Norms, Laws, and Democracy[1]

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Let me first make clear that this is not strictly an academic paper: I am inviting my readers to consider some aspects of our democratic polity—and perhaps of democratic polities in general—that are less theoretical than they are observations of how things seem to me to work. It has been said that the job of philosophy is to make the familiar strange. What I would like to explore with my readers is a set of all-too-familiar complaints about our current situation. What I am going to suggest is that there may not be a way out of this situation, at least not one that we can accept on our own terms.[2] I intend this paper to be a conversation, not an argument. In it I ask, *what happens to democratic government when a significant portion of the polity is not interested in playing the democratic game, at least not as we understand that game*? What happens, indeed, when different portions of the polity are committed to different, antagonistic, and radically incommensurable visions of what democracy means, what it should like, and whom it should serve? In the course of developing these questions I appeal to readily observable phenomena and common-sense understandings of the state of our polity in an effort to make clear a problem I think is not commonly sensed.

There are two general themes I want to explore. One is the dangerous necessity of norms in democratic governance; norms are necessary for the maintenance of democratic life in specific ways I will discuss. At the same time, the very existence of strong moral norms poses a threat to democratic governance, which must, of necessity, include a great deal of compromise and accommodation to function effectively.

The second and related theme is that democratic governance requires that we see our political opponents as *adversaries*, not *enemies*. While democratic polities must indeed resolve conflict, resolution must be done in ways that treat our adversaries as though they are part of the same polity as are we. Differences of opinion on policies are real and inevitable, but for a democratic polity to function we cannot see our adversaries as enemies. The question then arises, *what are the consequences when one (or both) sides of a political disagreement see their opponents not as adversaries with whom to compromise, but as enemies to be eliminated*? Perhaps more to the point, what follows when competing political visions are in fact radically and irreducibly incommensurable and the realization of either vision entails the elimination (or at least marginalization) of the other?

Let me begin my reflections with an exploration of the meaning and operation of norms. Imagine, please, that you are driving on an interstate highway and the posted speed limit is 60 mph. Now look at your imaginary speedometer. How fast are you going? While there would be a range of answers to my question, 60 mph would not likely be the most common answer. Sixty-nine and 70 mph would likely be popular answers, given the common wisdom that most police officers allow a 10 mph leeway before writing a ticket—or perhaps you are one of those drivers who adjusts your speed to keep up with the flow of traffic. Likely there would be several other answers to my question. I suspect, however, that very few of the answers would be 60 mph, and even fewer below 60 mph. That is, few people would report obeying the posted law.

Now consider what it means that many drivers adjust their speed to the flow of traffic. Specifically, consider that these drivers conform to the speed of others, not to the posted limit, i.e., not to the clearly visible, unambiguous law. This example points to one significant feature of norms: they are shared. *We learn and come to share norms as members of a community*.[3] Put another way, to be a member of a morally normative community is to hold a particular set of moral norms, norms that define that community and its members, and community members develop systems and institutions to pass those norms from one generation to the next.[4]

Note another feature of the "flow of traffic" response. It is only loosely related to the law: the higher the actual posted speed limit, the faster will be the flow of traffic. Where the posted speed limit is 60 mph, the flow of traffic is likely to be somewhere in the 65–70 mph range, but where the posted speed limit is 70 mph, the flow of traffic is likely to be in the 75–80 mph range. Where the posted limit is 80 mph, it is my experience that significantly fewer people speed, and those who do so do so by less.

Now return in your imagination to the driver's seat. There is a car ahead of you driving 60 mph in an area of the interstate where the speed limit is 60 mph. There is likely a steady stream of cars passing it. Now, imagine that as you approach the car and are about to pass, a car merges onto the interstate, also traveling at the posted speed limit. The car already on the road moves into the left lane to allow the entering car to merge into the right hand lane. Now the two cars are traveling next to each other, both at 60 mph. You cannot pass, as this is a two-lane highway. How do you feel right now?

