COLUMBIA UNIVERSITY

Toward a Theory of the Modus Vivendi

Resolving the challenge of political liberalism

Kevin Elliott

4/19/2010

And did you exchange
A walk-on part in the war
For a lead role in the cage?
—Pink Floyd, "Wish You Were Here"

I. Introductions: The Challenge of Political Liberalism and the Aims of the Argument

This is a paper about resolving the challenge of political liberalism. This challenge can be rendered in a vast number of ways, but most versions come down to the phenomenon of true believers who contest the value of autonomy in some of their most important commitments. The psychology of true believers is characterized by holding fast to values, commitments or identities[1] through serious challenges to them, including when there seems to be overwhelming reason to act against them. In the communitarianism literature, this 'holding fast' is associated with the need for a community of meaning whose definitions and ideals ground the moral agency of individuals (see e.g. Taylor, pp. 190-1). I tend to think of it in terms of integrity as conceived by Bernard Williams, in which commitments supply the necessary connection between an individual and his actions (Williams 1973, pp. 115-6). One who maintains this connection is a person with integrity. On this picture, true believers are those who refuse to surrender their integrity for the sake of many things we might ordinarily find compelling, especially political expedience.

The question that emerges from these accounts is invariably about accommodation: should liberals seek to accommodate true believers? I am centrally concerned with the *justifications* for answers to this question, not with the answer itself. The answer is beside the main point of this inquiry, and, besides, almost everyone gives the same qualified positive answer, including this one. The most interesting thing about this question is not the answer but the justifications for it. Most

[1] I use these terms interchangibly because they all play equivalent theoretical roles in the context of my discussion.

attempts to answer it present a theory of liberalism and explain which accommodations their species of liberalism is prepared to make. I mostly follow this pattern by outlining a theory which may be able to resolve the overall problem of political liberalism—but it would probably be misleading to call it a theory of liberalism. A better name would be a theory of the modus vivendi.

The argument proceeds in the following steps. In Section II, I advance two basic conceptual definitions. The first is of politics as a non-violent endeavor of collective self-government and the second is of the basic function of the state as the guarantor of this process. Section III presents the three core elements of the view, which tell us how we are to act given the nature of politics. Section IV uses the concrete example of President Obama in Cairo to illustrate how the theory might work in practice. Section V mentions a few issues raised directly by what I say here but which nonetheless remain unresolved. The final section pulls these strands together to explain why this framework serves to resolve the challenge of political liberalism.

This task is large enough that I must say something about the things I will *not* be addressing which would properly be a part of a full account of resolving this challenge. First, I do not elaborate the question of political liberalism at any greater length than I already have. Though I have always had reservations about equating the question of accommodation with the deeper issues raised by the political liberalism debate, what I have said is sufficient to frame the current inquiry. Second, I have very little to say about the kinds of accommodation this theory licenses because the current inquiry proceeds at a high level of abstraction. Third, I will not address other approaches to resolving the challenge of political liberalism, with one exception. Lastly, this paper will be only a *sketch* of a resolution to this challenge. The development of this resolution is a much bigger project

that I look forward to filling out in a longer discussion later. The reader will hopefully forgive the less egregious fumbles that this first attempt at positive theory building will almost inevitably involve. With these caveats in mind, we can move on to some basic definitions used by the theory.

II. Basic Definitions: Politics and the Core Duty of the State

This theory begins with a definition of politics. Politics is conceived as the non-violent process of collective self-governance. There are two core ideas in this idea of politics. The first is that of collective self-governance. The terminology here is not entirely perspicacious because the invocation of *self-*governance seems to invoke the idea of democracy (or republicanism), which I do not intend. An alternative rendering of the definition might be that politics is the process by which human groups[2] *order* themselves non-violently. We can say that a group orders itself when the power dynamics within it are primarily determined by actions and interactions of members of the group. This somewhat less elegant alternative brings out the perfect generality of the idea of self-governance since it is surely understood that human groups can order themselves in ways that are not democratic.

The second idea is that of non-violence. Groups that govern themselves through violence do not engage in politics. When violence begins, politics ends. I take this point to be axiomatic and offer no philosophical justification for the value of non-violence. I assume its value as a sort of self-evident truth, though a truth for which a vast array of reasons—religious, prudential, moral—could be given. There just seems to be something deeply right about the idea that politics is

[2] I do not address the question of boundary setting. It is enough for this conception to think of groups as does Ernest Renan of nations, in that they are groups whose constant imaginative affirmation ("daily plebiscite") of the limits of their membership is largely mutually overlapping (Renan).

properly a non-violent affair, and that something has gone very seriously wrong when a group of people has to engage in widespread violence to govern itself. It must be emphasized here that I do not mean for non-violence to be considered the exclusive aim of politics. Non-violence is simply, as it were, a first, necessary condition for all politics. This issue is discussed at greater length in the next section.

Two objections arise here. The first is that of potential ahistoricism. To claim that politics is properly non-violent is, one might charge, largely an artifact of our own times and that to take up such a definition is to bizarrely label the vast history of routine political violence as something occurring outside of politics. The second issue is the somewhat obvious one of (intergroup) war; do I mean to contradict Clausewitz's dictum that war is politics by other means?[3] I have so far been deliberate in speaking of 'human groups' as opposed to 'communities.' I do this in part to avoid the nationalistic and communitarian baggage with which the notion of community is laden. But I do it also to keep open the possibility of intergroup/inter-state/international *politics*. War certainly has a certain political character in that it has a great deal to do with the ordering of societies, especially in deciding exactly who will order them. But there is a widespread understanding that war occurs only when another process of non-violent conflict resolution breaks down. In international affairs, this process is generally called diplomacy and there is no obvious reason to deny that diplomacy is just the name we give to intergroup/inter-state/international politics, according to my definition.

This point also addresses the charge of ahistoricism. The storied history of political violence

[3] Clausewitz's point was, to clarify, that we must recognize war to be a means to political ends, and to control it accordingly as an integrated policy tool. If we forget this, war threatens to take on a terrifying life of its own. See Clausewitz, Ch. 1, §23-4.

does not change the fact that assassinations, coups and so forth have always been frowned upon and are almost invariably covered up as best they can be. The cover-ups and non-obvious methods of much political violence, such as the use of poison, attest to the understanding of all involved, including the perpetrators, that they are doing something outside the norm. My point is that this norm is politics, and that violence is a deviation from what politics is supposed to be.

