. A *modus vivendi* arrangement can be agnostic on these claims in a way that an overly-constitutionalized, nationalized, dimensionality-reduced political ‘spectrum’ cannot. The obvious reply to this is that women do not sort geographically in the same way as my other cases, which is true, but *feminists*

624 UN Women, “Intersectional Feminism: What It Means and Why It Matters Right Now,” 3.

625 This is, at least, a plausible reading of some theoretical insights from intersectional feminist analysis. As the report summarizes, “[w]hile issues ranging from discrimination based on gender identity to disparate environmental burdens may seem separate at first, intersectional feminism illuminates the connections between *all fights for justice and liberation*. It shows is that fighting for equality means not only turning the tables on gender injustices, but *rooting out all forms of oppression*. It serves as a framework through which to build inclusive, robust movements that work to solve overlapping forms of discrimination, *simultaneously*.” (UN Women, “Intersectional Feminism: What It Means and Why It Matters Right Now,” 5, emphasis added.)

626 Tefik Murat Yildirim, “Rethinking Women’s Interests: An Inductive and Intersectional Approach to Defining Women’s Policy Priorities,” *British Journal of Political Science* 52, no. 3 (July 2022): 1254, <https://doi.org/10.1017/S0007123421000235>.

do, and may continue to do so under a devolved MacIntyrean *modus vivendi*. Those women who reject the feminist label (particularly in its liberal or progressive formulations, those being the dominant ones) will likely be happier to remain in polities that better instantiate their views on marriage, family, gender, sexuality, and the rest.

To turn to another example, it would seem, again on the face of it, that the MacIntyrean *modus vivendi* arrangement would be a ‘hard sell’ to those who sign onto the deep ecological worldview, a worldview that is known for its “distinctly revolutionary character,” and its “*radicality* of attempts to implement *non-anthropological* ecological ethics into the everyday way of thinking, feeling, and acting of a man.”⁶²⁷ Deep ecology, Bombik summarizes, is contrasted with what Dewall calls the “environmental protection reform movement,” a set of political initiatives which “seek social change aimed at achieving a ‘higher (better) standard of living,’ without questioning the premises from which the formulation of the existing social paradigm is derived.”⁶²⁸ Against this, “[d]eep ecology, from the very beginning of its existence, has sought to identify and discuss, alternative approaches to the existing patterns of the modern West way of thinking. Hence,” he continues, “it assesses some *solutions* of the reformist movement as inaccurate or even useless, and aims, above all, to change the value system and to change social organizations.”⁶²⁹

Like every other ideology we have so far discussed, deep ecology has both decentralizing and centralizing tendencies contained within it. However, it is rarer to see them contained to close to each other within one piece by one author. After laying out claims such as “[d]rastic regulation of the birth rate *of homo sapiens is desirable*” and “[t]he economy must be

627 Mieczysław Bombik, “The Bases and Methodology of Deep Ecology,” *Studia Ecologiae et Bioethicae* 18, no. 5 (December 31, 2020): 68, <https://doi.org/10.21697/seb.2020.18.5.06>, emphasis in original.

628 Bombik, “The Bases and Methodology of Deep Ecology,” 70.

629 Bombik, “The Bases and Methodology of Deep Ecology,” 71.

subordinated to ecological and ethical criteria,”⁶³⁰ Bombik states that “[l]ocal autonomous and decentralized management systems should be independent of the central political power and of the oligarchically organized bureaucracy. Even if bureaucratic organizational forms function better, other organizational forms are *much more effective*, in the light of the basic principles of deep ecology, especially for smaller communities.”⁶³¹ This seeming tension appears to be a result of certain practical problems with the deep ecological agenda; “Although,” he writes, “deep ecology calls for fundamental changes of attitudes and relating to the environment, it does not have a clearly formulated political – economic agenda, and many of its theorists even believe, that such a program would be ineffective and pointless at the present time. Thus,” he continues, “the representatives of this movement, are limited to criticising the prevailing social paradigm and to developing alternative, very general visions of a man as a part of nature, without specifying how to implement those visions.”⁶³² Indeed, this is what one would expect if, as Sessions summarizes, “[t]he deep aspect of environmentalism peaked shortly after Earth Day in 1970; Congress passed environmental legislation; and environmentalism gradually became institutionalized, bureaucratized, and was, to a large extent, ‘co-opted.’”⁶³³

This ideological dynamic features similar themes of ecological concern and prefigurative practice that we saw in Simpson,⁶³⁴ replicates the same uneasy relationship with national-level success, co-optation, and ‘domestication’ that we saw in Deneen and Coulthard,⁶³⁵ and can be dealt with and understood within our *modus vivendi* context in a similar way. The MacIntyrean

630 Bombik, “The Bases and Methodology of Deep Ecology,” 76, emphasis in original.

631 Bombik, “The Bases and Methodology of Deep Ecology,” 77, emphasis in original.

632 Bombik, “The Bases and Methodology of Deep Ecology,” 78.

633 George Sessions, “The Deep Ecology Movement: A Review,” *Environmental Review* 11, no. 2 (June 1, 1987): 121, <https://doi.org/10.2307/3984023>.

634 Simpson, “Land as Pedagogy.”

635 Deneen, *Regime Change*; Coulthard, *Red Skin, White Masks*.

modus vivendi cannot allow for nation- or planet-wide regulation of reproductive outcomes (one could describe this as a feature of the theory, rather than a bug), but it provides ample institutional and conceptual room for the exact kinds of prefigurative politics that the deep ecology movement has found itself embracing after the co-optation of the 1970s and the “antienvironmental backlash of the Reagan administration.”⁶³⁶

Additionally, as it is again unlikely that truly committed deep ecologists would be able to muster a majority in any polity large enough to be considered a subnational unit under the MMV framework, devolution of much more governance authority to subnational units could also produce polities in which deep ecologists could have far more meaningful influence on policy than they currently have on the national level. In subnational units that have significantly more power to regulate their internal economies per L1, deep ecologists (perhaps in places like Washington or British Columbia) could take advantage of local political cultures that value radical sustainability to pursue and hammer out new, prefigurative modes of being, analogously to the left-Indigenous thinkers we treated in the prior chapter. Indeed, there could be meaningful institutional alliances formed between left-Indigenous polities and deep ecological polities, and perhaps even some institutional crossover, so long as the ultimate independence and economic sovereignty of Indigenous tribes *as* tribes remains inviolate. Again, whether or not any of these innovative arrangements actually take place is not guaranteed; what the MacIntyrean modus vivendi can offer is the institutional space for such innovations to even occur in the first place. In a fully-nationalized, dimensionally-reduced, overly-constitutionalized federal system, the deep ecological policy agenda, such that one exists, is essentially a nonstarter. It is only through

636 Sessions, “The Deep Ecology Movement,” 121.

devolutionary change that anything like a meaningfully prefigurative ecological politics could hope to find any purchase.

To treat it briefly, Nozickean libertarianism,⁶³⁷ ruled out by Rawls⁶³⁸ and some Rawlsians⁶³⁹ as a reasonable comprehensive doctrine, would seem a much better fit for the kind of devolutionary modus vivendi we have been fleshing out. And indeed, that the modus vivendi can accommodate certain doctrines Rawls deemed unreasonable can look like a problem with the approach, until we remember precisely how circumscribed and mannered Rawls' definition of 'the reasonable' could be. So much of the work in this dissertation has been about deconstitutionalizing our existing federal republics, opening up room for institutional and legislative experimentation, but there is nothing in the theory preventing a subnational unit convinced of the need for thick libertarian constitutionalism from re-enacting things very much like the First or Second Amendments, or some form of intrastate commerce clause, as a bedrock element of their own governance arrangements. A theory that justifies *the capacity* for many more forms of state interference need not necessarily conflict with a subnational unit that itself wishes to maintain a political ethos of noninterference on libertarian grounds.

What is of more concern to the partisans of the "nightwatchman state"⁶⁴⁰ are the areas of *mandatory* interference demanded by the MacIntyrean limiting conditions, the democratic, proxy, and welfare conditions. Modern libertarian theory still has an uneasy relationship with democracy as a system of decision-making,⁶⁴¹ and even the minimal redistributive functions

637 Robert Nozick, *Anarchy, State, and Utopia*, Nachdr. (Malden, MA: Blackwell, 2012).

638 Rawls, *Political Liberalism*, 262–65.

639 Samuel Freeman, "Illiberal Libertarians: Why Libertarianism Is Not a Liberal View," *Philosophy & Public Affairs* 30, no. 2 (April 2001): 150–51, <https://doi.org/10.1111/j.1088-4963.2001.00105.x>.

