

CHAPTER 3

SANDEL'S REPUBLICAN COMMUNITARIANISM

"To affirm community as such is to abstain from judgment about the substantive attributes of a given community." -- Ronald Beiner (1992, 31)

Is communitarianism best seen as a metaphysical position, or is communitarian metaphysics merely instrumental to the achievement of liberal normative goals?

In Sandel's case, it seems that nothing of metaphysical importance is gained by moving from the antecedently individuated to the intersubjective self. As we have just seen, this move does not diminish value subjectivism; and as we shall see in a moment, it does not reduce metaphysical incoherence. What it does achieve is a strategic recasting of the difference principle in a (putatively) more politically appealing form.

Chapter 2 recounted Sandel's three versions of the following argument against Rawlsian metaphysical "incoherence": 1. Rawls derives the difference principle from agreement among radically disembodied subjects. 2'. Such subjects are ontologically incoherent. To avoid 3. the Nozickian solution to this problem, we must accept ~1. the

ontology of an intersubjective being, which embodies ~3. the egalitarian convictions of our constitutive community.

I have omitted step ~2' because Sandel does not expressly claim that his own view is less metaphysically incoherent than Rawls's. Such a claim has to be at least implied if Sandel is to get from his metaphysics (~1) to his egalitarian conclusions (~3), but to contend openly that an "intersubjective being" is metaphysically coherent would be most problematic. If incoherence means unfamiliarity--as Sandel suggests by accepting Nozickian arguments that trade on the unfamiliarity of Rawls's disembodied self--then compared, for example, to Nozick's commonsensical subject, who retains not only her values but her talents and possessions, the "intersubjective being" is the epitome of incoherence. Thus, if metaphysical familiarity is our criterion, it appears that we should prefer Nozick's metaphysics--and, therefore, his libertarian conclusions--over Sandel's. If, on the other hand, "incoherence" indicates a conflict between one's norms and one's ontology, then why should we choose to resolve the conflict in favor of the (egalitarian) norms rather than the (individualistic) ontology, as Sandel wishes, rather than the other way around, as Nozick prefers?

What allows Sandel to forego explicit argumentation on this point is the tacit premise that the metaphysical view we adopt must avoid libertarianism; in other words, our metaphysics must be charged with the task of "rescuing" the difference principle. Only by assuming that Nozick's normative conclusions must ultimately be rejected does Sandel justify a manifestly obscure "intersubjective being" as against Nozick's down-to-earth, antecedently individuated selves, who are blessed with unequal property holdings.

However, even if Sandel can justify rejecting Nozick, he still needs to justify rejecting Rawls. Sandel's argument against Rawlsian "incoherence" appeals solely to the intimations of intersubjective obligation already implicit in justice as fairness. Sandel derives the intersubjective being from the value commitments of Rawls's community, rather than from directly apprehending the metaphysics of an intersubjective "self" or, of course, from claiming that egalitarian norms are universally valid. "Despite Rawls' resistance to the constitutive conception of community and the theory of the subject it requires," Sandel writes, "his theory of justice depends ultimately for its coherence on precisely the intersubjective dimension he officially rejects" (1982, 150). Sandel's claim is that, inasmuch as we already accept Rawls's redistributive conclusions (and reject libertarian ones), we should recognize that, in effect, we are thereby expressing a belief in the priority of our (liberal) intersubjective community, and an acknowledgement of the hold on us of that community's (egalitarian) values. However, since Sandel's metaphysics is even less familiar than Rawlsian individualism, it is far from clear that communitarianism is the appropriate conclusion to draw if we acknowledge the Rawlsian community's egalitarian norms. Why not simply stick with Rawls, despite his "incoherence," since Sandel's alternative is even worse in this regard?

Sandel's graduate-school mentor, Taylor, suggests an answer when he notes that Sandel "pushes us toward the issue of whether the kind of egalitarian distribution Rawls recommends can be sustained in a society which is not bound together in solidarity through a strong sense of community" (Taylor 1995, 184, emphasis added). Sandel confirms

Taylor's interpretation when he points out that the expansion of the redistributive state implicates us "in a formidable array of dependencies and expectations we did not choose and increasingly reject." If we perceive ourselves as "unencumbered," we will, Sandel writes, feel "unmediated by those common identifications or expansive self-definitions that would make...tolerable" the welfare state's multiplying social obligations (Sandel 1987, 96). The clear implication is that, were we instead to perceive ourselves as intersubjective beings, we would find the obligations imposed by the redistributive state tolerable. Being neither particularly objective nor particularly "coherent," intersubjectivity is, in the end, recommended as being politically persuasive.

Taylor's interpretation of Sandel is, in a word, political--not metaphysical. Or, more accurately: Taylor holds that Sandel's metaphysics is a good strategy for "sustaining" the political implementation of the difference principle. I will argue that such strategic rationales for communitarianism are decisive for all four communitarian philosophers (including Taylor himself).

Viewing Sandel as a strategic theorist has at least two advantages. First, as we have just seen, one is hard pressed to find an edge for Sandel's ontology in terms of metaphysical coherence (~2') compared to either Rawls or Nozick. Second, as the last chapter contended, Sandel's argument against individualistic metaphysics is not alethic--that is, it sustains the existence of "intersubjective beings" only by begging the question against liberals who do not find themselves "claimed" by group identities. Nor does Sandel show that intersubjective beings generate more objective norms than do

antecedently individuated selves.

The bridge between Sandel's ontology (~1) and a revived difference principle (~3), then, is not the objectivity of a given community's intersubjective being (~2), either in the sense that it is more "real" than antecedently individuated selves or in the sense that its values are less subjective than those of such selves: any given intersubjective being's values are as true or untrue, as heteronomous or as autonomous, as relativistic or as objective--when compared to the values of another intersubjective being--as are one individual's values when compared to those of another. Taylor's interpretation of Sandel, however, suggests a link between communitarian ontology and the difference principle that does work, at least in principle: communitarianism is more likely to succeed in getting people to accept income redistribution (~2'). (Compare President Clinton's November, 1995 contention that cutbacks in government spending would be inconsistent with "our fundamental values" [Mitchell 1995, 3].)

