

Second, there is a distinction between permission and encouragement. There is no requirement that the state confer benefits on civil associations that violate important public principles. In my judgment, the *Bob Jones* case (denying tax-exempt status to a segregated school) was correctly decided.

A Right of Exit

I want to conclude with a brief discussion of the conception of liberty flowing from the pluralist view. Within broad limits, civil associations may order their internal affairs as they see fit. Their norms and decision-making structures may significantly abridge individual freedom and autonomy without legitimating external state interference. But these associations may not coerce individuals to remain as members against their will. Thus there is a form of liberty whose promotion is a higher-order political goal: individuals' right of exit from groups and associations that make up civil society. This liberty will involve not only insulation from certain kinds of state interference, but also a range of affirmative state protections.

To see why this is so, we need only reflect on the necessary conditions for a meaningful right of exit. These include *knowledge* conditions, offering chances for awareness of alternatives to the life one is in fact living; *psychological* conditions, including freedom from the kinds of brainwashing practiced by cults; *fitness* conditions, or the ability of individuals to participate effectively in some ways of life other than the one they wish to leave; and *social diversity*, affording an array of meaningful options.

This last points to a background feature of the judgment I rendered in the case of Dayton Christian Schools — the existence of employment alternatives for the affected teacher. If that religious community had been coextensive with the wider society — if there were no practical exit from its arena of control — my conclusion would have to be significantly revised. The pluralist concept of liberty is not just a philosophical abstraction; it is anchored in a concrete vision of a pluralist society in which the innate human capacity for different modes of individual and group flourishing has to some significant degree been realized.

— William A. Galston

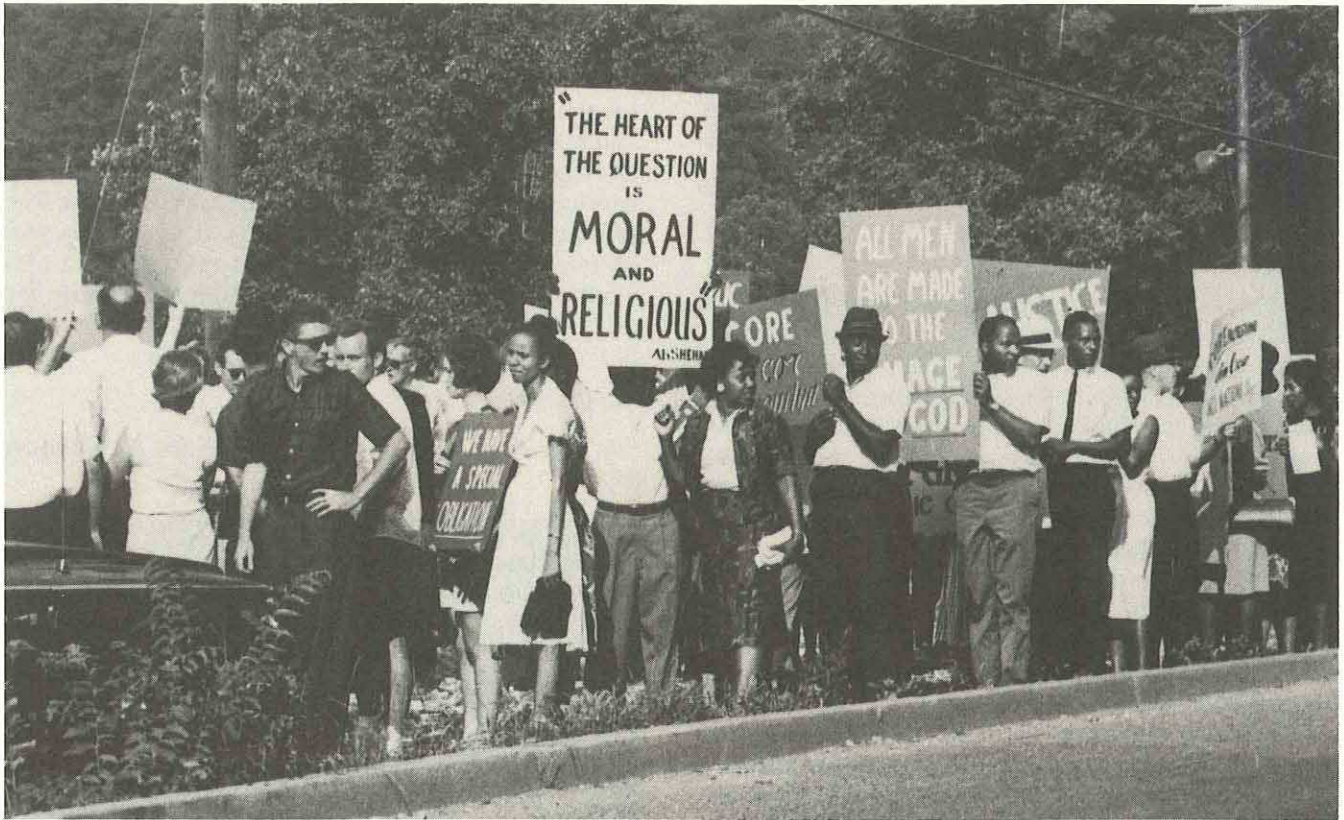
An earlier version of this essay was presented at the conference "Liberalism and Its Critics," sponsored by the Department of Philosophy of The George Washington University, March 1996. Sources: John Gray, *Post-Liberalism: Studies in Political Thought* (Routledge, 1993), and Isaiah Berlin (Princeton University Press, 1996); Stuart Hampshire, *Morality and Conflict* (Harvard University Press, 1983); H.L.A. Hart, *The Concept of Law* (Clarendon Press, 1961); Philip Tetlock, Randall Peterson, and Jennifer Lerner, "Revising the Value Pluralism Model: Incorporating Social Content and Context Postulates" (paper presented at the Eighth Ontario Symposium on Personality and Social Psychology: Values, London, Ontario, August, 1993); Nancy L. Rosenblum, "Civil Societies: Liberalism and the Moral Uses of Pluralism," *Social Research*, vol. 61, no. 3 (Fall 1994); Sidney Verba, Kay Lehman Schlozman, and Henry E. Brady, *Voice and Equality: Civic Volunteerism in American Politics* (Harvard University Press, 1995); Frederick Mark Gedicks, "Toward a Constitutional Jurisprudence of Religious Group Rights," *Wisconsin Law Review*, vol. 99 (1989).