640 Nozick, *Anarchy, State, and Utopia*, 26.

641 Jason Brennan, *Against Democracy* (Princeton (N.J.): Princeton university press, 2016).

required by the nightwatchman state have come into question.⁶⁴² While, at ground, the final response to those concerned libertarians will be to say that they will have to make similar ideological accommodations as all others who assent to the emerging devolutionary *modus vivendi*, and that these accommodations are worth it to achieve the greater freedom from the burdens of overconstitutionalization and overcentralization that exist under the status quo ante, there are still arguments to draw from within liberalism that can soften the blow. On the point regarding democracy, important work has been done, both historically⁶⁴³ and recently,⁶⁴⁴ on the capacity for democratic modes of governance to aggregate and draw together knowledge in much the same way the market can.⁶⁴⁵ This, combined with the institutional leeway to guarantee on the subnational level many of the economic rights and provisions that are currently being eroded on the federal level, can hopefully defang the threat of majority tyranny enough for most libertarians to be, if not comfortable, at least more confident in the sustainability of their subnational libertarian project.

As for the final limiting condition, there is nothing intrinsically wrong with charities or private organizations being the institutional mechanism by which no subset of citizens falls into consistent, ongoing economic immiseration in a way incompatible with the MacIntyrean welfare condition. As the welfare condition is outcome-based, not process-based, a libertarian subnational unit that manages to provide reasonable prosperity to enough of its citizens enough of the time through strictly libertarian means would be free from federal interference. Should this

642 Nozick, *Anarchy, State, and Utopia*, 25–27.

643 Marquis de Condorcet, “Essay on the Application of Analysis to the Probability of Majority Decisions,” *Paris: Imprimerie Royale*, 1785, 1785.

644 Josiah Ober, *Democracy and Knowledge: Innovation and Learning in Classical Athens*, 2. printing, and 1. paperback printing (Princeton, N.J.: Princeton Univ. Press, 2010).

645 Friedrich August Hayek, “The Use of Knowledge in Society,” *The American Economic Review* 35, no. 4 (1945): 519–30.

fail to be the case, however (as many skeptics of libertarianism would predict), and should the federal government be eventually justified in demanding a more hands-on approach to welfare policy, there are resources for that within the broader camp of right-liberalism, particularly in Friedrich Hayek's support for something like a guaranteed minimum income.⁶⁴⁶ Ultimately, though, even though the MacIntyrean *modus vivendi* is ultimately a liberal one, and even though libertarianism (contra Rawls' protestations) is an ideology within the liberal 'camp', libertarianism still finds itself, due to the hybrid character of the MacIntyrean *modus vivendi*, in a similar relationship with it as the other comprehensive ideologies do. Certain totalizing strains of the ideology and certain national-level plans will have to be foregone in order to secure the institutional room to actually enact something like one's desired governmental structure on the subnational level, for pragmatic reasons as much as for any moral considerations.

Comprehensive Buy-In

There is, however, one obvious group that would seem to have no internally compelling reasons to sign on to the MacIntyrean *modus vivendi*. Throughout this dissertation, I have made the case that the political-comprehensive collapse has placed comprehensive liberals in an enviable position, giving them free rein to rig the ostensibly-neutral rules of political liberalism in favor of their particular comprehensive notion of the good. This has taken the form of explicit endorsement of autonomy as the ultimate justification for school curricula (primary, secondary, and collegiate), government policy, and even Supreme Court decisions.⁶⁴⁷ This raises a natural question; should my argument be correct, why would comprehensive liberals be at all interested

⁶⁴⁶ John Tomasi, *Free Market Fairness* (Princeton: Princeton University Press, 2012), 21–22.

⁶⁴⁷ Vermeule, *Common Good Constitutionalism*, 2022, 131.

in surrendering the rhetorical and ideological high ground they have, on my account, successfully captured? The accommodations and demands I laid out at the beginning of this concluding chapter represent, at least in the first moment, erosions of a well-established, comprehensively-liberal-aligned institutional, legal, and educational status quo. Wouldn't the rational move for a comprehensive liberal be to follow their likely political instincts, and fight any of these erosions of the 'biased' status quo tooth and nail?

So far the reasons I have offered against this approach have been external and pragmatic in nature. Liberals are outnumbered, comprehensive liberals even more so (though not as outnumbered as political liberals), and, as we've seen over the dissertation, nonliberals are becoming more aware of the bait-and-switch inherent in the political-comprehensive collapse. These reasons all remain true and salient, but it is also understandable why, from the comprehensive liberal perspective, they may not be *enough*. While, again, this dissertation rejects the high moral bar of "stability for the right reasons,"⁶⁴⁸ the modus vivendi approach recognizes the importance of buy-in, and while it does not *require* that the buy-in be internally generated, it does not *disdain* internal buy-in should it be possible. And I believe that, even in the case of comprehensive liberalism, there are internal reasons to accept the MacIntyrean modus vivendi as described, and even to understand it in some sense as an improvement on the status quo.

To tackle the most contentious example first, the removal of normative barriers to race- and ethnicity-conscious legislation (and therefore the ruling out of national-level prohibitions on racial discrimination) would seem to be a massive blow to the comprehensive liberal priority of righting past racial injustice through a forceful regime of antidiscrimination law. However, as has

⁶⁴⁸ Rawls, *Political Liberalism*, 390.

been recently seen in *Students for Fair Admissions v. President and Fellows of Harvard College*,⁶⁴⁹ the ruling logic of antidiscrimination law has in many ways turned against the broader comprehensively-liberal project of correcting for past racial injustices. As even the initial decision justifying affirmative action in school admissions had as its understanding that such programs would be temporary and severely time-limited,⁶⁵⁰ it has become obvious that the national-level legal foundations for much of the modern antidiscrimination and reparative racial justice projects were shaky from the start.

In light of this, then, while it requires comprehensive liberals to abandon dreams of a cohesive, national-level regime of racially-reparative legislation, it opens up avenues to replicate and even expand those policies on the subnational level in a way that is currently incompatible with the ruling conception of antidiscrimination as ensconced by the Roberts court. To better situate the classical liberal position within a future MacIntyrean *modus vivendi*, Mills'⁶⁵¹ understanding of racially reparative liberalism is very instructive. Mills explicitly envisions a modification of Rawls' thought experiment requiring those behind the veil of ignorance to imagine that they'll be born into a society that has a history of deep and systemic racial injustice. This helps alleviate many of the theoretical problems with Rawlsian ideal theory, as Mills sees it, while maintaining the useful 'moral stretching' properties of the original position. What is most illuminating, however, are the resulting policies Mills believes that this modification can now allow us to justify. "Because of the peculiar history of race," he states, "rectificatory measures may require the appeal to principles that *seem* inconsistent with liberalism, but which are at least

649 John Roberts, *Students for Fair Admissions v. President and Fellows of Harvard College*, No. 20-1199 (Supreme Court of the United States of America June 29, 2023).

650 Roberts, *Students for Fair Admissions v. President and Fellows of Harvard College* at 2.

651 Charles W. Mills, "Liberalism and Racial Justice" (Lecture, Stony Brook University, September 27, 2012), https://youtu.be/KfYrXSP_rZc.

arguably consistent with liberal values.”⁶⁵² This broadening of the tools of liberalism to include at least facially illiberal methods allows for comprehensive liberals to engage in suppression of hate speech (against liberal principles of free speech), race-based reparations (against liberal principles of nondiscrimination and equal treatment under the law), and affirmative action (same), even going so far as to possibly allow supermajority or weighted voting systems.⁶⁵³

Again, due to the peculiar history of comprehensive liberalism, comprehensive liberals have a story for why these seeming deviations from traditional liberal principles of neutrality are necessary to achieve the greater liberal value of autonomy. Similarly to my case study of left-Indigenous politics, the *modus vivendi* nature of my theory allows those outside that particular political community to avoid weighing in on whether or not this particular reading of liberalism is plausible or self-contradictory. In the terms of our theory, however, it is better to understand these sorts of policies as genuinely nonliberal, regardless of whether or not they are necessary to achieve the ultimate goals of liberalism as understood by comprehensive liberals. In this light, then, the fact that the MacIntyrean *modus vivendi* allows for a wider range of nonliberal policies is, semi-paradoxically, a boon for comprehensive liberalism. That comprehensive liberalism requires, from the strict neutralist liberal standpoint, nonliberal policy mechanisms to achieve its aims is something that comprehensive liberals need not acknowledge to themselves as a theoretical truth, but understanding it in this light in a purely instrumental sense can help them see that they share an *internal* interest with the other nonliberal negotiants within the *modus vivendi*. Rather than being forced by the sheer numerical superiority of nonliberals to accept nonliberal erosions to their comprehensively liberal political regime, this alternate viewpoint

652 Mills, “Liberalism and Racial Justice”, at 1:00:30.

653 Mills, “Liberalism and Racial Justice”, at 1:01:15.

allows them to realize that deviations from the current overly-constitutionalized (and increasingly neutralist) liberal status quo directly benefit them as well.

