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OXFORD UNIVERSITY PRESS

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Reviewed work(s):

Source: *Oxford Journal of Legal Studies*, Vol. 7, No. 1 (Spring, 1987), pp. 1-25

Published by: [Oxford University Press](#)

Stable URL: <http://www.jstor.org/stable/764257>

Accessed: 09/03/2012 15:05

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# THE IDEA OF AN OVERLAPPING CONSENSUS†

JOHN RAWLS\*

The aims of political philosophy depend on the society it addresses. In a constitutional democracy one of its most important aims is presenting a political conception of justice that can not only provide a shared public basis for the justification of political and social institutions but also helps ensure stability from one generation to the next. Now a basis of justification that rests on self- or group-interests alone cannot be stable; such a basis must be, I think, even when moderated by skilful constitutional design, a mere *modus vivendi*, dependent on a fortuitous conjunction of contingencies. What is needed is a regulative political conception of justice that can articulate and order in a principled way the political ideals and values of a democratic regime, thereby specifying the aims the constitution is to achieve and the limits it must respect. In addition, this political conception needs to be such that there is some hope of its gaining the support of an overlapping consensus, that is, a consensus in which it is affirmed by the opposing religious, philosophical and moral doctrines likely to thrive over generations in a more or less just constitutional democracy, where the criterion of justice is that political conception itself.

In the first part of my discussion (Secs I–II) I review three features of a political conception of justice and note why a conception with these features is appropriate given the historical and social conditions of a modern democratic society, and in particular, the condition I shall refer to as the fact of pluralism. The second part (Secs III–VII) takes up four illustrative—but I think misplaced—objections we are likely to have to the idea of an overlapping consensus, and to its corollary that social unity in a democracy cannot rest on a shared conception of the meaning,

†This essay is a considerable revision of a lecture given at Oxford in May as the Hart Lecture in Jurisprudence and Moral Philosophy for 1986 under the title 'Political Philosophy in a Democratic Society'. The title has been changed to give a more specific idea of the lecture's contents. It was a privilege for me to be able to give this lecture in honour of Professor H. L. A. Hart from whom I have learned so much, both from his work and his example, since the Fall of 1952 when in Oxford I was first so fortunate as to be exposed to them. I should like to thank the Master and Fellows of University College for inviting me to give the lecture and for the generous hospitality they showed me during my stay in Oxford. I am grateful to Derek Parfit for a number of valuable suggestions prior to the lecture, and for discussion afterwards I should like to thank Ronald Dworkin, Allan Gibbard and Paul Seabright, and Professor Hart himself. Parts of the lecture were also given in April at the University of St. Andrews as the Knox Memorial Lecture, after which I received highly instructive written comments from John Haldane, and at Bedford College, London University. Following my return to the United States I benefited from numerous valuable suggestions and criticisms from Joshua Cohen, Thomas Nagel, David Sachs and T. M. Scanlon. Burton Dreben has been of very great help from the beginning.

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value and purpose of human life. This corollary does not imply, as one might think, that therefore social unity must rest solely on a convergence of self- and group-interests, or on the fortunate outcome of political bargaining. It allows for the possibility of stable social unity secured by an overlapping consensus on a reasonable political conception of justice. It is this conception of social unity for a democratic society I want to explain and defend.

By way of background, several comments. When Hobbes addressed the contentious divisions of his day between religious sects, and between the Crown, aristocracy and middle-classes, the basis of his appeal was self-interest: men's fear of death and their desire for the means of a commodious life. On this basis he sought to justify obedience to an existing effective (even if need be absolute) sovereign. Hobbes did not think this form of psychological egoism was true; but he thought it was accurate enough for his purposes. The assumption was a political one, adopted to give his views practical effect. In a society fragmented by sectarian divisions and warring interests, he saw no other common foothold for political argument.

How far Hobbes's perception of the situation was accurate we need not consider, for in our case matters are different. We are the beneficiaries of three centuries of democratic thought and developing constitutional practice; and we can presume not only some public understanding of, but also some allegiance to, democratic ideals and values as realized in existing political institutions. This opens the way to elaborate the idea of an overlapping consensus on a political conception of justice: such a consensus, as we shall see, is moral both in its object and grounds, and so is distinct from a consensus, inevitably fragile, founded solely on self- or group-interest, even when ordered by a well-framed constitution.<sup>1</sup> The idea of an overlapping consensus enables us to understand how a constitutional regime characterized by the fact of pluralism might, despite its deep divisions, achieve stability and social unity by the public recognition of a reasonable political conception of justice.

## I

The thesis of the first part of my discussion is that the historical and social conditions of a modern democratic society require us to regard a conception of justice for its political institutions in a certain way. Or rather, they require us to do so, if such a conception is to be both practicable and consistent with the limits

<sup>1</sup> Occasionally I refer to the Hobbesian strand in liberalism, by which I mean the idea that ordered liberty is best achieved by skilful constitutional design framed to guide self- (family-) and group-interests to work for social purposes by the use of various devices such as balance of powers and the like; it can be found in Montesquieu's *Spirit of Laws* (1748), Hume's essay 'That Politics may be reduced to a Science' (1741), in Madison's *Federalist*, Number 10 (1788), and in Kant's 'Perpetual Peace' (1796). This strand becomes purely Hobbesian to the extent that it sees self- (family-) and group-interests as the only available, or the only politically relevant, kind of motivation; of course, Montesquieu, Hume, Madison and Kant did not hold this view.

of democratic politics. What these conditions are, and how they affect the features of a practicable conception, I note in connection with three features of a political conception of justice, two of which I now describe, leaving the third for the next section.

The first feature of a political conception of justice is that, while such a conception is, of course, a moral conception, it is a moral conception worked out for a specific kind of subject, namely, for political, social and economic institutions.<sup>2</sup> In particular, it is worked out to apply to what we may call the 'basic structure' of a modern constitutional democracy. (I shall use 'constitutional democracy', and 'democratic regime', and similar phrases interchangeably.) By this structure I mean a society's main political, social and economic institutions, and how they fit together into one unified scheme of social cooperation. The focus of a political conception of justice is the framework of basic institutions and the principles, standards and precepts that apply to them, as well as how those norms are expressed in the character and attitudes of the members of society who realize its ideals. One might suppose that this first feature is already implied by the meaning of a political conception of justice: for if a conception does not apply to the basic structure of society, it would not be a political conception at all. But I mean more than this, for I think of a political conception of justice as a conception framed in the first instance<sup>3</sup> solely for the special case of the basic structure.

The second feature complements the first: a political conception is not to be understood as a general and comprehensive moral conception that applies to the political order, as if this order was only another subject, another kind of case, falling under that conception.<sup>4</sup> Thus, a political conception of justice is different from many familiar moral doctrines, for these are widely understood as general and comprehensive views. Perfectionism and utilitarianism are clear examples, since the principles of perfection and utility are thought to apply to all kinds of subjects ranging from the conduct of individuals and personal relations to the

2 In saying that a conception is moral I mean, among other things, that its content is given by certain ideals, principles and standards; and that these norms articulate certain values, in this case political values.

3 The phrase 'in the first instance' indicates that we are to focus first on the basic structure. Should we find a reasonably satisfactory conception of justice for this case, we can then try to extend it to further cases, of which one of the most important is the relations between states and the system of cooperation between them. I accept Kant's view in 'Perpetual Peace' that a world state would be either an oppressive autocracy, or continually disturbed by open or latent civil wars between regions and peoples. Hence we would look for principles to regulate a confederation of states and to specify the powers of its several members. We also need to clarify how the principles of justice apply to associations within the state. On this, see the remarks in 'The Basic Structure as Subject', Secs II and IX, in *Values and Morals*, eds A. I. Goldman and Jaegwon Kim (Reidel, 1978).