In Defense of Enlightenment Liberalism

Professor Galston, in his account of value pluralism, develops and defends a form of liberalism rooted in what he calls the "Reformation project." The central value of the project is diversity and its guiding principle is that laws and political institutions should accommodate as far as feasible the existing diversity of values in society. Galston contrasts this approach with that of Enlightenment liberalism, which takes as its central value autonomy and has as its guiding principle

the idea that laws and political institutions should foster maximum equal autonomy for all individuals.

Galston's objections to Enlightenment liberalism stem from his belief that it unjustifiably takes sides in various cultural and ethical disagreements found in liberal societies. For example, Enlightenment liberalism would put the power of the state behind the advocates of reason in their disagreement with the defenders of faith or tradition. It would be antagonistic to certain



Civil rights demonstrators, August 1963. Photo archives of the Baltimore News-Post. Special Collections, University of Maryland College Park Libraries. Reprinted with permission of the Hearst Corporation.

communities of faith — such as the Amish — and to civil institutions organized around traditional gender roles — such as the Dayton Christian Schools.

Galston is troubled by such antagonism: he believes that it impedes persons in their efforts to live their lives “in a manner consistent with their flourishing” and argues that no sufficiently good reason exists for such interference. In his view, the best form of liberalism maximally accommodates civil institutions organized around illiberal principles, so long as those institutions do not fall below some minimal moral threshold.