Additionally, insofar as comprehensive liberalism and progressivism overlap,⁶⁵⁴ comprehensive liberals would also benefit at least somewhat from the MacIntyrean *modus vivendi*'s greater institutional space for establishing and enforcing economic sovereignty. Comprehensive liberals are likely to have fewer and thinner economic plans than left-nonliberals, but their preferred economic plans still conflict with strict neutralist liberalism of the kind currently being enforced by the United States Supreme Court.⁶⁵⁵ If the new devolutionary *modus vivendi* can allow for meaningful implementation of bush production on Indigenous lands, as I argue it must, then the institutional capacity for a program of economic progressivism far deeper and more impactful than what is currently allowed to North American progressives is clearly covered.

Finally, as we discussed in the chapter on right-nonliberalism, both comprehensive liberals and right-nonliberals have shown interest in eroding parental custody in cases where the parent disagrees with the subnational unit on the subnational unit's legal conception of gender identity and gender-affirming healthcare. As a neutralist liberal, this situation depresses me; as an analyst of the emerging devolutionary *modus vivendi*, I see the potential for overlap in institutional desires and design. So, looking back at our list of demands, we see comprehensive liberalism able to expect clear or at least potential governance benefits from R1, R2, L1, and L2. The only benefit that seems unclear, R3, is only unclear because comprehensive liberals, on my telling, already exercise so much control over school curricula and institutional pronouncements

654 Which, as we learn from John Stuart Mill, is not a requirement, but it is a correlation.

655 John Roberts, *Loper Bright Enterprises v. Raimondo*, No. 22-451 (Supreme Court of the United States of America June 28, 2024).

on controversial political questions.⁶⁵⁶ Under a future MacIntyrean *modus vivendi*, this advantage, at least within comprehensively liberal subnational units (likely one of the predominant forms), would not be meaningfully eroded. In fact, it would be protected from the kinds of future neutralist liberal judicial interference we are likely to see in the United States.

As a final note, though this dissertation is certainly not only a dissertation about the United States, I appeal to the US experience more here because it is where this contradiction between comprehensive liberalism and neutralist liberalism appears most strongly. As we discussed in the right-nonliberalism chapter, during our examination of the use of the Notwithstanding Clause in Canada, the Canadian Supreme Court is currently much more in its Warren Court era, making decisions and engaging in expansions of judicial power that are much more appealing to comprehensive liberals. This situation, much as it did for comprehensive liberals in the United States prior to the Roberts Court, has obscured the difference between judicial power *simpliciter* and comprehensively liberal interpretations of constitutional principles. Put more simply, Canadian comprehensive liberals may soon learn what American comprehensive liberals are currently learning; the Supreme Court may not always be your friend, and legal interpretations and frameworks that you would consider bedrock can be stripped away with remarkable speed.

In many ways, and for all parties, this is a core lesson of the *modus vivendi* theoretical outlook. The attempt to constitutionalize a political policy or outcome is, in a sense, an attempt to remove it from politics, to protect something like abortion, freedom of speech, or gun ownership from the warp and weft of day-to-day political contestation, and as such must

656 Jacob T. Levy, "Culture Wars as a Teachable Moment for Academic Freedom," <https://www.youtube.com/watch?v=orbpn1JGL6A>, particularly at 24:47.

inherently be an illusion. This is not to say that a policy that is elevated to a constitutional principle then gains no additional protection; it is simply to say that nothing, as we have seen in the United States, can be removed from politics permanently, and attempts to do so can just as easily put a target on your back.⁶⁵⁷ This dissertation has been an example of what it means to recognize this fact, to move from a paradigm in which establishing the constitutional principle generates the consensus, to a paradigm in which actually-existing consensus determines which constitutional principles are in fact operative. This is, I contend, the world in which we already live, and the experience of a place like the United States, where this fact has become more salient, may serve as a warning for Canadian comprehensive liberals that, in placing so many of their hopes in an increasingly assertive and at-the-moment-friendly judicial branch, they may well be building their house on a foundation of sand.

And, to re-emphasize some of the work done earlier in Chapter 1, there are meaningful trends pointing towards growing challenges to federal authority from subnational units. In Canada, we see rising use of the Notwithstanding Clause,⁶⁵⁸ and in the United States we see challenges to federal authority in areas like sanctuary cities,⁶⁵⁹ marijuana legalization,⁶⁶⁰ and border security.⁶⁶¹ Migration between states, particularly from ‘blue’ states to ‘red’ states, has

657 Samuel Alito, *Dobbs v. Jackson Women’s Health Organization*, No. 19-1392 (Supreme Court of the United States of America June 24, 2022).

658 David Korzinski, “Notwithstanding Clause: Majority See Increased Use Problematic, Would Pursue Abolition -,” Angus Reid Institute, January 26, 2023, <https://angusreid.org/canada-constitution-notwithstanding-clause-bill-96-bill-28/>.

659 “What Are Sanctuary Cities and Why Do They Exist?,” Global Refuge, July 12, 2021, <https://www.globalrefuge.org/news/what-are-sanctuary-cities-and-why-do-they-exist-lirs/>.

660 Zeke Miller et al., “US Poised to Ease Restrictions on Marijuana in Historic Shift, but It’ll Remain Controlled Substance,” AP News, April 30, 2024, <https://apnews.com/article/marijuana-biden-dea-criminal-justice-pot-f833a8dae6ceb31a8658a5d65832a3b8>.

661 Cecilia Vega, “Texas and Federal Government Clash over How to Deter Illegal Border Crossings - CBS News,” May 26, 2024, <https://www.cbsnews.com/news/texas-mexico-border-abbott-enforcement-policies-60-minutes-transcript/>.

become increasingly salient,⁶⁶² and governors like Gavin Newsom and Ron DeSantis have been engaged in deliberate marketing wars to attract more intranational migrants.⁶⁶³ Both the conservative Supreme Court and the progressive Democratic Party have put new emphasis on freedom and noninterference,⁶⁶⁴ and the jurisprudence of the court in particular has shied away, especially in the case of abortion,⁶⁶⁵ from making national-level determinations, instead encouraging more experimentation within and between subnational units. Finally, in an area that often goes underdiscussed, the 2020-2023 COVID-19 pandemic, seemingly a paradigmatic case for the kind of globalized problem that demands a coherent national-level response, in fact reminded many North Americans that it was their local premier or governor who held the most control over their day-to-day life, with state governments varying wildly as to the nature, length, and intensity of their public health interventions.⁶⁶⁶ It is simply true that the elected official that has put the most restrictions on my movement and behavior has not been Donald Trump or Joe Biden, but Kate Brown;⁶⁶⁷ that Oregon, in the first election cycle after COVID, had the most

662 US Census Bureau, “Number and Percentage of State-to-State Movers Increased Between 2021 and 2022.”

663 Li Zhou, “Why Gavin Newsom and Ron DeSantis Are Debating Each Other,” Vox, August 15, 2023, <https://www.vox.com/politics/23832897/gavin-newsom-ron-desantis-debate>.

664 Elaine Kamarck and William A. Galston, “Freedom—Harris’s Message to America,” Brookings Institute, accessed October 12, 2024, <https://www.brookings.edu/articles/freedom-harriss-message-to-america/>.

665 Alito, *Dobbs*.

666 Laura Hallas et al., “Variation in US States’ Responses to COVID-19,” *University of Oxford*, 2021.

667 Dirk VanderHart, “Gov. Kate Brown Issues Order Directing Oregonians To ‘Stay Home,’” Oregon Public Broadcasting, March 23, 2020, <https://www.opb.org/news/article/oregon-stay-at-home-order-coronavirus-covid-19-kate-brown/>; Hillary Borrud, “Oregon Coronavirus Restrictions: Gov. Kate Brown Issues New Rules on Businesses as State Struggles to Control Spread,” oregonlive, July 22, 2020, <https://www.oregonlive.com/news/2020/07/oregon-gov-kate-brown-announces-new-mask-mandate-for-kids-earlier-bar-and-restaurant-closure-times.html>; Dirk VanderHart, “Freeze, Oregon: Gov. Kate Brown Restricts Businesses Again as COVID-19 Cases Surge,” Oregon Public Broadcasting, November 13, 2020, <https://www.opb.org/article/2020/11/13/oregon-governor-kate-brown-covid-19-restrictions/>.

competitive election in decades is, I suggest, not a coincidence.⁶⁶⁸ A similar story could be told by those who experienced Legault's lockdowns in Quebec.⁶⁶⁹

All this is to say that federalism, far from fading away in the face of the ever-expanding administrative state, instead remains relevant and is even waxing in the popular and legal imagination as a method by which we could cope with problems that emerge from a breakdown of national consensus and rising political polarization. This is a much more subtle and more gradual case than the loose talk of a 'national divorce' (which, while often facile, does arise from similar social causes and normative impulses); this is a claim that we are backing into a decentralized *modus vivendi* in a kind of implicit, groping, unconscious way. This dissertation, insofar as it is normative rather than predictive/analytical, is a gentle case for *at some point* engaging in this decentralization carefully and intentionally. The MacIntyrean *modus vivendi*, informed by currents in nonliberalism sufficiently radical to actually satisfy some nonliberals, but sufficiently accommodationist not to require the destruction of the broader liberal order, is only one potential coordination point that could emerge from this future of decentralization and institutional experimentation. There are many worse coordination points one could imagine, including centralizing backlashes that could create the exact kind of authoritarian conditions many critics of nonliberals spend most of their time worrying about.⁶⁷⁰ There is not just one slippery slope, where accommodation leads to decentralization leads to local tyranny. There are

668 Geoffrey Skelley, "Why Republicans Could Win Oregon's Governorship For The First Time In 40 Years," *FiveThirtyEight* (blog), October 6, 2022, <https://fivethirtyeight.com/features/why-republicans-could-win-oregons-governorship-for-the-first-time-in-40-years/>.

