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GIVING LIBERALISM ITS DUE[1]
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I.

Critics charge that the liberal spirit is hegemonic. Supporters sense that liberalism is imperiled. To understand why it is worth defending, it is important to see that liberalism is both.

Few politicians today dare to run for high office under liberalism's banner. In public discourse in the United States liberal has become a term of abuse that Republicans hurl and Democrats dodge. Despite their conflicting motives, the hurlers and dodgers form an unholy alliance. This unholy alliance conspires to confuse the liberal spirit with, and hold it hostage to, the governing ambitions, policy positions, and political fortunes of the left wing of the Democratic Party. One result is that fewer and fewer know, or are likely to experience the incentive to discover, that liberalism also names a proud tradition of moral and political thought. This tradition arose in the seventeenth century, it has borne many blossoms in many countries, and notwithstanding all its varieties it has consistently championed goods that are as fundamental to the political hopes of majorities on the right today as they are to those on the left: individual liberty, human equality, religious toleration, and systematic intellectual inquiry based on the free exercise of human reason.

Despite contemporary liberalism's tarnished reputation, the principles for which the liberal tradition has always stood continue to exercise a powerful influence over American hearts and minds: no candidate can hope to succeed on the national stage who denies the fundamental importance of individual freedom or questions the ideal of equality before the law. Moreover, while disputes rage about the scope of freedom and what government may or must do to secure equality for all, even the thorniest controversies between left and right in contemporary American political life take place in large measure within a liberal framework.

The primacy of liberal principles can be seen in the battle over abortion and in the struggle over affirmative action. Proponents of a woman's right to choose to terminate her pregnancy appeal to the familiar liberal principle of personal autonomy: the individual woman alone, it is argued, should have the final say when it comes to decisions about her own body and life. But to a considerable extent opponents of abortion also build their case on the liberal ground of respect for the individual; but they place a different individual in the forefront of their considerations. Many who oppose abortion do so not on the basis of government's obligation to legislate morals or promote the good life but rather couch their opposition in terms of respect for the right to life of the fetus or unborn child.

Similarly, in the struggle over affirmative action, the contending camps often disagree over the interpretation and application of a principle they hold in common. Proponents of affirmative action argue that in a society haunted by the legacy of slavery, racism, and sexism, taking race and sex into account in hiring and promoting is necessary to achieve equality. In reply, critics also invoke the principle of equality, contending that haunting legacy or no, legally mandated preferences based on race or sex violate government's obligation to provide each citizen the equal protection of the law. One could repeat this exercise with similar result in connection to the debates over the right to suicide, welfare reform, tax policy and other fiercely contested issues on the contemporary agenda. In each case one would find liberal principles decisively shaping both sides of the dispute. Indeed, wherever liberalism has taken root, its fundamental premise of natural freedom and equality has informed not only debates over public policy but the design of political institutions, the development of law, and the beliefs and practices that guide individuals in their private lives.

Although they are inseparably connected in liberal thought, freedom and equality must remain in tension with each other. The protection of individual freedom--even or especially on a level playing field--leads to inequality as individuals, through the exercise of their different capacities and powers, achieve unequal results. And because it requires the imposition of constraints on what individuals may do with their property and themselves, the quest for equality results in a diminution of the freedom to do exactly as one pleases. These familiar tensions notwithstanding, freedom and equality are part and parcel of the same fundamental thought in the liberal tradition. All individuals equally are thought to be by nature free. And each is free because all equally lack the right to rule over any other.

The premise of natural freedom and equality is intimately bound up with metaphysical notions and moral ideas that modern philosophy makes central to the understanding of the human condition. The modern turn toward subjectivity--the notion that the human mind plays an active role in organizing and giving meaning to reality--gives an egalitarian thrust to modern thought by helping to undermine both the classical idea of a natural rank order and biblically based religious visions of a divinely sanctioned hierarchy. Viewing each as essentially free and equal lends luster to the virtue Mill called individuality--the exercise of a stern self-discipline to fashion a distinctive character out of strong and variegated passion.[2] At the same time, it opens the door to the pathology Tocqueville called individualism whereby each man is forever thrown back on himself alone, and there is danger that he may be shut up in the solitude of his own heart. [3] And the modern moral idea *par excellence*, autonomy, the idea that freedom is one and the same for every individual and it consists in obeying only those laws one has prescribed to oneself, presupposes the theoretical primacy of subjectivity and the practical primacy of individuality.

None of this means that liberalism has ever devised conclusive arguments on behalf of its fundamental premise. Indeed, the perceived failure of the tradition to do so has led many contemporary liberal theorists to eschew discussion of first principles, as if one could make troubling theoretical and metaphysical questions vanish simply by refusing to speak about

them. In recent years some leading liberals have become so aggressive in their evasions that they have confused the tactic of avoiding complex and contentious arguments in support of their first principles with the extreme insistence that liberalism altogether lacks theoretical foundations.

It is a mistake, however, to define or defend the spirit of liberalism while ignoring its fundamental premise. Belief in the natural freedom and equality of all human beings is not by a long shot all there is to liberalism, but the premise is fundamental because it orients and organizes liberal thinking. It also links the diverse strands that make up the liberal tradition. And it provides a principle for distinguishing liberalism from other traditions of moral and political thought.

Reference to liberalism's fundamental premise, for example, helps bring out what liberalism shares with democracy, which is devotion to freedom and equality, and what it adds to democracy, which are limitations, in the name of the rights of individuals, on the freedom of majorities. It also explains why Hobbes, who, in *Leviathan*, establishes the natural freedom and equality of all as one of the bases of the true science of politics,[4] should be seen as a member of the tradition; and why Nietzsche, who, in *Beyond Good and Evil*, diagnosed the doctrine of human equality as a poisonous conceit and honored freedom as a prerogative of the few,[5] should not. It also helps set liberalism apart from classical political philosophy, which did not affirm that all human beings were by nature free and equal, and the Bible's affirmation that human beings are indeed fundamentally equal but not by nature or reason but because God made us that way.