When I do this exercise with a group, there is often laughter at this point. Most individuals say they would be angry, and they say so with quite a bit of heat. Just thinking about being trapped behind such inconsiderate drivers makes them feel some anger. It is not just that drivers expect each other to disobey the clearly stated law, it is that people find it positively offensive to be made to obey the law themselves. And, significantly, this is the case for most otherwise-law-abiding people.

Note also that if I suddenly find myself driving at the speed limit and blocking traffic by doing so, I am likely to feel embarrassed, or even ashamed. That is, as I realize I am blocking others I also know this is something that one should not do. While speeding or obeying the speed limit is a matter of personal choice, normative conventions dictate one should make way for those who wish to drive faster than the posted limit. That is, the expectation is that we will all clear the way for those who wish to break the law, and to do otherwise is to be guilty of a serious breach of social expectation. Yet, significantly, we do *not* generally consider obedience to the law a matter of personal choice.

What we have considered so far is the operation and nature of norms, which not only shape behavior, they shape how we judge the behavior of others. So, for example, while I might have a very strong preference for eating vanilla ice cream, my preference is not a norm; I do not care much whether you choose also to indulge or not. In this way, this example is very different from the expectation I have of your driving behavior when we share the road; not every preference is a norm.

Another important understanding is that our attachment to norms is mostly emotional, a part of our identity, not intellectual. Norms are about communal membership, not rational choice. It is not just that doing a certain thing in a certain way is abstractly the right way to do that thing. It is, much more significantly, that one does that thing that way. That is, *norms are the signs and the meaning of membership in a morally normative community*.

When I use the term *morally normative* here, I reference morality in a broad sense. Community members learn what it means to be good and bad—to be virtuous or vicious—as members of moral communities,[5] which is to say humans are social animals who are taught moral norms as we mature to membership *in a community*. This is the central problem every community must solve: how to bring children born into *this particular* community into full membership. Member induction entails passing on the moral commitments of the community: first, the understanding that there is such a thing as right and wrong and, second, what that understanding means in concrete terms. This concretization of "good/right" and "bad/wrong" is the essence that differentiates an "us" from a "them." Members must come to understand and act on the community's moral commitments: *we are those who share a particular set of moral norms, who live within a particular moral architecture*.

The sense that morality has an architecture—has multiple architectures that define different moral communities—is not a relativist view of morality, but it does mean that, as a phenomenological experience, morality is inevitably the morality of one's own community. While there may be an absolutist "God's-eye" view of the moral world, there is no "we" who occupy that point of view. Our view of the moral world is

inevitably bounded by our situatedness in the social world. Because our view is limited, our morality is inevitably *our* morality: *a* moral way of living, not *the* objectively moral way to live. Nevertheless, the fact remains that whatever moral architecture has made us seems to us to be absolute. Moral architecture is most powerful when it is least visible as a social constraint, that is, the things that seem to us to be right and wrong seem just to be the proper way to live. So herein lies the potential for good news, but also the potential for bad news for democratic life in the relationship between norms, laws, and behaviors. The good news first.

Norms give laws their authority, which is quite different from laws merely being enforced. Norms allow us to say that the law *should be obeyed*, that it is *legitimate*, that it is *good*. Laws need such support in all polities, but especially in democratic ones. This is due to the nature of democratic life, in whatever way it is understood. Consequently, the more say people have in the making of their laws according to their ideas of good society, the less coercion is necessary for social life to be organized according to those norms. A society with a police officer stationed on every street corner or with an extensive network of informants cannot be called democratic. This is why *Nineteen Eighty-Four*'s[6] Oceania has rightly become a trope denoting existential threat to democratic life.

Where laws do not have support and power, a sign of serious difficulty for a democratic society arises. Recall my earlier speed limit example. Because the law is not only not supported by, but is positively opposed by our norms, it is only obeyed when enforced. If those in power felt it was important this law be obeyed, enforcement would be constant and pervasive: only constant coercion would do.