4 I think of a moral conception as general when it applies to a wide range of subjects of appraisal (in the limit of all subjects universally), and as comprehensive when it includes conceptions of what is of value in human life, ideals of personal virtue and character, and the like, that are to inform much of our conduct (in the limit of our life as a whole). Many religious and philosophical doctrines tend to be general and fully comprehensive. See also footnote 23 on p 14.

organization of society as a whole, and even to the law of nations. Their content as political doctrines is specified by their application to political institutions and questions of social policy. Idealism and Marxism in their various forms are also general and comprehensive. By contrast, a political conception of justice involves, so far as possible, no prior commitment to any wider doctrine. It looks initially to the basic structure and tries to elaborate a reasonable conception for that structure alone.

Now one reason for focusing directly on a political conception for the basic structure is that, as a practical political matter, no general and comprehensive view can provide a publicly acceptable basis for a political conception of justice.<sup>5</sup> The social and historical conditions of modern democratic regimes have their origins in the Wars of Religion following the Reformation and the subsequent development of the principle of toleration, and in the growth of constitutional government and of large industrial market economies. These conditions profoundly affect the requirements of a workable conception of justice: among other things, such a conception must allow for a diversity of general and comprehensive doctrines, and for the plurality of conflicting, and indeed incommensurable, conceptions of the meaning, value and purpose of human life (or what I shall call for short 'conceptions of the good') affirmed by the citizens of democratic societies.<sup>6</sup>

This diversity of doctrines—the fact of pluralism—is not a mere historical condition that will soon pass away; it is, I believe, a permanent feature of the public culture of modern democracies. Under the political and social conditions secured by the basic rights and liberties historically associated with these regimes, the diversity of views will persist and may increase. A public and workable agreement on a single general and comprehensive conception could be maintained only by the oppressive use of state power.<sup>7</sup> Since we are concerned with securing

5 By a publicly acceptable basis I mean a basis that includes ideals, principles and standards that all members of society can not only affirm but also mutually recognize before one another. A public basis involves, then, the public recognition of certain principles as regulative of political institutions, and as expressing political values that the constitution is to be framed to realize.

6 It is a disputed question whether and in what sense conceptions of the good are incommensurable. For our purposes here, incommensurability is to be understood as a political fact, an aspect of the fact of pluralism: namely, the fact that there is no available political understanding as to how to commensurate these conceptions for settling questions of political justice.

7 For convenience, I give a fuller list of these social and historical conditions, beginning with the three already mentioned above: (1) the fact of pluralism; (2) the fact of the permanence of pluralism, given democratic institutions; (3) the fact that agreement on a single comprehensive doctrine presupposes the oppressive use of state power. Four additional ones are: (4) the fact that an enduring and stable democratic regime, one not divided into contending factions and hostile classes, must be willingly and freely supported by a substantial majority of at least its politically active citizens; (5) the fact that a comprehensive doctrine, whenever widely, if not universally, shared in society, tends to become oppressive and stifling; (6) the fact that reasonably favourable conditions (administrative, economic, technological and the like), which make democracy possible, exist; and finally, (7) the fact that the political culture of a society with a democratic tradition

the stability of a constitutional regime, and wish to achieve free and willing agreement on a political conception of justice that establishes at least the constitutional essentials, we must find another basis of agreement than that of a general and comprehensive doctrine.<sup>8</sup> And so, as this alternative basis, we look for a political conception of justice that might be supported by an overlapping consensus.

We do not, of course, assume that an overlapping consensus is always possible, given the doctrines currently existing in any democratic society. It is often obvious that it is not, not at least until firmly held beliefs change in fundamental ways.<sup>9</sup> But the point of the idea of an overlapping consensus on a political conception is to show how, despite a diversity of doctrines, convergence on a political conception of justice may be achieved and social unity sustained in long-run equilibrium, that is, over time from one generation to the next.

## II

So far I have noted two features of a political conception of justice: first, that it is expressly framed to apply to the basic structure of society: and second, that it is not to be seen as derived from any general and comprehensive doctrine.

Perhaps the consequences of these features are clear. Yet it may be useful to survey them. For while no one any longer supposes that a practicable political conception for a constitutional regime can rest on a shared devotion to the Catholic or the Protestant Faith, or to any other religious view, it may still be thought that general and comprehensive philosophical and moral doctrines might serve in this role. The second feature denies this not only for Hegel's idealism and Marxism, and for teleological moral views, as I have said, but also for many forms of liberalism as well. While I believe that in fact any workable conception of political justice for a democratic regime must indeed be in an appropriate sense liberal—I come back to this question later—its liberalism will not be the liberalism of Kant or of J. S. Mill, to take two prominent examples.

Consider why: the public role of a mutually recognized political conception of justice is to specify a point of view from which all citizens can examine before one

implicitly contains certain fundamental intuitive ideas from which it is possible to work up a political conception of justice suitable for a constitutional regime. (This last is important when we characterize a political conception of justice in the next section.) We may think of the first six of these seven conditions as known by common sense, that is, as known from our shared history and the evident features and aspects of our political culture and present circumstances. They belong to what we might refer to as the common sense political sociology of democratic societies. When elaborating a political conception of justice, we must bear in mind that it must be workable and practicable in a society in which the first six conditions obtain.

<sup>8</sup> Here I assume that free and willing agreement is agreement endorsed by our considered convictions on due reflection, or in what I have elsewhere called 'reflective equilibrium'. See *A Theory of Justice*, pp 19ff, 48ff.

<sup>9</sup> How these beliefs might change is discussed later in Secs VI–VII.

another whether or not their political institutions are just. It enables them to do this by citing what are recognized among them as valid and sufficient reasons singled out by that conception itself.<sup>10</sup> Questions of political justice can be discussed on the same basis by all citizens, whatever their social position, or more particular aims and interests, or their religious, philosophical or moral views. Justification in matters of political justice is addressed to others who disagree with us, and therefore it proceeds from some consensus: from premises that we and others recognize as true, or as reasonable for the purpose of reaching a working agreement on the fundamentals of political justice. Given the fact of pluralism, and given that justification begins from some consensus, no general and comprehensive doctrine can assume the role of a publicly acceptable basis of political justice.

From this conclusion it is clear what is problematic with the liberalism of Kant and Mill. They are both general and comprehensive moral doctrines: general in that they apply to a wide range of subjects, and comprehensive in that they include conceptions of what is of value in human life, ideals of personal virtue and character that are to inform our thought and conduct as a whole. Here I have in mind Kant's ideal of autonomy and his connecting it with the values of the Enlightenment, and Mill's ideal of individuality and his connecting it with the values of modernity. These two liberalism both comprehend far more than the political.<sup>11</sup> Their doctrines of free institutions rest in large part on ideals and values that are not generally, or perhaps even widely, shared in a democratic society. They are not a practicable public basis of a political conception of justice, and I suspect the same is true of many liberalism besides those of Kant and Mill.

