Introduction

This book is devoted to an exploration of the tension that often exists between autonomy and diversity as core commitments of liberalism. The liberal polity has characteristically championed background conditions for individual choice, autonomy, and self-development. It has also traditionally been hospitable to diversity, which has provided a plurality of options among which individuals may choose. Together, these commitments have provided a context within which individuals may become free. That is, individuals in a liberal polity should possess a variety of external resources that afford choice and an array of internal resources that enable them to engage in critical reflection on the options with which they are confronted. Ideally, then, individual autonomy and conditions of diversity should complement one another. Autonomy should allow individuals to make the best possible use of their options, while the existing diversity of options provides the raw material, as it were, on which individuals bring to bear their capacities for autonomy.

Autonomy and diversity are not always as compatible, however, as this sketch suggests. Individuals with certain cultural or religious affiliations, for example, may view unquestioning obedience to traditional authority as primary. They do not necessarily value critical reflection, and they may see its promotion as a threat to rather than as an enhancement of their children's lives. The promotion of the capacity for autonomy, then, may appear to exclude individuals and groups who do not value autonomy, thus threatening liberal hospitality to diversity. Alternatively, we may encourage or allow cultural or religious groups and families to inculcate their own values in individuals who are their members. This process may implicitly or explicitly denigrate the importance of critical reflection on a variety of options. But the accommodation of these groups and families who do not value autonomy denies the development and/or exercise of the capacity for critical reflection to those who might value it highly, if they were given the opportunity. Such an accommodation thus lessens the liberal commitment to autonomy.

Either way, individual citizens of the liberal polity lose out. In the first case, the promotion of the capacity for critical reflection forecloses ways of life that discount or even devalue this capacity, thereby eliminating a range of options

and commitments eschewing critical reflection that would otherwise be available. In the second case, hospitality to diversity in effect forecloses to some people ways of thinking or inner resources that could assist them in reflecting on their options and possible commitments. In this book I shall explore some of the ways in which this tension plays out in several different issue areas. Although a number of books and articles are directed to the subject of autonomy, or to the manner in which diversity contributes to or detracts from the liberal polity, none that I know of addresses the manner in which autonomy and diversity intersect with one another, particularly with regard to specific issues that confront the liberal polity. My interest is neither in the maximization of choice independent of the framework within which it exists, nor in the maximization of the number of options, regardless of their nature. Rather, I focus on the context within which choice exists and options present themselves. I argue that we should attend to this context or framework and that we should structure it in ways that both preserve a broad range of options and encourage the development and use of the capacity for critical reflection as individuals survey and make use of these options.

Chapter 1 is devoted to an exploration of the meanings of autonomy and diversity as I understand them and to establishing the framework for my commitment to the development of the capacity for autonomy. Moral autonomy implies the capacity to govern oneself, including both the freedom to pursue what one judges to be good and the ability to define this good in one's own manner. Personal autonomy requires rational scrutiny of and critical reflection on our projects and goals. The presence of autonomy, then, must be judged not by the projects and goals we select, but by the way we form our preferences. We can act in *accordance* with habit and custom and still act autonomously, as long as we do not act simply from *force* of habit, unthinkingly taking the path of least resistance, as it were.

As autonomous persons, I argue, we not only have desires, but we also care what those desires are. The critical reflection in which we engage focuses both on what desires we actually have, or first-order desires, and on discerning what desires we *want* to have, or second-order desires, and on what desires we wish to govern our wills and move us to action, or second-order volitions. This attention increases the degree of our self-understandings, the continuity of our agency over time, and our integrity or wholeness as persons.

Early liberals such as John Locke and John Stuart Mill defended individual freedom and autonomy but did so within the context of comprehensive liberal doctrines that included an account of the good life. Such an account is often called perfectionistic, as it specifies an ideal toward which we should strive as

we direct our lives. Contemporary liberals, such as Ronald Dworkin and John Rawls, on the other hand, have suggested that the liberal polity must be independent of or neutral toward rival conceptions of the good if individuals are truly to make their own unbiased choices. I argue, however, that even the liberal polity is nonneutral, sometimes by default. Although an emphasis on the capacity for autonomy appears perfectionistic to some scholars, *any* theory that holds out a range of desirable outcomes could be labeled perfectionistic, although some theories are of course more perfectionistic than others. The liberal polity can achieve a degree of neutrality, but this degree must be measured or judged by a standard independent of neutrality itself. For me, that standard should be that of the promotion of the capacity for autonomy, and the goal should be autonomy-based neutrality.