So, consistency between norms and laws need not be perfect, but it must be much more common than not. When not the case, a society has clear evidence that its democratic governance is breaking down. That the law and the norms are at odds with each other in the matter of speed limits is not, in itself, a serious problem, but neither should its significance be overlooked. How did we come to have a law so universally in place and so universally ignored?—and, ignored without much consequence; people brag about getting away with speeding, meaning breaking this law is not something people feel ashamed of. Again, in the matter of speed limits, ignoring the law may (or may not) be particularly significant, but if such is the general attitude toward a society's laws, that society is in trouble.

Norms therefore matter. When norms do not support law a society truly must choose between intrusive and oppressive exercise of police power on the one hand, and chaos and anarchy on the other. So, while it is certainly true that all governments rely on norms for stability and smooth functioning, this is uniquely true in the case of governments that seek to be democratic.

This is why, when the Soviet Union broke apart and newly independent states emerged from the U.S.S.R. seeking to establish themselves as democracies, there was much discussion about the possibility that these experiments would fail because of their lack of "democratic culture," which is to say the lack of democratic norms. Closer to home we see the same phenomenon; this is exactly what commentators, both friendly and critical, mean when they discuss the Trump phenomenon. Critics said President Trump was a threat to democracy because of the gleeful way he shattered a long tradition of norms that limit and direct actions of the U.S. presidency. Likewise, when his supporters cheered the way he turned Washington upside down, what they were reacting to was the way Trump discarded one set of norms in favor of a very different set. It is important to consider of what those norms consisted—both broken and newly made—, but to do so would be a different argument than my present one. What I want to do here is to turn toward a different, but very real danger to the project of democratic governance: the question of what happens when the moral architectures inhabited by significant numbers of citizens becomes foundationally different and radically incommensurable, when there is no agreement on the content of identity-conferring norms? That is, when one government must hold together two (or more) radically incommensurable moral communities.

The problem I pose is not based on norms as weakly held, rather that norms of opposing moral communities are strongly held and, as a result, the laws of such a society must violate (at least) one set of identity-conferring norms. I see this as the prescription for a loss of confidence in government: a government that does (or allows) this cannot be legitimate, yet this is the situation in which we in the U.S. find ourselves.

One commonly heard lament about the U.S.' current political situation is that society has lost the ability to compromise. The common assumption in this lament is that democratic government is (almost) by definition a form of government that requires constant compromise—and that has in fact been the U.S.' reality throughout our nation's history. No single point of view in U.S. political society has had such a dominant majority that the state has been able to legislate without compromise, so the U.S.' history offers a strong case for the essential nature of compromise in a functioning democracy. However, our ability so far to compromise is a result of an historical oddity about our system, one that has recently become undone.

Unlike most democracies, the U.S. has a two-party system rather than a multiparty one. As it happens, both parties dominating U.S. politics have held a wide range of political ideologies; until recently there have been "liberal" and "conservative" Republicans and "liberal" and "conservative" Democrats.[7] This system has mostly allowed government to negotiate across serious *ideological and moral* differences without being overly polarized

along *party or political lines*. Until recently, ideological differences did not line up very neatly with partisan identities, so ideology and partisanship did not reinforce each other.

The unraveling of this state of affairs began in the post-World War II era, as the modern Democratic Party began to be more and more the party of civil rights, a political and morally normative position that was originally shared by many in the Republican Party as well. Civil rights laws passed in the 1960s all had strong bi-partisan support. This changed over time, though, and today the U.S. has clear partisan ideological divisions between the two parties. Bi-partisan legislation is so rare that it has become headline-worthy.

Paradoxically, I am now old enough to remember when such bi-partisan cooperation and collaboration was seen as a problem. Many commentators opined that ideologically aligned parties would allow voters to make clear choices between candidates and then hold parties—and politicians—accountable for their effectiveness. They hypothesized that more-representative legislative bodies would result, leading to a more coherent ideological identity within each political party. This process of ideological alignment began with Nixon's recruitment of Southern voters from the Democratic Party to the Republican, accelerated under the U.S. House Speakership of Newt Gingrich, and has led to the current Red–Blue divide, which should perhaps be filed under "be careful what you wish for."