Another mistake is to reduce liberalism to its fundamental premise, as if the liberal tradition embodied a monolithic world view and one could, from this premise, draw all pertinent conclusions about its governing style, vitality, and worth. As Judith Shklar pointed out, the liberal tradition is also defined by and should be defended in terms of its overriding aim, which, in her words, is secur[ing] the political conditions that are necessary for the exercise of personal freedom.[6] Liberalism's fundamental premise does not dictate one right path to the attainment of its overriding aim. Indeed, in the effort to devise political institutions and promulgate laws that equally respect the individual freedom of all, the liberal tradition has produced a rich diversity of emphases, approaches, and arrangements.

Seen in the light of both its fundamental premise and its overriding aim, liberalism is a tradition that extends over centuries, cuts across national boundaries, and finds eloquent advocates in parties of the left and the right. It is wide enough to include not only such standard-bearers as Locke, Kant, and Mill, but also thinkers more eclectic and difficult to categorize such as Montesquieu, Madison, and Tocqueville. It is a tradition that has articulated a set of characteristic themes including individual rights, consent, toleration, liberty of thought and discussion, self-interest rightly understood, the separation of the private from the public, and personal autonomy or the primacy of individual choice; has elaborated a characteristic set of political institutions including representative democracy, separation of governmental powers, and an independent judiciary; and, less noticed these days but vital to understanding liberalism's

possibilities and prospects, has provided a fertile source of reflections on such non-political supports of the virtues that sustain liberty as commerce, voluntary association, family, and religion.

Listening to liberalism's leading critics in the academy, though, one might never guess that liberalism is a complex and many-sided tradition. Communitarian critics reproach liberalism because, they claim, it disassociates citizens, drains the morality out of public life, and degrades politics to the play of selfish interests. Feminist critics rebuke liberalism for tolerating beliefs and practices that have denied women opportunities and perpetuated their status as second-class citizens. And postmodern critics condemn liberalism's core institutions and key concepts for working to conceal the contingency of established arrangements and thereby deprive individuals of the full range of choices that should be available to them.

There is truth in these charges. However, all this reproaching, rebuking, and condemning seems to have left its leading critics little energy for appreciating liberalism's solid achievements. These achievements, such as protecting personal rights and securing the equal protection of the laws, are ones that liberalism's leading critics take for granted and would not, at least for themselves, dream of abandoning. Nor have the critics set aside much time to consider to what extent these solid achievements would be imperiled by the pursuit, without the backdrop of liberal limits and guarantees, of communitarian, feminist, or postmodern goals.

Truth be told, academic liberalism must shoulder a fair portion of the blame for allowing the complexity and many-sidedness of the liberal tradition to fade from view. And the professors must take some responsibility for disarming liberalism in the face of aggressive assaults on its good name. Although recent years have seen the emergence of a new generation of scholars devoted to recovering neglected dimensions of the classic liberal tradition, on the whole academic liberalism has concentrated its energies on the articulation of a narrowly procedural liberalism. The liberalism that dominates in the academy is one that is primarily concerned with articulating technical principles and applying them to contemporary moral dilemmas but which takes little account of the unruliness of human passion, the practical force of higher aspirations, the non-political requirements of politics in a liberal state, and the impact of the laws on the character of those who live under them.

It would be wrong to trace the narrowness of contemporary liberal theory to the fact that liberals have sought to sustain themselves at the universities through a steady diet of Locke, Kant, and Mill and, at best, have served themselves rather stingy portions of Montesquieu, Madison, and Tocqueville. More telling is the stingy portions of Locke, Kant, and Mill with which academic liberals have contented themselves. In the universities, liberals continue to do their own tradition an injustice by uncritically conforming to the custom of studying only the Locke who teaches about the principles of legitimate government in the *Second Treatise* but not the Locke who, in *Some Thoughts Concerning Education*, examines the virtues that support liberty; of attending almost entirely to the Kant who expounds the principle of autonomy in the *Groundwork* while neglecting the Kant who articulates the virtues of moral character in the *Metaphysics of Morals*; of focusing exclusively on the Mill who, in the first three Chapters

of *On Liberty*, celebrates individual choice and the need for new experiments in living, while leaving out of focus the Mill in Chapters 4 and 5 of *On Liberty* who recognizes society's interest in cultivating the social virtues, and stresses the role of the state, the family, and voluntary associations in fostering the virtues of freedom. How can one blame liberalism's critics for attacking a desiccated vision of liberalism when contemporary liberals themselves have done so much to read out of the record the complexity and many-sidedness of their own legacy?

Greater self-knowledge is today one of the keys to repairing the liberal spirit and restoring its luster. In coming to know itself more fully, liberalism also will attain a better grasp of both the progeny it has produced and the criticisms it has provoked. And it may well come to see that its leading critics are in fact none other than its own fickle and rebellious children.

The lineage of liberalism's leading critics can be brought into focus by considering the goods which they criticize liberalism for damaging. On examination, the search for a usable communitarian political theory can, in many cases, be seen to be motivated at bottom by the conviction that respect for the dignity of the individual requires more attention than contemporary liberalism has been inclined to pay to associational life, civic virtue, and active participation in democratic self-government. To a considerable extent, feminist criticism seeks to illuminate the ways in which liberalism has not only failed to deliver equality for women but maintained barriers to its delivery. And postmodernism, in its more sober moments, has won genuine insights into the subterranean exercises of power by which the norms and terms of debate in liberal society silently restrict individuals' freedom of thought and choice. Yet what are individual dignity, equality, and freedom but central planks of the liberal platform?

What I want to suggest is that communitarianism, feminism, and postmodernism, even when they explicitly define themselves in opposition to liberalism, continue to derive much of their appeal from the manner in which they develop or extend liberalism's fundamental premise, the natural freedom and equality of all, and are driven by liberalism's governing moral impulse, defense of the dignity of the individual. At the same time, outstanding defects in the approaches to politics of liberalism's leading critics can be traced to their disregard of crucial lessons taught by the liberal tradition--and in many cases forgotten or poorly articulated by contemporary liberals. These lessons concern the beliefs, practices, and institutions that protect--and limit--individual freedom, and secure--and define the scope of--equality before the law. In short, many of liberalism's progeny have denounced or denied their parents and scorned their patrimony, but then continued to live off--and run down--the family legacy.