669 Katelyn Thomas, "COVID-19 Timeline: A Year like No Other in Quebec," *Montreal Gazette*, March 9, 2021, <https://montrealgazette.com/news/local-news/covid-19-timeline-a-year-like-no-other-in-quebec>; Verity Stevenson, "Quebec Imposes Curfew, Closes Restaurant Dining Rooms and Further Delays Return to School," *CBC News*, December 30, 2021, <https://www.cbc.ca/news/canada/montreal/quebec-news-conference-new-year-public-health-measures-1.6300455>.

670 Julian Waller, "Authoritarianism Here?," *American Affairs Journal* (blog), February 20, 2022, <https://americanaffairsjournal.org/2022/02/authoritarianism-here/>.

several slippery slopes, and some of them begin with, as we saw in Macedo, an overly-rigid rejection of the capacities for institutions to adapt to nonauthoritarian nonliberal governance innovations, opt-out solutions, and the like.⁶⁷¹ Should these trends continue, liberals will have to choose which form of decentralization best suits liberal interests, lest they risk standing in the surf and commanding the tide not to come in.

I have genuine sympathy for those liberals, especially comprehensive liberals, who see this situation as catastrophic. But, to belabor a core theme of this dissertation, catastrophes demand theorization as much as ideals. It is possible that centralization's best days are ahead of it, and that a new emerging national ethos is nearby should we have the courage to fight for it. I hope, however, that I have given a wide range of readers, from a wide range of ideological backgrounds and normative outlooks, reasons to doubt that prognostication. The federal democracies of North America are large, messy, pluralistic creatures by nature, necessity, and design; recognizing this means recognizing that the kind of social unity that characterized the post-WWII national and international order, if it was ever truly real, was always an outlier, the exception to an otherwise centuries-long rule.⁶⁷² And when we look at the different parties who wish to establish a new national consensus, we see political agents who appear dangerously different from us;⁶⁷³ all of us are, after all, outnumbered. Federalism, decentralization, and devolution of power to subnational units has helped societies in worse conditions than ours,⁶⁷⁴ and the MacIntyrean *modus vivendi* gives us limiting conditions that have a much greater chance for broad buy-in than schemes which draw legitimacy solely from liberal argumentation, liberal

671 Macedo, "Liberal Civic Education and Religious Fundamentalism."

672 Jacob T. Levy, "Contra Politanism," *European Journal of Political Theory* 19, no. 2 (April 2020): 162–83, <https://doi.org/10.1177/1474885117718371>.

673 Deneen, *Regime Change*; Vermeule, "Integration from Within"; Federici, *Re-Enchanting the World*.

674 Horowitz, "The Many Uses of Federalism."

premises, and liberal definitions of 'the reasonable'. As a pluralistic liberal, there is a sense in which I hope the analysis I have done in these pages turns out to be irrelevant, that we reach some kind of governance settlement that preserves more of the basic constitutional structure of liberalism than the radically deconstitutionalized system that I have spent the last 200+ pages sketching out. But should we really be in as much of a crisis as the polarization literature says we are, should our situation be a genuine emergency, then I wanted there to be something behind the glass in case it comes time to break it.

Works Cited:

- Abramowitz, Alan, and Jennifer McCoy. "United States: Racial Resentment, Negative Partisanship, and Polarization in Trump's America." *The ANNALS of the American Academy of Political and Social Science* 681, no. 1 (January 2019): 137–56. <https://doi.org/10.1177/0002716218811309>.
- Abramowitz, Alan, and Steven Webster. "The Rise of Negative Partisanship and the Nationalization of U.S. Elections in the 21st Century." *Electoral Studies* 41 (March 2016): 12–22. <https://doi.org/10.1016/j.electstud.2015.11.001>.
- Ahmari, Sohrab. "Against David French-IsM." *First Things*, May 29, 2019. <https://www.firstthings.com/web-exclusives/2019/05/against-david-french-ism>.
- . *Tyranny, Inc.: How Private Power Crushed American Liberty-- and What to Do About It*. First edition. New York: Forum Books, an imprint of Penguin Random House LLC, 2023.
- Akbulut, Bengi. "Degrowth." *Rethinking Marxism* 33, no. 1 (January 2, 2021): 98–110. <https://doi.org/10.1080/08935696.2020.1847014>.
- Alfred, T. *It's All about the Land: Collected Talks and Interviews on Indigenous Resurgence*. Edited by A. Rogers. University of Toronto Press, 2023. https://books.google.ca/books?id=Up_UEAAAQBAJ.
- Alito, Samuel. *Dobbs v. Jackson Women's Health Organization*, No. 19-1392 (Supreme Court of the United States of America June 24, 2022).
- Allard-Tremblay, Yann. "The Two Row Wampum: Decolonizing and Indigenizing Democratic Autonomy." *Polity* 54, no. 2 (April 1, 2022): 225–49. <https://doi.org/10.1086/718331>.

- Anderson, Jefferey D. "Space, Time and Unified Knowledge: Following the Path of Vine Deloria, Jr." *Counterpoints* 379 (2011): 92–108.
- Anderson, Ryan T, and Robert P George. "The Baby and the Bathwater." *National Affairs*, no. 41 (September 20, 2019): 172–84.
- Bejan, Teresa M. *Mere Civility: Disagreement and the Limits of Toleration*. First Harvard University Press paperback edition. Cambridge, Massachusetts: London, England, 2019.
- Belluck, Pam. "Libertarians Pursue New Political Goal: State of Their Own." *The New York Times*, October 27, 2003, sec. U.S. <https://www.nytimes.com/2003/10/27/us/libertarians-pursue-new-political-goal-state-of-their-own.html>.
- Boisvert, Stéfany. "'Queering' Tv, One Character at a Time: How Audiences Respond to Gender-Diverse Tv Series on Social Media Platforms." *Critical Studies in Television: The International Journal of Television Studies* 15, no. 2 (June 2020): 183–201. <https://doi.org/10.1177/1749602020914479>.
- Bombik, Mieczysław. "The Bases and Methodology of Deep Ecology." *Studia Ecologiae et Bioethicae* 18, no. 5 (December 31, 2020): 67–85. <https://doi.org/10.21697/seb.2020.18.5.06>.
- Borrows, John. "Aboriginal Title and Private Property." *The Supreme Court Law Review: Osgoode's Annual Constitutional Cases Conference* 71, no. 1 (December 31, 2015). <https://doi.org/10.60082/2563-8505.1307>.
- Borrud, Hillary. "Oregon Coronavirus Restrictions: Gov. Kate Brown Issues New Rules on Businesses as State Struggles to Control Spread." *oregonlive*, July 22, 2020.

<https://www.oregonlive.com/news/2020/07/oregon-gov-kate-brown-announces-new-mask-mandate-for-kids-earlier-bar-and-restaurant-closure-times.html>.

Brennan, Jason. *Against Democracy*. Princeton (N.J.): Princeton university press, 2016.

Brown, Jacob R., and Ryan D. Enos. "The Measurement of Partisan Sorting for 180 Million Voters." *Nature Human Behaviour* 5, no. 8 (March 8, 2021): 998–1008.

<https://doi.org/10.1038/s41562-021-01066-z>.

Buchanan, Allen E. "Assessing the Communitarian Critique of Liberalism." *Ethics* 99, no. 4 (July 1989): 852–82. <https://doi.org/10.1086/293124>.

Burke, Edmund. "Speech to the Electors of Bristol." In *The Works of the Right Honourable Edmund Burke*, 1:446–48. London: Henry G. Bohn, 1854. <https://press-pubs.uchicago.edu/founders/documents/v1ch13s7.html>.

"California Bill Requiring Custody Courts Consider Gender Identity Vetoed - CBS San Francisco," September 23, 2023. <https://www.cbsnews.com/sanfrancisco/news/california-bill-requiring-custody-courts-consider-gender-identity-veto/>.

Castle, Jeremiah. "New Fronts in the Culture Wars? Religion, Partisanship, and Polarization on Religious Liberty and Transgender Rights in the United States." *American Politics Research* 47, no. 3 (May 1, 2019): 650–79. <https://doi.org/10.1177/1532673X18818169>.