As civil rights, and then abortion rights (and other issues related to full civil presence and recognition of traditionally marginalized groups) came to be litmus tests for both political parties, ideology and party began to align: slowly at first, then all at once. Any wishes (and much rhetoric) to the contrary notwithstanding, I suspect this current ideological stalemate was inevitable. Political questions are always at root moral questions, questions of identity, and questions of policy all wrapped up in one. This wrapping becomes obvious when debating issues like abortion and civil rights, but is just as true in debates about taxation and spending, criminal justice, and access to medical care. All these issues raise questions about how we should live together, what unalienable rights we have as individuals, what we owe one another, and what moral limits are placed on the use of government power to coerce each other since *norms both authorize laws and precede them*. Under what circumstances and to what extent we are allowed to use the power of the state to coerce the behavior of others is the question that is the beating heart of social morality—the question of *what kind of people "we" are*.

The question of who is granted full civil and legal membership and recognition in the U.S. polity was always present, but for most of our history this was not a political question. So, for example, U.S. women have always called for full civil rights and membership. Similarly, there was an

abolition movement and then a civil rights movement long before the U.S. became a nation (which is why the issue of slavery was so contentious in the Constitutional Convention).[8] Significantly, while these historically resilient voices were always *present*, they were rarely *heard*.

Here again we see the power of norms over laws, even over cherished constitutional statements. We think the First Amendment guarantees free speech for all in the U.S., as it supposedly does: supposedly but not actually. The first way that norms trump laws is by direct action. For example, Norman Thomas, though a candidate for president, was also locked up for speaking for socialism and against WWI. The Rev. Dr. Martin Luther King, Jr. was jailed for speaking in favor of civil rights. In the very early days of the republic, the Alien and Sedition Acts characterized criticism of government officials as sedition, and therefore illegal. In general, speech that is found to be sufficiently offensive or threatening by enough people to be declared illegal is so declared. However, open oppression and naked injustice have not been terribly successful long-term strategies, because those who present themselves and are seen as victims of government suppression tend to have the better argument in the public square, if only in the long run.[9]

However, there is a second, more subtle way norms trump laws, a way which is more insidious because it is more effective. Historically, political society simply refused to hear the voices of certain individuals and groups.[10] The power to silence—to refuse to hear—is the power to exclude from public speech and therefore from the public itself. The norms of white supremacy and patriarchy are so powerful that, for much of the U.S.' history, women's demands for full equality were not debated because they were simply not taken seriously—they were not heard. Women were subjugated to their husbands and in society because that was just the way things were, had always been, and should remain. Similarly, until very recently in U.S. history, the demands by people of color for full equality, especially demands by African Americans, have simply not been heard. Such debate as did exist was between white men who might have differed on the question of how much citizenship would be allocated to people of color, but this was a question that literally could not be asked of a citizenship of white men because debate was restricted to white men coming to agreement, not people of color. Because the voices of African Americans are still not heard as a serious part of civic discussion, reparations for slavery have never seriously been considered by Congress, despite the fact that a resolution to study the question—H.R. 40—has been introduced in Congress during every session since 1989. Most white people remain unaware that this is the case. Such is the power of norms in preventing us from hearing the voices of our fellow community members. Systemic racism depends upon social systems through which we do not choose to oppress, rather our norms and institutions do the oppressing for us, by design, creating racism without

racists, misogyny without misogynists. Obviously I do not mean that in the U.S. there are not still racists and misogynists among us, but in many ways we are coming to understand that systemic oppression is much harder to confront and challenge than are individual oppressors.

These same moral divisions are at the root of many of our most contentious political and public disputes. Indeed, these issues have become so contentious because they so are rooted in the U.S.' moral architectures in deep, foundational, identity-conferring moral commitments. These are, by definition, not commitments that can be compromised. Or, to put it more precisely, if we compromise on these principles, either we give them up as identity-conferring or we sacrifice our integrity. In either case, compromise on such issues cannot be seen as virtuous from within the moral architectures that are built upon such moral commitments.