Conventional philosophers might find such political considerations irrelevant to the proper concerns of their discipline, even if their field is political philosophy. The question of distributive justice is, after all, traditionally seen as whether the redistributive state's multiplication of social obligations should be tolerated (or enthusiastically embraced, or rejected, or altered). Sandel, by contrast, suggests that the philosopher properly begins with a normative conclusion (in this case, that the obligations in question should be embraced); his job then seems to be to find an argument that will justify this conclusion efficaciously. This role is performed by Sandel's ontology. One might wonder, therefore, whether Sandel is

engaged in philosophy or in propaganda.

Sandel writes that the difference principle needs "a wider subject of possession capable of laying legitimate claim to the assets necessary to its purposes without using some as means to others' ends" (1982, 149). Such a subject is required only if the difference principle is to be politically viable in the face of objections such as Nozick's. But from Sandel's perspective there is nothing wrong with bringing such political considerations into play. If, as he assumes, the correct answers to normative questions are given by our identity as communally constituted subjects, then it is the legitimate role of theory to reveal these answers by coming up with arguments that we--ensconced in our socially generated identities--will find persuasive. Political viability can be a valid test of philosophical truth, since it may reveal our shared identity. The "transcendent" questions are settled in advance by our constitutive attachments, and no embarrassment attends what might be considered--by a universalist--to be an improperly strategic use of philosophical argument. Thus, in our society a communitarian ontology would be able successfully to insulate redistributive policies from libertarian objection only if egalitarianism is in fact constitutive of our intersubjective identity; and that is to say only if egalitarianism is objectively just--judged from a particularistic perspective--and only if the intersubjective being that shares egalitarian precepts (therefore) truly "exists," rendering our inchoate moral perceptions "coherent."

This reasoning may explain Sandel's approach to affirmative action. As with his treatment of the difference principle, Sandel's procedure in discussing preferential university admissions policies is

to suggest communitarianism as the best way to defend a liberal conclusion against right-wing attack. Thus, Sandel tries to show that the conventional liberal case for affirmative action, as presented by Ronald Dworkin, is as vulnerable to the Right as the liberal case for income redistribution presented by Rawls.

First Sandel draws on his own, earlier discussion of Rawls's failure to provide a "desert base" for the possession of property (Sandel 1982, 82-95). There Sandel assessed yet another Nozickian argument: that one need not "deserve" an unequal share of property in order to be entitled to possess it. But Sandel found this argument to be a non sequitur. For Rawls is not saying that inequalities fail to meet the test of desert; he is, instead, saying that "no one can be said to deserve anything" (ibid., 88), because desert is inconsistent with Rawls's "notion of the self as a pure, unadulterated, 'essentially unencumbered' subject of possession" (ibid., 92). "No one can be said to deserve anything...because no one can be said to possess anything" (ibid., 92-93). What, then, is the point of repeating Nozick's desert-based objection to Rawls? Sandel seems to be suggesting that while Rawls's political conclusion (the difference principle) is defensible, it is not defensible on the basis of his ontology, which violates "traditional notions" and "common sense" about desert (ibid., 86, 87). Yet, as I have already suggested, tradition and common sense tell in favor of Nozick's theory of property much more than Sandel's; once again, Sandel's only advantage is that unlike him, Rawls forswears odd metaphysics in eschewing "the Kantian transcendent or disembodied subject" (ibid., 95).

Similarly, when Sandel turns to Dworkin's defense of affirmative

action, he first condemns Dworkin for arguing that nobody deserves university placement on meritocratic (or other) grounds, an argument that leads "in the direction of a radically disembodied subject" and undermines "a liberal ethic designed to establish the rights of the individual as inviolable" (1982, 139). But Sandel provides no reason to think a radically disembodied subject, no matter how strange it seems or how "arbitrary" in the restricted sense of conjuring up Kantian metaphysics, is invalid. And he declines any attempt to claim alethic superiority for his alternative ontology when he himself not only fails to provide a desert-based defense of affirmative action, but explicitly repudiates desert, since desert would conflict with one's debt "to parents, family, city, tribe, class, nation, culture, historical epoch, possibly God, Nature, and maybe chance" for the constitution of one's identity (ibid., 142). Since Sandel appears to believe that desert would tell against affirmative action, just as it did against property redistribution, he abandons commonsensical claims to desert that might (arguably) count in favor of the truth-value of his ontology. Thus, just as Sandel's objections to Rawls's derivation of the difference principle fail to establish the superiority of communitarian metaphysics on grounds of either objectivity (~2) or ontological coherence (~2'), neither do his objections to Dworkin's defense of affirmative action on grounds of its lack of a desert base and, therefore, its ontological "incoherence" bring us any closer to intersubjectivity.

After having made the point that Dworkin's desert-free stance relies on a radically disembodied subject, then, Sandel shifts to a strategic argument (~2'') for affirmative action. Sandel contends that

Without some conception of a wider subject of possession, such as Rawls' notion of common assets seems also to require, there would seem no obvious reason why these assets should be made to serve general social ends rather than individual ones. To the contrary; in the absence of some wider subject of possession, to regard 'my' abilities and endowments as mere instruments of a wider social purpose is to use me as a means to others' ends, and thus to violate a central Rawlsian and Kantian moral injunction. (Sandel 1982, 141.)

This thought has obvious affinities with Sandel's second Nozickian argument against Rawls's derivation of the difference principle. As with that argument, the ultimate point is political, not metaphysical. For, Sandel claims, if we can "come to regard ourselves...less as individuated subjects" than as "members of a wider (but still determinate) subjectivity, less as 'others' and more as participants in a common identity, be it a family or community or class or people or nation," then

when 'my' assets are enlisted in the service of a common endeavor, I am likely to experience this less as a case of being used for others' ends and more as a way of contributing to the purposes of a community I regard as my own. The justification of my sacrifice, if it can be called a sacrifice, is not

the abstract assurance that unknown others will gain more than I will lose, but the rather more compelling notion that by my efforts I contribute to the realization of a way of life in which I take pride and with which my identity is bound. (Ibid., 143.)

In brief: those disadvantaged by affirmative action will not view this disadvantage as a violation of their Kantian personhood--a reduction of their life chances to mere instruments of social policy--if they think of themselves as members of "a wider subject of possession" than the familiar, antecedently individuated subjects who apply to medical school and resent being passed over for racial reasons.