Chambers, Simone. "Truth, Deliberative Democracy, and the Virtues of Accuracy: Is Fake News Destroying the Public Sphere?" *Political Studies* 69, no. 1 (February 2021): 147–63. <https://doi.org/10.1177/0032321719890811>.

Coletta, Amanda. "Court Rules Quebec Can Bar Government Workers from Wearing Hijabs, Turbans, Other Religious Items." *Washington Post*, April 20, 2021.

<https://www.washingtonpost.com/world/2021/04/20/quebec-canada-religious-hijab-turban-ban/>.

Condorcet, Marquis de. "Essay on the Application of Analysis to the Probability of Majority Decisions." *Paris: Imprimerie Royale*, 1785, 1785.

Cook, Fay Lomax, Benjamin I. Page, and Rachel L. Moskowitz. "Political Engagement by Wealthy Americans." *Political Science Quarterly* 129, no. 3 (September 1, 2014): 381–98. <https://doi.org/10.1002/polq.12218>.

Coulthard, Glen Sean. *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. Indigenous Americas. Minneapolis: University of Minnesota press, 2014.

Creppell, Ingrid. *Toleration and Identity: Foundations in Early Modern Thought*. 1st ed. Routledge, 2013. <https://doi.org/10.4324/9780203616451>.

Cuadrado, Carla Cabrera, and John Chrobak. "Illiberalism and the Deinstitutionalization of Public Diplomacy: The Rise of Hungary and Viktor Orbán in American Conservative Media." *Communication & Society* 36, no. 2 (2023): 311–24. <https://doi.org/10.15581/003.36.2.311-324>.

Degrowth. "Degrowth." Accessed June 5, 2024. <https://degrowth.info/en/degrowth>.

Deneen, Patrick J. "Against Academic Freedom." Substack newsletter. *Postliberal Order* (blog), March 17, 2022. <https://postliberalorder.substack.com/p/against-academic-freedom>.

———. *Regime Change: Toward a Postliberal Future*. New York: Sentinel, 2023.

———. *Why Liberalism Failed*. New Haven: Yale University Press, 2018.

Deveaux, Monique. *Cultural Pluralism and Dilemmas of Justice*. Cornell University Press, 2000. <https://doi.org/10.7591/9781501723759>.

Dreher, Rod. “Are There Any American Orbans?” Publication. *The American Conservative*, April 5, 2022. <https://www.theamericanconservative.com/dreher/are-there-american-viktor-orban-jeremy-carl/>.

———. *The Benedict Option: A Strategy for Christians in a Post-Christian Nation*. New York, New York: Sentinel, 2017.

Dryzek, John S., André Bächtiger, Simone Chambers, Joshua Cohen, James N. Druckman, Andrea Felicetti, James S. Fishkin, et al. “The Crisis of Democracy and the Science of Deliberation.” *Science* 363, no. 6432 (March 15, 2019): 1144–46. <https://doi.org/10.1126/science.aaw2694>.

Editorial Board. “The Problem with Diversity Statements — and What to Do about Them.” *Washington Post*, May 19, 2024. <https://www.washingtonpost.com/opinions/2024/05/19/universities-dei-academic-freedom/>.

Eisenberg, Avigail. “Pluralism and the Authority of Groups to Discriminate.” *Critical Review of International Social and Political Philosophy* 24, no. 6 (September 19, 2021): 909–30. <https://doi.org/10.1080/13698230.2019.1610844>.

Emerson. “Pornography and the First Amendment: A Reply to Professor MacKinnon.” *Yale Law and Policy Review* 3 (1984). <https://mcgill.on.worldcat.org:443/atoztitles/link?sid=google>.

Espejo, Paulina Ochoa. *On Borders: Territories, Legitimacy, and the Rights of Place*. New York, NY: Oxford University Press, 2020.

Federici, Silvia. *Re-Enchanting the World: Feminism and the Politics of the Commons*. Kairos.

Oakland, CA: PM, 2019.

Fieldstadt, Elisha. “Fund Raises \$840,000 for Memories Pizza After Attacks Over Gay Marriage

Views.” NBC News, April 5, 2015. <https://www.nbcnews.com/news/us-news/fund-site-closes-memories-pizzeria-supported-controversial-indiana-law-n335811>.

Finnis, John. “Subsidiarity’s Roots and History: Some Observations.” *The American Journal of*

Jurisprudence 61, no. 1 (June 2016): 133–41. <https://doi.org/10.1093/ajj/auw006>.

Francis, Leslie, and John Francis. “Federalism and the Right to Travel: Medical Aid in Dying and

Abortion.” *Journal of Health Care Law and Policy* 26 (2023): 49.

Freeman, Samuel. “Illiberal Libertarians: Why Libertarianism Is Not a Liberal View.”

Philosophy & Public Affairs 30, no. 2 (April 2001): 105–51.

<https://doi.org/10.1111/j.1088-4963.2001.00105.x>.

Galston, William A. “Political Knowledge, Political Engagement, and Civic Education.” *Annual*

Review of Political Science 4, no. 1 (June 2001): 217–34.

<https://doi.org/10.1146/annurev.polisci.4.1.217>.

———. “Two Concepts of Liberalism.” *Ethics* 105, no. 3 (1995): 516–34.

Gaus, Gerald. *The Open Society and Its Complexities*. 1st ed. Oxford University Press, 2021.

<https://doi.org/10.1093/oso/9780190648978.001.0001>.

———. “The Open Society and Its ‘Friends.’” *The Critique, Stick It To The Man: A Year Of*

Anglo-American Populist Revolt Against A Changing Culture & An Obtuse Political

Establishment, January 15, 2017, 2–21.

———. *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World*. Cambridge: Cambridge University Press, 2012.

<https://doi.org/10.1017/CBO9780511780844>.

Girard, René. *The Scapegoat*. Baltimore: Johns Hopkins University Press, 1989.

Global Refugee. “What Are Sanctuary Cities and Why Do They Exist?,” July 12, 2021.

<https://www.globalrefuge.org/news/what-are-sanctuary-cities-and-why-do-they-exist-lirs/>.

Goldberg, Emma. “These Companies Will Cover Travel Expenses for Employee Abortions.” *The New York Times*, August 19, 2022, sec. Business.

<https://www.nytimes.com/article/abortion-companies-travel-expenses.html>.

Gouvernement du Québec. “Married Name.” Accessed October 12, 2024.

<https://www.quebec.ca/en/famille-et-soutien-aux-personnes/couple-famille/mariage-union-civile-ou-union-de-fait/mariage/married-name>.

Graeber, David, and David Wengrow. *The Dawn of Everything: A New History of Humanity*.

First American edition. New York: Farrar, Straus and Giroux, 2021.

Gruzd, Anatoliy, and Jeffrey Roy. “Investigating Political Polarization on Twitter: A Canadian

Perspective: Investigating Political Polarization on Twitter.” *Policy & Internet* 6, no. 1

(March 2014): 28–45. <https://doi.org/10.1002/1944-2866.POI354>.

Habermas, Jürgen. *Between Facts and Norms: Contributions to a Discourse Theory of Law and*

Democracy. Studies in Contemporary German Social Thought. Cambridge, Mass: MIT

Press, 1996.

Hallas, Laura, Ariq Hatibie, Saptarshi Majumdar, Monika Pyarali, and Thomas Hale. "Variation in US States' Responses to COVID-19." *University of Oxford*, 2021.

Hayek, Friedrich August. "Competition as a Discovery Procedure." Translated by Marcellus S. Snow. *The Quarterly Journal of Austrian Economics* 5, no. 3 (September 2002): 9–23.
<https://doi.org/10.1007/s12113-002-1029-0>.

———. "The Use of Knowledge in Society." *The American Economic Review* 35, no. 4 (1945): 519–30.

Heinberg, Richard. *The End of Growth: Adapting to Our New Economic Reality*. Gabriola Island, B.C: New Society Publ, 2011.

Hendrix, Burke A. *Strategies of Justice: Aboriginal Peoples, Persistent Injustice, and the Ethics of Political Action*. Oxford Political Theory. Oxford New York, NY: Oxford University Press, 2019.

Higher Powers: Catholicism and the American Project. de Nicola Center for Ethics and Culture, 2018. <https://www.youtube.com/watch?v=SVpiKpm6hDA>.

Horowitz, Donald L. "The Many Uses of Federalism." *Drake L. Rev.* 55 (2006): 953.

Iyengar, Shanto, Yphtach Lelkes, Matthew Levendusky, Neil Malhotra, and Sean J. Westwood. "The Origins and Consequences of Affective Polarization in the United States." *Annual Review of Political Science* 22, no. 1 (May 11, 2019): 129–46.
<https://doi.org/10.1146/annurev-polisci-051117-073034>.

Jiang, Julie, Emily Chen, Shen Yan, Kristina Lerman, and Emilio Ferrara. "Political Polarization Drives Online Conversations about COVID -19 in the United States." *Human Behavior*

and Emerging Technologies 2, no. 3 (July 2020): 200–211.