That politics is about non-violent self-governance immediately suggests the need for an authority whose most fundamental duty is the preservation of non-violence in politics. This, I suggest, is properly the basic function of the state. Note that this is a highly specific task; the state is only concerned at the most basic level with maintaining a non-violent *political* process. However, this responsibility is likely to extend almost immediately to the wider Hobbesian task of maintaining *general* non-violent social order due to inevitable spill-over effects into the political realm that general anarchy would involve.

It is probably necessary that only and exactly one entity in any given area possesses the responsibility of keeping the peace because this responsibility deputizes the entity to use whatever means necessary to fulfill its mandate, including violence. (I elaborate on this familiar Hobbesian point in Section V.) Conflicting uses of official violence by different legitimate authorities is almost certainly not sustainable in a stable politics.[4] That the state possesses this responsibility *uniquely* recalls Weber's definition of the state as the organization that successfully claims a monopoly on the legitimate use of violence in a territory (Weber, p. 78). *Someone* must keep the peace, and so long as there is only one entity to which this responsibility is given, it is consistent with non-

[4] See Nozick's hypothetical account of the development of the state from localized protection agencies to the consolidated monopolistic entity of the state (Nozick, Part I; esp. Chs. 2 and 5).

violent politics.

One might point out here that keeping social or political peace would require the state to engage in violence, if only against violent criminals, and ask how this is consistent with a non-violent politics. State violence is consistent with politics so long as that violence is not directed with a mind to effecting political control through it—that is, by forcing agreement on issues of collective self-ordering through the use of violence. Random violence in the form of crime is not a problem for non-violent politics at all since such violence is not directed to any particular political end. Organized violence with political purpose, such as terrorism, is of course a different matter. I have a few words to say about this in the final section. State violence is consistent with the state's core duty when it is used for the purpose of maintaining a non-violent political process and inconsistent with that duty when it is not.

III. Three Elements of the Theory

With these basic definitional issues settled, we can now ask how we should conduct ourselves in a politics characterized in this way. The account that follows relies upon innovative but unfortunately neglected work from Charles Larmore and John Gray. Both thinkers seem to have a similar theoretical framework in mind, which is the one I develop, but they each provide quite different elements of it. There are three core elements. The first is that the aim of both the theory and of politics should be a modus vivendi, not any more theoretically stable proposition.[5] The second element is that the theory is strictly domain-limited to the political realm. The last

[5] It is sometimes said that a modus vivendi is an inherently unstable political conception. Rawls for instance points out that the stability of a modus vivendi "is contingent on circumstances remaining such as not to upset the fortunate convergence of interests" which allowed it to come about (Rawls 2005, p. 147). The parties stand ready to "pursue their goals at the expense of [other parties], and should conditions change they may do so" (ibid).

major element is that it assumes no hierarchy between the political realm and any other realm, leaving it up to individuals to weigh the importance of political obligations themselves.

The first element of the theory is that the basic end of politics is the achievement of a modus vivendi. For our purposes, a modus vivendi can be thought of as a minimally mutually acceptable arrangement of political institutions between individuals and groups living together that may or may not be supported by substantial agreement on political principles. The conditions of a modus vivendi are extremely loose. It does not need to be characterized by principled agreement and is consistent with simmering hostility between groups (so long as the arrangement provides controls on that hostility). I specify that the modus vivendi must be *minimally* mutually acceptable to capture the fact that any or all of the parties might be deeply unhappy with it, but still view it as preferable to some other arrangement. It should be no one's worst possible world.

Another basic characteristic of a modus vivendi is that it is constantly being updated, by political actions both big and small. Its development is not unlike that of common law, or the informal British constitution. It can be changed both by the routine workings of the system and by large-scale events such as major legislation and exogenous shocks. Any action or event which makes us think differently about the way we organize our collective life—that changes the political landscape, as it were—should be thought of as affecting the modus vivendi. That the modus vivendi is constantly reworked through time should not be interpreted to mean that the major terms of it change willy-nilly. Rather, it should be seen to reflect the process whereby major assumptions about collective life evolve. Such change may be gradual or abrupt, and it is probably either impossible or extremely difficult to tell in advance which actions or events will remake the

political landscape. But these changes tend to happen for reasons, not randomly.

This dynamism of the modus vivendi can be conceptualized as a perpetual search or project; we are always looking to find the modus vivendi, to build the arrangements which will allow peaceful coexistence. The need for this search is kicked off by the existence and constant generation of needs and grievances among non-violent individuals and groups.[6] It is in the nature of needs and grievances, if they are both important and left unaddressed, that they give rise to discontent and, at the extreme, violence. Constructing the modus vivendi is the process of addressing these grievances, and thus can be considered to include the routine political process.

To declare the achievement of a modus vivendi as the basic goal of politics is to make it a condition of political legitimacy. But it must be emphasized that this theory conceives of the modus vivendi as being defined in terms of the *local* standards or beliefs of the parties to it. If the parties to the arrangement unanimously believed in democratic government, say, then a democratic constitution would become a condition of their modus vivendi. In conditions of substantial disagreement about such things, compromise is necessary for a modus vivendi. In Great Britain, for instance, various constitutional settlements over the last three centuries ultimately left the monarchy in place while over time transferring more and more actual governing authority to democratically accountable institutions. While this process was at times extremely disorderly, the overall trajectory can today be recognized to have reflected the replacement of the divine right of kings as the principle of legitimacy with that of popular sovereignty.

That the modus vivendi can be substantively constituted by any set of beliefs or political

[6] We are only obligated to deal with non-violent groups and individuals. I elaborate this point in Section IV.

values consistent with the goal of a non-violent political order reveals the modus vivendi to be a hollow concept that can be filled with virtually any substantive content. This hollowness should not be taken as a weakness of the account, however, nor does it make the account esoteric. A political settlement allowing for non-violent political processes is no mean accomplishment. It should properly be seen as the minimum commitment of *any* theory of politics that it at least achieve the status of a modus vivendi.