By understanding such division and contention, it becomes clear why U.S. citizens who believe that a fully formed and distinct rights-bearing human being exists from the moment of conception will not be able to reach a lasting, stable compromise with citizens who believe that women have an inviolable right to choose whether to carry a pregnancy to term. The former group considers abortion to be morally indistinguishable from murder; the latter group argues that forcing women to bear children against their will is morally indistinguishable from bondage. And what we need to note, and what should greatly concern us, is that from within their respective moral architectures, both positions are inarguably correct, and the opposing point of view is so wrong as to legitimately be labeled *evil.*

Nor is this a difference that can be settled by reasoned debate and logical argument. What defines this disagreement is not a matter of reason or of logic, but of foundational assumptions; they are as much emotional attachments as empirical claims (though it is not uncommon for each side to state their claims as though they are empirical, or at least self-evident, because that is how such things feel from within their respective moral architectures). An appeal to find some middle ground and reach a compromise therefore is incoherent and fails to grasp what is at stake. While, yes, the two positions as stated in my previous paragraph seem extreme, that is because each *rightly* views the issue as existential. Either a fetus is or it is not a fully rights-bearing individual; either women do or do not have the right to choose whether to carry a pregnancy to term.

Finding a middle ground here under such circumstances is not possible, at least not if the adherents to the two points of view have public standing, because there is no middle ground to find. Compromise was possible when politicians were all (or effectively all) men, because it was not their bodies being compromised. Women today by no means have equal access to public power (or any other kind), but they do have sufficient presence in public spaces to make their voices heard.

Significantly, when we look back through history to issues more distant to us today, we recognize this fidelity to moral commitments as admirable; the abolitionists who agitated for an end to slavery even to the point of Civil War are heroes today precisely because they were not willing to compromise on the morally defining issue of slavery. However, it is also true that a substantial subset of citizens believes the real heroes of the nineteenth century are men such as Robert E. Lee, Jefferson Davis, and Stonewall Jackson. The moral architecture of the "lost cause" continues to be transmitted through the fight to preserve monuments to political and military leaders of the Confederacy.[11] Though the underlying moral architectures of these two views of the past are radically and incommensurably different, what they have in common is that their heroes were men who refused to compromise on what to them were identity-conferring moral principles.

So today in the U.S. we face a persistent and politically and socially significant paradox. On the one hand, we value compromise and civility as a means to find a way forward in democratic societies. On the other hand, we honor those who stand on moral principle and refuse to compromise when their cause is just. The problem, of course, is that the essence of what I call different moral architectures is that they define justness differently—and incompatibly.

In a series of works over many years, Dewey developed a rich and robust theory of democratic life and the role of education to prepare society's young for that life.[12] To conclude this paper, I sketch briefly what I think are the implications of my preceding argument, specifically from a Deweyan perspective on democratic life.

As Dewey constructs democratic life, it is a pursuit of the common good. The shared understanding of the common good is arrived at as common problems are identified by the action of the assembled commons: what Dewey identifies as a *public*. Conceptually, what Dewey describes as a public is what we might call "democracy in its work clothes." It is as a public wherein the polity comes together to identify common problems and work in common to find common solutions. This coming together depends upon two premises. First, everyone's interests and commitments should be and are taken into account, and the solution should benefit the public *as a public*, that is, as a whole. The second premise is that there is a common good to be reached, but for this to happen there must be some agreed-upon vision of what that common good consists of, however much disagreement there might be over how to attain it.

The dilemma the U.S. now faces is that there is strong evidence that there is in fact no agreed-upon common good and, arguably, there never has been. Since any idea of what the common social good looks like and entails is rooted in some moral vision of what is *morally* good—what counts has

both private and civic virtue—the existence of radically incommensurable moral architectures means there are also radically incommensurable understandings of what constitutes the common good.

So, a white supremacist does not—indeed *cannot*—count a policy that leads to equal civil rights for all as contributing to the common good; liberal democrats can accept nothing less. Similarly, libertarians believe that government should be restricted to the most minimal necessary functions, and taxation beyond that is theft. Democratic socialists, on the other hand, define the common good as including a reduction of inequality and provision for the basic needs of all citizens through political policy-making and taxation. Abortion, as discussed previously, is another of those issues on which the political problem is that there are multiple, competing, and radically incommensurable visions of what the common good requires absolutely.