Thus we come to a third feature of a political conception of justice, namely, it is not formulated in terms of a general and comprehensive religious, philosophical or moral doctrine but rather in terms of certain fundamental intuitive ideas viewed as latent in the public political culture of a democratic society. These ideas are used to articulate and order in a principled way its basic political values. We assume that in any such society there exists a tradition of democratic thought, the content of which is at least intuitively familiar to citizens generally. Society's main institutions, together with the accepted forms of their interpretation, are seen as a fund of implicitly shared fundamental ideas and principles. We suppose that these ideas and principles can be elaborated into a political conception of justice, which we hope can gain the support of an overlapping consensus. Of course, that this can be done can be verified only by actually elaborating a political conception of justice

<sup>10</sup> I suppose these reasons to be specified by the ideals, principles and standards of the mutually acknowledged political conception, which is, as noted earlier, a moral conception. Thus political institutions are not thought of as justified to all citizens simply in terms of a happy convergence of self- or group-interest, and the like. This conception of justification is in contrast with the Hobbesian strand in the tradition of liberal thought; it is found in Rousseau's *Social Contract* (1762) and plays a central role in Hegel's *Philosophy of Right* (1821).

<sup>11</sup> For Kant again see 'What is Enlightenment?' and for Mill see especially 'On Liberty' (1859), Ch III, pars 1-9.

and exhibiting the way in which it could be thus supported. It's also likely that more than one political conception may be worked up from the fund of shared political ideas; indeed, this is desirable, as these rival conceptions will then compete for citizens' allegiance and be gradually modified and deepened by the contest between them.

Here I cannot, of course, even sketch the development of a political conception. But in order to convey what is meant, I might say that the conception I have elsewhere called 'justice as fairness' is a political conception of this kind.<sup>12</sup> It can be seen as starting with the fundamental intuitive idea of political society as a fair system of social cooperation between citizens regarded as free and equal persons, and as born into the society in which they are assumed to lead a complete life. Citizens are further described as having certain moral powers that would enable them to take part in social cooperation. The problem of justice is then understood as that of specifying the fair terms of social cooperation between citizens so conceived. The conjecture is that by working out such ideas, which I view as implicit in the public political culture, we can in due course arrive at widely acceptable principles of political justice.<sup>13</sup>

The details are not important here. What is important is that, so far as possible, these fundamental intuitive ideas are not taken for religious, philosophical or metaphysical ideas. For example, when it is said that citizens are regarded as free and equal persons, their freedom and equality are to be understood in ways congenial to the public political culture and explicable in terms of the design and requirements of its basic institutions. The conception of citizens as free and equal is, therefore, a political conception, the content of which is specified in connection with such things as the basic rights and liberties of democratic citizens.<sup>14</sup> The

12 For the fullest discussion, see *A Theory of Justice* (1971). I have discussed justice as fairness as a political conception in 'Justice as Fairness: Political not Metaphysical', *Philosophy and Public Affairs*, Summer 1985. Ronald Dworkin's liberal conception of equality is, I think, another example of a political conception of justice. See his *A Matter of Principle* (Cambridge, Harvard University Press, 1986), the essays in Part Three on liberalism and justice.

13 These principles will express and give certain weights to familiar political values such as liberty and equality, fair equality of opportunity, and the efficient design of institutions to serve the common good, and the like. But we can arrive at a political conception of justice in a very different way, namely, by balancing these competing values directly against one another and eventually adjusting them to one another in the light of the overall balance, or pattern, of values that seems best to us. A procedure of this kind is suggested by Sir Isaiah Berlin; see for example his essay 'Equality', in *Concepts and Categories* (Oxford, 1980), p 100. The advantage of starting with the fundamental intuitive idea of society as a fair system of social cooperation may be that we do not simply balance values directly in the light of an overall pattern, but see how the values and their weights are arrived at in the way they are specified by the deliberations of the parties in the original position. Here I refer to the details of how justice as fairness is worked out. The thought here is that these details provide a clearer conception of how weights may be determined than the idea of balancing in the light of an overall pattern. But perhaps the idea of society as a fair system of social cooperation might itself be regarded as such a pattern, in which case the two procedures could coincide.

14 On this, see 'Political not Metaphysical', Sec V.



hope is that the conception of justice to which this conception of citizens belongs will be acceptable to a wide range of comprehensive doctrines and hence supported by an overlapping consensus.

But, as I have indicated and should emphasize, success in achieving consensus requires that political philosophy try to be, so far as possible, independent and autonomous from other parts of philosophy, especially from philosophy's long-standing problems and controversies. For given the aim of consensus, to proceed otherwise would be self-defeating. But as we shall see (in Sec IV) we may not be able to do this entirely when we attempt to answer the objection that claims that aiming for consensus implies scepticism or indifference to religious, philosophical or moral truth. Nevertheless, the reason for avoiding deeper questions remains. For as I have said above, we can present a political view either by starting explicitly from within a general and comprehensive doctrine, or we can start from fundamental intuitive ideas regarded as latent in the public political culture. These two ways of proceeding are very different, and this difference is significant even though we may sometimes be forced to assert certain aspects of our own comprehensive doctrine. So while we may not be able to avoid comprehensive doctrines entirely, we do what we can to reduce relying on their more specific details, or their more disputed features. The question is: what is the least that must be asserted; and if it must be asserted, what is its least controversial form?

Finally, connected with a political conception of justice is an essential companion conception of free public reason. This conception involves various elements. A crucial one is this: just as a political conception of justice needs certain principles of justice for the basic structure to specify its content, it also needs certain guidelines of enquiry and publicly recognized rules of assessing evidence to govern its application. Otherwise, there is no agreed way for determining whether those principles are satisfied, and for settling what they require of particular institutions, or in particular situations. Agreement on a conception of justice is worthless—not an effective agreement at all—without agreement on these further matters. And given the fact of pluralism, there is, I think, no better practicable alternative than to limit ourselves to the shared methods of, and the public knowledge available to, common sense, and the procedures and conclusions of science when these are not controversial. It is these shared methods and this common knowledge that allows us to speak of *public* reason.<sup>15</sup> As I shall stress later on, the acceptance of this limit is not motivated by scepticism or indifference to the claims of comprehensive doctrines; rather, it springs from the fact of pluralism, for this fact means that in a pluralist society free public reason can be effectively established in no other way.<sup>16</sup>

15 For a fuller discussion, see *A Theory of Justice*, Sec 34, and 'Kantian Constructivism', Lect II, pp 535–543.

16 Two other elements of the idea of free public reason in justice as fairness are these: the first is a publicly recognized conception of everyone's (rational) advantage, or good, to be used as an agreed basis of interpersonal comparisons in matters of political justice. This leads to an account

## III

I now turn to the second part of my discussion (Secs III–VII) and take up four objections likely to be raised against the idea of social unity founded on an overlapping consensus on a political conception of justice. These objections I want to rebut, for they can prevent our accepting what I believe is the most reasonable basis of social unity available to us. I begin with perhaps the most obvious objection, namely, that an overlapping consensus is a mere *modus vivendi*. But first several explanatory comments.

Earlier I noted what it means to say that a conception of justice is supported by an overlapping consensus. It means that it is supported by a consensus including the opposing religious, philosophical and moral doctrines likely to thrive over generations in the society effectively regulated by that conception of justice. These opposing doctrines we assume to involve conflicting and indeed incommensurable comprehensive conceptions of the meaning, value and purpose of human life (or conceptions of the good), and there are no resources within the political view to judge those conflicting conceptions. They are equally permissible provided they respect the limits imposed by the principles of political justice. Yet despite the fact that there are opposing comprehensive conceptions affirmed in society, there is no difficulty as to how an overlapping consensus may exist. Since different premises may lead to the same conclusions, we simply suppose that the essential elements of the political conception, its principles, standards and ideals, are theorems, as it were, at which the comprehensive doctrines in the consensus intersect or converge.