This first element of the theory is probably its most controversial. That the basic end of politics is properly speaking a modus vivendi and not any more ambitious theoretical project is a proposition that will find many enemies. Some will claim that politics ought properly to protect basic human rights or that it should promote the well-being of those who are least well-off. The later John Rawls would say that the end of politics is an overlapping consensus of comprehensive doctrines over a political theory of justice to order society's basic structure.

What is incorrect about these other ideas of the ends of politics is, essentially, the omission of a pronoun. They should be saying that *our* politics, here in a democracy or here in the United States or here in whatever concrete setting, ought to have such and such a special end or structure.[7] Similarly, it is important to remember that a modus vivendi is *time-bound* due to the structure of its development (Gray, p. 108). What is an acceptable political settlement today almost certainly won't be in five or ten or fifty years. (This is, of course, a function of the dynamic nature of the modus vivendi.) Even though Jefferson's idea of generational constitutional conventions was never

[7] I realize that elements of Rawls' method seem to have been formulated with an aim to perfect generality as well, such as the original position and veil of ignorance. But the concrete theory of justice that emerges from these procedural mechanisms must be specified in a socially specific manner even in Rawls' theory (see Rawls 1971, p. 121).

embraced in the United States, no one would doubt that time has mightily altered the American constitution.

When any other aim of politics is put forward as being basic to what politics is about, it must be considered part of a more particularly specified legitimacy principle. But any such principle would have to be rejected to the extent that it conflicted with the achievement of a modus vivendi. To the extent it is consistent with it, there is no problem. I insist upon this point because the aim of my theory is a *perfectly general* solution to the problem of political liberalism. It is not one meant only for democratic countries, and it strives to make no assumptions about the form that institutions under it should take.

The idea of a modus vivendi properly considered *is consistent with almost any other end of a particular political order*. Rawls' theory of justice, for instance, seeks a form of politics that is, among other things, perfectly consistent with the picture presented here. He is concerned with defining the terms of a scheme of social cooperation under the Humean circumstances of justice of moderate scarcity and mutual disinterest, as well as of enduring pluralism (Rawls 1971, pp. 126-30). Yet an account fulfilling this description could not but fulfill the requirements for a modus vivendi. That he presents a picture that seeks *more than just* this end is simply not a problem for the modus vivendi *unless* it raises some particular element of the theory to such importance that the theory dictates civil war to be preferable to its violation. And this would be impossible for an account like Rawls' seeking to enable a permanent scheme of social cooperation, since civil war tends to destroy things that rely on trust and peaceful relations like social cooperation. Only in the case that a particular theoretical goal of politics is made more important than peaceful politics would that goal

be ruled out by this theory. Revolutionary Marxism of the Leninist variety would, for instance, most likely be barred to the extent it considered violence to be an integral political tool.

There are two things to say about the modus vivendi before we move on to the second element of the theory. First, I suspect that more theories fail this minimal test of consistency with the modus vivendi than we may expect, and that we are often saved by popular indifference to the systems of political theorists and philosophers for this very fact. Also, I elaborate how the modus vivendi might be thought to work at some length in the next section, so if the reader finds the quantity of my remarks about it wanting, rest assured that there is more to come. That being said, we must move to consider the theory's domain-limitation.

The second core element of this theory is that its imperative to reach a modus vivendi is strictly limited to the political realm. This follows Larmore's notion that "[w]e do better to recognize that liberalism is not a philosophy of man, but a philosophy of politics" (Larmore 1987, p. 129). This is the conclusion of a discussion in which Larmore contrasts the Romantic/Kantian view of politics as a locus for the expression of our deepest selves or highest values with the notion developed here of politics as the drab business of collective decision-making. Larmore sees versions of liberalism in the Kantian or Romantic tradition to be 'philosophies of man,' meant to give system or unity of meaning to our lives as a whole. He does not think liberalism should be thought of in this way. Rather, it is a 'philosophy of politics,' meant to apply solely and exclusively to the political arena of life. As he puts it, "we must adopt a more positive attitude toward the liberal 'separation of domains' than either political romantics or some liberals themselves have shown" (ibid).

The separation of domains that Larmore references here is the idea that different spheres of life involve different obligations, roles and expectations. The idea here is not the Walzerian one that different spheres of life call for their own unique principles of distributive justice, but that as individuals we are laden with obligations as a function of our particular role in a particular sphere of life. So I might have an obligation in the family sphere of life as a father to attend my daughter's dance recital. Or I might have an obligation to stay late to make a deadline as a professional writer. These kinds of obligations conflict all the time, and force individuals to trade-off their obligations and weigh the relative importance of their roles in different areas of their lives.

The idea that my theory is strictly limited to the political realm, then, is the idea that each of us in our public roles as citizens or subjects or PTA board members or presidents must put the accomplishment of modus vivendi as our first priority. *To the extent that we see ourselves acting in our public role*, we must either put aside or moderate the political claims arising from our commitments, identities and values whenever they keep us from achieving a modus vivendi. It is extremely important to emphasize that the requirement to put the modus vivendi first is dependent upon us *seeing ourselves* as acting in our public roles. This point is what differentiates the way I understand the unique imperative of the political realm to find arrangements of power that allow us to live together peacefully from the familiar liberal idea of the priority of the right over the good.

The priority of the right over the good is the idiom in which contemporary liberals following Rawls often discuss the requirement that we put aside our constitutive commitments and values in politics. As Rawls puts it, the priority of the right over the good means that we must

"conform" our conceptions of the good to the demands of political justice (Rawls 1971, p. 31). Larmore uses language more relevant to our own discussion, invoking the idea of "neutrality" to express the attitude we are to take toward all substantive commitments and values, including our own (Larmore 1987, p. 74-5). But Larmore insists that we must always remember that this setting aside of our commitments is strictly limited to our public role. "The priority of the right over the good, the demand for neutrality toward conflicting ideas of the good, serves only as a political principle, governing the relations among people as *citizens*" (Larmore 1987, p. 75; original emphasis).

Both Rawls and Larmore understand the priority of the right to give individuals very strong if not overriding reason to abide by the requirements of justice in their *actual conduct*. The priority of right puts a thumb on the scales, as it were, of our practical reasoning. It implies that the unique commandments of politics should be uniquely motivating for all individuals. This point is absolutely central to understanding how my account differs from more traditional theories. It is not enough for a liberal theory like Rawls' that it set out the shape and content of our political obligations; it must also guide our actions in the world. The priority of right is meant to provide this guidance by telling us what we ought to be doing *all things considered* whenever our actions have political import.