In response to Professor Galston, I will defend a form of Enlightenment liberalism and offer criticisms of certain aspects of his version of liberalism. My plan is as follows. First, I will sketch an account of the human good that grounds the centrality of autonomy and makes clear the role of value pluralism within Enlightenment liberalism. Second, I will formulate and criticize an assumption that is shared by Galston with some — but not all — forms of Enlightenment liberalism. Third, I will argue that Enlightenment liberals can and should acknowledge that compromise with illiberal elements in society is sometimes the most morally

defensible course of action. Fourth, I will point out some problems in the way Galston analyzes certain forms of injustice, such as gender and racial discrimination, and suggest how these problems might be overcome.

Autonomy and the Human Good

As Galston rightly says, autonomy is a central value of Enlightenment liberalism. But is granting such a status to autonomy simply some arbitrary Enlightenment stipulation, or are there good reasons for it?

I maintain that there are good reasons for it and that those reasons stem from the connection of autonomy to the individual’s good — to his or her flourishing, in Galston’s Aristotelian phrase. Two theses make the connection: (1) To be autonomous is to live a life one has reasonably judged to reflect one’s good. (2) What is good for a human being is what she or he would freely choose in the light of informed and reasoned reflection.

The “objective goods” to which Galston alludes are so because virtually everyone would choose them under conditions of informed and reasoned reflection.

Of course, reflection is never fully informed and rarely entirely reasoned. But even in our relatively ignorant and imperfectly rational condition, we can be fairly confident that our current endorsement of any number of goods — from physical health to social recognition — would survive even the most informed and rational reflection.

We can also see from this account of the good that knowledge, rationality, and freedom of choice — the values at the heart of the ideal of autonomy — are goods of fundamental importance: they are essential to the conditions that determine what counts as an individual's flourishing.

Knowledge, rationality, and freedom of choice — the values at the heart of the ideal of autonomy — are goods of fundamental importance.

Moreover, given Galston's premise of the diversity of human types, this account of the good leads quite readily to value pluralism. In the context of my account, the premise amounts to the idea that different persons would choose very different types of life, with different mixes and priorities of goods, were they free to choose under conditions of informed and reasoned reflection.

Galston is quite right, then, to object to a "narrow society" in which many members are unnecessarily "pinched and stunted" because they are prevented from living lives in which they can flourish. Enlightenment liberals need not dissent from Galston's judgment on that score, nor need they endorse "homogenizing public principles" that demand all civil associations exemplify some single model of the good life. Enlightenment liberals will insist, though, that an individual's flourishing is a function of his or her autonomous choices, and they will see it as a central responsibility of the liberal state to promote the conditions under which each adult has the equal and fair opportunity to develop and exercise autonomous choice.

Reason and Faith

Many Enlightenment thinkers assumed that once individuals were in a position to exercise their autonomy, they would repudiate in a wholesale way social tradition and religious faith. Ironically, Galston seems to make that assumption as well. He argues that when Enlightenment liberals give "pride of place" to autonomy with its dimension of critical reflection, "[t]he inevitable consequence is that the state takes sides in the ongoing tension between reason and faith, reflec-

tion and tradition." But this opposition of reason and faith, reflection and tradition is oversimplified, and some important Enlightenment thinkers — notably Kant — rejected it. Kant's entire epistemology was devoted to using reason to exhibit the limits of reason and thereby make room for faith.

My own view on the conflict of reason and faith is somewhat different from Kant's, though it shares his idea that there is no necessary antagonism. Central to my view is the idea that, for some people, religious faith would survive critical reflection, but for others, it would not. These different outcomes for different persons are a consequence of the diversity of human types and the epistemic limitations under which we all operate. Unlike Peirce and Habermas, I don't believe that our disagreements about truth and reality would invariably give way to universal consensus if only we inquired or engaged in uncoerced conversation long enough. What we end up believing depends too much on what we started out believing, and we start out too far apart to have much confidence in general convergence.