This is an old story and a serious problem, though by no means unique to liberalism. According to Socrates' account in Book VIII of Plato's *Republic*, all regimes contain the seeds of their own destruction. Typically, the cause of destruction is the one-sided or defective education fathers provide their sons. Oligarchic fathers--narrow, disciplined, and devoted to the making and preserving of wealth--raise spoiled sons whose love of luxury and hatred of authority brings about change from oligarchy, the regime in which the wealthy few rule, into democracy, the regime in which all citizens rule and each is free to do just as he pleases. By teaching their sons to listen only to their own most immediate desires, democratic

fathers prepare them for nothing so much as quiet submission to a ruthless tyrant. And something similar, I wish to suggest, has occurred in connection to the liberal spirit. By so successfully teaching respect for the dignity of the individual, equality before the law, and freedom from external, arbitrary authority, liberalism has raised a generation of critics who specialize in identifying the ways in which liberalism itself denies the dignity of the individual, sanctions inequalities, and deprives individuals of choice. Those inclined to dismiss out of hand the dialectic by which parents instill in their children qualities that threaten their way of life should consider that the angry and rebellious children of the 1960s were raised and educated by the middle class, solidly bourgeois parents of the 1950s.

Several reasons justify the effort to give liberalism its due. First, liberalism clarifies the contemporary intellectual scene by providing a framework which reveals that what appear to be rival and incompatible schools of thought in fact share a formal structure and governing moral intention. Second, giving liberalism its due means a substantial gain in self-knowledge, both for those who think of themselves as liberals and for those who do not recognize the liberalism of their ways. Third, the liberal tradition has untapped resources for understanding more precisely how to defend, and sustain a political life that rests upon, the premise of natural freedom and equality, a premise whose power not many would wish to deny and whose authority few can honestly resist.

II.

In 1982 Michael Sandel published *Liberalism and the Limits of Justice*, a concise, analytically sophisticated, and timely critique of John Rawls's seminal restatement of liberal principles in *A Theory of Justice* (1971).[7] Although not always apparent, Sandel's primary concern was not to reject Rawls's principles. Rather, Sandel sought to show that the manner in which Rawls argued for his principles--the primacy of individual liberty and the need for the state to secure the social and economic bases of equality--depreciated important moral and political goods, especially the goods of political participation and community.

Sandel especially objected to Rawls's view that in protecting liberty and securing equality the state should remain neutral on the question of the good life. The ideal of neutrality, Sandel argued, was both impossible and unwise. It was impossible because state action always implicated some conception of how human beings should live their lives. And neutrality was unwise because it rested upon and promoted a defective conception of the human being.

The fundamental problem, according to Sandel, was that Rawls's liberalism was rooted in an abstract conception of the self that could stand apart from and freely choose its ends. Sandel argued this conception of an unencumbered self obscured the moral and political significance of our practical attachments, and suppressed the importance of the dimensions of our identities that we do not choose, the duties of encumbered selves that are given to us by the families, nations, and religions into which we are born.

The critique of Rawls that Sandel did so much to advance came to be known as the communitarian critique of liberalism. It drew support from influential scholarly writings in

history, philosophy, and political theory. In the late 60s and 70s many scholars began to take issue with the dominant image of the United States as founded on liberal principles and organized around a politics based on self-interest and the protection of individual rights. Leading historians such as Bernard Bailyn and Gordon Wood published important works arguing that the ideas that shaped the American Founding hailed from the tradition of what Sandel would subsequently call republican theory, a tradition of political thought that defined liberty in terms of participating in a self-governing community and which equated virtue with devotion to the public good.[8]

Meanwhile, the political theorist Michael Walzer achieved prominence through his critique of rights based liberalism in the name of political theory that proclaimed the dependence of the moral life on what is local, situated, and shared.[9] Charles Taylor, a distinguished scholar of the history of philosophy, developed an interpretation of Hegel's political theory that stressed Hegel's Aristotelian assumption that human beings are by nature not isolated individuals but social and political animals. Through his study of Hegel as well as his writings on the limits of analytic moral philosophy and positivist social science, Taylor sought to make available to Anglo-American scholars an appreciation of the linguistic, cultural, and religious communities that constitute human identity and whose political significance, he claimed, has been ignored or misunderstood by mainstream liberal theorists.[10] And through her rather free reinterpretations of the thought of Aristotle and the American Revolutionaries, the political theorist Hannah Arendt also lent support to the communitarian critique of liberalism. Arendt argued that although it has been all but destroyed by liberal modernity, the public realm is the proper place for human excellence because human beings were essentially storytelling animals whose greatest acts consisted in speeches staged before an engaged and politically self-conscious public.[11]

Although the combined influence of these several sources on the communitarian critique has rarely been subject to examination, their influence has helped to obscure the extent to which the communitarian critique of liberalism, certainly in Sandel's hands, never really wished to call into question liberalism's fundamental premise--the natural freedom and equality of all. Indeed, Sandel's communitarian critique, which over the years has ripened into a republican alternative to liberalism, has always depended for its considerable appeal on the ways in which it sought to defend the dignity of the individual from contemporary liberalism's excesses and oversights.

The commitment to defending the dignity of the individual is both central to and obscured by the argument of Sandel's new book, *Democracy's Discontent*. Sandel holds that beginning with the New Deal and gaining steam with the Warren and Burger Courts, the procedural liberalism that received its seminal philosophical formulation in the writings of Rawls has also come to dominate American constitutional law and public policy. Sandel blames this liberalism for diminishing the opportunities for self-government and for eroding community. However, by and large (although his rhetoric often obscures this), Sandel has little to say against American liberalism's hallmark achievements in this century: the expansion of individual liberty, the extension of the equal protection of the law to cover women, blacks, and other minorities, and the provision of a social safety net to ensure a minimum quality of life for all citizens. Rather--when he is not arguing for the extension of these achievements into areas

not yet reached and showing how to include individuals who do not yet enjoy their benefits--his main complaint is that American liberalism has lost sight of an older view of liberty, a view of liberty whose recovery, Sandel believes, is essential to reinvigorating democracy in America.