Autonomy-based neutrality does not abandon the ideal of neutrality among rival conceptions of the good but treats it as a derivative value that serves the goal of the development of the capacity for autonomy. This means, in the words of Will Kymlicka, that we must live our lives "from the inside," ordering them in accordance with our own beliefs about value rather than in accordance with others' beliefs, even if the beliefs of these others purport to represent some set of transcendent values. Moreover, the capacity for autonomy requires the ability to question, examine, and revise or reaffirm our beliefs about value as a result of critical scrutiny and reflection. The life that is good for each of us as individuals is not a fixed object, like a Holy Grail, to be discovered either through good luck or good management and to be adhered to forever. The liberal polity is *nonneutral* in the sense that it embraces autonomy as a necessary means to the good life. It should, in my view, encourage in all individuals the development of the capacity for autonomy as rational deliberation, critical scrutiny, and reflection on the projects and goals that we adopt. It is *neutral,* however, as to the choices of values and projects that individuals make, as long as these choices do not interfere with the capacity for autonomy or rule out its development in others. Values and projects carry meaning only for individuals who can choose or affirm them for themselves. And doing this requires, once again, the capacity to question, examine, and either revise or reaffirm one's current projects and goals.

If the liberal polity's neutrality requires that it encourage individuals to form and revise their own values, its corresponding nonneutrality requires that, despite its support for diversity, it not allow choice among all conceivable preferences and practices. Any espousal of core commitments acts to produce one range of preferences rather than others. Autonomy-based neutrality requires a diversity of values or options on which to reflect. Yet, as we have seen,

accommodation of diversity cannot, I believe, include the right to limit the development of others' capacities to engage in critical reflection on and possible revision of their projects and goals. One solution to the challenge of diversity, Rawls's attempt to construct an overlapping consensus by getting citizens to abstract from their comprehensive doctrines about the good life when they engage in political dialogue, delivers less than it promises. Rather than opening new possibilities or offering new interpretations of what might be politically possible, it depoliticizes public dialogue, too often confirming the status quo, or the dominant consensus on the limits of the reasonable. A greater reliance on comprehensive doctrines, on the other hand, suggested by some scholars like William Galston and Michael Sandel as a means of broadening the range of options, also too often strengthens the dominant consensus as individuals become subject to majoritarian interpretations of these doctrines.

I defend greater attention to an intrasubjective conception of the self, according to which a range of options is available *within* and thus for each individual who surveys and reflects on them, makes choices, and then reflects anew. This process again requires the capacity for critical reflection on our projects and goals. Moreover, on the collective level it is through debate and discussion that we decide what is compatible with the liberal ideal. Although some ways of life and certain values will necessarily be excluded, the resulting consensus is both authoritative and provisional, authoritative because it results from dialogue, and provisional because it is never finally settled but will again be the object of question, examination, deliberation, and possible revision. The fact that these activities occur both in the public arena and within the individual once more emphasizes the necessity for developing the capacity to engage in critical reflection on both public and private projects and goals.

Chapter 2 focuses on national citizenship in the liberal polity. I believe that political communities must be bounded and control their membership if individuals are to possess a space within which they can express their communal identities, or the ties and values they share with others. Yet the value of the political community is not intrinsic but lies in the forum it provides for individual self-expression. Moreover, communities, like individuals, are free over time to question, examine, and revise or reaffirm their collective projects and goals, engaging in deliberation and critical reflection as they survey their options. Our collective identity, like our individual identities, is not a fixed or static one.

In this context, I examine a number of Supreme Court decisions over the past generation for their interpretation of the notion of political community. Although my focus is the United States, the principles I discuss may apply else-

where as well. Any political community, even a liberal one, must exercise some control over its boundaries if it is to remain an entity within which it may practice its principles, in this case liberal ones. Yet liberalism's traditional inclusivity increases the difficulty of justifying the difference between members and strangers. I argue that the traditional distinction between the economic functions of government, in which aliens have often been included, and the sovereign or political functions of government, from which aliens traditionally have been excluded, is generally too unclear to justify the exclusion of resident aliens from participation in the collective destiny of which, by their very presence, they are already a part. Whatever their formal status, aliens who are geographically present interact with citizens and exert an impact on the polity as a whole. Therefore, I consider the political community as a type of expressive association, or as an association the existence of which creates and perpetuates a distinctive voice or message. I argue that although a political community that desires to preserve a distinctively liberal way of life may exclude some strangers, those whom it admits or allows to remain it must treat as members or eventual members. The liberal polity must be bounded externally if its members, actual or potential, are to control their destinies. But it cannot be bounded internally if all are to have the opportunity to examine, question, and revise or reaffirm their projects and goals.