To fix ideas I shall use a model case of an overlapping consensus to indicate what is meant; and I shall return to this example from time to time. It contains three views: one view affirms the political conception because its religious doctrine and account of faith lead to a principle of toleration and underwrite the fundamental liberties of a constitutional regime; the second view affirms the political conception on the basis of a comprehensive liberal moral doctrine such as those of Kant and Mill; while the third supports the political conception not as founded on any wider doctrine but rather as in itself sufficient to express political values that, under the reasonably favourable conditions that make a more or less just constitutional democracy possible, normally outweigh whatever other values may oppose them. Observe about this example that only the first two views—the religious doctrine and the liberalism of Kant or Mill—are general and comprehensive. The political conception of justice itself is not; although it does hold that under reasonably favourable conditions, it is normally adequate for

of primary goods. See 'Social Unity and Primary Goods', in A. K. Sen and B. Williams, eds, *Utilitarianism and Beyond* (Cambridge University Press, 1982), Secs I–V. The second further element is the idea of publicity, which requires that the principles of political justice and their justification (in their own terms) be publicly available to all citizens, along with the knowledge of whether their political institutions are just or unjust. See 'Kantian Constructivism', Lect II, pp 535–543.

questions of political justice. Observe also that the example assumes that the two comprehensive views agree with the judgments of the political conception in this respect.

To begin with the objection: some will think that even if an overlapping consensus should be sufficiently stable, the idea of political unity founded on an overlapping consensus must still be rejected, since it abandons the hope of political community and settles instead for a public understanding that is at bottom a mere *modus vivendi*. To this objection, we say that the hope of political community must indeed be abandoned, if by such a community we mean a political society united in affirming a general and comprehensive doctrine. This possibility is excluded by the fact of pluralism together with the rejection of the oppressive use of state power to overcome it. I believe there is no practicable alternative superior to the stable political unity secured by an overlapping consensus on a reasonable political conception of justice. Hence the substantive question concerns the significant features of such a consensus and how these features affect social concord and the moral quality of public life. I turn to why an overlapping consensus is not a mere *modus vivendi*.<sup>17</sup>

A typical use of the phrase '*modus vivendi*' is to characterize a treaty between two states whose national aims and interests put them at odds. In negotiating a treaty each state would be wise and prudent to make sure that the agreement proposed represents an equilibrium point: that is, that the terms and conditions of the treaty are drawn up in such a way that it is public knowledge that it is not advantageous for either state to violate it. The treaty will then be adhered to because doing so is regarded by each as in its national interest, including its interest in its reputation as a state that honours treaties. But in general both states are ready to pursue their goals at the expense of the other, and should conditions

<sup>17</sup> Note that what is impracticable is not *all* values of community (recall that a community is understood as an association or society whose unity rests on a comprehensive conception of the good) but only *political* community and its values. Justice as fairness assumes, as other liberal political views do also, that the values of community are not only essential but realizable, first in the various associations that carry on their life within the framework of the basic structure, and second in those associations that extend across the boundaries of nation-states, such as churches and scientific societies. Liberalism rejects the state as a community because, among other things, it leads to the systematic denial of basic liberties and to the oppressive use of the state's monopoly of (legal) force. I should add that in the well-ordered society of justice as fairness citizens share a common aim, and one that has high priority: namely, the aim of political justice, that is, the aim of ensuring that political and social institutions are just, and of giving justice to persons generally, as what citizens need for themselves and want for one another. It is not true, then, that on a liberal view citizens have no fundamental common aims. Nor is it true that the aim of political justice is not an important part of their identity (using the term 'identity', as is now often done, to include the basic aims and projects by reference to which we characterize the kind of person we very much want to be). But this common aim of political justice must not be mistaken for (what I have called) a conception of the good. For a discussion of this last point, see Amy Gutmann, 'Communitarian Critics of Liberalism', *Philosophy and Public Affairs*, Summer 1985, p 311, footnote 14.

change they may do so. This background highlights the way in which a treaty is a mere *modus vivendi*. A similar background is present when we think of social consensus founded on self- or group-interests, or on the outcome of political bargaining: social unity is only apparent as its stability is contingent on circumstances remaining such as not to upset the fortunate convergence of interests.

Now, that an overlapping consensus is quite different from a *modus vivendi* is clear from our model case. In that example, note two aspects: first, the object of consensus, the political conception of justice, is itself a moral conception. And second, it is affirmed on moral grounds, that is, it includes conceptions of society and of citizens as persons, as well as principles of justice, and an account of the cooperative virtues through which those principles are embodied in human character and expressed in public life. 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 three views in the example affirm the political conception: as I have said, each recognizes its concepts, principles and virtues as the shared content at which their several views coincide. The fact that those who affirm the political conception start from within their own comprehensive view, and hence begin from different premises and grounds, does not make their affirmation any less religious, philosophical or moral, as the case may be.

The preceding two aspects (moral object and moral grounds) of an overlapping consensus connect with a third aspect, that of stability: that is, those who affirm the various views supporting the political conception will not withdraw their support of it should the relative strength of their view in society increase and eventually become dominant. So long as the three views are affirmed and not revised, the political conception will still be supported regardless of shifts in the distribution of political power. We might say: each view supports the political conception for its own sake, or on its own merits; and the test for this is whether the consensus is stable with respect to changes in the distribution of power among views. This feature of stability highlights a basic contrast between an overlapping consensus and a *modus vivendi*, the stability of which does depend on happenstance and a balance of relative forces.

This becomes clear once we change our example and include the views of Catholics and Protestants in the sixteenth century. We no longer have an overlapping consensus on the principle of toleration. At that time both faiths held that it was the duty of the ruler to uphold the true religion and to repress the spread of heresy and false doctrine. In this case the acceptance of the principle of toleration would indeed be a mere *modus vivendi*, because if either faith becomes dominant, the principle of toleration will no longer be followed. Stability with respect to the distribution of power no longer holds. So long as views held by Catholics and Protestants in the sixteenth century are very much in the minority, and are likely to remain so, they do not significantly affect the moral quality of

public life and the basis of social concord. For the vast majority in society are confident that the distribution of power will range over and be widely shared by views in the consensus that affirm the political conception of justice for its own sake. But should this situation change, the moral quality of political life will also change in ways I assume to be obvious and to require no comment.

The preceding remarks prompt us to ask which familiar conceptions of justice can belong to a consensus stable with respect to the distribution of power. It seems that while some teleological conceptions can so belong, others quite possibly cannot, for example, utilitarianism.<sup>18</sup> Or at least this seems to be the case unless certain assumptions are made limiting the content of citizens' desires, preferences, or interests.<sup>19</sup> Otherwise there appears to be no assurance that restricting or suppressing the basic liberties of some may not be the best way to maximize the total (or average) social welfare. Since utilitarianism in its various forms is a historically prominent and continuing part of the tradition of democratic thought, we may hope there are ways of construing or revising utilitarian doctrine so that it can support a conception of justice appropriate for a constitutional regime, even if it can do so only indirectly<sup>20</sup> as a means to the greatest welfare. Insofar as utilitarianism is likely to persist in a well-ordered society, the overlapping consensus is in that case all the more stable and secure.

## IV

I turn to the second objection to the idea of an overlapping consensus on a political conception of justice: namely, that the avoidance of general and comprehensive doctrines implies indifference or scepticism as to whether a political conception of justice is true. This avoidance may appear to suggest that such a conception might be the most reasonable one for us even when it is known not to be true, as if truth were simply beside the point. In reply, it would be fatal to the point of a political conception to see it as sceptical about, or indifferent to, truth, much less as in conflict with it. Such scepticism or indifference would put political philosophy in conflict with numerous comprehensive doctrines, and thus defeat from the outset its aim of achieving an overlapping consensus. In following the method of avoidance, as we may call it, we try, so far as we can, neither to

18 Here I mean the view of Bentham, Edgeworth and Sidgwick, and of such contemporary writers as R. B. Brandt in *A Theory of the Good and the Right* (Oxford, 1979), R. M. Hare in *Moral Thinking* (Oxford, 1981), and J. J. C. Smart in *Utilitarianism: For and Against* (Cambridge, 1973).