According to this older view, which Sandel calls republican and which he argues has deep roots in the American political tradition, liberty depends on sharing in self-government and self-government means deliberating with fellow citizens about the common good and helping to shape the destiny of the political community.[12] In contrast to the liberal tendency to remove questions about first principles and the greatest good from public discussion, Sandel seeks a political discourse that will engage rather than avoid the moral and religious convictions that people bring to the public realm.[13] And in contrast to the liberal disposition to keep government out of the business of caring for souls, Sandel envisages a formative project by means of which government cultivates in citizens the civic virtues on which democratic self-government depends.[14]

The counsel to encourage citizens to debate openly and in public the religious convictions that divide them and the exhortation to involve government directly and deeply in the care for citizens' souls must be greeted, from a liberal perspective, with keen suspicion. What liberals will fear is the threat to individual dignity that comes from inviting the state to take sides on hard questions about the good life and to use its massive and unwieldy powers for the delicate task of promoting virtue. But the suspicion and fear aroused by his political project should not be allowed to obscure the familiar moral impulse that drives Sandel's republican vision. For on inspection Sandel does not seeks a public philosophy that secures the good of some group or community but rather a good that liberals cherish, a certain dignity of the individual that attaches to each citizen, whatever group or community to which he or she may happen to belong.

The liberal impulse that inspires Sandel's republican political theory can be seen in his critique of the reasoning that underlies recent Supreme Court decisions on religious liberty. Sandel's worry is that in the end the liberal approach to religious liberty, which requires that government should be neutral toward religion in order to respect persons as free and independent selves, only respects religious beliefs insofar as they can be seen as the product of free and voluntary choice by the faithful.[15] And this reductionist view of religion, Sandel believes, has baleful consequences for religious believers, for when liberalism protect[s] religion as a life-style, as one among the values that an independent self may have, [it] may miss the role that religion plays in the lives of those for whom the observance of religious duties is a constitutive end, essential to their good and indispensable to their identity.[16]

Attention to his language helps reveal the moral consideration that animates Sandel's critique of the liberal approach: Treating persons as >self-originating sources of valid claims,' Sandel writes, may...fail to *respect persons* bound by duties derived from sources other than themselves [emphasis added].[17] In other words, Sandel wants the Supreme Court to adopt a form of reasoning about religious liberty that is not less but actually more neutral than

the standard liberal approach. Sandel seeks a theoretical perspective that not only respects persons whose beliefs are freely chosen but also respects persons whose religious beliefs are experienced by them as given and fixed. In fact Sandel demonstrates little interest in the actual truth or falsity, wisdom or foolishness, utility or harmfulness of religious belief. His approach no more displays an inherent respect for religion than does the contemporary liberalism he condemns for failing to take religion's intrinsic claims seriously. The changes that Sandel seeks in public law do not in reality grant special or heightened protection to religion so much as they fulfill a liberal promise by showing the same solicitude to the beliefs of individuals who happen to be religious as is shown by current law to the beliefs of individuals who are not.

A similar logic is at work in his discussions of freedom of speech, privacy rights, family law, and what Sandel calls the political economy of citizenship. Sandel displays a subtle appreciation of the limits of liberal solutions based on individual rights, government neutrality among conceptions of the good, and respect for the autonomous or unencumbered self. But the reasoning that underlies his criticism of these solutions is itself rooted in the ambition to respect even better than liberalism the dignity of the individual.

A better way of thinking about freedom of speech, in his view, would be one which respect[s] persons as members of the particular communities to which they belong and gives constitutional weight to the good of respect for persons as situated selves.[18] A superior understanding of privacy rights would accord a fuller respect to the individuals whose private and intimate practices it protects.[19] The trouble with contemporary divorce law is that the conception of the self that informs it is disadvantageous to many women: by treating all persons as bearers of a self independent of its roles, the new law fails to respect mothers and homemakers of traditional marriages whose identity is constituted by their roles, who have lived their lives as situated selves.[20] And similarly, when it comes to the political economy of citizenship, the dignity of individuals is Sandel's governing concern. So debates about economic policy, he insists, must go beyond questions of prosperity and fairness that preoccupy liberalism and judge the ability of economic arrangements on the basis of their ability to cultivate the qualities of character that self-government requires,[21] and this was accomplished through the promotion of economic independence, which consists in the opportunity to own productive property and to work for oneself.[22] For Sandel, when push comes to shove, and rhetoric to the contrary notwithstanding, the individual comes first.

When individuals are respected by public law, as Sandel envisages, and when virtuous, independent citizens come together in the public realm to practice self-government, as Sandel hopes they will, what exactly will they do? What ends will they pursue and what ideals will they seek to actualize? What little Sandel does have to say in response to these questions reveals his republican theory to be no less abstract and formal than the liberalism he reproaches for its abstractness and formalism.

Sandel contemplates a new politics that secures a higher pluralism and which is organized to respect the lives of multiply-encumbered selves who are storytelling beings.[23] Yet what is this higher pluralism of persons and communities who appreciate and

affirm the distinctive goods their different lives express?[24] Is it not a summons to radicalize liberal neutrality? After all, liberal neutrality is the requirement of equal respect regardless of an individual's actions or achievements. But Sandel's higher pluralism demands that we esteem each other for our specific beliefs and practices regardless of their content or correctness. Whereas liberal toleration requires that we tolerate many beliefs and practices that we dislike, Sandel's higher pluralism asks us to esteem, absent the guidance of principle, most everything. But in refusing to make distinctions, in requiring citizens to affirm distinctive goods without distinctions, this higher pluralism issues in the very relativism that Sandel accused liberalism of secretly sanctioning.