In such a situation, to seek maximization of the common good through principled compromise is to search for a unicorn: on too many issues of identity-defining significance, there is no such thing. I am not suggesting that Dewey has nothing useful and important to offer us. However, I think we need to differentiate between in-group and out-group publics. I am frankly not sure Dewey would share either my conclusions or my recommendations, but it does seem to me that the evidence is strong that we need to bifurcate our thinking about democratic life if we are to maintain it. What might this look like?

The in-group discussion should be very much as Dewey described: significantly like-minded individuals and groups should come together as a public to work toward their shared vision of a democratic society. People and groups will differ to some extent about the details of that vision, and certainly there will be real and sometimes serious disagreements about the means to reach commonly agreed-upon goals. Note that in *this* public, to compromise is not to lose one's integrity, but to set aside one's own opinion seriously and respectfully to consider, sometimes to accept, and sometimes simply to defer to, the opinion of others. In *this* public, the exchange of views will, at least some of the time, lead to changing minds as individuals listen to the voices of others who bring different experiences and different points of view to the policy-making table. In *this* public, all voices are heard with respect, and all points of view are considered. This view of society is summed up in Barack Obama's keynote address to the Democratic National Convention in 2008:

> There's not a liberal America and a conservative America; there's the United States of America. There's not a [B]lack America and white America and Latino America and Asian America; there's the United States of America. The pundits like to slice-and-dice our country into Red States and Blue States; Red States for

Republicans, Blue States for Democrats. But I've got news for them, too. We worship an awesome God in the Blue States, and we don't like federal agents poking around our libraries in the Red States. We coach Little League in the Blue States and have gay friends in the Red States. There are patriots who opposed the war in Iraq and patriots who supported it. We are one people, all of us pledging allegiance to the stars and stripes, all of us defending the United States of America.[13]

But the question remains: what do we do if a significant portion of citizens do not agree with this view of America? Suppose we listen instead to a very different convention address, delivered by Pat Buchanan to the Republican National Convention in 1992:

My friends, this election is about more than who gets what. It is about who we are. It is about what we believe, and what we stand for as Americans. There is a religious war going on in this country. It is a cultural war, as critical to the kind of nation we shall be as was the Cold War itself, for this war is for the soul of America. And in that struggle for the soul of America, Clinton & Clinton are on the other side, and George Bush is on our side.[14]

Or, if 1992 seems too long ago to be relevant, consider the premise stated by Attorney General William Barr in February of 2020 in his address to the National Religious Broadcasters Convention: "It seems to me that the passionate divisions of today result from a conflict between two fundamentally different visions of the individual and his relationship to the state."[15]

What is important to note in these two different visions of U.S. sociopolitical life is that the second description becomes accurate merely by the fact that a significant portion of the citizenry hold it: *it may take two parties to make peace, but it only takes one party to make war*. And that is the circumstance in which we find ourselves today: one side openly views politics as warfare, though I actually think this is true of both sides, the evidence of which I have already discussed with respect to Civil Rights.

Much has been written in the past four years about how Russian troll farms, as well as domestic ones, have exploited our political divisions. The phenomenon is real and should concern us, but I think this concern misses the real point: the troll farms, foreign and domestic, are able to exploit these divisions *because these divisions are real, and they are fundamental, significant, and identity-conferring*. They go back, in fact, to before there was a United States.[16]

In a real sense then, Buchanan and Barr are more correct than Dewey and Obama. However, I think the Buchanan/Barr view of politics-as-warfare is something the Obama/Dewey view actually shares, though likely in denial about it. Take as examples the movements for full civic

membership for U.S. women and people of color. Compromise over these issues is not the goal of either movement; the goal is victory over the other point of view. If liberal democrats do not seek the total eradication of white patriarchy, they certainly do and should seek to silence and marginalize it. To do otherwise as a matter of public policy is to abandon the meaning of liberal democracy.