Yet, again, Sandel is not merely making this straightforwardly political argument with no admixture of truth-claim. He thinks that if people search for common "self-understandings," they might, in fact, discover that "this particular society has made me what I am and so is responsible for these assets and endowments in a way that I, individually, am not" (1982, 145), leading, by a sort of analogy with Locke's labor theory of ownership, to the conclusion that "the purposes of the national community properly predominate" (ibid., emphasis original). That is, if there is "some evidence of the nation's responsibility for having cultivated the qualities and endowments it would now enlist, its capacity to engage the reflective self-understanding of its members as the basis of their common identity, and its ability to claim if not agreement at least allegiance to the purposes that would arise from this identity," then this allegiance is legitimate (ibid.). So, while at first it may seem improper for Sandel

to craft his position in such a way as to protect preordained political conclusions from right-wing criticism (or from public resentment), just such a procedure follows from Sandel's immanent approach to moral and political theory; and this approach, in turn, follows from his ontology, and explains the otherwise peculiar sense in which his arguments against individualist subjectivism and incoherence "work." If one's political principles are successful in gaining the allegiance of a particular collectivity, it shows that one has discovered the true source of "the good," the collective identity; in comparison, individual understandings of the good are subjectivistic.

There is a circularity here, to be sure. The truth of communitarian ontology is asserted, not demonstrated; and for those who do not already accept it, the only advantage of communitarianism over liberalism is at the level of politics: we can (Sandel claims) better fend off individualist forms of politics by appealing to "our fundamental values" instead of Rawls's contractors behind a veil of ignorance or Dworkin's denial of desert. Sandel's political imperatives, unlike Dworkin's or Rawls's, gain validity from public support. For this to be true, however, we must already accept the validity of his particularistic ontology--begging the question against universalism.

Yet the universalist position is circular, too. The universalist may object to the propriety of the strategic rationale on the ground that what is at issue in normative philosophy is the truth value, not the political success, of, say, the difference principle. But through his ontology, Sandel questions the very distinction between truth and success; so against him, it is the universalist who begs the question.

The Hermeneutics of the Strategic Rationale

Therefore, rather than asking whether Sandel can defend his strategic, political approach, let us concentrate on whether it is possible for this approach to ground liberal normative positions without sacrificing rigor and internal consistency. In short, let us undertake an immanent probing of Sandel's immanentist hermeneutics.

In discovering an "intersubjective being," Sandel's procedure is to appeal to the particular convictions Rawls already holds. But among these convictions is a belief in the antecedent individuation of the subject. Thus, as Sandel concedes, while the idea of an intersubjective being "rescues the difference principle from reliance on an apparently disembodied conception of the subject, it comes at some expense to other aspects of Rawls' doctrine, and so would likely be resisted by Rawls himself" (1982, 79).

Sandel passes over this point much too lightly--in the manner of a universalist for whom truth, not opinion, is important. For a theorist such as Sandel, however, Rawls's opinion should be crucial, since it must express the immanent commitments of his community.

Taking Rawls's resistance to communitarian ontology seriously results in the following dilemma. If, as Sandel prefers, we retain Rawls's egalitarian normative convictions at the expense of his individualistic metaphysical ones, we get the difference principle and an intersubjective being. But there would seem to be equal reason, on purely immanentist grounds, to accept instead Rawls's ontology at the

expense of his values. And this would leave us with antecedently individuated subjects and libertarianism.

Sandel gives us no criterion by which he chooses to accept Rawls's difference principle rather than his individualism, and it is doubtful that anyone could--without transgressing the canons of immanentist hermeneutics. Sandel has to have decided in advance, in the manner of a disembodied subject, which of Rawls's immanent convictions is worth preserving (i.e., his egalitarian values) and which should be discarded (i.e., his individualistic ontology). It would appear, then, that Sandel is a universalist theorist in the guise of an immanentist. If so, then he can legitimately be taken to task for making strategic rather than philosophical arguments, since his selection of the targets of these arguments must be inconsistent with the particularist ontology he is defending.

Entirely immanent interpretive criteria--criteria of the kind to which Sandel must aspire, since he eschews independent principles based on universally valid values--would be unable to perform their critical task. To be sure, immanentist hermeneutical principles are salutary in an historian attempting to understand her subjects. In seeking Verstehen, the historian tries to reproduce as faithfully as possible the views she is studying. But this procedure cannot get her very far when she becomes a philosopher who must choose to support some of these views and repudiate others. No matter how hard one tries, as a matter of strategy, to play off one of one's interlocutor's pre-existing commitments against another, there is no getting around the need to transcend the commitments thereby discredited. As Ronald Beiner argues against Taylor's immanentism, "it is impossible to avoid ultimate

theoretical judgments based on transcultural conceptions of the good" (Beiner 1995a, 460, emphasis added). In prescribing rather than simply describing, one must trade the historian's immanent acceptance of the particular for a transcendent advocacy of the (putatively) universal.

The classic way around this incursion of universalism is for the immanentist to identify her view with the essence of her interlocutor's commitments. She can then dismiss as inessential confusions her interlocutor's "undesirable" commitments, circumventing the need for an open appeal beyond them to a transcendent philosophical criterion. The essentialist gambit, however, is only superficially immanent. How does the essentialist decide to try to convince me that this, not that, is true or good? Even if her tactic in doing so is to say that this, not that, is essentially what I already believe, her decision to convince me of this requires the premise that this, not that, really is true or good in fact--regardless of what I already believe.

Sandel's privileging of the difference principle over the antecedently individuated subject requires that he has determined that the former is more important than the latter, no matter what Rawls thinks. (Even in Rawls's more recent, liberal-communitarian phase, after all, when he has tried to ground the difference principle in communally accepted values, he has not endorsed anything like an "intersubjective being." His newfound communitarianism is epistemological, not ontological.) By discarding Rawls's ontology, Sandel violates the immanentist hermeneutics that would make the commitments of an intersubjective being authoritative. The only truly immanent way of dealing with the commitments of Rawls's constitutive community would be to accept them all. But that would mean endorsing

Rawls's individualism, which, Sandel believes, leads to an unacceptable result: libertarianism.