And what are these multiply-encumbered selves who learn to appreciate the sometimes overlapping, sometimes conflicting obligations that claims us, and to live with the tension to which multiple loyalties give rise, if not selves that can step back from, evaluate, and, through the stories they construct, rank and reorganize their ends and duties as they choose.[25] As such are they not more like the unencumbered self that Sandel finds an inadequate basis for justice than the encumbered selves whose duties are given and not freely chosen and whom he purports to wish to save from liberalism's non-neutral neutrality? Sandel's republicanism appears to culminate in a dubious and disguised radicalization of the liberal autonomy he set out to overcome.

Sandel's criticism of liberalism in light of republican theory suffers from a grave imbalance. In dealing with liberalism he dwells on its vices and failings. But when it comes to republicanism he is mainly concerned with its advantages and virtues. The vices and failings inhering in his republican vision scarcely register on Sandel's radar screen. But they are confronted head-on by the liberal tradition. And they deserve to be taken seriously.

Although aware of the importance of voluntary association, the liberal tradition also grapples with the evils of association, the threats to the dignity of the individual faced by men and women situated in suffocating communities whose given roles stultify human capacities and whose internal goods are not worth respecting. Although it knows that politics depends on virtue, the liberal tradition (following Aristotle in this crucial regard) distinguishes, as Sandel does not, between kinds of virtue. In contrast to Sandel's republican vision which reduces virtue to civic virtue or political participation, the liberal tradition distinguishes between social virtues which are crucial to the cooperation for mutual advantage on which society depends, moral virtues which are exercised in respecting the humanity in others, and not least, the virtues of human excellence, which, the liberal tradition teaches, do not usually achieve full flower in political life. Wary, as Sandel seems not to be, of using the government to cultivate virtue of any kind, the liberal tradition generally thought that the public good depended on private virtue learned not in political life but at work, in voluntary associations, in the family, and through organized religious life. And although it recognizes conflicts between liberty and democracy, the liberal tradition suggests what Sandel fails to consider: liberalism is not the primary source of democracy's discontent and republicanism cannot be the chief remedy because the spirit of democracy itself is in part responsible for engendering the discontents from which democracies suffer.

To understand what is ultimately at stake in the choice between republican theory and liberalism, Sandel calls attention to the great debate about slavery between Stephen Douglas and Abraham Lincoln.[26] Sandel is right about the relevance of the Lincoln-Douglas debates, but he learns exactly the wrong lesson from them. Perversely, Sandel sees Douglas, who wanted the question of slavery to be decided locally by the people of each state for themselves, as the precursor of the contemporary liberal who wishes to bracket moral questions and withdraw them from public debate. And Sandel compounds the perversity by presenting Lincoln, who contended that slavery violated the fundamental moral principle to which the nation was dedicated--that all men are created equal--as exemplifying the republican approach.

Lincoln, however, is a hero of the liberal spirit precisely because he rejected the idea of putting the question of the extension of slavery into the new territories up to majority vote. And Douglas reveals the true logic of republican theory in his insistence that the awful question of slavery, like all political questions, was properly decided not by some abstract national entity or universal moral principle but through democratic debate, at the local level, by real communities each of which would consult its own deeply-felt moral convictions. Lincoln recurred to liberalism's fundamental premise to make clear that the moral principle of human equality must not be subject to public negotiation or debate. And Douglas sought to take slavery off the national agenda not to remove it from political debate but the better to have it debated directly by the communities constituted by the people of each state.

Reflection on the fundamental difference of opinion between Lincoln and Douglas renews appreciation of the virtue of liberalism's refusal to put all principles up for democratic deliberation and illuminates the disadvantages that attend the republican propensity to sacrifice justice on the altar of an engaged public discourse.

III.

If any principle unites the varieties of feminism that have arisen in the last thirty years, it is the principle of equality. When in 1983 Betty Friedan wrote in the twentieth anniversary edition of *The Feminine Mystique* that a male model of equality was no longer good enough for women, that what was needed was a model of equality encompassing female experience, she was not casting doubt on the moral force of the principle of equality.[27] Rather she was insisting that the factors that conspired to confine women to second-class status often escaped the attention of men and were in need of being brought to light by women examining the intricacies of their own experience. Equality even remains central when feminism is conceived of as a fight for autonomy or as a struggle for power. For feminists tend to understand autonomy and power as goods, good for all human beings, of which they have been unfairly deprived by discriminatory laws, antiquated customs, and benighted beliefs.

At the same time, if any excess unites feminism, it is the tendency to call on the government to guarantee increasingly comprehensive forms of equality between the sexes in private life without regard to the threats that such state supervision poses to freedom or the dignity of the individual. And this holds whether one considers the more moderate feminism

exemplified in the writings of political theorist Susan Moller Okin or the radical feminism of activist and law professor Catharine MacKinnon.

In *Justice, Gender, and the Family*, Okin finds that the family as presently constituted unjustly disadvantages women; and she proposes reforms that, she argues, flow from liberal principles of justice. One of her striking public policy recommendations is that in the case of married employees with children, government should require employers to pay half of the employee's wages to the employee and half directly to the employee's spouse.[28] Okin believes that such a measure has many benefits: it would enhance the security and independence of married women who take primary responsibility for child rearing and domestic work; it would put such woman on an equal footing in the family by eliminating the power that flows to men from control over financial resources; it would give public recognition to the importance of the unpaid labor involved in caring for children and maintaining the home; and in the event of divorce it would provide women who have stayed at home and foregone professional development some financial independence and stability.

Justice for women is of course a properly liberal concern. And it needs to be appreciated that the liberal tradition has never seen private life as absolutely independent of public law. But it is also true that the liberal tradition has articulated reasons to fear the use of state power in private life and limit government's reach.