This is the reality behind the outrage at President Trump's comment that there were "good people" on both sides of the infamous, deadly "Unite the Right" 2017 rally in Charlottesville. This reality is also, of course, at the root of affirmations like Elijah Cummings's oft-repeated, "We are better than this." The flip side of his claim is that those of us who are not in fact "better" (by "our" standard) are not therefore part of "we." The question then becomes, who gets to decide what defines "better?" Who gets to define "us?" Those Americans who were offended by President Trump's affirmation that there were "good people on both sides" at the Charlottesville rally, were really offended by the notion that "they" can be counted as part of "us."

I do not mean this as a criticism. It is simply the way things are. When moral commitments are at the root of political disagreements—and I maintain they often and inevitably and properly are—then compromise will and should be avoided as much as possible, and undermined whenever made. Of course, such stands are virtuous only when they are (1) correct and (2) necessary. The problem is that it is easy to believe these conditions are true if our moral architecture has shaped us accordingly. The real question, then, becomes not whether to compromise, rather the question is *when* to compromise but also when *not* to compromise.

Endnotes

[1]   This paper has been drafted and revised in a time of serious political turmoil in the U.S. The broader context for this turmoil is a crisis of confidence in democratic governance in the Western democracies in general as theorized by Anne Applebaum, *Twilight of Democracy: The Seductive Lure of Authoritarianism* (New York, NY: Doubleday, 2020).

[2]   "We" here and throughout this paper means, roughly, those who are committed to a liberal democratic order.

[3]   Emile Durkheim, *On Moral Education: A Study in the Theory and Application of the Sociology of Education* (New York, NY: The Free Press, 1961).

4   In truth, life is more complicated than this. We are all members of multiple morally normative communities: family, church, neighborhood association, professional group. For simplicity's sake, I mostly talk as though moral membership is a unitary thing.

5   John F. Covaleskie, *Membership and Moral Formation: Shame as an Educational and Social Emotion* (Charlottesville, NC: Information Age, 2013).

6   George Orwell, *Nineteen Eighty-Four* (New York, NY: Harcourt, Brace & Company, 1949).

7   The terms "liberal" and "conservative" in the U.S. system are rather idiosyncratic; these terms do not mean in U.S. political discourse what they mean when identifying classical political theories. For reasons that need not detain us here, we should just note that the U.S. does not have what would be described as a consistently classical Liberal or Conservative Party.

8   Andrew Delbanco, *The War Before the War: Fugitive Slaves and the Struggle for America's Soul from the Revolution to the Civil War* (New York, NY: Penguin, 2016); Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997).

9   Brutal and violent defenders of Jim Crow like Bull Conners, Lester Maddox, and George Wallace did a great deal to advance the cause of civil rights, however much they intended the opposite.

10   Thomas F. Green, "Public Speech," *Teachers College Record* 95, no. 3 (Spring, 1994): 369–388.

11   John Kennedy supposedly once observed that we would have wars until we start building monuments to pacifists.

12   John Dewey, *The Public and Its Problems* (New York, NY: Holt, 1927); John Dewey, *The School and Society* (Chicago, IL: University of Chicago Press, 1900); John Dewey, *Democracy and Education* (New York, NY: Macmillan, 1916); and John Dewey, *Experience and Education: An Introduction to the Philosophy of Education* (New York, NY: Simon & Schuster, 1933).

13   Barack Obama, "Keynote Address at the 2004 Democratic National Convention," July 27, 2004, Boston, MA, http://obamaspeeches. com/002-Keynote-Address-at-the-2004-Democratic-National-Convention-Obama-Speech.htm

14   Patrick Joseph Buchanan, "Culture War Speech: Address to the Republican National Convention," August 17, 1992, Houston: TX, https://voicesofdemocracy.umd.edu/buchanan-culture-war-speech-speech-text/

15   William P. Barr, "Remarks at the 2020 National Religious Broadcasters Convention," February 26, 2020, Nashville, TN, https://www.justice. gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-2020-national-religious-broadcasters

16   Delbanco, *The War Before the War.*