Sandel violates his own hermeneutical precepts in another way. In allowing strategic considerations to override the Western tradition--our tradition--of at least attempting to subordinate politics to truth, he implies that the Western tradition is flawed. But this means that Sandel himself must have some Archimedean perch above the Western tradition from which he can (universalistically) judge it as being too universalistic.

It would seem, then, that Sandel cannot avoid a tacit appeal to some universal criterion if he is to criticize Rawlsian philosophy. Without such an appeal, Sandel cannot get from (~1) communitarian ontology to (~3) the difference principle. Although it might seem that the link between (~1) and (~3) is alethic (~2), Sandel does not show that an intersubjective being has an advantage in objectivity over the Rawlsian subject when it comes to choosing principles of justice, since Rawlsian neutrality and hence (arguably) subjectivist arbitrariness regarding the good is confined to individual ends pursued within the parameters of justice. "In this sense," Sandel concedes, "the Kantian liberal is no relativist" (1996, 10). Nor does ontological "coherence" (~2') bridge the gap, since the most familiar ontology Sandel considers is individualism, not communitarian intersubjectivity. The argument against metaphysical incoherence, therefore, cannot really be in play any more than the argument against Rawlsian subjectivism (or at least they cannot be in play after they have been used to discredit Rawls's ontology). Neither liberalism (Rawls) nor libertarianism (Nozick) are as subjectivistic, or rather relativistic, as communitarianism, since

both hold a conception of justice above the relativistic fray set in motion by their subjectivization of individual ends; and metaphysically, both liberalism and libertarianism are more "coherent" than communitarianism according to the very criteria Sandel uses.

What really matters, then, is ~2'', the strategic rationale for communitarian metaphysics. Here the claim is that invoking our pre-existing "identity" or "way of life" is more likely to garner political support for implementing the difference principle than would an abstract appeal to the unencumbered selves of the original position. Assuming that this claim is empirically accurate, then Sandel at last has a reason to reject Rawlsian individualism: it cannot sustain the sacrifices demanded by the redistributive state.

This reasoning dovetails with Sandel's phenomenology of socially given moral "encumbrances," since if we tap into them we are likely to meet with political success. According to Sandel, "certain moral and political obligations that we commonly recognize" are "difficult to account for if we understand ourselves as free and independent selves, unbound by moral ties we have not chosen. Unless we think of ourselves as encumbered selves, already claimed by certain projects and commitments, we cannot make sense of these indispensable aspects of our moral and political experience" (1996, 13-14). Yet, as previously noted, if liberals are as committed to the unencumbered self as Sandel claims, then to them, the aspects of moral and political experience Sandel names are not necessarily indispensable: their importance is, indeed, what is in dispute in the debate over the metaphysics of the self, and Sandel begs the question by asserting that a coherent moral theory (as opposed to a coherent psychological theory) must "account

for" them. An individualist with the courage of her convictions would simply deny the relevance of these communal attachments, or would deny that she does think of herself as antecedently and permanently encumbered by such obligations (e.g., Kymlicka 1990, 212-13).

What Sandel may mean, however, is that certain encumbrances are politically indispensable: they are aspects of liberal moral and political experience that are rendered invisible by the usual, individualistic liberal ontology. "The image of the unencumbered self," Sandel claims, "cannot make sense of our moral experience," because it cannot account, inter alia, for "obligations of solidarity" (Sandel 1996, 13) and "obligations of membership" (ibid., 15). "To sustain the rights that many liberals defend," obligations such as these "may be required" (ibid., 16, emphasis added); so "there is reason to wonder whether the unencumbered self is suited to the dependencies and obligations the modern welfare state requires" (ibid., 118).

The only circumstance under which individualism is truly incoherent, then, according to the political interpretation of Sandel, is if we start with equal freedom and a predisposition against libertarianism and then reason backwards, as it were, toward an "account" of the ontology suggested by these norms. In that case, communitarianism fits the bill. And since this form of reasoning presupposes the validity of our (liberal) normative convictions, it doubles as a political strategy for implementing them among a populace that shares that assumption. But that is the only reason Sandel gives for not starting, as Nozick does, by presupposing the validity of our (individualist) ontological convictions, and reasoning forwards to an

account of the politics those convictions sustain.

The Dynamic of Sandel's Communitarianism

The main problem with supposing the strategic rationale to be true (rather than merely politically convenient) is that it would seem to commit us to endorsing any and all community sentiments, not just liberal ones. We have already seen Sandel illustrate this problem when he affirms, on behalf of the intersubjective being, the egalitarian sentiments that Rawls expresses in the form of the difference principle, even while deciding to reject the individualism (actually, the universalism) that Rawls expresses in the form of the veil of ignorance. A truly immanent appropriation of our preexisting "projects and commitments" (Sandel 1982, 180)--a faithful interpretation of the convictions of our intersubjective being--would have to endorse both the difference principle and the antecedently individuated subject. In discarding the latter, Sandel transcends the communally given by picking and choosing among its tenets: this is tacit universalism, even though its content is particularistic--since the liberal tenets Sandel universalistically chooses to discard are universalistic ones. His normative assumptions (~3) thus dominate his metaphysics (~1), reducing the latter to politically useful imagery (~2'). This is to say that, in order to ensure the triumph of the difference principle, Sandel has so modified the pure communitarianism implied by his rejection of Rawlsian ontology that his remaining metaphysical differences with Rawls are strictly rhetorical.

In sum, Sandel is a constrained communitarian--both in the sense that he constrains communitarianism, and in the sense that he is constrained to do so. Facing him on one side is the pure communitarianism implied by his immanentist hermeneutics (which requires him to interpret intersubjective sentiments without transcending them); this would, if taken seriously, entail the uncritical endorsement of whatever one's community accepts. On the other side are his (liberal) normative commitments, which require him to exclude certain communal beliefs because they lead in (libertarian) directions he apparently finds odious. Sandel, trapped between these two forces, must somehow curtail the extreme conservatism implied by his intersubjective alternative to individualism. His efforts to do so form the structure of his communitarianism.