19 Desires, preferences and interests are not the same but have distinct features; and these differences play an important part in different versions of utilitarianism espoused by the writers mentioned in the previous footnote. I believe, however, that the general point in the text holds against all these versions.

20 The adverb 'indirectly' here refers to indirect utilitarianism so-called. For a clear account of J. S. Mill's view as exemplifying this doctrine, see John Gray, *Mill on Liberty: A Defence* (London, 1983).

assert nor to deny any religious, philosophical or moral views, or their associated philosophical accounts of truth and the status of values. Since we assume each citizen to affirm some such view or other, we hope to make it possible for all to accept the political conception as true, or as reasonable, from the standpoint of their own comprehensive view, whatever it may be.<sup>21</sup>

Properly understood, then, a political conception of justice need be no more indifferent, say, to truth in morals than the principle of toleration, suitably understood, need be indifferent to truth in religion. We simply apply the principle of toleration to philosophy itself. In this way we hope to avoid philosophy's long-standing controversies, among them controversies about the nature of truth and the status of values as expressed by realism and subjectivism. Since we seek an agreed basis of public justification in matters of justice, and since no political agreement on those disputed questions can reasonably be expected, we turn instead to the fundamental intuitive ideas we seem to share through the public political culture. We try to develop from these ideas a political conception of justice congruent with our considered convictions on due reflection. Just as with religion, citizens situated in thought and belief within their comprehensive doctrines, regard the political conception of justice as true, or as reasonable, whatever the case may be.

Some may not be satisfied with this: they may reply that, despite these protests, a political conception of justice must express indifference or scepticism. Otherwise it could not lay aside fundamental religious, philosophical and moral questions because they are politically difficult to settle, or may prove intractable. Certain truths, it may be said, concern things so important that differences about them have to be fought out, even should this mean civil war. To this we say first, that questions are not removed from the political agenda, so to speak, solely because they are a source of conflict. Rather, we appeal to a political conception of justice to distinguish between those questions that can be reasonably removed from the political agenda and those that cannot, all the while aiming for an overlapping consensus. Some questions still on the agenda will be controversial, at least to some degree; this is normal with political issues.

21 It is important to see that the view that philosophy in the classical sense as the search for truth about a prior and independent moral order cannot provide the shared basis for a political conception of justice (asserted in 'Political not Metaphysical', p 230) does not presuppose the controversial metaphysical claim that there is no such order. The above paragraph makes clear why it does not. The reasons I give for that view are historical and sociological, and have nothing to do with metaphysical doctrines about the status of values. What I hold is that we must draw the obvious lessons of our political history since the Reformation and the Wars of Religion, and the development of modern constitutional democracies. As I say in Sec I above, it is no longer reasonable to expect us to reach *political* agreement on a general and comprehensive doctrine as a way of reaching political agreement on constitutional essentials, unless, of course, we are prepared to use the apparatus of the state as an instrument of oppression. If we are not prepared to do that, we must, as a practical matter, look for what I have called a political conception of justice.

To illustrate: from within a political conception of justice let's suppose we can account both for equal liberty of conscience, which takes the truths of religion off the political agenda, and the equal political and civil liberties, which by ruling out serfdom and slavery takes the possibility of those institutions off the agenda.<sup>22</sup> But controversial issues inevitably remain: for example, how more exactly to draw the boundaries of the basic liberties when they conflict (where to set 'the wall between church and state'); how to interpret the requirements of distributive justice even when there is considerable agreement on general principles for the basic structure; and finally, questions of policy such as the use of nuclear weapons. These cannot be removed from politics. But by avoiding comprehensive doctrines we try to bypass religion and philosophy's profoundest controversies so as to have some hope of uncovering a basis of a stable overlapping consensus.

Nevertheless in affirming a political conception of justice we may eventually have to assert at least certain aspects of our own comprehensive (by no means necessarily fully comprehensive)<sup>23</sup> religious or philosophical doctrine. This happens whenever someone insists, for example, that certain questions are so fundamental that to ensure their being rightly settled justifies civil strife. The religious salvation of those holding a particular religion, or indeed the salvation of a whole people, may be said to depend on it. At this point we may have no alternative but to deny this, and to assert the kind of thing we had hoped to avoid. But the aspects of our view that we assert should not go beyond what is necessary for the political aim of consensus. Thus, for example, we may assert in some form the doctrine of free religious faith that supports equal liberty of conscience; and given the existence of a just constitutional regime, we deny that the concern for salvation requires anything incompatible with that liberty. We do not state more of our comprehensive view than we think would advance the quest for consensus.

The reason for this restraint is to respect, as best we can, the limits of free public reason (mentioned earlier at the end of Sec II). Let's suppose that by respecting these limits we succeed in reaching an overlapping consensus on a

22 To explain: when certain matters are taken off the political agenda, they are no longer regarded as proper subjects for political decision by majority or other plurality voting. In regard to equal liberty of conscience and rejection of slavery and serfdom, this means that the equal basic liberties in the constitution that cover these matters are taken as fixed, settled once and for all. They are part of the public charter of a constitutional regime and not a suitable topic for on-going public debate and legislation, as if they can be changed at any time, one way or the other. Moreover, the more established political parties likewise acknowledge these matters as settled. Of course, that certain matters are taken off the political agenda does not mean that a political conception of justice should not explain why this is done. Indeed, as I note above, a political conception should do precisely this. For thinking of basic rights and liberties as taking certain questions off the political agenda I am indebted to Stephen Holmes.

23 I think of a doctrine as fully comprehensive if it covers all recognized values and virtues within one rather precisely articulated system; whereas a doctrine is only partially comprehensive when it comprises a number of non-political values and virtues and is rather loosely articulated. This limited scope and looseness turns out to be important with regard to stability in Sec VI–VII below.

conception of political justice. Some might say that reaching this reflective agreement is itself sufficient grounds for regarding that conception as true, or at any rate highly probable. But we refrain from this further step: it is unnecessary and may interfere with the practical aim of finding an agreed public basis of justification. The idea of an overlapping consensus leaves this step to be taken by citizens individually in accordance with their own general and comprehensive views.

In doing this a political conception of justice completes and extends the movement of thought that began three centuries ago with the gradual acceptance of the principle of toleration and led to the non-confessional state and equal liberty of conscience. This extension is required for an agreement on a political conception of justice given the historical and social circumstances of a democratic society. In this way the full autonomy of democratic citizens connects with a conception of political philosophy as itself autonomous and independent of general and comprehensive doctrines. In applying the principles of toleration to philosophy itself it is left to citizens individually to resolve for themselves the questions of religion, philosophy and morals in accordance with the views they freely affirm.