In chapters 3 and 4, I examine two sorts of cultural membership that may exist in the liberal polity. Chapter 3 focuses on national minorities who may be incorporated into a larger nation-state. Although this contingency is exceptional rather than common in the United States, my discussion is motivated by the way divergent responses to separatist versions of cultural membership illuminate the tension between autonomy and diversity when the latter is magnified. Kymlicka, for example, would privilege cultural membership by according group-differentiated rights to cohesive national minorities within larger liberal states, on grounds that cultural membership is an unchosen feature of identity. Chandran Kukathas, however, would offer no special legal protection to minorities against the larger culture but would support the authority of leaders within a culture to enforce traditional practices, such as religious ones, on its members. These members in effect choose cultural membership as long as they possess freedom to exit. Still others, like Yael Tamir, would accord legal protections and exemptions to cultural minorities because they are minorities, whether members were born to this status or subsequently chose this affiliation. Finally, Jeff Spinner argues that although culture may or may not be chosen by its adherents, the liberal polity should accord some internal autonomy to cultural communities without equating them with private associations.

After consideration of ways these arguments intersect, I maintain that although membership in some culture is a precondition of human agency, membership in any particular culture for mature adults is not a precondition of autonomy but should instead be regarded as an expression of autonomy. In a liberal polity, then, our focus should be on ensuring the existence of a context of choice maximizing the probability that cultural membership will indeed proceed from critical reflection and thus function as an expression of autonomy.

Therefore, I support prima facie neither the external protection of cultural structure against the larger society through group-differentiated rights nor the internal protection of cultural content against dissident individuals or groups, because both kinds of protection may narrow the range of options of individual members or thwart their capacity to engage in critical reflection on these options. Although some cultural options may disappear without protection, even cultures that remain are changed by their interaction with the larger society. Indeed, their very continuation depends on the willingness of the larger society to leave them alone. Moreover, many theorists who would protect cultural structure or content want indirectly to protect choice, which for me requires the developed capacity to engage in critical reflection on our projects and goals.

Chapter 4 continues the discussion of many of these issues, but the focus is on ethnic groups and gender. Ethnic minorities and women typically wish to be full members of the larger society yet retain and seek recognition of certain features of their identity that may diverge from what is considered typical of the majority or of what is considered to be the norm. Ethnic groups are not national minorities but still resist giving up their cultural allegiances to assimilate totally into a cosmopolitan culture. How much protection do they merit against the thrust of the dominant culture? To the extent that they must accommodate the latter, to what extent should members of the dominant culture engage in some accommodation of their own? In the case of gender, are women who are treated like men being asked to assimilate into a "male" culture? Or is the dominant culture an androgynous one that until recently has been dominated by males? With respect to both ethnicity and gender, I argue, addressing specific examples, that individuals should be self-interpreting and should decide for themselves the meaning of their unchosen identities in the context of their own lives. Although they cannot choose their ethnicity or gender at birth, they do have a choice as to how they want ethnicity or gender and its purported attributes to function in their own lives. Throughout, I shall bear in mind relationships between cultural membership and the capacity for autonomy.

Chapter 5 treats religious belief, an instance of diversity that has traditionally been privileged in the liberal polity. I maintain that despite honorable inten-

tions, civil law cannot be neutral with respect to religion, because policies that appear neutral given one set of assumptions seem nonneutral when premised on a different set of assumptions. In this context I discuss first Locke's classic view of toleration and its functions and then move on to consider two contemporary models of toleration, one based on freedom of conscience that encompasses the right to choose one's beliefs, and one rooted in group rights that protects the right to adhere to one's beliefs but not the right to subscribe to new ones.