Before exploring this structure, though, we should allow that the depiction of Sandel's communitarianism presented thus far may strike some readers as idiosyncratic. When I suggest that Sandel fails in his attempt to tie Rawls's liberal metaphysics to immoral (libertarian) politics by way of subjectivism, one might object that this counts as a failure only by standards of my own devising. It is I who have made Sandel's liberal normative commitments so central, setting up an exaggerated conflict between this particular communitarian's contingent political beliefs and the core of his philosophy: his affirmation of the central role one's community plays in constituting one's (normative) identity. In this view, pure communitarianism, not its would-be expositors' chance ideological commitments, should be the object of critical scrutiny, and the "failure" of pure communitarianism to buttress liberal politics is of purely biographical interest.

Thus, one might think it a mistake to portray the communitarians' liberal aspirations as the point of their arguments--even if these aspirations do, at least in part, motivate their arguments. For pure communitarianism should not be seen as involving anything beyond a critique of liberal metaphysics (1) as subjectivistic (2) and incoherent (2'), and thus as affirming communitarian metaphysics (~1) as objective (~2) and as offering, therefore, a better account of our feelings of obligation (~2'). Only by subordinating these central metaphysical concerns to the individual communitarians' tangential normative allegiances (~3), as if the former are instrumental to the latter, do I make it appear that there is anything "strategic" (~2'') about the communitarian argument.

Properly understood (this objection continues), communitarians are concerned with the true nature of moral experience, not with furthering a political agenda. And even if political intentions do happen to inspire the communitarians' metaphysics, these intentions should be irrelevant to our evaluation of the results. Therefore, the strategic connection between liberal metaphysics and illiberal consequences is wholly unimportant. For even if sustaining liberal consequences is, in fact, the aim of this or that communitarian, it need not be. In pure communitarianism, metaphysics dominates ethics. Subjectivism and metaphysical incoherence are the firm conclusions of the pure communitarian critique of liberalism, rather than being rickety ramparts designed to defend equal freedom against right-wing attack.

It is true that I have deliberately focused on the normative side of communitarianism, and that this is only half of the story. What

makes Sandel, Taylor, Walzer, and MacIntyre communitarians (albeit "liberal" ones) rather than "liberals" is, after all, precisely that they attempt to combine liberal normative commitments with an endorsement of pure communitarian metaphysics. Pure communitarianism is indeed one moment in this combination, and it is certainly crucial. Although none of the communitarians remains faithful to pure communitarianism in the end, the distinctiveness of their position, as I have already suggested, lies in their initial commitment to it (speaking logically, not chronologically).

However, while pure communitarianism is the metaphysical moment of our authors' communitarianism, if we are to assess it fairly we must also recognize the presence of an ethical moment--a desire to secure equal freedom--that is integral to the success, or failure, of the communitarians' arguments. A successful step ~2 (showing that communitarianism is more objective than individualism) or ~2' (showing that communitarianism is more coherent than individualism) would indeed mark the dominance of metaphysics over politics, regardless of what motivates a particular communitarian philosopher; and this would entitle us to ignore the politics in our evaluation of the metaphysics. The problem is that, at least in the case of Sandel, neither step ~2 nor step ~2' is successful, and the reasons for failure are rather obvious. Conferring moral authority on the community could hardly be expected to ensure the objectivity of its values, because they may contradict the values of other communities; and replacing an antecedently individuated subject with an "intersubjective being" could hardly be expected to yield metaphysical "coherence."

As a result, analyzing communitarianism becomes a matter of

inferring what, in such a manifestly unsound line of thought, could prove attractive to as sophisticated a thinker as Sandel. The political interpretation of communitarianism provides us with the first step in such an analysis. At the same time, the political interpretation's account of the strategic bridge between communitarian metaphysics and politics, which makes the metaphysics instrumental to liberal values, lends credibility to the textual arguments above that have purported to prove the failure of Sandel's official arguments against liberal subjectivism and incoherence.

It is certainly true that one of the forces at work in Liberalism and the Limits of Justice--and, as we shall see, in Democracy's Discontent--is an immanent, uncritical normative hermeneutics that would commit us logically to endorsing whatever is contained in our communal identity. This impetus, the upshot of Sandel's refusal to couch his argument in purely strategic terms, is the pure communitarian metaphysical standpoint that a critic of the political interpretation of Sandel might contend should be the only object of our attention. But if Sandel were merely a pure communitarian he would not be able to get his intersubjective alternative off the ground, because it so clearly contradicts both moral objectivity and the understanding of the self that Westerners find coherent. Accounting even for Sandel's pure communitarian moment, then, requires that we recognize that there is another force at work in Sandel's thought, one that--despite his intentions--compels him to prescind from the intersubjective being, climb out of the pure communitarian cave, and universalistically posit an ontology that most members of his own community would find--in contrast to Sandel's normative commitments--both relativistic and

absurd. If we discover that, having proposed this ontology, Sandel begins hedging it in with provisos that limit the range of acceptable communal identities to those that permit equal freedom, then we will have all the more reason to accept the political interpretation of his communitarianism.

The political interpretation matters, then, not because we are interested in Sandel's motives for their own sake, but because it suggests that the paradoxical dynamic, and the resulting structure, of communitarian thought originate in a conflict between collectivist metaphysics and the political reasons for which it is deployed.

The Structure of Sandel's Communitarianism

It remains for us to examine how the two contending forces, politics and metaphysics, play themselves out in Sandel's work.

Sandel alludes to the tension between these forces in a 1994 review of Rawls's Political Liberalism. Here Sandel complains that the term communitarian is "misleading" because "it implies that rights should rest on the values or preferences that prevail in any given community at any given time" (Sandel 1994, 1767). In other words, pure communitarianism should not be confused with the constrained variety that he advocates. Once the two are equated with each other, metaphysics could dominate politics; Sandel's normative aims could be defeated by the givenness of illiberal community commitments; and his anti-subjectivism could be undermined by relativism among communities. Yet if the two forms of communitarianism are not equivalent--if

constrained communitarianism does not sanction the norms of all communities at all times--Sandel needs to explain how one may distinguish the norms it does sanction from those it does not. Constrained communitarianism, in short, would seem to require an extracommunal standard to lay down the constraints, trumping communitarian metaphysics with liberal norms.