<https://doi.org/10.1002/hbe2.202>.

Kahana, Tsvi. “The Notwithstanding Clause in Canada: The First Forty Years.” *Osgoode Hall Law Journal* 60, no. 1 (May 9, 2023): 1–71. <https://doi.org/10.60082/2817-5069.3875>.

Kamarck, Elaine, and William A. Galston. “Freedom—Harris’s Message to America.” Brookings Institute. Accessed October 12, 2024. <https://www.brookings.edu/articles/freedom-harriss-message-to-america/>.

Kaplan, Ethan, Jörg L. Spenkuch, and Rebecca Sullivan. “Partisan Spatial Sorting in the United States: A Theoretical and Empirical Overview.” *Journal of Public Economics* 211 (July 2022): 104668. <https://doi.org/10.1016/j.jpubeco.2022.104668>.

Kennedy, Randall. “Mandatory DEI Statements Are Ideological Pledges of Allegiance,” April 3, 2024. <https://www.chronicle.com/article/mandatory-dei-statements-are-ideological-pledges-of-allegiance>.

Kent, Roy. “Migrants from Other States More Likely to Call Texas Their New Home.” Kinder Institute for Urban Research | Rice University, December 4, 2023. <https://kinder.rice.edu/urbanedge/california-heads-to-texas>.

Kirzner, Israel M. “Entrepreneurial Discovery and the Competitive Market Process: An Austrian Approach.” *Journal of Economic Literature* 35, no. 1 (1997): 60–85.

Kitch, Michael. “Its Founder Reflects on the Free State Project.” *New Hampshire Business Review*, October 22, 2021. <https://read.nhbr.com/nh-business-review/2021/10/22/#?article=3886193>.

- Korzinski, David. “Notwithstanding Clause: Majority See Increased Use Problematic, Would Pursue Abolition -.” Angus Reid Institute, January 26, 2023. <https://angusreid.org/canada-constitution-notwithstanding-clause-bill-96-bill-28/>.
- Kozinski, Thaddeus J. “Alasdair MacIntyre’s Political Liberalism.” *The Political Science Reviewer* 36 (2007): 266–310.
- Kukathas, Chandran. *The Liberal Archipelago: A Theory of Diversity and Freedom*. Repr. Oxford Political Theory. Oxford: Oxford University Press, 2009.
- Laborde, Cécile. *Liberalism’s Religion*. Cambridge, Massachusetts: Harvard University Press, 2017.
- Larmore, Charles. “Political Liberalism.” *Political Theory* 18, no. 3 (1990): 339–60.
- Laurison, Daniel. “Social Class and Political Engagement in the United States.” *Sociology Compass* 10, no. 8 (August 2016): 684–97. <https://doi.org/10.1111/soc4.12390>.
- Le, Kien, and My Nguyen. “Education and Political Engagement.” *International Journal of Educational Development* 85 (September 2021): 102441. <https://doi.org/10.1016/j.ijedudev.2021.102441>.
- Lemke, Jayme S. “Interjurisdictional Competition and the Married Women’s Property Acts.” *Public Choice* 166, no. 3–4 (March 2016): 291–313. <https://doi.org/10.1007/s11127-016-0323-x>.
- Lenz, Timothy O. “Conservatism in American Crime Films.” *Journal of Criminal Justice and Popular Culture* 12, no. 2 (2005): 116–34.
- Levy, Jacob T. “Contra Politanism.” *European Journal of Political Theory* 19, no. 2 (April 2020): 162–83. <https://doi.org/10.1177/1474885117718371>.

- . “Culture Wars as a Teachable Moment for Academic Freedom.” Presented at the UBC PPE Conversations, March 27, 2024. <https://www.youtube.com/watch?v=orbpn1JGL6A>.
- . *Rationalism, Pluralism, and Freedom*. First edition. Oxford, United Kingdom: Oxford University Press, 2015.
- . “The Sovereign Myth.” Niskanen Center, June 15, 2017. <https://www.niskanencenter.org/sovereign-myth/>.
- Lim, Jimmy. “Mind, Motivation, and Order: Reconstructing Part III of a Theory of Justice.” Dissertation, McGill University, 2022.
- Long, Jonathan W., and Frank K. Lake. “Escaping Social-Ecological Traps Through Tribal Stewardship on National Forest Lands in the Pacific Northwest, United States of America.” *Ecology and Society* 23, no. 2 (2018). <https://www-jstor-org.proxy3.library.mcgill.ca/stable/26799109>.
- Lowe, Altimease. “Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania, 140 S. Ct. 2367 (2020) Survey of Recent Case Law: Labor & Employment Law.” *University of Arkansas at Little Rock Law Review* 43, no. 4 (2021 2020): 603–6.
- Lund, Christopher C. “Martyrdom and Religious Freedom.” *Connecticut Law Review* 50 (2018): 959.
- Macedo, Stephen. “In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?” *The American Journal of Jurisprudence* 42, no. 1 (January 1, 1997): 1–29. <https://doi.org/10.1093/ajj/42.1.1>.
- . “Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls?” *Ethics* 105, no. 3 (April 1995): 468–96. <https://doi.org/10.1086/293723>.

- MacGilvray, Eric. *Reconstructing Public Reason*. Cambridge, Mass: Harvard University Press, 2004.
- MacIntyre, Alasdair. *After Virtue: A Study in Moral Theory*. 3rd ed. Notre Dame, Ind: University of Notre Dame Press, 2007.
- . “Common Goods, Frequent Evils.” Lecture presented at the The Common Good as Common Project conference, March 27, 2017. <https://youtu.be/9nx0Kvb5U04?t=4089>.
- . *Dependent Rational Animals: Why Human Beings Need the Virtues*. Chicago and La Salle, Illinois: Open Court Publishing Company, 2006.
- . “Is a Science of Comparative Politics Possible?” New York: Schocken Books, 1971.
- . “Is Patriotism a Virtue?” In *Debates in Contemporary Political Philosophy: An Anthology*, edited by Derek Matravers and Jonathan Pike, First Edition., 286–300. London: Routledge, 2002.
- . *Marxism and Christianity*. Notre Dame IN: University of Notre Dame Press, 1988.
- . “Moral Relativisms Reconsidered.” Lecture presented at the To What End?: Narrative, Institutions, and Practices conference, University of Notre Dame, July 26, 2019. <https://youtu.be/Zr2uI3oJUT0?t=1812>.
- . “Natural Law against the Nation-State: Or the Possibility of the Common Good against the Actuality of the Public Interest.” Lecture presented at the Agnes Cuming Lectures in Philosophy, University College Dublin, March 1, 1994.
- . *Three Rival Versions of Moral Enquiry: Encyclopaedia, Genealogy, and Tradition; Being Gifford Lectures Delivered in the University of Edinburgh in 1988*. Reprint. Notre Dame, Ind: Univ. of Notre Dame Press, 2006.

- . “Toleration and the Goods of Conflict.” In *The Politics of Toleration: Tolerance and Intolerance in Modern Life*, edited by Susan Mendus, 133–55. Edinburgh: Edinburgh University Press, 1999.
- MacKinnon, Catherine A. “Sexuality, Pornography, and Method: “Pleasure under Patriarchy.” *Ethics* 99, no. 2 (1989): 314–46.
- Martin, Gregory J., and Steven W. Webster. “Does Residential Sorting Explain Geographic Polarization?” *Political Science Research and Methods* 8, no. 2 (April 2020): 215–31. <https://doi.org/10.1017/psrm.2018.44>.
- Mason, Lilliana. “‘I Disrespectfully Agree’: The Differential Effects of Partisan Sorting on Social and Issue Polarization.” *American Journal of Political Science* 59, no. 1 (January 2015): 128–45. <https://doi.org/10.1111/ajps.12089>.
- McCabe, David. *Modus Vivendi Liberalism: Theory and Practice*. Cambridge: Cambridge University Press, 2010. <https://doi.org/10.1017/CBO9780511750359>.
- McGinnis, John O. “Federalism as a Discovery Process and a Catalyst for Humility Capitalism, Markets, and the Constitution: The Thirtieth Annual Federalist Society National Student Symposium on Law and Public Policy 2011: III. Federalism and Interstate Competition.” *Harvard Journal of Law & Public Policy* 35, no. 1 (2012): 115–20.
- McNally, Michael. “Defend the Sacred: Native American Religious Freedom.” Berkley Center for Religion, Peace and World. Accessed May 10, 2024. <https://berkeleycenter.georgetown.edu/responses/defend-the-sacred-native-american-religious-freedom>.

Merkley, Eric. "Polarization Eh? Ideological Divergence and Partisan Sorting in the Canadian Mass Public." *Public Opinion Quarterly* 86, no. 4 (February 20, 2023): 932–43.

<https://doi.org/10.1093/poq/nfac047>.