I argue that the liberal polity must adhere to freedom of conscience as the right to choose. Although some individuals suggest that religious belief should be respected as an unchosen constituent of identity, I suggest, instead, that we take responsibility for our ends even in the area of conscience. Conscientious belief represents the expression of autonomy when its affirmation or revision results from rational deliberation and critical reflection. Where public policies of toleration or accommodation are appropriate, individuals' practices merit protection, not because they are unchosen but because they are features that are central to identity and expressive of autonomy. In other words, they represent constitutive choice. Persons who view their religious practices as duties and constitutive of identity have still made a choice, and the obligations incurred by this choice have then become constitutive. To illustrate, I apply this model to specific individuals like St. Paul. Not all beliefs are expressions of autonomy, as they may be arrived at or sustained unthinkingly, and we do not always know which is the case. But when we tolerate beliefs and the practices that flow from them, we are honoring and respecting the possibility or potential they possess for the expression of autonomy.

Despite the liberal polity's support from freedom of conscience, it must still determine which specific practices should be protected and which should not. Generally, I argue that the protection of the broadest possible scope for the expression and practice of religious belief enhances both autonomy and diversity. As an example of the harder sort of case in which these values conflict, however, I discuss the Boy Scouts of America and its policies confining membership to theists and heterosexuals. As an expressive association that publicly affirms the centrality of theism in the Boy Scout Oath, the Boy Scouts is entitled to restrict its membership to theists. Without a similarly clear public affirmation favoring heterosexuality, the Scout stance regarding sexual orientation is, I argue, on shakier ground. Overall, I would have to support the rights of organizations like the Boy Scouts to set the qualifications for their own members, although public aid to or public bodies' sponsorship of organizations that discriminate in a manner contrary to public policy should cease. I would need

to rethink the issue, on the other hand, if most organizations were exclusive in the same way. If few organizations of any kind wanted to admit agnostics, atheists, or homosexuals, the combined effect would be to curtail drastically the context of choice within which individuals exercise their autonomy.

In chapter 6, on the topic of sexuality, I argue that just as the liberal polity cannot be strictly neutral, despite good intentions, regarding culture and religious faith, neither can it be neutral with regard to sexuality. Whether it privileges one sexual orientation, that of heterosexuality, over others or accords equal consideration and respect to people of all sexual orientations, it will appear nonneutral to some. As I maintain in chapter 1, any neutrality that the liberal polity achieves among rival conceptions of the good must be measured in terms of an admittedly nonneutral criterion, and in my view this criterion should be that of autonomy-based neutrality. As with culture and religious affiliation, I argue that persons of all sexual orientations should be accorded equal respect, not because these orientations are unchosen constituents of identity but because they may be expressions of autonomy. Although one's basic sexual orientation, like the culture or faith into which one is born, is indeed an unchosen constituent of identity, how one handles or responds to this orientation is a matter of choice.

Although some theorists, like Steven Kautz, for example, argue that grudging permission for unpopular ways of life satisfies the requirements of liberal toleration, I argue that, too often, this stance implies that such individuals and their supporters are expected simply to be grateful for this modicum of toleration and to withhold potential demands for measures that might end public discrimination and prevent private discrimination. Silence from any minority and/or supporters in the face of the dominant consensus goes against the core liberal values of rational deliberation and critical reflection, impoverishing both individuals and the community by foreclosing debate on and possible revision of the community's shared understandings. I therefore disagree with the stance of private tolerance combined with public disapproval taken by a number of conservatives. If we are willing to respect individuals with unpopular religious practices as long as the practices that flow from them are not banned as illiberal, we ought also, I believe, to respect individuals with unpopular sexual practices and protect these practices as expressions of autonomy, as long as these involve only consenting adults. By the same token, however, I would respect those who undergo conversion therapy to "cure" their homosexuality; the specific choice is less important than the imperative that it proceed from critical reflection.

I also disagree with libertarians who believe that the state need only end public discrimination against homosexuals, terminating the military ban and

marriage prohibition, leaving civil society to work out its own accommodation. Homosexuals, like heterosexuals and members of minority cultures and ethnic groups, must be self-interpreting. They must be accorded the same liberty as heterosexuals to pursue the projects and goals that critical reflection has impelled them to choose or affirm. Therefore, civil rights legislation that protects sexual orientation does not constitute a special right but instead provides a context of choice that enables persons of all sexual orientations to pursue their projects and goals. In the course of this argument I examine two Supreme Court decisions as a means of elucidating my argument.