This is the problem situation that produces the hermeneutical dilemma I have already analyzed. How is one to decide which community values are "essential"? In any reasonably complex community, there will already be disagreements about which values are communally given, and/or about how best to interpret them. Appeal (whether overt or implicit) to extracommunal criteria to adjudicate such disagreements seems inevitable. By extension, we may say that even in an idealized, undifferentiated community where no interpretive disputes ever occur, community members implicitly appeal to an extracommunal standard when they uphold the community's values not merely as desired, but as desirable. This is what is meant when one says that something is "good," not just that it is "given"; or that something "should" be done, not just that it "is" done. Sandel (1996, 14) cannot consistently accept such usages, because they suggest "duties universally owed" rather than "moral and political ties that...are inseparable from understanding ourselves as the particular persons we are--as members of this family or city or nation or people, as bearers of that history, as citizens of this republic." But in that case, how are we to distinguish good communities' ties, or good interpretations of a community's ties, from bad ones?

Similarly, it is unclear how one might decide between

contradictory communal bonds within one's (intersubjective) identity without appealing to an extracommunal standard. Sandel seems to acknowledge that "as members of this family or community or nation or people, as bearers of this history, as sons and daughters of that revolution, as citizens of this republic," we may discover that our "loyalties and convictions" are divided (1982, 179). But he provides no hint as to how "intersubjective conceptions," in "account[ing] for inner deliberation in terms of the pull of competing identities" (ibid., 63), can resolve such divisions without using extracommunal conceptions.

For instance, in Democracy's Discontent Sandel adduces, as an example of the dilemmas produced by the "civic obligations" for which we need to "account," Robert E. Lee's quandary about whether to fight against secession, which he opposed, or for Virginia, from which he hailed. In the end, of course, he decided to fight for the Confederacy of which Virginia was a member. Sandel's point is that unless we view ourselves as intersubjectively obligated, "Lee's predicament was not really a moral dilemma at all, but simply a conflict between morality on the one hand and mere sentiment or prejudice on the other" (1996, 15). That is, of course, precisely what a liberal universalist might think, and it is difficult to escape the conclusion that Sandel begs the question against her. But what is even more important is that although Sandel himself seems to think that Lee made the wrong decision, his argument bars him from explaining why--since this would require the invocation of an extracommunal moral standard. "One can appreciate the poignance of Lee's predicament," Sandel writes, "without necessarily approving of the choice he made" (ibid.). But why not

approve of Lee's choice if, indeed, the "loyalties and responsibilities" that are "inseparable from understanding ourselves as the particular persons we are" do have "moral force" (ibid., 14)? If we consider both Lee's Virginia loyalty and his opposition to secession as competing aspects of the particular person he was (rather than associating his Virginia roots with a properly subordinated particularism, and his Union sympathies with a properly dominant universalism), how can we--indeed, how could Lee--be expected to resolve such a conflict?

Conflicts between the different levels of identity (family member, citizen, etc.) aside, the possibility of conflict within a given level is not just rife, but inescapable. Being a member of a people, a citizen of a republic, or the bearer of a history does not obligate one to do any particular thing; everything rests on the interpretation of what these roles should mean, or (what comes down to the same thing) where the boundaries of the constitutive people, polity, or history lie.

Several years after the appearance of Liberalism and the Limits of Justice, Sandel went into more detail about how he would resolve such conflicts in an article entitled "The Political Theory of the Procedural Republic" (1987). In the process, he exemplified the arbitrariness of pure communitarianism, and the illicit universalism to which constrained communitarians must resort in order to avoid this arbitrariness.

Sandel took as his example the civil rights movement of the 1960s. While the movement "might be justified by liberals in the name of human dignity and respect for persons," he wrote, "communitarians"

justify it "in the name of recognizing the full membership of fellow citizens wrongly excluded from the common life of the nation" (1987, 91). Citizenship here serves as the criterion that privileges the civil rights movement over, say, the states' rights movement as the true expression of American identity. By implicitly defining the relevant community as "the nation" and specifying its boundaries as encompassing all "citizens," Sandel decides the issue in advance: legally, African Americans in the 1960s were indisputably American citizens and thus, by Sandel's reasoning, could only "wrongly" be excluded from American common life. Those who opposed the civil rights movement, however, saw their constitutive attachments to "Dixie" or to deeply rooted convictions about federalism or untrammelled freedom of association as overriding any allegiance to legal definitions of citizenship. By pure communitarian standards, members of these "communities," having undertaken "sober self-examination" of their constitutive identities (1982, 153), surely would have been right to stick by their segregationist impulses. By appealing against these identities to the criteria embodied in U.S. citizenship, Sandel constrains pure communitarianism, but only by means of a shadow extracommunal standard that solves the boundary and interpretive conflicts to which communitarianism inevitably leads.

Sandel's solution also raises the objection that the reason U.S. citizenship was, by the 1960s, interpretable as including African Americans is that the United States, after untold strife, came to interpret itself as a liberal community. It took a civil war and the imposition of the Thirteenth and Fourteenth Amendments to overturn the inegalitarian definition of citizenship articulated in Dred Scott v.

Sandford (1857). This would never have happened if a pure communitarian fealty to status quo ante "identity" had prevailed in the 1860s and later. By the same token, the constitutive norms of the liberal American community that subsequently made it possible to undo the Jim Crow regime included the very individualism and universalism that Sandel resists in Liberalism and the Limits of Justice.

A similar response could be made to Sandel's invocation of communal values in support of the difference principle. American national identity is, arguably, at least as bound up with notions of personal and economic freedom and suspicion of state power as with welfarist interpersonal obligations. This might explain why it is that, to the extent that libertarianism is popular anywhere (a matter of considerable exaggeration, to be sure), it is in the United States.

Sandel's accounts of Lee's decision and of the civil rights movement depend on what might be called an essentialist proviso to put arbitrary limits on the pure-communitarian sanctioning of any and every communal "identity" imaginable. But essentialism is not the only way that Sandel constrains his communitarianism. Whenever he criticizes the Rawlsian subject, he is careful to say that he sees the alternative as the partial constitution of the subject's identity by the community. He writes, for example, that "we cannot conceive ourselves...as bearers of selves wholly detached from...aims and attachments" that are "partly defined by the communities we inhabit" (1987, 90, emphases added; cf. 1982, 150). "As a self-interpreting being," he allows, "I am able to reflect on my history and in this sense to distance myself from it" (although he adds that "the distance is always precarious and provisional, the point of reflection never finally secured outside the

history itself") (Sandel 1982, 179). Thus, while "the bounds between the self and (some) [which?] others are...relaxed on the intersubjective account," they are "not so completely relaxed as to give way to a radically situated subject" (ibid., 144, emphasis added).