One such fear concerns the vices encouraged by dependence on state power. Okin's measures, for example, may well exacerbate tendencies to the extreme already at work in contemporary political life. After all, by design the liberal commitment to autonomy weakens the claims of inherited authorities, and liberal preoccupation with rights and self-development contributes to the felt experience of individuals today of separation and remoteness from one another. Okin's measure plays into these tendencies. At a time when parental authority is challenged from many sides, Okin's proposal, by entrusting government with the supervision of family financial affairs, further undermines the authority of the family to manage its own affairs. And at a time when husbands and wives already are inclined to view marriage as a business relationship made by parties whose interests have temporarily coincided, Okin's policy encourages spouses to think of themselves as radically separate individuals whose lives have momentarily intersected.

Justice in the family is a compelling issue. But all remedies are not created equal. The liberal concern for equality must always be balanced against the liberal scruple about intrusive government infantilizing individuals by trying to micro manage their private and intimate affairs. In considering the real vulnerability of married women today, a properly liberal perspective, one that takes seriously the demand for equality *and* the dangers of intrusive government would, other things being equal, favor measures such as more generous divorce settlements and stricter enforcement of alimony payments and child support because they can vindicate the claims of justice while posing less of a threat to virtues on which a liberal state depends.

Despite her fierce denunciations of liberalism and its principles (for sustaining a reign of sexual terror and abasement and silence and misrepresentation continuing to the present day), Catharine MacKinnon also makes equality for women her fundamental goal. Indeed MacKinnon begins her major work, *Toward a Feminist Theory of the State*, with the remarkable acknowledgment in a parenthetical statement that while her book is not a moral tract and does not advance an ideal, for the purposes of her argument sex equality is taken, at least nominally, as an agreed-upon social ideal.[29] That there is a connection between the liberalism she reviles and the pervasiveness of sex equality as a social ideal in America, an ideal she is pleased to take for granted, does not occur to MacKinnon.

MacKinnon's extremism obscures the extent to which her theory aims in effect to advance the liberal principle of equality for all by securing equality for a group that, in her view, has been from time immemorial denied it. Although she preposterously insinuates that under present conditions there is little meaningful difference between sex and rape,[30] MacKinnon does bring to light how law and social relations can work against rape victims and for rapists. Although she recklessly denounces the right to privacy conferred by *Roe v. Wade* because it reaffirms and reinforces what the feminist critique of sexuality criticizes: the public/private split for the lives of women,[31] MacKinnon rightly contends that the private sphere can be the site of women's humiliation and degradation. And although she makes many loose statements and unsubstantiated claims about the connection between pornography and violence against women, it is reasonable to worry that the hard-core pornography casually peddled at corner newsstands and neighborhood convenience stores weakens the claims of equality by fostering the opinion that women's purpose in life is to provide sexual pleasure for men. What is crucial to notice is that MacKinnon criticizes the law of rape, the right to privacy, and the First Amendment protection of pornography for depriving a particular class of individuals of the equality and dignity that she seems to believe is theirs by right.

No doubt much remains to be done within a liberal framework to assure all citizens, including women, the equal protection of the laws. MacKinnon, however, has little time or patience for the reasons adduced by the liberal tradition for imposing restraints on the use of government to insure equality in all spheres of life. Yet these reasons are compelling.

One reason for restraint, the liberal tradition teaches, is that while we are equal before the law, we remain unequal in important respects, and so far from seeking to make us equal in absolutely every way, it should be part of the task of just laws to respect our differences, which include varying capacities, gifts, and ideas about how to live a good life. A second reason stems from doubt about the ability of clumsy state officials and cumbersome governmental apparatus to first identify and then mold the right opinions.

Such considerations can certainly serve as an apology for complacency. But ignoring liberalism's reasons for restraint is an invitation to mischief making and malfeasance on a grand scale.

MacKinnon is correct when she writes that When the law of privacy restricts intrusions into intimacy, it bars changes in control over that intimacy through law.[32] It is wrong of her, however, to refuse to consider that there are nevertheless good reasons for keeping the state, as much as possible, out of intimate relations.

IV.

Some postmodern theorists deny that postmodernism has a stable core, asserting that the term is in large measure the invention of hostile critics who seek to dismiss a great variety of critical positions by collapsing them into a single opinion or perspective. So argues University of California at Berkeley Professor of Rhetoric and Comparative Literature, Judith Butler, in the opening paragraphs of her influential article, Contingent Foundations: Feminism and the Question of Postmodernism.[33] And yet she goes on to affirm the following as axiomatic: power pervades the very conceptual apparatus that seeks to negotiate its terms, including the subject position of the critic;[34] there is no ontologically intact reflexivity to the subject which is then placed within a cultural context;[35] *agency is always and only a political prerogative* [italics in original].[36] Of course the translation of such abstract, technical language into more ordinary terms is always a tricky business, but it certainly sounds as if Butler is affirming a core set of beliefs commonly associated (and not only by hostile critics) with the postmodern viewpoint: that there is no human nature, that truth is socially constructed, and that reason is the tool of will and an expression of power.

But there is more to postmodernism than this radical theoretical stance. There is also a governing moral intention, and Butler again is instructive. Her position, she is at pains to insist, is *not* the advent of a nihilistic relativism incapable of furnishing norms, but, rather, the very precondition of a politically engaged critique.[37] A politically engaged critique subversively deploys the tools of deconstruction on familiar terms and categories in order to displace them from the contexts in which they have been deployed as instruments of oppressive power.[38] And it seeks to expose insidious cultural imperialism and the ethnocentric bias of allegedly universal moral principles.[39] Postmodernism, in short, is and understands itself to be a movement of liberation. What postmodern theorists often fail to appreciate, however, is that as a movement of liberation it is not the antithesis to, but rather a descendant of, liberalism.