My final chapter addresses civic education in the liberal polity. Some liberal theorists, such as Rawls and Galston, believe that the civic education of citizens can eschew education for autonomy and individuality, as these are comprehensive values that comprise a vision of the good for the whole life and are therefore too exclusive to be publicly fostered in citizens, many of whom do not value critical reflection. I believe, however, that the civic respect necessary for liberal democratic citizenship requires sympathetic and imaginative engagement with other ways of life, and that this activity in turn requires the capacity to engage in critical reflection on our projects and goals. Because the liberal polity should not, I believe, exert pressure at the first-order level of actual choice, its role at the second-order level of how choices are made becomes crucial. It cannot instruct citizens *what* to choose, but it can and should provide instruction in *how* to choose. I disagree, however, with theorists like Stephen Macedo who think when the intolerant need to "mend" their views, the only critical reflection necessary is by individuals who liberals think are illiberal. I maintain that self-examination and critical reflection are appropriate for all citizens of the liberal polity.

I then discuss two court cases in which parents have sought to withdraw their children from the threat they perceive public education to pose for freedom of conscience. The decision in one champions the claims of diversity; the other can be interpreted to support the claims of autonomy. In the first, *Wisconsin v. Yoder,* I reluctantly agree with the Supreme Court that Amish parents should be allowed to curtail their children's schooling, but I also suggest that the larger society's decision to accommodate them means that we should now accord full respect to the Amish, rather than considering them as lesser citizens of the liberal polity. In the second, *Mozert v. Hawkins,* I agree that the fundamentalist parents involved should not be able to exempt their children from a basic reading series that was integrated into the overall curriculum. I am sympathetic, however, to the argument that students who are required in school to become aware of alternative ways of life may come to hold their faith in a

qualitatively different manner than do those who adhere to faith unself-consciously. After considering two different possible compromises or types of accommodation that I think inadequate, I conclude that in a liberal polity, public education nevertheless must be able to expose students to ways of life and points of view that "threaten" them with the prospect of developing the capacity for rational deliberation and critical reflection if they are to be prepared for the option of active citizenship.

Finally, I suggest that although the development of the capacity for autonomy is desirable for all citizens of the liberal polity, liberals must recognize the particularity of their own moral stance. Liberals are persons who value autonomy, on my interpretation. But if we who are liberals truly espouse the value of critical reflection, we must also be reflective about the strengths and weaknesses of that commitment itself. Some critics would say that an emphasis on self-examination and critical reflection on our own projects and goals betokens an inappropriate self-centeredness, for example. We need to recognize this possibility. More generally, we need to develop the imagination to envision ourselves as committed to different ideals, projects, and goals from the ones that we in fact espouse. This sympathetic and imaginative engagement with other ways of life broadens our openness to diversity yet also enhances our capacities for autonomy by promoting our ability to question, examine, deliberate, and possibly to revise our conceptions of the good or our projects and goals, both individually and collectively. An understanding of the contingent character of any particular commitment should be sought not only by those whose liberal credentials appear questionable but also by the liberals doing the questioning.

Overall, I want to retain both the liberal self or moral individual who reflects upon his or her projects and goals and also the diversity that I view as a major strength of liberalism. I realize that the thicker moral core I attribute to liberalism may undermine some of this diversity, despite efforts to prevent this outcome. To readers who may view this possibility as a major flaw in my interpretation of liberalism, I would simply reply that it is a risk a liberal polity must take. Both individual and collective choices produce new manifestations of diversity over time; the disappearance of certain current manifestations need not result in complete homogenization. More important, however, I believe that to deemphasize the importance of the capacity for autonomy is to betray the liberal birthright, as it were, for the sake of a diversity that cannot be valued indiscriminately. Diversity is valuable not for its own sake but for the way it may function in individual lives as an expression of autonomy.

Although I do not want to discuss the potentially exhaustive topic of what might ground a common human nature, for present purposes I shall take the

position that the development of the capacity for autonomy is more likely than any other single capacity to promote human flourishing. In defining this capacity and in applying it to the resolution of specific controversies, I should like to persuade both citizens whose beliefs undergird liberal institutions and also those who make and apply public policy of the centrality of autonomy. If the development of the capacity for autonomy and the preservation of diversity cannot bear equal weight because they are incommensurable, liberals should not shrink, nevertheless, from identifying and promoting the core values of liberalism as they understand them. I am attempting to do so in this book.