These qualifications are never justified or explained; Sandel supplies no reason why the individual should not be completely subjected to communal authority, nor any description of how the individual should determine the proper amount of independence from her community. We are told only that the individual is to be indeterminately free to deviate from communal identity; Sandel even praises the communitarian subject for being more autonomous, in this sense, than its Rawlsian analogue. "Where the ends of the self are given in advance...the subject achieves self-command not by choosing that which is already given (this would be unintelligible) but by reflecting on itself"; this "reflexivity is a distancing faculty, and issues in a certain detachment" from ends that the Rawlsian self, outside the veil of ignorance, cannot distinguish herself from (Sandel 1982, 58). By attaching this reflexive proviso to his communitarianism, Sandel is able to portray the communally constituted subject as being able, unlike the Rawlsian subject, "gradually, throughout a lifetime, to participate in the constitution of its identity" (ibid., 153). The process of reflection on one's own identity saves Sandel from intercommunal relativism and the subordination of the individual to any communal values, no matter how antithetical to individual freedom. But Sandel achieves this only by means of a proviso that renders his view virtually equivalent to liberalism--except for the nebulosity of Sandel's position (cf.

Kymlicka 1989, 55).

No liberal need deny that, as a matter of empirical fact, we all start from value commitments that we share with others. What liberals assert--in common with all universalists, from Plato forward--is that we can (and should) step back from our starting points to evaluate their legitimacy. As Walzer puts it, "contemporary liberals are not committed to a presocial self, but only to a self capable of reflecting critically on the values that have governed its socialization; and communitarian critics, who are doing exactly that, can hardly go on to claim that socialization is everything" (Walzer 1990, 21; cf. Kymlicka 1989, 50). When criticizing "the self as prior to its ends" (Sandel 1996, 64), Sandel seems to repudiate this view, implying pure communitarianism as the alternative. Yet in allowing that we can "distance ourselves" from our communities, Sandel suggests that, just as the liberal self stands back from its ends to evaluate and choose among them, the communitarian subject stands back from the conflicting strands of her "identity" to reflect on which of them is decisive (or, perhaps, on which one is essential--collapsing the reflexive proviso into the essentialist one). In allowing the self to choose from among the many different conceivable and actual interpretations of our socially constituted identities, Sandel would appear to face the same antecedent distancing from obligation, the same priority of the self over its ends and of choice over cognition, the same universalistic abstraction from one's particular community, that so trouble him when they occur in Rawls. But this is the price Sandel must pay if his communitarianism is--in line with its normative goals--to avoid legitimating oppressive communities.

This does not mean that Sandel is a liberal simpliciter, though. One must use the Hegelian language of "moments" to describe his perspective, because his perspective is not internally consistent. When criticizing individualism as arbitrary, subjective, incoherent, or even vulnerable to libertarian attack, he suggests that the individual is, or should be, normatively subordinated to her community, not only as a matter of political expedience, but as a matter of ontological truth. Yet when describing the nature of this subordination, he inserts equivocating language and essentialist narratives that suggest that either the individual or the philosophical historian can attain independence from the constitutive community and reject its value commitments. The pure communitarian moment is replaced by moments of constraint that secure liberal norms, but only by calling into question whether anything is left of Sandel's communitarianism.

From Welfare Statism to Civic Republicanism

The same unstable structure undergirds Democracy's Discontents (1996), although here Sandel's attitude toward the welfare state reflects some of the ambivalence that, in Liberalism and the Limits of Justice, he might have written off as the sole province of libertarian individualists. In the later book, Sandel depicts the contemporary liberal preoccupation with income equality as itself a product of the proceduralist neutralism that is his target (1996, ch. 8), and he argues that "even a realized welfare state cannot secure the part of freedom bound up with sharing in self-rule" (ibid., 300). While never

repudiating the part of freedom that is secured by a welfare state--the part expressed in the ability to use primary goods to pursue one's projects, regardless of their merit--and while continuing to propose communitarianism as a way to immunize the welfare state against libertarianism, Sandel now defines freedom as "self-government," explaining that "on the republican view...I am free insofar as I am a member of a political community that controls its own fate, and a participant in the decisions that govern its affairs" (ibid., 26). While not rejecting the difference principle, then, Sandel adds a democratic aspect to his earlier defense of equal freedom.

This addition, however, does not bear out Sandel's claim to offer "a particular conception of the good society" or to define "a politics of the common good" (1996, 25). For he continues to equate the good with the values of a collective subject, whatever they may be. The only determinateness in this conception of the good society comes from the provisos that constrain it.

Sandel's republican notion of the common good is already hinted at in the last sentence of Liberalism and the Limits of Justice, which asserts that liberalism "forgets the possibility that when politics goes well, we can know a good in common that we cannot know alone" (1982, 183). What Sandel means by a "common good" seems to be whatever notion of the good is discovered in a joint search for identity by the individuals in a given community. "For persons encumbered in part by a history they share with others," Sandel writes, "seeking my good is bound up with exploring my identity and interpreting my life history," and this requires that "I consult a friend who knows me well, and [that] together we deliberate, offering and assessing by turns

competing descriptions of the person I am, and of the alternatives I face as they bear on my identity" (ibid., 181). Sandel's unargued assumption that communal identity is alethic--that the values revealed by common self-discovery are objectively valid--enables him to say that exploring the collective identity is equivalent to looking for the common good. But Sandel never tells us why one's collective identity is, ipso facto, good; and the assertion that it is would seem to lead to the empty--indeed, proceduralist--equation of "the good" with any and all identities discerned by mutual self-exploration.

This is merely to redescribe one side of the communitarian dynamic: the pure-communitarian side, with its implications of relativism among communities and indeterminacy about the good. In Democracy's Discontent as in Liberalism and the Limits of Justice, there is no direct claim for the objective goodness of whatever is discovered in one's collective identity, but this claim does appear to be entailed by Sandel's belief that communitarianism is not only convenient politically, but valid. "It is sometimes thought that liberal principles can be justified by a simple version of moral relativism," Sandel (1996, 8) warns us. This

relativism usually appears less as a claim than as a question: 'Who is to judge?' But the same question can be asked of the values that liberals defend. Toleration and freedom and fairness are values too, and they can hardly be defended by the claim that no values can be defended.