Postmodernism in effect demands the radicalization of the grand, leading principle, toward which every argument of *On Liberty* (according to the epigram that Mill placed at its head) was directed, namely, the absolute and essential importance of human development in its richest diversity. Put aside for the moment the important question of whether postmodernism's radical critique of reason sustains or subverts its moral agenda. Although I am aware that not all would embrace such a description, I believe it fairly captures the spirit of postmodernism to say that it seeks to advance the work of human freedom by liberating the individual from hidden fetters of language and thought, especially the terms and theoretical stance in which the liberal tradition has sought to vindicate individual liberty. This unity of theoretical outlook and moral intention is no less present when one turns from the postmodern feminism of Judith Butler to the

seminal writings of the French theorist Michel Foucault or to the self-styled postmodernist bourgeois liberalism of Richard Rorty.

The threat to freedom, for example, is the driving concern of Foucault's well-known critique of the conventional understanding of the relation of an author to his work. In What is an Author? Foucault portentously states that the view that the author is in the business of conveying a meaning or expressing an intention allows a limitation of the cancerous and dangerous proliferation of significations within a world where one is thrifty not only with one's resources and riches, but also with one's discourses and their significations.[40] Of course Foucault means to mock the conventional understanding that (allegedly) looks on the proliferation of meaning as cancerous and dangerous; and he intends that the thriftiness he attributes to the traditional view be understood as miserly and narrow-minded. The theoretical question of the relation between author and intention is of practical interest to Foucault because the traditional answer, in Foucault's view, licenses severe restrictions on freedom: the traditional view of an author is a certain functional principle by which in our culture, one limits, excludes, and chooses; in short, by which one impedes the free circulation, the free manipulation, the free composition, decomposition, and recomposition of fiction.[41]

Anxiety over the diminution of freedom is also at the heart of Foucault's influential discussion in *Discipline and Punish* of panopticism. Bentham's Panopticon was a prison or asylum designed so that all inmates are visible from a single central point. It provided for Foucault a model of the disciplinary projects characteristic of modern society. Never mind that Bentham's Panopticon was never built. For Foucault, the Panopticon symbolizes the mechanisms by which enlightenment or liberal modernity enslaves individuals to invisible forces, in particular to oppressive conceptions of normalcy, health, and happiness that are actually, according to Foucault, neither necessary nor desirable.[42] It is seldom clear what exactly Foucault sees in individuals such that freedom from false and confining opinions -- or in his terminology regimes of truth is their just desert. Nor is it clear for what or to what he wishes to set individuals free. But precisely here, in his devotion to freedom and his studied refusal to identify a determinate goal for it, Foucault aligns himself with the doctrine which Isaiah Berlin famously called negative liberty and found at the center of the liberal tradition

Richard Rorty is a theorist who proudly embraces both postmodernism and liberalism.[43] For Rorty, postmodernism means giving up the effort to provide rational arguments for the moral and political principles he affirms. And liberalism means affirming that politics should primarily be about avoiding cruelty. To the skeptical question, why avoid humiliating? Rorty offers only the glib reply that to ask such a question places one beyond the boundaries of respectable discourse. Of course Rorty thereby, and rather ironically, makes conformism to established opinion a liberal virtue. To the charge that he and his allies recklessly promote inarticulacy about the principles of justice, Rorty replies that postmodernist bourgeois liberals should try to clear themselves of charges of irresponsibility by convincing our society that it need be responsible only to its own traditions, and not to the moral law as well.[44]

Rorty's reply, however, suffers from at least two debilitating difficulties. First, the fact is that our traditions include both good and evil, much to be proud of and plenty to deplore, and thus appeal to our tradition, unguided by principle, will not solve any serious moral dilemma or political controversy. Tradition provides a choice of inheritances and it is our responsibility to choose reasonably and wisely. Second, our tradition, which includes the affirmation of natural freedom and equality in the Declaration of Independence, Lincoln's reaffirmation in his great speech at Gettysburg, and Martin Luther King Jr.'s stirring appeal to the same fundamental principles from the confines of the Birmingham City Jail, testifies to the importance in our politics of a justice that lies beyond and is superior to the changing laws of the land. In short, taking our tradition seriously as he asks us to do, does not, as Rorty insists, obviate the role of moral principle in politics but rather confirms its necessity and desirability.

Like liberalism, postmodernism forges an alliance, in the name of freedom, between autonomy and skepticism. But postmodern misunderstandings of autonomy and skepticism destabilize the alliance and endanger the cause.

Postmodernists tend to think that freedom is advanced by throwing off all shackles and constraints, or more precisely by revealing that all constraints are shackles that need to be thrown off. They forget what the liberal tradition knew well: autonomy is an achievement, one that crucially involves the cultivation of particular qualities of mind and character. Indeed, one of the liberal tradition's great lessons, little heeded by today's hasty readers, is that autonomy in moral and political life, or what Mill sometimes called individuality, like spontaneity in athletic competition and improvisation in musical performance, requires the most exacting sort of discipline.

Postmodernists also tend to think that a skeptical or engaged and theoretically sophisticated point of view produces a great boon to freedom by exploding the claims of reason or, in more gentle versions, by reducing reason to the consensus of one's community. They do not see the self-serving dogmatism in such purported explosions and effective reductions. Or the failure of nerve in the face of the world's complexity and many-sidedness. Or how the abandonment of reason makes one a slave to local opinion and the prejudices of the present.

In contrast to the self-serving (and eminently debatable) certainties of postmodernism, a healthy and true skepticism, one that has animated the liberal spirit at its best, is a skepticism that has learned from seeking the truth that the truth in moral and political matters is elusive but approachable. Cultivation of this healthy and true skepticism will enable liberalism to clarify its premises, appreciate its limits, and see clearly and vividly what is at stake in alternatives. By elevating our eyes beyond liberalism's boundaries, a healthy and true skepticism fosters autonomy and empowers us to give liberalism its due.

V.

Communitarians, feminists, and postmodernists are, in many prominent cases, bad liberals with clear consciences. They are liberals in the defining sense that they assume that

individuals are by nature (or at least beyond argument and impervious to all challenge) free and equal; and they are bad liberals because, with a clear conscience, they lean on liberalism's fundamental premise while pretending to be self-sufficient and decrying liberalism as an evil to be overcome.