Where my account differs sharply from that of even Larmore is that I reject this last idea. This rejection takes the form of the third and final element of the theory, which is that there is no hierarchical relationship between the political realm and any other. This means that political obligations, *including that to pursue the modus vivendi*, are entitled to no automatic priority over

the obligations of any other realm of life.

Larmore makes a mistake when he takes up the standard Rawlsian position that the priority of right means that we must actually set aside our commitments when we act. He writes that "by abstracting from our substantial conception of the good life, we are not…repudiating that conception or lessening our attachment to it. We have not adopted a general posture of neutrality or detachment toward our idea of what makes life worth living" (Larmore 1987, p. 74). Yet this can only be true if the *weight* of political obligation is not meant to be overriding. Making political obligations overriding, and along with it adopting the "posture of neutrality" toward our commitments, is precisely the same thing practically as taking up a *general* attitude of detachment. Recall that to act in ways that contravene our core commitments is to undermine our integrity in Williams' sense. A connection between our actions and our commitments is necessary for integrity, in Williams' account, and he suggests that integrity is in turn fundamental to being a moral agent. If anything like this is correct, then the standard interpretation of the priority of right that Larmore appears to endorse cannot be consistent with taking seriously the separation of the political realm from others because it seeks to make the political realm supreme when it comes to actual practical reasoning.

It is only when we *self-consciously* act in our public capacity that we are obligated to pursue the modus vivendi. The priority of the right over the good still operates in my theory, but it is strictly limited to the political realm. The priority of right *in politics* means much what Rawls took it to mean, in that we must put the achievement of the public purpose (in this case, the modus vivendi) before any other more substantive goal, such as pursuing our own core values. It also

means that any other substantive political goal must give way if it conflicts with the modus vivendi. But all of this is simply what it is to act correctly as a public person. It is entirely possible to fail to act as we should in politics for what seem to be good reasons; *they are just not political reasons*. This is a function of the internalism of reasons.

There is a great deal of sophisticated thought on reason-internalism that I cannot address here.[8] It is enough for my point to give a very spare account drawn again from Williams, but which differs from many internalist accounts in one crucial way. Internalism about reasons holds that for an individual to have a reason to act, the reason must be related to some element in his subjective motivational set (Williams 1981, p. 102). The difference between what I mean by reason internalism and that which most take it to mean is that for me, desires[9] play no part. One's subjective motivational set can for our purposes be identified with one's core commitments, identities and values rather than one's desires. Thus, according to reason internalism, we cannot be motivated to act unless we have a reason that taps into some substantive belief or value we already have. It is these basic commitments which make up a motivational set, not desires. These, thus, are internal reasons. Reasons unconnected to anything in our motivational set can be correspondingly thought of as external reasons. It is vital to understand that this is not just an explanatory point, but one about *rationality in general*. It is not just that as a matter of fact people can only be motivated by internal reasons but that it would be *irrational to expect* individuals to be motivated by a reason

[8] For a sense of the scope of the issues raised, see Stephen Finlay and Mark Schroeder's entry "Reasons for Action: Internal vs. External" in the Stanford Encyclopedia of Philosophy (Finlay and Schroeder).
[9] A decisive objection to (crude) Humean internalism is that it is based on reasons linking up with one's desires. The problem is that desires are purely empirical psychological states, and have no intrinsic normative value. In my account, reasons must link up with the commitments that are constitutive of a person's ability to act at all, a characteristic making them intrinsically normative.

they do not see connected to something they care about.

Internalism about reasons seems to me to play a much bigger role in the political liberalism debate than the paltry attention it receives would suggest. This is because political obligation of any kind does not give a person a reason to act unless it links up with something she values. This is why I insist that the imperative to reach a modus vivendi is only operative if a person thinks of herself as acting in her political capacity. For in thinking of herself as a citizen, the individual reveals a concern for public affairs to be part of her subjective motivational set. Once this is established, it is a relatively simple affair to explain to her—by reference to all the reasons political violence is bad—why pursuing the modus vivendi is *the* overriding political imperative. Conversely, according to reason internalism, explaining to someone who truly does *not* care about politics—that is, someone for whom political concerns are not part of his motivational set—why he should undertake some particular civic duty, such as voting, is not just difficult but theoretically impossible by reference *solely* to political reasons. We might get him to turn out to vote by reference to some *other* kind of reason, such as his social desire for the approval of others, but this is not a directly political reason.

Enough has been said about reason-internalism that we can get back to our main discussion. There are at least two different ways in which we can fail to live up to the imperatives of politics due to internal reasons. The first is that we can press inflexible, maximalist claims because we recognize the compelling character of our own reasons and deny or fail to see the importance of others' reasons in comparison. The second way is by acting in politics solely according to our own commitments from other realms of life and not actually caring about politics or the political impact

of actions dictated by our commitments. These two ways of not enacting the political imperative are very closely related, but the emphasis is different in each. The first emphasizes the nature of the *claims* made by people who are motivated by identity; these claims tend to be inflexible and maximalist. The second focuses upon the fact that some people are primarily motivated *only* by identity or substantive commitment in the first place, from which inflexible claims may or may not follow.