In any event, it is a mistake to think that a state that promoted critical reflection and autonomy would be one which was ipso facto hostile to faith as such. Granted that such a state would be antagonistic to those forms of faith that could not survive free, critical reflection, but those varieties of faith have no claim against society to have it accommodate them to the maximum feasible extent. This does not mean that the state should outlaw all such faiths or otherwise coerce their adherents into relinquishing them. Nor does it mean that the state should try to coerce people into critical reflection or prohibit them from choosing lives unreflectively. Galston is certainly correct that persons who have chosen their faiths without critical reflection can and do find meaning and value in their lives, and it would be folly for the state to attempt generally to override their choices in the name of autonomy. The result of such coercive efforts would be neither autonomy nor flourishing but rather undue misery.

It is a mistake to think that a state that promoted critical reflection and autonomy would be one which was hostile to faith as such.

But it is one thing for the state to try to override the unreflective choices that people have made. It is quite another for it to ensure that its members have genuine access to the resources and opportunities needed to develop and exercise their capacities for critical reflection and choice, including a suitable education, the fair

and equal opportunity to earn a livelihood, and the basic legal right to a broad zone of individual liberty. If some adults choose to avoid exercising their autonomy under such conditions, then the state should not "force them to be free." On that point Galston and I are in agreement. The question is whether it is legitimate for the state to adopt policies reasonably calculated to secure for all persons the conditions necessary for the development and exercise of their capacity for autonomy. Galston's liberalism seems to entail that such policies mean that the state has taken sides unjustifiably in disputes over the value of autonomy. Yet, so long as the state avoids forcing adults to be free, it seems to me that such policies are not only legitimate but a fundamental responsibility of the liberal state.

*The state has the responsibility
to provide an education that
fosters critical reflection.*

It should be noted that Galston does insist that the state secure for individuals a meaningful right to exit from their civil associations and that the conditions he enumerates for such a right overlap to a substantial degree with those of autonomy. Knowledge of alternative modes of life, freedom from brainwashing, and similar conditions not only serve the individual's right to opt out of her civil associations; they serve her autonomy as well. But Enlightenment liberals would find wanting Galston's efforts to justify his insistence that the state secure these conditions and would judge as unduly narrow the set of conditions implied by his justificatory approach.

Galston's justification would point to the connection between the exit right and diversity. The right serves to promote maximum diversity by releasing individuals from the clutches of civil associations whose norms they no longer are willing to affirm. Individuals are thus free to form new associations organized around different norms, thereby increasing social diversity.

This line of justification implies that the conditions for an exit right should be tailored to maximize diversity. Freedom from brainwashing is needed for society to enjoy maximum diversity, and so it is included as a condition. But assuming (as Galston does) that an education fostering critical reflection is not needed to maximize diversity, then it would be omitted from the conditions for a meaningful right of exit and the state would have no responsibility to provide it.

In contrast, Enlightenment liberalism would count such an education as one of the conditions for autonomous choice and assert that autonomy is not to be sacrificed for diversity's sake. The state has the responsibility to provide an education that fosters criti-

cal reflection and, so far as diversity is concerned, the chips should be allowed to fall where they may. Contrary to Galston, a diversity that cannot survive critical scrutiny is one that does not merit protection from the autonomous choices of individuals.

Principled Compromise

Galston insists that compromise can be principled and right, not simply the political coward's way out of a difficult situation. I agree completely. What I would like to show is that there is no inconsistency between such a view of compromise and Enlightenment liberalism.

Let us begin by distinguishing between first-order principles of justice that tell us what is ideally just and second-order principles that tell us when and how to depart from the first-order principles in the face of the fact that there are people who conscientiously disagree with the first-order principles. Such second-order principles are at the heart of principled political compromise, and in anything like the conditions of modern life, no reasonable approach to politics and law can do without them.

The endorsement of second-order principles of compromise is as compatible with Enlightenment liberalism as it is with Galston's. Endorsing autonomy as a privileged value at the level of first-order principles is not incompatible with second-order principles mandating the accommodation of persons who reject the privileged status of autonomy. And sensible Enlightenment liberals will accept the need to accommodate their first-order principles to the fact that there are other members of society who conscientiously reject those principles and have built important parts of their lives — perhaps even their entire lives — around illiberal conceptions of the good and the right.