Overrating their own originality and underestimating the wisdom stored up in the liberal tradition, liberalism's critics create dilemmas and unleash dangers that they themselves barely recognize much less take measures to contain. Communitarians continue to overlook the simple but indispensable distinction between good and bad communities. They ignore that bad communities degrade their members and jeopardize the stability of the political order as a whole. And they do not give due weight in their critiques to how formalities, procedures, and principles make communities in large-scale modern liberal democracies possible, manageable, and less unjust. Feminists disregard the threats to freedom--including the threats to the freedom of those women who wish to live lives they deem fitting but which depart from the fashions of public opinion--that come from relying on government to supervise more and more areas of life in the service of increasingly expansive understandings of the kinds of equality that must be guaranteed by law. And postmoderns fail to understand that freedom in moral and political life depends on virtue. Despite the hegemony of its fundamental premise, liberalism is imperiled because liberal lessons about government based on the freedom and equality of all--its forms, its limits, and the qualities of mind and character that support it--are today poorly understood and in danger of being altogether forgotten.

No one is going to mend liberalism's spirit for it. Liberals must once again learn to take pride in liberalism's achievements and responsibility for its shortcomings and failures. A good beginning would be for liberals to find the will and the ways to defend liberalism's honor against the immoderate critiques--and flippant defenses--to which the liberal tradition is now subject.

The fashionable theoretical alternatives to liberalism betray an ignorance of what the liberal tradition over the centuries has stood for; an ingratitude for what they owe to the liberal spirit; and an ambition for originality that impels them to suppress the liberal tradition's originality and enduring claims to our loyalty. Ironically, the failure by many contemporary critics to give liberalism its due provides confirmation of the liberal tradition's judgment that what can be done through politics to protect the dignity of individuals is limited by the limited ability of individuals to do what is just.

The liberal tradition will have a compelling claim on our attention--and our gratitude--so long as we believe--or cannot plausibly deny--that human beings are in a fundamental sense free and equal; that there are some things--no matter how eloquently the case is made in the public realm--that majorities, however large and united and sincere, should be forbidden to do to individuals; and that in modern democracies the state has a major and ineliminable role in securing the conditions under which individuals enjoy freedom and the equal protection of the laws. Study of the full range of the writings of liberalism's great spokesmen and the fascinating history of its political successes and failures provides an indispensable education in the

challenges to putting into practice moral principles that remain constitutive of our shared self-understandings. Giving liberalism its due is something we owe one another -- and ourselves.

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[1]This essay draws on Liberalism Strikes Back, in *The New Republic*, December 15, 1997, pp. 32-37.

[2]John Stuart Mill, *On Liberty*, in *Essays on Politics and Society*, ed. J. M. Robson (Toronto: University of Toronto Press, 1977), chap. 3.

[3]Alexis de Tocqueville, *Democracy in America*, ed. J.P. Mayer, trans. George Lawrence (Garden City, N.Y.: Doubleday & Company, 1969, vol. 2, pt. 2, chap. 2, p. 508.

[4]Thomas Hobbes, *Leviathan*, chap. 13.

[5]Friedrich Nietzsche, *Beyond Good and Evil*, sects. 29, 30, 44, 201, 212, 219, 238.

[6]Judith Shklar, The Liberalism of Fear, in *Political Thought and Political Thinkers*, ed. Stanley Hoffmann (Chicago: University of Chicago Press, 1998), p. 3.

[7]Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge, UK: Cambridge University Press, 1998); John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

[8]Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge: Harvard University Press, 1967); Gordon Wood, *The Creation of the American Republic, 1776 - 1787* (New York: W. W. Norton & Company, 1967, 1972).

[9]See, for example, Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1984).

[10]See, for example, Charles Taylor, *Hegel and Modern Society* (Cambridge: Cambridge University Press, 1979); and *Philosophy and the Human Sciences* (Cambridge: Cambridge University Press, 1985).

[11]See, for example, Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958); and Hannah Arendt, *On Revolution* (New York: Viking, 1963).

[12]*Democracy's Discontent* (Cambridge: Harvard University Press, 1996), p. 5.

[13]Ibid., p. 7.

[14]Ibid., pp. 5-6.

[15]Ibid., pp. 63, 65 (quoting *Wallace v. Jaffree*, 472 U.S. 38, at 52-53 (1985)).

[16]Ibid., p. 67.

[17]Ibid.

[18]Ibid., p. 89.

[19]Ibid., p. 107.

[20]Ibid., p. 113.

[21]Ibid., p. 125.

[22]Ibid., pp. 169, 181.

[23]Ibid., pp. 116 - 119, 350 -351.

[24]Ibid., p. 116.

[25]Ibid., p. 350.

[26]Ibid., pp. 21 - 23.

[27]Betty Friedan, *The Feminine Mystique*, 2nd edition (New York: Dell, 1984) p. x.

[28]Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989), pp. 180 - 182.

[29]Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (Cambridge: Harvard University Press, 1989, p. xii.

[30]Ibid., pp. 146, 173 - 174.

[31]Ibid., p. 191.

[32]Ibid., p. 193.

[33]Judith Butler, Contingent Foundations: Feminism and the Question of Postmodernism, in *Feminist Contentions* (New York: Routledge, 1995).

[34]Ibid., p. 39.

[35]Ibid., p. 46.

[36]Ibid., pp. 46-47.

[37]Ibid., p. 39.

[38]Ibid., p. 51.

[39]Ibid., pp. 39-40.

[40]What is an Author? in *The Foucault Reader*, ed. Paul Rabinow (New York: Pantheon Books, 1984), p. 118.

[41]Ibid., p. 119.

[42]Michel Foucault*, Discipline and Punish*: *The Birth of the Prison* (New York: Random House, 1979), pp. 195-308.

[43]See, for example, Richard Rorty, The Priority of Democracy to Philosophy, and Richard Rorty, Postmodernist Bourgeois Liberalism, in *Objectivity, Relativism, and Truth: Philosophical Papers* (Cambridge: Cambridge University Press, 1991).

[44]Postmodernist Bourgeois Liberalism, p. 199.