## v

A third objection is the following: even if we grant that an overlapping consensus is not a *modus vivendi*, it may be said that a workable political conception must be general and comprehensive. Without such a doctrine on hand, there is no way to order the many conflicts of justice that arise in public life. The idea is that the deeper the conceptual and philosophical bases of those conflicts, the more general and comprehensive the level of philosophical reflection must be if their roots are to be laid bare and an appropriate ordering found. It is useless, the objection concludes, to try to work out a political conception of justice expressly for the basic structure apart from any comprehensive doctrine. And as we have just seen, we may be forced to refer, at least in some way, to such a view.<sup>24</sup>

This objection is perfectly natural: we are indeed tempted to ask how else could these conflicting claims be adjudicated. Yet part of the answer is found in the third

<sup>24</sup> It is essential to distinguish between general and comprehensive views and views we think of as abstract. Thus, when justice as fairness begins from the fundamental intuitive idea of society as a fair system of cooperation and proceeds to elaborate that idea, the resulting conception of political justice may be said to be abstract. It is abstract in the same way that the conception of a perfectly competitive market, or of general economic equilibrium, is abstract: that is, it singles out, or focuses on, certain aspects of society as especially significant from the standpoint of political justice and leaves others aside. But whether the conception that results itself is general and comprehensive, as I have used those terms, is a separate question. I believe the conflicts implicit in the fact of pluralism force political philosophy to present conceptions of justice that are abstract, if it is to achieve its aims; but the same conflicts prevent those conceptions from being general and comprehensive.



view in our model case: namely, a political conception of justice regarded not as a consequence of a comprehensive doctrine but as in itself sufficient to express values that normally outweigh whatever other values oppose them, at least under the reasonably favourable conditions that make a constitutional democracy possible. Here the criterion of a just regime is specified by that political conception; and the values in question are seen from its principles and standards, and from its account of the cooperative virtues of political justice, and the like. Those who hold this conception have, of course, other views as well, views that specify values and virtues belonging to other parts of life; they differ from citizens holding the two other views in our example of an overlapping consensus in having no fully (as opposed to partially)<sup>25</sup> comprehensive doctrine within which they see all values and virtues as being ordered. They don't say such a doctrine is impossible, but rather practically speaking unnecessary. Their conviction is that, within the scope allowed by the basic liberties and the other provisions of a just constitution, all citizens can pursue their way of life on fair terms and properly respect its (non-public) values. So long as those constitutional guarantees are secure, they think no conflict of values is likely to arise that would justify their opposing the political conception as a whole, or on such fundamental matters as liberty of conscience, or equal political liberties, or basic civil rights, and the like.

Those holding this partially comprehensive view might explain it as follows. We should not assume that there exist reasonable and generally acceptable answers for all or even for many questions of political justice that might be asked. Rather, we must be prepared to accept the fact that only a few such questions can be satisfactorily resolved. Political wisdom consists in identifying those few, and among them the most urgent. That done, we must frame the institutions of the basic structure so that intractable conflicts are unlikely to arise; we must also accept the need for clear and simple principles, the general form and content of which we hope can be publicly understood. A political conception is at best but a guiding framework of deliberation and reflection which helps us reach political agreement on at least the constitutional essentials. If it seems to have cleared our view and made our considered convictions more coherent; if it has narrowed the gap between the conscientious convictions of those who accept the basic ideas of a constitutional regime, then it has served its practical political purpose. And this remains true even though we can't fully explain our agreement: we know only that citizens who affirm the political conception, and who have been raised in and are familiar with the fundamental ideas of the public political culture, find that, when they adopt its framework of deliberation, their judgments converge sufficiently so that political cooperation on the basis of mutual respect can be maintained. They view the political conception as itself normally sufficient and may not expect, or think they need, greater political understanding than that.

25 For the distinction between a doctrine's being fully vs partially comprehensive, see footnote 23 in Sec IV.

But here we are bound to ask: how can a political conception of justice express values that, under the reasonably favourable conditions that make democracy possible, normally outweigh whatever other values conflict with them? One way is this. As I have said, the most reasonable political conception of justice for a democratic regime will be, broadly speaking, liberal. But this means, as I will explain in the next section, that it protects the familiar basic rights and assigns them a special priority; it also includes measures to ensure that all persons in society have sufficient material means to make effective use of those basic rights. Faced with the fact of pluralism, a liberal view removes from the political agenda the most divisive issues, pervasive uncertainty and serious contention about which must undermine the bases of social cooperation.

The virtues of political cooperation that make a constitutional regime possible are, then, *very great* virtues. I mean, for example, the virtues of tolerance and being ready to meet others halfway, and the virtue of reasonableness and the sense of fairness. When these virtues (together with the modes of thought and sentiments they involve) are widespread in society and sustain its political conception of justice, they constitute a very great public good, part of society's political capital.<sup>26</sup> Thus, the values that conflict with the political conception of justice and its sustaining virtues may be normally outweighed because they come into conflict with the very conditions that make fair social cooperation possible on a footing of mutual respect.

Moreover, conflicts with political values are much reduced when the political conception is supported by an overlapping consensus, the more so the more inclusive the consensus. For in this case the political conception is not viewed as incompatible with basic religious, philosophical and moral values. We avoid having to consider the claims of the political conception of justice against those of this or that comprehensive view; nor need we say that political values are intrinsically more important than other values and that's why the latter are overridden. Indeed, saying that is the kind of thing we hope to avoid, and achieving an overlapping consensus enables us to avoid it.

To conclude: given the fact of pluralism, what does the work of reconciliation by free public reason, and thus enables us to avoid reliance on general and comprehensive doctrines, is two things: first, identifying the fundamental role of political values in expressing the terms of fair social cooperation consistent with mutual respect between citizens regarded as free and equal; and second, uncovering a sufficiently inclusive concordant fit among political and other values as displayed in an overlapping consensus.

26 The term 'capital' is appropriate and familiar in this connection because these virtues are built up slowly over time and depend not only on existing political and social institutions (themselves slowly built up), but also on citizens' experience as a whole and their knowledge of the past. Again, like capital, these virtues depreciate, as it were, and must be constantly renewed by being reaffirmed and acted from in the present.

## VI

The last difficulty I shall consider is that the idea of an overlapping consensus is utopian; that is, there are not sufficient political, social, or psychological forces either to bring about an overlapping consensus (when one does not exist), or to render one stable (should one exist). Here I can only touch on this intricate question and I merely outline one way in which such a consensus might come about and its stability made secure. For this purpose I use the idea of a liberal conception of political justice, the content of which I stipulate to have three main elements (noted previously): first, a specification of certain basic rights, liberties and opportunities (of the kind familiar from constitutional democratic regimes); second, an assignment of a special priority to those rights, liberties and opportunities, especially with respect to the claims of the general good and of perfectionist values; and third, measures assuring to all citizens adequate all-purpose means to make effective use of their basic liberties and opportunities.<sup>27</sup>

Now let's suppose that at a certain time, as a result of various historical events and contingencies, the principles of a liberal conception have come to be accepted as a mere *modus vivendi*, and that existing political institutions meet their requirements. This acceptance has come about, we may assume, in much the same way as the acceptance of the principle of toleration as a *modus vivendi* came about following the Reformation: at first reluctantly, but nevertheless as providing the only alternative to endless and destructive civil strife. Our question, then, is this: how might it happen that over generations the initial acquiescence in a liberal conception of justice as a *modus vivendi* develops into a stable and enduring overlapping consensus? In this connection I think a certain looseness in our comprehensive views, as well as their not being fully comprehensive, may be particularly significant. To see this, let's return to our model case.