Two examples may be helpful to illustrate the difference between these ways of failing to act as we should in politics. In the first case, in which broad identity-inspired claims are pushed inflexibly, we can think of fundamentalist Christians in the United States demanding redefinition (or abolition) of the separation of church and state in order to pursue the true faith in public settings or, as it is often put, to honor the country's 'Christian values.' What such claims minimize is the validity of the country's other or non-religious values, and of the political claims of those who hold them. Making such claims tends to undermine the goal of a modus vivendi because to assert a maximal demand as non-negotiable is to set the stage, as it were, for a serious and bitter conflict. History teaches us that such conflicts degenerate into violence with great frequency, even if the concrete example of contemporary American fundamentalists gives us little fear of it. The point is that the *type* of claim they make—a maximal one closely linked to a fundamental commitment—is precisely the kind around which radicalization and political violence has historically occurred and for which it could certainly happen again. Asserting maximal claims linked to core identities, then, is often conduct antithetical to politics. An example of the second kind of failure, in which someone is motivated by their identity out of indifference to politics, is

the following. If a Texan turns out to vote *only* because there is a Texan on the ballot, he is failing to do what he ought to do in politics for what he takes to be a good reason; namely that he is acting as a *Texan* should. He seems to be failing to give the core political imperative of reaching a modus vivendi its due because he is treating the imperatives of another realm of life, that of regional identity, as overridingly important in politics. He may do this because he takes his regional identity to be more important than his public role, or because, as is likely more often the case, that he does not care about his public role. As in the previous example, it is not that by acting in this way the Texan inevitably ends up acting violently. It is rather that he thereby does not abide by the demands of his political role, and opens the door to intractable political conflicts which often lead to political violence.

These two potential avenues of not fulfilling the political imperative point to two different resolutions. One is the moderation of claims; the other is setting aside one's identity or core commitments in politics. The third element of my theory allows us to recognize that the requirement of finding a modus vivendi can be met by *either* of these methods. *Either* we must moderate the inflexible or maximalist claims stemming from our commitments *or* we must honor the traditional interpretation of the priority of right by setting aside our identities in politics. Reaching a modus vivendi only requires *one or the other* of these moves, strictly speaking, either of which will lead to a similar outcome of non-violent collective self-ordering.

Most liberalisms prefer the course of setting aside identity and commitment altogether. This is a function of their reliance on autonomy as a fundamental human capacity or value.[10] The reason

[10] Autonomy presupposes the ability to put aside our core commitments. This ability is then relied upon to impute all

for it is easy to understand; doing so strikes at the root of the problem of true believers or extremists in politics. But it fails to reckon with the profound importance of these commitments to individuals' existence as moral agents. And it now seems that liberals cannot claim, as they have seemed to in the past, that *only* this method can meet the challenge of extremism, and that it is somehow required by the nature of politics in a plural society. The argument above suggests that if those motivated by identity or core commitments simply moderated their claims that the threat of extremism would fade. I say more about this in the final section. One can believe one's identity to be of overriding importance *without* making extreme political claims of others. Hence, this is the minimum that the modus vivendi can demand and it is the minimum that is required by the nature of politics. But it must not be forgotten that it is *required by the nature of politics*.

It must be stressed that the two solutions of setting aside one's identity or moderating one's claims are meant to be applied in the general process of practical reasoning, in determining what we have most reason to do, all things considered. Thus, these are *not* limited to the political realm; it only the imperative to reach a modus vivendi that is domain-limited.

Because these solutions are to be applied in the course of our actual practical reasoning and because their outcomes are so similar, it is worth emphasizing how the resolution I favor of claim

---

manner of potentially motivational values to actual persons, regardless of what they actually believe. This line of argument obviously takes many forms in the work of different authors and tracing its various guises would properly be an argument all its own, but I should probably give some idea of who I have in mind. In the later Rawls, we see this in his clarification of the two moral powers as including the power to "revise" our conception of the good (Rawls [1980], p. 312). His seemingly ecumenical allowance of comprehensive doctrines into his political liberalism hides the fact that all problematic doctrines have already been excluded by the central role that concern for the moral powers plays. Stephen Macedo says explicitly that "…[political liberalism] invites us to put aside some of our beliefs…" (Macedo, p. 474). Will Kymlicka's concern for minority rights is based on a concern for the autonomy of members of minority cultures, meaning among other things their ability to revise their conceptions of the good (Kymlicka, p. 142). Joseph Raz explicitly places personal autonomy at the center of his liberalism (Raz, pp. 367-429).

moderation materially differs from setting aside commitments. One may object that moderation does not differ in a relevant way because it reincorporates the objectionable form of the priority of right discussed above. This would be so because such moderation could seemingly only be motivated by a prior concern for the public realm and its unique imperative, the theoretical establishment of which is precisely the function of the priority of right.

Moderation does not reintroduce the problematic version of the priority of right because it can proceed entirely in a good faith exposition of what one's values require. To see why, consider that any substantive commitment, identity or value will be at least partly indeterminate regarding how we should act. We thus must engage in practical and moral reasoning to connect our identities to concrete actions in the world. Moderation works by exploiting the indeterminacy in this reasoning.

One moderates one's claims by making convincing arguments about what one's commitments require which are less demanding. Moderate arguments about what it means to be committed to a given cause come to generate moderate political demands. The idea is, thus, not to reformulate one's substantive *values*, but rather to revise the idea of what *actions* one's values demand, entirely within the context of those values. Conceived this way, the process proceeds entirely in good faith vis-à-vis the values, and as such does not formally depend on any prior valuation of the political realm nor any presupposition that our political obligations are more important than our substantive ones (which is precisely the meaning of the priority of right).

It is also vital that these resolutions assume one has *already accepted* the importance of politics or of one's public role. This account, then, is radically hypothetical in the Kantian sense, in

that it bases political obligation on the prior belief in the importance of politics (Kant, p. 88). It does not itself give any additional reason for individuals to care about politics beyond the self-evident importance that politics possesses. For if someone does not recognize the importance of politics after we explain the way political processes can influence his life, on the reasoning that those influences are too attenuated to justify his attention, say, then there is little more that can be said to convince him. Most actual people, however, will not take this position. In the example of the Texan above, it is likely that if we pressed him about his vote and his reasons for it, we would discover that he treats 'being Texan' as a proxy for a set of conservative-leaning values. Empirically, voting for a person because he shares your identity often functions as an information shortcut about values because we tend to (correctly) assume that those who share our identity also share our values (see Downs, pp. 98-9). Thus while pure identitarian voting is obviously conceivable, it is probably not very common, in part because individuals recognize the impropriety of doing so and care about voting in line with their values.

Only specific conceptions of the good, or specific motivational sets, can tell us which realms of life are better or more important than others. Weighing the importance of obligations from different realms is a deeply challenging practical task, the depth of which the traditional interpretation of the priority of right does not reflect.