Miller, Zeke, Joshua Goodman, Jim Mustain, and Lindsay Whitehurst. "US Poised to Ease Restrictions on Marijuana in Historic Shift, but It'll Remain Controlled Substance." AP News, April 30, 2024. <https://apnews.com/article/marijuana-biden-dea-criminal-justice-pot-f833a8dae6ceb31a8658a5d65832a3b8>.

Millhiser, Ian. "The Unconstitutional Plan to Stop Women from Traveling out of State for an Abortion, Explained." Vox, September 12, 2023. <https://www.vox.com/23868962/texas-abortion-travel-ban-unconstitutional>.

Mills, Charles W. "Liberalism and Racial Justice." Lecture, Stony Brook University, September 27, 2012. https://youtu.be/KfYrXSP_rZc.

Müller, Jan-Werner. *What Is Populism?* University of Pennsylvania Press, 2016.

Mulvihill. "Things to Know about Efforts to Block People from Crossing State Lines for Abortion." AP News, November 10, 2023. <https://apnews.com/article/abortion-texas-idaho-alabama-state-lines-trafficking-d314933f3f7db93858561a0c6ad0b188>.

Napolitano, Elizabeth. "Anheuser-Busch Exec Steps down after Bud Light Sales Slump Following Dylan Mulvaney Controversy - CBS News," November 16, 2023. <https://www.cbsnews.com/news/bud-light-anheuser-busch-marketing-chief-steps-down-boycott-dylan-mulvaney/>.

- Neyra, Raquel. "Constructing the People: Left Populism and Degrowth Movements." *The European Legacy* 24, no. 5 (July 4, 2019): 563–69.
<https://doi.org/10.1080/10848770.2018.1550896>.
- Novicoff, Marc. "A Simple Law Is Doing the Impossible. It's Making the Online Porn Industry Retreat." POLITICO, August 8, 2023.
<https://www.politico.com/news/magazine/2023/08/08/age-law-online-porn-00110148>.
- Nozick, Robert. *Anarchy, State, and Utopia*. Nachdr. Malden, MA: Blackwell, 2012.
- Nussbaum, Martha C. "Perfectionist Liberalism and Political Liberalism." *Philosophy & Public Affairs* 39, no. 1 (January 2011): 3–45. <https://doi.org/10.1111/j.1088-4963.2011.01200.x>.
- Ober, Josiah. *Democracy and Knowledge: Innovation and Learning in Classical Athens*. 2. printing, and 1. paperback printing. Princeton, N.J.: Princeton Univ. Press, 2010.
- Okin, Susan Moller. "Political Liberalism, Justice, and Gender." *Ethics* 105, no. 1 (1994): 23–43.
- Oyez. "Gonzales v. Raich." Accessed May 3, 2024. <https://www.oyez.org/cases/2004/03-1454>.
- Perrin, Andrew J., and Alanna Gillis. "How College Makes Citizens: Higher Education Experiences and Political Engagement." *Socius: Sociological Research for a Dynamic World* 5 (January 2019): 237802311985970. <https://doi.org/10.1177/2378023119859708>.
- Pew Research Center's Religion & Public Life Project. "Views about Abortion among Adults in Oregon," 2014. <https://www.pewresearch.org/religion/religious-landscape-study/>.
- Pinker, Steven. *The Better Angels of Our Nature: Why Violence Has Declined*. New York Times Bestseller. New York, NY Toronto, Ontario London: Penguin Books, 2012.
- Pinkoski, Nathan. "Why Alasdair MacIntyre Is Not a Conservative Post-Liberal." *The Political Science Reviewer* 43, no. 2 (March 21, 2020): 532–64.

- Przeworski, Adam. "Minimalist Conception of Democracy: A Defense." In *Democracy's Value*. Cambridge University Press, 1999.
- Przeworski, Adam, Michael E. Alvarez, Jose Antonio Cheibub, and Fernando Limongi. *Democracy and Development: Political Institutions and Well-Being in the World, 1950–1990*. 1st ed. Cambridge University Press, 2000.
<https://doi.org/10.1017/CBO9780511804946>.
- Quong, Jonathan. *Liberalism without Perfection*. Oxford ; New York: Oxford University Press, 2011.
- . "Liberalism Without Perfection: Replies to Gaus, Colburn, Chan, and Bocchiola." *Philosophy and Public Issues-Filosofia E Questioni Pubbliche* 2, no. 1 (2012).
- Rawls, John. *A Theory of Justice*. Revised Edition. Cambridge, Mass: Belknap Press of Harvard University Press, 1999.
- . *Justice as Fairness: A Restatement*. Edited by Erin Kelly. Cambridge, Mass: Harvard University Press, 2001.
- . *Political Liberalism*. Paperback edition. The John Dewey Essays in Philosophy. New York: Columbia University Press, 1996.
- Reed, Adolph. "Adolph Reed: We Must Avoid Race Reductionism." News/Opinion. Jacobin, May 4, 2023. <https://jacobin.com/2023/05/adolph-reed-race-reductionism-black-freedom-movement-class-politics>.
- Rice, Roberta. "How to Decolonize Democracy: Indigenous Governance Innovation in Bolivia and Nunavut, Canada." *Bolivian Studies Journal*, March 27, 2017, 220–42.
<https://doi.org/10.5195/bsj.2016.169>.

Ritsema, Roger, Jackie Dawson, Miriam Jorgensen, and Brenda Macdougall. “‘Steering Our Own Ship?’ An Assessment of Self-Determination and Self-Governance for Community Development in Nunavut.” *The Northern Review* 41 (September 25, 2015).

<https://doi.org/10.22584/nr41.2015.007>.

Roberts, John. *Loper Bright Enterprises v. Raimondo*, No. 22-451 (Supreme Court of the United States of America June 28, 2024).

———. *Students for Fair Admissions v. President and Fellows of Harvard College*, No. 20-1199 (Supreme Court of the United States of America June 29, 2023).

Rodden, Jonathan. “The Geographic Distribution of Political Preferences.” *Annual Review of Political Science* 13, no. 1 (2010): 321–40.

<https://doi.org/10.1146/annurev.polisci.12.031607.092945>.

Savage, Charlie, and Minh Kim. “Vance Says ‘Judges Aren’t Allowed to Control’ Trump’s ‘Legitimate Power.’” *The New York Times*, February 9, 2025, sec. U.S.

<https://www.nytimes.com/2025/02/09/us/politics/vance-trump-federal-courts-executive-order.html>.

Schmitt, Carl. *The Concept of the Political*. Expanded edition. Chicago: University of Chicago Press, 2007.

Schwartz, Ian. “Rep. Ayanna Pressley: ‘We Don’t Need Any More Brown Faces That Don’t Want To Be A Brown Voice,’” July 14, 2019.

https://www.realclearpolitics.com/video/2019/07/14/rep_ayanna_pressley_we_dont_need_any_more_brown_faces_that_dont_want_to_be_a_brown_voice.html.

Scott, James C. *Against the Grain: A Deep History of the Earliest States*. Yale Agrarian Studies.

New Haven: Yale University Press, 2017.

———. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have*

Failed. Veritas paperback edition. Yale Agrarian Studies. New Haven, CT London: Yale

University Press, 2020.

———. *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*. Yale

Agrarian Studies Series. New Haven: Yale University Press, 2009.

Sessions, George. “The Deep Ecology Movement: A Review.” *Environmental Review* 11, no. 2

(June 1, 1987): 105–25. <https://doi.org/10.2307/3984023>.

Sigalet, Geoffrey. “Legislated Rights as Trumps: Why the Notwithstanding Clause Overrides

Judicial Review,” 2022.

Simpson, Leanne Betasamosake. “Land as Pedagogy: Nishnaabeg Intelligence and Rebellious

Transformation.” *Decolonization: Indigeneity, Education & Society* 3, no. 3 (November

21, 2014). <https://jps.library.utoronto.ca/index.php/des/article/view/22170>.

Sinopoli, Richard C. “Thick-Skinned Liberalism: Redefining Civility.” *American Political*

Science Review 89, no. 3 (September 1995): 612–20. <https://doi.org/10.2307/2082977>.

Skelley, Geoffrey. “Why Republicans Could Win Oregon’s Governorship For The First Time In

40 Years.” *FiveThirtyEight* (blog), October 6, 2022.

[https://fivethirtyeight.com/features/why-republicans-could-win-oregons-governorship-](https://fivethirtyeight.com/features/why-republicans-could-win-oregons-governorship-for-the-first-time-in-40-years/)

[for-the-first-time-in-40-years/](https://fivethirtyeight.com/features/why-republicans-could-win-oregons-governorship-for-the-first-time-in-40-years/).