One way in which that example is atypical is that two of the three doctrines were described as fully general and comprehensive, a religious doctrine of free faith and the comprehensive liberalism of Kant or Mill. In these cases the acceptance of the political conception was said to be derived from and to depend solely on the comprehensive doctrine. But how far in practice does the allegiance to a political conception actually depend on its derivation from a comprehensive

27 A fuller idea of the content of a liberal conception of justice is this: (1) political authority must respect the rule of law and a conception of the common good that includes the good of every citizen; (2) liberty of conscience and freedom of thought is to be guaranteed, and this extends to the liberty to follow one's conception of the good, provided it does not violate the principles of justice; (3) equal political rights are to be assured, and in addition freedom of the press and assembly, the right to form political parties, including the idea of a loyal opposition; (4) fair equality of opportunity and free choice of occupation are to be maintained against a background of diverse opportunities; and (5) all citizens are to be assured a fair share of material means so that they are suitably independent and can take advantage of their equal basic rights, liberties and fair opportunities. Plainly each of these elements can be understood in different ways, and so there are many liberalisms. However, I think of them all as sharing at least the three mentioned in the text.

view? There are several possibilities. For simplicity distinguish three cases: the political conception is derived from the comprehensive doctrine; it is not derived from but is compatible with that doctrine; and last, the political conception is incompatible with it. In everyday life we have not usually decided, or even thought much about, which of these cases hold. To decide among them would raise highly complicated issues; and it is not clear that we need to decide among them. Most people's religious, philosophical and moral doctrines are not seen by them as fully general and comprehensive, and these aspects admit of variations of degree. There is lots of slippage, so to speak, many ways for the political conception to cohere loosely with those (partially) comprehensive views, and many ways within the limits of a political conception of justice to allow for the pursuit of different (partially) comprehensive doctrines. This suggests that many if not most citizens come to affirm their common political conception without seeing any particular connection, one way or the other, between it and their other views. Hence it is possible for them first to affirm the political conception and to appreciate the public good it accomplishes in a democratic society. Should an incompatibility later be recognized between the political conception and their wider doctrines, then they might very well adjust or revise these doctrines rather than reject the political conception.<sup>28</sup>

At this point we ask: in virtue of what political values might a liberal conception of justice gain an allegiance to itself? An allegiance to institutions and to the conception that regulates them may, of course, be based in part on long-term self- and group-interests, custom and traditional attitudes, or simply on the desire to conform to what is expected and normally done. Widespread allegiance may also be encouraged by institutions securing for all citizens the political values included under what Hart calls the minimum content of natural law. But here we are concerned with the further bases of allegiance generated by a liberal conception of justice.<sup>29</sup>

Now when a liberal conception effectively regulates basic political institutions, it meets three essential requirements of a stable constitutional regime. First, given the fact of pluralism—the fact that necessitates a liberal regime as a *modus vivendi* in the first place—a liberal conception meets the urgent political requirement to fix, once and for all, the content of basic rights and liberties, and to assign them special priority. Doing this takes those guarantees off the political agenda and puts them beyond the calculus of social interests, thereby establishing

<sup>28</sup> Note that here we distinguish between the initial allegiance to, or appreciation of, the political conception and the later adjustment or revision of comprehensive doctrines to which that allegiance or appreciation leads when inconsistencies arise. These adjustments or revisions we may suppose to take place slowly over time as the political conception shapes comprehensive views to cohere with it. For much of this approach I am indebted to Samuel Scheffler.

<sup>29</sup> See the *The Concept of Law*, (Oxford, 1961), pp 189–195, for what Hart calls the minimum content of natural law. I assume that a liberal conception (as do many other familiar conceptions) includes this minimum content; and so in the text I focus on the basis of the allegiance such a conception generates in virtue of the distinctive content of its principles.

clearly and firmly the terms of social cooperation on a footing of mutual respect. To regard that calculus as relevant in these matters leaves the status and content of those rights and liberties still unsettled; it subjects them to the shifting circumstances of time and place, and by greatly raising the stakes of political controversy, dangerously increases the insecurity and hostility of public life. Thus, the unwillingness to take these matters off the agenda perpetuates the deep divisions latent in society; it betrays a readiness to revive those antagonisms in the hope of gaining a more favourable position should later circumstances prove propitious. So, by contrast, securing the basic liberties and recognizing their priority achieves the work of reconciliation and seals mutual acceptance on a footing of equality.

The second requirement is connected with a liberal conception's idea of free public reason. It is highly desirable that the form of reasoning a conception specifies should be, and can publicly be seen to be, correct and reasonably reliable in its own terms.<sup>30</sup> A liberal conception tries to meet these desiderata in several ways. As we have seen, in working out a political conception of justice it starts from fundamental intuitive ideas latent in the shared public culture; it detaches political values from any particular comprehensive and sectarian (non-public) doctrine; and it tries to limit that conception's scope to matters of political justice (the basic structure and its social policies). Further, (as we saw in Sec II) it recognizes that an agreement on a political conception of justice is to no effect without a companion agreement on guidelines of public enquiry and rules for assessing evidence. Given the fact of pluralism, these guidelines and rules must be specified by reference to the forms of reasoning available to common sense, and by the procedures and conclusions of science when not controversial. The role of these shared methods and this common knowledge in applying the political conception makes reason *public*; the protection given to freedom of speech and thought makes it *free*. The claims of religion and philosophy (as previously emphasized) are not excluded out of scepticism or indifference, but as a condition of establishing a shared basis for free public reason.

A liberal conception's idea of public reason also has a certain simplicity. To illustrate: even if general and comprehensive teleological conceptions were acceptable as political conceptions of justice, the form of public reasoning they specify would be politically unworkable. For if the elaborate theoretical calculations involved in applying their principles are publicly admitted in questions of political justice (consider, for example, what is involved in applying the principle of utility to the basic structure), the highly speculative nature and

<sup>30</sup> Here the phrase 'in its own terms' means that we are not at present concerned with whether the conception in question is true, or reasonable (as the case may be), but with how easily its principles and standards can be correctly understood and reliably applied in public discussion.

enormous complexity of these calculations are bound to make citizens with conflicting interests highly suspicious of one another's arguments. The information they presuppose is very hard if not impossible to obtain, and often there are insuperable problems in reaching an objective and agreed assessment. Moreover, even though we think our arguments sincere and not self-serving when we present them, we must consider what it is reasonable to expect others to think who stand to lose when our reasoning prevails. Arguments supporting political judgments should, if possible, not only be sound but such that they can be publicly seen to be sound. The maxim that justice must not only be done, but be seen to be done, holds good not only in law but in free public reason.

The third requirement met by a liberal conception is related to the preceding ones. The basic institutions enjoined by such a conception, and its conception of free public reason—when effectively working over time—encourage the cooperative virtues of political life: the virtue of reasonableness and a sense of fairness, a spirit of compromise and a readiness to meet others halfway, all of which are connected with the willingness if not the desire to cooperate with others on political terms that everyone can publicly accept consistent with mutual respect. Political liberalism tests principles and orders institutions with an eye to their influence on the moral quality of public life, on the civic virtues and habits of mind their public recognition tends to foster, and which are needed to sustain a stable constitutional regime. This requirement is related to the preceding two in this way. When the terms of social cooperation are settled on a footing of mutual respect by fixing once and for all the basic liberties and opportunities with their priority, and when this fact itself is publicly recognized, there is a tendency for the essential cooperative virtues to develop. And this tendency is further strengthened by successful conduct of free public reason in arriving at what are regarded as just policies and fair understandings.

The three requirements met by a liberal conception are evident in the fundamental structural features of the public world it realizes, and in its effects on citizens' political character, a character that takes the basic rights and liberties for granted and disciplines its deliberations in accordance with the guidelines of free public reason. A political conception of justice (liberal or otherwise) specifies the form of a social world—a background framework within which the life of associations, groups and individual citizens proceeds. Inside that framework a working consensus may often be secured by a convergence of self- or group-interests; but to secure stability that framework must be honoured and seen as fixed by the political conception, itself affirmed on moral grounds.