One objection to a hypothetical account of political obligation[11] like mine is that politics may not be a part of someone's conception of the good, and to the extent that this is so, we cannot even really say that she has political obligations. It is in fact part of my purpose to capture this very

[11] Again, the term 'hypothetical' here is used in the Kantian sense, as opposed to 'categorical,' or to mean something applicable only in the presence of a specific end.

possibility. People who lead fulfilled lives that do not include political engagement should not be scolded to undertake the burdens of political life, under one critical condition. If they do not take politics to be something important, they surrender the right to be taken seriously or to have their claims affect specific political outcomes and should not vote. This is not a license to disenfranchise anyone, of course, for one's interests can wax and wane. An awakening to the importance of politics is never impossible, and the door to political participation must be left open to all. It is simply required that to pass through the door, one recognize the overriding need for a modus vivendi and do whatever is necessary to reach one.

This completes my account of the three core elements of the theoretical framework. Many questions about and objections to this framework remain. I address some of the more serious ones in the fifth section. Presently, we will assess an example to illustrate how the search for a modus vivendi might actually work and why it need not be a process of pure material interests clashing. Rather, it can be a principled search for a new conception of our beliefs, as I argue below.

IV. An Illustration of the Theory in Action: Obama in Cairo

The example of Obama in Cairo will help illuminate what this model is meant to look like as well as provide an opportunity to clarify a point about the permissiveness of the theory.

In June of 2009, President Barack Obama gave a speech in Cairo in which he suggested that the US would work with any group who agrees to forsake violence in pursuit of their political goals (Obama). It was assured by American diplomats that there would be several representatives of Egypt's Muslim Brotherhood present at the speech (Duss). The Muslim Brotherhood is an Islamic political party with the aim of non-violently instituting religious government and sharia law in

Egypt. That the Americans sought to ensure the presence of this Islamic party—which since its inception has officially eschewed the use of violence—suggests that Obama's remark thus signaled something of a change at least in American rhetoric about Islamic political parties. Obama seemed to be saying that the United States would consider even Islamist political groups with aims anathema to the separation of church and state to be legitimate political partners in US diplomacy. This was a change because Obama's predecessor, with his use of inflammatory terms like "Islamofascism," created a political discourse that lumped all manifestations of political Islam together—whether violent or not—and tagged them as the enemy.

Much could be said about the relative importance of this point with regard to the speech as an overall event, but I want to focus on this element alone. I focus on it because it provides a blueprint for the kind of political deliberation demanded by my theory. In what follows I rely upon the account of Obama's speech as given above. Any factual inaccuracies do not affect the point I shall make.

By signaling a willingness to work with any group that renounces violence in pursuit of its political goals, Obama laid down non-violence as the sine non qua of politics, in accordance with our definition. He did *not*, in making such a promise, agree to concede any fundamental liberties that the other side might like to see restricted, but neither did he set acceptance of the entire slate of basic liberties as a *precondition* of political negotiations at the outset. His message seemed to be that in principle, America will talk with anyone who commits to non-violent conflict resolution. The corollary to this message, which came out in various other parts of the speech, was that

America would seek to destroy outright any group pursuing political ends through violence.[12]

On my account of the state, these twin goals constitute the commitment that statesmen like Obama have in their public roles; the total purging of violence from politics and a good faith effort to govern in consultation with all non-violent groups. Notice that this commitment assumes no particular institutional structure; it is consistent with both democratic and non-democratic government. That democratic institutions make consultation with non-violent groups far easier is a relevant but ultimately contingent point.

Recall that the third element of the framework is that there is no hierarchical relationship between the political realm and its imperatives and those of other realms of life. It was left up to individuals to assess the importance of political obligations with respect to other obligations they may have. This permissiveness extends even to high ranking officials in the state apparatus. That Obama is expected, given his public role as president, to discharge the duty of eradicating violent groups and working with non-violent ones does not necessarily provide *him* with an overriding reason to do so. *He* must recognize it as such. Of course, the brutal process of presidential vetting selects for individuals who are highly publicly spirited and who tend to be exactly the kind of people who do recognize such public duties as providing them with overriding reasons (and we all have reason to be thankful for this). But it remains the case that we can conceive of circumstances under which a president might not be able to live up to the expectations set for him by his office, such as in the scenario of a president's daughter being kidnapped and ransomed for political

[12] This does not require the military destruction of such groups, including the death of its members, but simply the end of the group as one pursuing political ends through violence. If there was good reason to think that negotiation could bring a group like Al Qaeda into normal politics, there would be no reason to seek the group's destruction through 'neutralizing' its members.

concessions (as depicted in the presidency-themed television show *The West Wing*). In that case, asserting that the president ought not to give in to the kidnapper's demands seems to involve the imposition of an external reason upon someone for whom, considering the circumstances, the reason of acting as a public person is not sufficiently motivational. It would be *irrational* to expect him to so act, given the things he holds most important. (Note that in principle this decision has the same structure as some political decisions made by true believers because they too fail to see the motivational force of the political imperative. In the final section I discuss this permissiveness of the theory as a profound strength, and indeed the source of the resolution to the challenge of political liberalism.)

The search for a modus vivendi is not exhausted by the vague idea of negotiating with non-violent groups. The Obama in Cairo example also suggests a principled method for revising our commitments and identities such that they support the modus vivendi. This method occurs in parallel with more straightforward political negotiations and is based on the idea of *stepping forward* from our current commitments and understandings of our identity into a new one. As mentioned above, Obama set only one precondition for being included in the political process in his speech: non-violence in pursuit of political goals. Given non-violence, we can enter into negotiations together. But what does this process look like? On matters of brute material interest, it looks like any other political process; that is, it resembles horse-trading. But on issues like the separation of church and state, as is at issue between Obama and the Muslim Brotherhood, negotiation can take on a very different form.

First we have to conceive of the parties as existing with an ordered set of values,

commitments and identities, as in a rational motivational set or conception of the good. These conceptions of the good have been formed in the context from which the parties originate. Differing contexts in turn tend to accentuate different considerations. These different considerations give rise to different values and priorities in the parties' conceptions of the good. Thus, the leaders of the Muslim Brotherhood, raised in the context of the Islamic *ummah* and a post-colonial former client state, see Islamic rule as deeply important. On the other hand, Obama, being a thoughtful liberal democrat from the United States, sees the historical lessons and liberal arguments for the separation of church and state as overriding. But when the two parties come together under the auspices of a non-violent political process, both parties can step forward from their own moral contexts and the limited universe of considerations they represent into a wider world of considerations that include those of our interlocutor.