*A diversity that cannot survive
critical scrutiny is one that does not
merit protection from the
autonomous choices of individuals.*

For example, Enlightenment liberals could consistently argue that the outcome in *Yoder* is a principled and defensible compromise with the illiberalism of the Amish community. Of course, Enlightenment liberals could also argue the opposite, if they endorsed less accommodating second-order principles of compromise. I do not think that Enlightenment liberalism per se dictates a specific outcome in this case. The point I wish to stress here is that, whether they endorse or reject accommodation in the *Yoder* case, Enlightenment

liberals can and should make room for some principled compromise in some cases involving those who reject first-order liberal principles.

An insistence on principled compromise can and should be combined with a view that obligates the state to take sides against certain illiberal practices and institutions.

This insistence on principled compromise is not to be equated with Galston's insistence on the maximum accommodation of illiberal institutions and practices within civil society that are above a certain minimal threshold. For Enlightenment liberalism, an insistence on principled compromise can and should be combined with a view that obligates the state to take sides against certain illiberal practices and institutions, even when those practices and institutions do not fall below Galston's minimal moral threshold. In contrast, maximum accommodation requires state neutrality with respect to all practices and institutions of civil society above the threshold. In order to appreciate this difference between Enlightenment and Galstonian liberalism, let us turn to Galston's approach to civil institutions that practice forms of discrimination regarded by us liberals as unjust.

The Third Tier

Galston favors a two-tiered approach for determining the policies that the state may legitimately adopt toward existing civil institutions and practices. Any practice that falls below a threshold of minimal moral acceptability is subject to prohibition, on his account, but anything above that level must be maximally accommodated by a state that avoids taking sides against it. In effect, Galston is claiming that a policy of zero tolerance is right for what falls below the threshold and maximum tolerance is required for what stands above. Human ritual sacrifice falls below and so is rightly outlawed. But, for Galston, the discriminatory employment practices of the Dayton Christian Schools are above and so should be tolerated.

I believe that this two-tiered model is inadequate for dealing with certain serious and systemic injustices in current society that do not fall below Galston's minimum moral threshold but which the state should oppose. Many forms of gender injustice fit this category, including gender discrimination in employment. Such discrimination is not at all in the same moral category as human sacrifice, but it does impose substantial and unfair disadvantages on a considerable portion of the population. On my version of

Enlightenment liberalism, the state is not required to accommodate it maximally: it should take sides against such discriminatory practices, and in taking sides the state need not refrain from outlawing discrimination by civil institutions. After all, discrimination by such institutions can be a significant part of a broader web of discriminatory practices that diminish the opportunities and life-prospects of certain groups in substantial and unfair ways.

For example, it is reasonable to think that gender discrimination in employment is sufficiently widespread that, in the aggregate, it has seriously diminished the employment opportunities of women across society. Under such conditions, it seems to me that the state is perfectly justified in outlawing the discriminatory employment practices of the Dayton Christian Schools. One can, of course, dispute whether the tendency to discriminate in employment on the basis of gender is really all that widespread, but Galston's two-tiered model seems to bar the state from applying its antidiscrimination laws to civil institutions, so long as gender discrimination is above the minimal moral threshold. And it seems to me that gender discrimination in employment, no matter how widespread it is, is not at all in the same moral category as human sacrifice.

I agree with Galston that we liberals should accommodate practices and institutions we regard as unjust, in light of the fact that others conscientiously regard those practices as right. But liberals should not necessarily accommodate such practices to the maximum feasible extent. This is where the two-tiered model becomes inadequate and we need at least one more tier.

The additional tier would contain unjust practices that should be accommodated to some degree but not maximally. The state would rightly take sides against these practices at the same time that it extends some accommodation to those who endorse the practices. There is no simple or mechanical way to determine when a practice fits into this third tier, and a practice that falls into the tier at one point in history may not at another.

Discrimination by civil institutions can be a significant part of a broader web of discriminatory practices.

That said, it is clear to me that practices discriminating against women on the basis of their gender, or against anyone on the basis of race or sexual orientation, do fall into the third tier at present. It is legitimate for the state to outlaw such discrimination in both