- Solt, Frederick. "Economic Inequality and Democratic Political Engagement." *American Journal of Political Science* 52, no. 1 (January 2008): 48–60. <https://doi.org/10.1111/j.1540-5907.2007.00298.x>.
- Stevenson, Verity. "Quebec Imposes Curfew, Closes Restaurant Dining Rooms and Further Delays Return to School." *CBC News*, December 30, 2021. <https://www.cbc.ca/news/canada/montreal/quebec-news-conference-new-year-public-health-measures-1.6300455>.
- Strommer, Geoffrey D., and Stephen Osborne. "The History, Status, and Future of Tribal Self-Governance Under the Indian Self-Determination and Education Assistance Act." *American Indian Law Review* 39 (2014): 1–75.
- Sussell, Jesse. "New Support for the Big Sort Hypothesis: An Assessment of Partisan Geographic Sorting in California, 1992–2010." *PS: Political Science & Politics* 46, no. 4 (October 2013): 768–73. <https://doi.org/10.1017/S1049096513001042>.
- TallBear, Kim. "Close Encounters of the Colonial Kind." *American Indian Culture and Research Journal* 45, no. 1 (January 1, 2021): 157–67. <https://doi.org/10.17953/AICRJ.45.1.TALLBEAR>.
- . "Shepard Krech's The Ecological Indian: One Indian's Perspective." *International Institute for Indigenous Resource Management [IIRM] Publications* 30 (2000): 1–5.
- "The Greater Idaho Movement." Accessed March 9, 2024. <https://www.greateridaho.org/>.
- Thomas, Katelyn. "COVID-19 Timeline: A Year like No Other in Quebec." *Montreal Gazette*, March 9, 2021. <https://montrealgazette.com/news/local-news/covid-19-timeline-a-year-like-no-other-in-quebec>.

- Tomasi, John. *Free Market Fairness*. Princeton: Princeton University Press, 2012.
- Törnberg, Petter. “How Digital Media Drive Affective Polarization through Partisan Sorting.” *Proceedings of the National Academy of Sciences* 119, no. 42 (October 18, 2022): e2207159119. <https://doi.org/10.1073/pnas.2207159119>.
- Turner, Dale A. *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy*. Toronto: University of Toronto Press, 2006.
- UN Women. “Intersectional Feminism: What It Means and Why It Matters Right Now.” *UN Women* 1 (2020).
- US Census Bureau. “Number and Percentage of State-to-State Movers Increased Between 2021 and 2022.” *Census.gov*. Accessed March 8, 2024. <https://www.census.gov/library/stories/2023/11/state-to-state-migration.html>.
- Vallier, Kevin. *All the Kingdoms of the World: On Radical Religious Alternatives to Liberalism*. New York, NY: Oxford University Press, 2023.
- . “Exit, Voice, and Public Reason.” *American Political Science Review* 112, no. 4 (November 2018): 1120–24. <https://doi.org/10.1017/S0003055418000539>.
- . “From Counter-Reformation to Counter-Revolution.” Lecture presented at the RGCS Lecture Series, October 26, 2023. <https://youtu.be/Tt6rSNjWywk>.
- . “In Defense of Idealization in Public Reason.” *Erkenntnis* 85, no. 5 (October 2020): 1109–28. <https://doi.org/10.1007/s10670-018-0067-8>.
- . *Must Politics Be War? Restoring Our Trust in the Free Society*. New York, NY, United States of America: Oxford University Press, 2019.

- . “On Jonathan Quong’s Sectarian Political Liberalism.” *Criminal Law and Philosophy* 11, no. 1 (March 2017): 175–94. <https://doi.org/10.1007/s11572-014-9350-1>.
- Van Schoelandt, Chad. “Justification, Coercion, and the Place of Public Reason.” *Philosophical Studies* 172, no. 4 (April 2015): 1031–50. <https://doi.org/10.1007/s11098-014-0336-6>.
- VanderHart, Dirk. “Freeze, Oregon: Gov. Kate Brown Restricts Businesses Again as COVID-19 Cases Surge.” Oregon Public Broadcasting, November 13, 2020. <https://www.opb.org/article/2020/11/13/oregon-governor-kate-brown-covid-19-restrictions/>.
- . “Gov. Kate Brown Issues Order Directing Oregonians To ‘Stay Home.’” Oregon Public Broadcasting, March 23, 2020. <https://www.opb.org/news/article/oregon-stay-at-home-order-coronavirus-covid-19-kate-brown/>.
- Vega, Cecilia. “Texas and Federal Government Clash over How to Deter Illegal Border Crossings - CBS News,” May 26, 2024. <https://www.cbsnews.com/news/texas-mexico-border-abbott-enforcement-policies-60-minutes-transcript/>.
- Vermeule, Adrian. “A Christian Strategy.” *First Things*, New York: Institute of Religion and Public Life, November 2017. 2030154883. ProQuest Central; ProQuest One Academic.
- . *Common Good Constitutionalism*. Medford: Polity Press, 2022.
- . *Common Good Constitutionalism*. Medford: Polity Press, 2022.
- . “Integration from Within.” *American Affairs Journal* (blog), February 20, 2018. <https://americanaffairsjournal.org/2018/02/integration-from-within/>.
- Vollers, Anna Claire. “Helping a Minor Travel for an Abortion? Some States Have Made It a Crime. • Idaho Capital Sun.” *Idaho Capital Sun* (blog), August 26, 2024.

<https://idahocapitalsun.com/2024/08/26/helping-a-minor-travel-for-an-abortion-some-states-have-made-it-a-crime/>.

Waldstein, Edmund. "Integralism in Three Sentences." *The Josias* (blog), October 17, 2016.

<https://thejosias.com/2016/10/17/integralism-in-three-sentences/>.

Waller, Julian. "Authoritarianism Here?" *American Affairs Journal* (blog), February 20, 2022.

<https://americanaffairsjournal.org/2022/02/authoritarianism-here/>.

———. "Integralism, Political Catholicism, and Democracy in the Modern West." SSRN

Scholarly Paper. Rochester, NY, June 2, 2023. <https://papers.ssrn.com/abstract=4467465>.

Ward, Ian. "I Don't Want to Violently Overthrow the Government. I Want Something Far More Revolutionary." *POLITICO*, June 8, 2023.

<https://www.politico.com/news/magazine/2023/06/08/the-new-right-patrick-deneen-00100279>.

———. "The Seven Thinkers and Groups That Have Shaped JD Vance's Unusual Worldview."

POLITICO, July 18, 2024. <https://www.politico.com/news/magazine/2024/07/18/jd-vance-world-view-sources-00168984>.

Wenar, Leif. "Political Liberalism: An Internal Critique." *Ethics* 106, no. 1 (1995): 32–62.

Westfall, Jacob, Leaf Van Boven, John R. Chambers, and Charles M. Judd. "Perceiving Political

Polarization in the United States: Party Identity Strength and Attitude Extremity

Exacerbate the Perceived Partisan Divide." *Perspectives on Psychological Science* 10,

no. 2 (March 2015): 145–58. <https://doi.org/10.1177/1745691615569849>.

Whittington, Keith E. "DeSantis's Terrifying Plot Against Higher Ed: Even Conservatives

Should Oppose the Florida Governor. Marco Bello, Reuters, Redux." *The Chronicle of*

Higher Education, March 17, 2023.

<https://proxy.library.mcgill.ca/login?url=https://www.proquest.com/trade-journals/desantiss-terrifying-plot-against-higher-ed/docview/2801871952/se-2?accountid=12339>.

Wintemute, Garen J., Sonia L. Robinson, Andrew Crawford, Daniel Tancredi, Julia P. Schleimer, Elizabeth A. Tomsich, Paul M. Reeping, Aaron B. Shev, and Veronica A. Pear. “Views of Democracy and Society and Support for Political Violence in the USA: Findings from a Nationally Representative Survey.” *Injury Epidemiology* 10, no. 1 (September 29, 2023): 45. <https://doi.org/10.1186/s40621-023-00456-3>.

Wright, Erik Olin. *Envisioning Real Utopias*. London ; New York: Verso, 2010.

Yildirim, Tevfik Murat. “Rethinking Women’s Interests: An Inductive and Intersectional Approach to Defining Women’s Policy Priorities.” *British Journal of Political Science* 52, no. 3 (July 2022): 1240–57. <https://doi.org/10.1017/S0007123421000235>.

Zavala, Ashley. “Judges in California May Have to Consider a Parent’s Affirmation of Their Child’s Identity in Custody Cases.” KCRA, September 8, 2023. <https://www.kcra.com/article/california-judges-parent-affirmation-child-identity/45051872>.

Zhou, Li. “Why Gavin Newsom and Ron DeSantis Are Debating Each Other.” Vox, August 15, 2023. <https://www.vox.com/politics/23832897/gavin-newsom-ron-desantis-debate>.

Zwicker, Maria V., Jan-Willem van Prooijen, and André P. M. Krouwel. “Persistent Beliefs: Political Extremism Predicts Ideological Stability over Time.” *Group Processes & Intergroup Relations* 23, no. 8 (December 2020): 1137–49. <https://doi.org/10.1177/1368430220917753>.