In the context we stepped from, our position made compelling sense given the considerations taken to be relevant by all of those who live with us in that context. But when we take into account the considerations in the wider world which includes those of our political adversaries, it is not a foregone conclusion that our conception of the good might change. It is all too likely that it would.

When Obama negotiates with Egyptian Islamists, he has to ask himself whether the separation of church and state is what his identity as a liberal is most concerned with, or whether he might be able to accept the political goal of a nominally Islamic polity which, for instance, provided protections for women from the kind of treatment they receive in many other Islamic polities. I am not arguing that liberalism should be committed to such a position or even that it

would be a good idea, but rather simply that political engagement opens a door to the reconsideration of our convictions which should not be slandered as 'compromising one's values.'

Filling out the modus vivendi, then, can be a process in which we step forward from our current commitments and from the orthodoxy they represent, into the wider context that includes the beliefs, values and interests of those with whom we are trying to live. In principle, we try to reformulate our beliefs to take as many of theirs into account as possible in a way that is mutually acceptable to us both. This does not mean we will succeed; the overlapping consensus that could emerge from this process is very likely to be empty. But we try it. And if it fails, we seek a way to get by without principled agreement, such as through careful agenda setting on issues on which progress can be made and agreeing to disagree on the truly divisive issues. The key notion is that we step forward from the old orthodoxy, and from the context in which that orthodoxy made (near) perfect sense of the moral/normative landscape, to a new context, generally a wider one, that contains these new moral considerations and in which we can construct a new orthodoxy.

V. Some Remaining Tasks

In this brief section I comment on a couple of obvious issues that have arisen in the course of this discussion. There are doubtless far more than I consider here, but these are issues raised directly by what I have already said.

One potential flaw in this account stems from its neo-Hobbesian conception of the state and the state's primary duty of keeping politics non-violent. The exact source of the problem is that which I flagged above; that the state is in principle licensed to do anything, including the violation of traditional basic liberties, to preserve the peacefulness of politics. Recall that this duty was based

on a foundational definition of non-violent politics. Unlike the classical liberal theories of Locke or the American Founding Fathers, the purpose of politics is not the protection of rights but the preservation of a non-violent political process. Given this idea of politics, nothing can stand in the way of this goal.

This line of thought leads to what I call latent absolutism. Latent absolutism refers to the notion that government is non-repressive only so long as, by and large, people remain orderly. The more violent and lawless the people become, the more the state takes on *justified* authority to become repressive, i.e. to violate traditional basic liberties. The justified authority of the state is indexed to, and thus limited by, the orderliness of the society. The absolute authority of the state is, thus, latent in times of peace.

But what if the orderliness of a society is a perception open to manipulation? There is substantial evidence in the public opinion literature that public opinion is manipulable by political leaders (see e.g. Jacobs and Shapiro, pp. 27-71). Also, Levinson and Balkin persuasively argue that modern American presidents have sought to create and perpetuate the perception of emergency for the sake of augmenting their own political and institutional power (Levinson and Balkin, pp. 12-32). This manipulation of the public perception of orderliness and threat would lead to the opening of a space between the appearance and actuality of a peaceful society. But if there is a difference between perceived threat and actual threat, then the latency of absolutism suggests the state would appear to have more legitimate authority than it actually does and could be engaging in actually unjustified actions. That my criterion of legitimate action might systematically license unjustified political actions by the state obviously creates a problem for it, but it is one that I have yet to

resolve.

A related but distinct problem stems from the theory's reliance on actual as opposed to hypothetical consent. This theory could be seen to be based on actual consent because the modus vivendi is defined by reference to the actual, existing beliefs—and actual existing motivational sets—of the parties to it. This is not an approach smiled upon by most theorists (Weatherford, p. 150). Actual consent brings with it a whole host of issues related to mistakes actual individuals might make, either in reasoning from what their commitments entail or in ordering their commitments defensibly within their motivational sets. Yet I have strong intuitions that actual consent is necessary to the defensible exercise of political power, and thus that measuring and assessing 'legitimacy' is in principle a highly empirical endeavor. But I have yet to systematically engage these questions, so I must set them aside and acknowledge them to be unresolved problems.

VI. How this Framework Resolves the Challenge of Political Liberalism

This framework resolves the challenge of political liberalism with permissiveness. This permissiveness is found primarily in the third element of the theory, that there is no hierarchy between the political realm and others. The theory allows for the legitimate pursuit of identitarian goals in politics, and for motivation by the same because both are consistent with a non-violent politics. What they are not consistent with is pressing maximal claims non-negotiably. Let me spell out how this is meant to work.

Let us assume that true believer A asserts claim X in the political sphere. Claim X is a wide-ranging claim, which the political system could not implement except at a high cost. Let us also stipulate that X is supported only by an internal reason in the form of a core commitment of A's.

Recall that core commitments and identities are such that no space can be opened between them and the agent's actions, especially for true believers.

If A insisted upon X inflexibly, and refused to negotiate or moderate the substance of the claim, this would be allowed by the theory's limitation to the political realm and its refusal to assert political obligations above others. But all other members of the polity, recognizing claim X as anti-political and A to be violating the necessary preconditions of reaching a modus vivendi, would be justified in ignoring X. Much as a parent can often successfully silence a child's tantrum by refusing to respond, this treatment ignores the behavior of A and punishes him by leaving his vital claim X unaddressed. If he is smart, A will discover that a more measured assertion of a modified X will better serve his purposes than being fully ignored by his fellow citizens. If he is not smart, A will justly suffer the frustration of the fool who demands the world and receives nothing. Perhaps there is some value in such frustration from the enjoyment of a martyr complex, but it is certainly no way to go about pursuing one's political aims. It should be noted that there is nothing wrong with this situation by the lights of this theory; A's inflexible extremism is nothing the state or politics should even try to accommodate. So long as A too is satisfied with his unsatisfied claim X—if he preferred its non-fulfillment to his making a deal with unsavory political figures, say—then there is no problem here. This also means that nothing but a desire for the more effective pursuit of his political goals can bring A to moderate his claims since the state has no problem with dissidents who are happily unhappy, as it were. But what if A was not resigned, but rather was moved to violent action by the community's indifference? Then the state would simply exercise its coercive power over A to remove him from society, thereby restoring a non-violent politics.