The conjecture, then, is that as citizens come to appreciate what a liberal conception does, they acquire an allegiance to it, an allegiance that becomes stronger over time. They come to think it both reasonable and wise for them

to confirm their allegiance to its principles of justice as expressing values that, under the reasonably favourable conditions that make democracy possible, normally counterbalance whatever values may oppose them. With this an overlapping consensus is achieved.

## VII

I have just outlined how it may happen that an initial acquiescence in a liberal conception of justice as a mere *modus vivendi* changes over time into a stable overlapping consensus. Thus the conclusion just reached is all we need to say in reply to the objection that the idea of such a consensus is utopian. Yet to make this conclusion more plausible, I shall indicate, necessarily only briefly, some of the main assumptions underlying the preceding account of how political allegiance is generated.

First, there are the assumptions contained in what I shall call a reasonable moral psychology, that is, a psychology of human beings as capable of being reasonable and engaging in fair social cooperation. Here I include the following: (1) besides a capacity for a conception of the good, people have a capacity to acquire conceptions of justice and fairness (which specify fair terms of cooperation) and to act as these conceptions require; (2) when they believe that institutions or social practices are just, or fair (as these conceptions specify), they are ready and willing to do their part in those arrangements provided they have reasonable assurance that others will also do their part; (3) if other persons with evident intention strive to do their part in just or fair arrangements, people tend to develop trust and confidence in them; (4) this trust and confidence becomes stronger and more complete as the success of shared cooperative arrangements is sustained over a longer time; and also (5) as the basic institutions framed to secure our fundamental interests (the basic rights and liberties) are more firmly and willingly recognized.

We may also suppose that everyone recognizes what I have called the historical and social conditions of modern democratic societies: (i) the fact of pluralism and (ii) the fact of its permanence, as well as (iii) the fact that this pluralism can be overcome only by the oppressive use of state power (which presupposes a control of the state no group possesses). These conditions constitute a common predicament. But also seen as part of this common predicament is (iv) the fact of moderate scarcity and (v) the fact of there being numerous possibilities of gains from well-organized social cooperation, if only cooperation can be established on fair terms. All these conditions and assumptions characterize the circumstances of political justice.

Now we are ready to draw on the preceding assumptions to answer once again the question: how might an overlapping consensus on a liberal conception of justice develop from its acceptance as a mere *modus vivendi*? Recall our assumption that the comprehensive doctrines of most people are not fully

comprehensive, and how this allows scope for the development of an independent allegiance to a liberal conception once how it works is appreciated. This independent allegiance in turn leads people to act with evident intention in accordance with liberal arrangements, since they have reasonable assurance (founded on past experience) that others will also comply with them. So gradually over time, as the success of political cooperation continues, citizens come to have increasing trust and confidence in one another.

Note also that the success of liberal institutions may come as a discovery of a new social possibility: the possibility of a reasonably harmonious and stable pluralist society. Before the successful and peaceful practice of toleration in societies with liberal political institutions there was no way of knowing of that possibility. It can easily seem more natural to believe, as the centuries' long practice of intolerance appeared to confirm, that social unity and concord requires agreement on a general and comprehensive religious, philosophical or moral doctrine. Intolerance was accepted as a condition of social order and stability.<sup>31</sup> The weakening of that belief helps to clear the way for liberal institutions. And if we ask how the doctrine of free faith might develop, perhaps it is connected with the fact that it is difficult, if not impossible, to believe in the damnation of those with whom we have long cooperated on fair terms with trust and confidence.

To conclude: the third view of our model case, seen as a liberal conception of justice, may encourage a mere *modus vivendi* to develop eventually into an overlapping consensus precisely because it is not general and comprehensive. The conception's limited scope together with the looseness of our comprehensive doctrines allows leeway for it to gain an initial allegiance to itself and thereby to shape those doctrines accordingly as conflicts arise, a process that takes place gradually over generations (assuming a reasonable moral psychology). Religions that once rejected toleration may come to accept it and to affirm a doctrine of free faith; the comprehensive liberalism of Kant and Mill, while viewed as suitable for non-public life and as possible bases for affirming a constitutional regime, are no longer proposed as political conceptions of justice. On this account an overlapping consensus is not a happy coincidence, even if aided as it no doubt must be by historical good fortune, but is rather in part the work of society's public tradition of political thought.

#### VIII

I conclude by commenting briefly on what I have called political liberalism. We have seen that this view steers a course between the Hobbesian strand in liberalism—liberalism as a *modus vivendi* secured by a convergence of self- and group-interests as coordinated and balanced by well-designed constitutional arrangements—and a liberalism founded on a comprehensive moral doctrine such

<sup>31</sup> Hume remarks on this in par 6 of 'Liberty of the Press' (1741).



as that of Kant or Mill. By itself, the former cannot secure an enduring social unity, the latter cannot gain sufficient agreement. Political liberalism is represented in our model case of an overlapping consensus by the third view once we take the political conception in question as liberal. So understood political liberalism is the view that under the reasonably favourable conditions that make constitutional democracy possible, political institutions satisfying the principles of a liberal conception of justice realize political values and ideals that normally outweigh whatever other values oppose them.

Political liberalism must deal with two basic objections: one is the charge of scepticism and indifference, the other that it cannot gain sufficient support to assure compliance with its principles of justice. Both of these objections are answered by finding a reasonable liberal conception of justice that can be supported by an overlapping consensus. For such a consensus achieves compliance by a concordant fit between the political conception and general and comprehensive doctrines together with the public recognition of the very great value of the political virtues. But as we saw, success in finding an overlapping consensus forces political philosophy to be, so far as possible, independent of and autonomous from other parts of philosophy, especially from philosophy's long-standing problems and controversies. And this in turn gives rise to the objection that political liberalism is sceptical of religious and philosophical truth, or indifferent to their values. But if we relate the nature of a political conception to the fact of pluralism and with what is essential for a shared basis of free public reason, this objection is seen to be mistaken. We can also note (see the end of Sec IV) how political philosophy's independence and autonomy from other parts of philosophy connects with the freedom and autonomy of democratic citizenship.

Some may think that to secure stable social unity in a constitutional regime by looking for an overlapping consensus detaches political philosophy from philosophy and makes it into politics. Yes and no: the politician, we say, looks to the next election, the statesman to the next generation, and philosophy to the indefinite future. Philosophy sees the political world as an on-going system of cooperation over time, in perpetuity practically speaking. Political philosophy is related to politics because it must be concerned, as moral philosophy need not be, with practical political possibilities.<sup>32</sup> This has led us to outline, for example, how it is possible for the deep divisions present in a pluralistic society to be reconciled through a political conception of justice that gradually over generations becomes the focus of an overlapping consensus. Moreover, this concern with practical possibility compels political philosophy to consider fundamental institutional questions and the assumptions of a reasonable moral psychology.

Thus political philosophy is not mere politics: in addressing the public culture it takes the longest view, looks to society's permanent historical and social conditions, and tries to mediate society's deepest conflicts. It hopes to uncover,

<sup>32</sup> On this point, see the instructive remarks by Joshua Cohen, 'Reflections on Rousseau: Autonomy and Democracy', *Philosophy and Public Affairs*, Summer 1986, pp 296f.

and to help to articulate, a shared basis of consensus on a political conception of justice drawing upon citizens' fundamental intuitive ideas about their society and their place in it. In exhibiting the possibility of an overlapping consensus in a society with a democratic tradition confronted by the fact of pluralism, political philosophy assumes the role Kant gave to philosophy generally: the defence of reasonable faith. In our case this becomes the defence of reasonable faith in the real possibility of a just constitutional regime.