But this first scenario assumes that A is an isolated individual. What if A is part of a group of individuals G who all push claim X for the same internal reason? Initially, the response among responsible citizens should be the same cold shoulder, applied in the hope that it will teach them the elementary lesson that one catches more bees with honey than vinegar. If group G persists in making its claim X non-violently, then after a time it may be prudent to head off the radicalization of G by either co-opting moderate leaders of G and/or granting unilaterally some extremely weak element of X. If G continues to persist as A did and eventually becomes violent, we would seem to have a more serious problem. This situation is the one we think of as the paradigmatic problem of extremists or true believers.

The result of this might not be very satisfying, but it will allow us to see the real source of the danger from true believers. In this case, a violent group of any size relentlessly pushing a maximalist agenda is one that must simply be met with force, and thus begins a civil war. Hopefully prudence, and the logic of moderation embodied in the modus vivendi, moves both sides down from the precipice before this point is reached. But here is the truly brutal fact about internal reasons; a genuinely extreme true believer who pursues her extreme and inflexible political claim violently has to have decided that the possibility of death is *preferable to compromise*. And because this conclusion is arrived at as a function of her own internal reasons (assuming she has not made some error about them), we are in no position to contradict her. At the same time, those of us who accept the political imperative of reaching a modus vivendi have an opposing set of internal reasons that tells us that having the extreme true believer dead is preferable to giving in to her costly and unreasonable demands. Yet if both camps reach this impasse, *no one's preferences conflict*. The

true believer is *willing* to die rather than compromise and we are *willing* to oblige her. This is the ultimate logic of politics, in all its brutality, and in it is found, believe it or not, the resolution of the challenge of political liberalism.

The modus vivendi pushes the bounds of permissiveness to the breaking point. It permits more than traditional liberal theories by admitting all motivations and moral psychologies. What it demands in return is simple moderation. Mostly this is not a problem because very few true believers actually prefer death to the frustration of their political goals, and because these goals tend not to be so costly that responsible citizens cannot in good conscience accede to some form of them. But when this permissiveness is transgressed, there is no further slack to fall back on. Because the modus vivendi is consistent with simmering tensions as well as robust social trust, we cannot assume that intransigence will be indulged by forgiving neighbors. We must rather face the harsh truth that politics can only accommodate so much and if the modus vivendi accommodates more than any other approach, as I have argued it does, then there is only one conclusion to draw: where the modus vivendi ends, Very Bad Things begin.

Works Cited:

von Clausewitz, Carl. On War: Vol. 1. Trans. J. J. Graham. Project Gutenberg: 2006 [1874]. Retrieved 10 April 2010 from < http://www.gutenberg.org/etext/1946>.

Downs, Anthony. An Economic Theory of Democracy. New York: Harper & Row, 1957.

Duss, Matt. "Will Islamists Be Part Of The President's New Dialogue?" ThinkProgress Wonk Room. 3 June 2009. Retrieved 16 December 2009 from <http://wonkroom.thinkprogress.org/2009/06/03/islamists-dialogue/>.

Finlay, Stephen and Mark Schroeder. "Reasons for Action: Internal vs. External." *Stanford Encyclopedia of Philosophy.* Retrieved 14 April 2010 from <http://plato.stanford.edu/entries/reasons-internal-external/>.

Gray, John. Two Faces of Liberalism. Oxford, UK: Polity Press, 2000.

Jacobs, Lawrence R. and Robert Y. Shapiro. Politicians Don't Pander: Political Manipulation and the Loss of Democratic Responsiveness. Chicago: University of Chicago Press, 2000.

Kant, Immanuel. *Groundwork of the Metaphysic of Morals*. Trans. by H. J. Paton. New York: Harper Torchbooks, 1964.

Kymlicka, Will. "The Rights of Minority Cultures: Reply to Kukathas." *Political Theory*, Vol. 20, No. 1 (Feb., 1992); pp. 140-146.

Larmore, Charles E. Patterns of Moral Complexity. New York: Cambridge University Press, 1987.

Levinson, Sanford V. and Jack M. Balkin. "Constitutional Dictatorship: Its Dangers and its Design." *Minnesota Law Review*, Forthcoming; Yale Law School, Public Law Working Paper No. 200. Available at SSRN: <http://ssrn.com/abstract=1508666>.

Nozick, Robert. Anarchy, State and Utopia. Malden, MA: Blackwell Publishing, 1974.

Obama, Barack Hussein. "On a New Beginning." Presidential Remarks, Cairo University, Cairo, Egypt. 4 June 2009. Retrieved 16 December 2009 from <http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-at-Cairo-University-6-04-09/>.

Rawls, John. A Theory of Justice. Cambridge, MA: Harvard University Press, 1971.

————. "Kantian Constructivism in Moral Theory." [1980]. In Collected Papers. Ed. by Samuel Freeman. Cambridge, MA: Harvard University Press, 1999.

————. Political Liberalism: Expanded Edition. New York: Columbia University Press, 2005.

Raz, Joseph. The Morality of Freedom. New York: Oxford University Press, 1986.

Renan, Ernest. "What is a Nation?" 1882. Retrieved 10 April 2010 from <http://www.cooper.edu/humanities/core/hss3/e_renan.html>.

Taylor, Charles. Philosophy and the Human Sciences: Philosophical Papers 2. New York: Cambridge University Press, 1985.

Weber, Max. "Politics as a Vocation." In From Max Weber: Essays in Sociology. Trans. and Ed. H. H. Gerth and C. Wright Mills. New York: Oxford University Press, 1946.

Weatherford, M. Stephen. "Measuring Political Legitimacy." *The American Political Science Review*, Vol. 86, No. 1 (Mar., 1992), pp. 149-166.

Williams, Bernard. "A Critique of Utilitarianism." In J. J. C. Smart and Bernard Williams. *Utilitarianism: For and Against*. New York: Cambridge University Press, 1973.

————. *Moral Luck: Philosophical Papers 1973-1980.* New York: Cambridge University Press, 1981.