Sandel seems to be saying that an adequate defense of toleration, freedom, and fairness will have to assert their objective, nonrelative status. Yet his defense of these values involves appealing to the ontology of "encumbrance" that he used, in Liberalism and the Limits of Justice, to find a via media between Rawls and Nozick; and this political strategy leads Sandel back to relativism, not objectivity.

According to Sandel, some of the "special responsibilities" I experience as an encumbered self, responsibilities that "flow from the particular communities I inhabit," are obligations that "I may owe to fellow members, such as obligations of solidarity" (1996, 15). These obligations, and thus the encumbered self that gives rise to them, serve a normative, not a metaphysical purpose. "The liberal vision of freedom," he claims, "lacks the civic resources to sustain self-government" (ibid., 6). "The liberal conception of the person" may be too individualistic to sustain the self-sacrifice "expected of citizens in the modern welfare state."

While libertarian liberals ask little of citizens, more generous expressions of the liberal ethic support various policies of public provision and redistribution.

Egalitarian liberals defend social and economic rights as well as civil and political rights, and so demand of their fellow citizens a high measure of mutual engagement....Egalitarian liberals would tax the rich to help the poor secure the prerequisites of a dignified life. (1996, 16.)

But in relying on "the rights we would agree to respect if we could abstract from our interests and ends," Sandel continues, "the liberal case for the welfare state" eschews "a theory of the common good or...some notion of communal obligation," and this leaves it "vulnerable ...to the libertarian objection that redistributive policies use some people as means to others' ends, and so offend the 'plurality and distinctness' of individuals that liberalism seeks above all to secure" (ibid., 16-17).

In the contractual vision of community alone, it is unclear how the libertarian objection can be met. If those whose fate I am required to share really are, morally speaking, others, rather than fellow participants in a way of life with which my identity is bound, then liberalism as an ethic of sharing seems open to the same objections as utilitarianism. Its claim on me is not the claim of a community with which I identify, but rather the claim of an arbitrarily defined collectivity whose aims I may or may not share.

"The civic resources we need" to sustain the welfare state are available, Sandel (1996, 349) concludes, "in the places and stories, memories and meanings, incidents and identities, that situate us in the world and give our lives their moral particularity." Liberalism, however, is cut off from these particularistic identities. And

since liberal social and economic rights cannot be justified as expressing or advancing a common life of shared pursuits, the basis and bounds of communal concern become difficult to defend. (Ibid., 17)

In sum,

The public provision of [welfare-state] rights and entitlements would seem to demand of fellow citizens a strong sense of mutual responsibility and moral engagement. Unless persons regard their identities as claimed to some extent by their role as participants in a common life, it is not obvious on what grounds they can affirm the obligations the modern welfare state expects them to fulfill. But it is just this strong notion of membership that the unencumbered self resists....So there may be reason to worry about the legitimacy of a welfare state that fails to cultivate community in the constitutive sense. (Ibid., 119; cf. *ibid.*, 207, 280, 346.)

On the one hand, then, "the claim for the priority of the right over the good, and the conception of the person that attends it, oppose Kantian liberalism...to any view that regards us as obligated to fulfill ends we have not chosen--ends given by nature or God, for example, or by our identities as members of families, peoples, cultures, or traditions" (*ibid.*, 12). On the other hand, "public

provision of [liberal] rights and entitlements would seem to demand of fellow citizens a strong case of mutual responsibility and moral engagement. Unless persons regard their identities as claimed to some extent by their role as participants in a common life, it is not obvious on what grounds they can affirm the obligations the modern welfare state expects them to fulfill" (ibid., 119).

Sandel's solution is once again to be found in a collectivist metaphysics. But in Democracy's Discontents, Sandel makes metaphysics instrumental to the achievement of a larger purpose than preserving the difference principle. Although he continues to deploy communitarian ontology against free-market individualism, he also uses it against the Christian Right and the impersonal forces of national and global capitalism. For these purposes, a derivation of "compelling" values from the intimations of "intersubjectivity" discernible in liberal ideas of distributive justice would be largely irrelevant. Instead, Sandel finds compelling values in the democratic component of the republican definition of freedom. "Recalling the republican conception of freedom as self-rule may prompt us to pose questions we have forgotten how to ask," he writes, such as "How might the public life of a pluralist society cultivate in citizens the expansive self-understandings that civic engagement requires?" (Sandel 1996, 6, 7). But in addition to thereby sustaining an ontological commitment to welfare-state obligations, republicanism asks "What economic arrangements are hospitable to self-government?" And "How might our political discourse engage rather than avoid the moral and religious convictions people bring to the public realm?" (ibid., 7).

Such questions lead Sandel to look more kindly on local autonomy

than is usual among contemporary American liberals; and Sandel contributes to the impression of having repudiated liberalism by exaggerating the differences between liberalism and republicanism (Okin 1997). But, as in Liberalism and the Limits of Justice, Sandel's metaphysical and, now, his policy departures from liberal orthodoxy are still directed toward liberal purposes. Self-government is the goal, but Sandel's is not a form of self-government that, like the positive liberty criticized by Isaiah Berlin, requires the repudiation of the lower in favor of the higher self, and thus might sanction rule by an elite in the name of the community's true self. On the contrary: for Sandel, self-government requires genuine popular rule. Even what he calls "the strong version of the republican ideal" allows that we are free, he writes, "only insofar as we exercise our capacity to deliberate about the common good, and participate in the public life of a free city or republic" (Sandel 1996, 26). And the "more modest versions of the republican ideal," Sandel continues, "see civic virtue and public service as instrumental to liberty; even the liberty to pursue our own ends depends on preserving the freedom of our political community, which depends in turn on the willingness to put the common good above our private interests" (ibid., emphasis original). So neither the strong nor the modest form of republicanism is incompatible, in principle, with liberalism.

It is true that in practice, Sandel seems to favor government inculcation of public spirit, while most liberals consider self-sacrifice alone to be a duty rightly imposed by law, while leaving the formation of public-spirited dispositions immune from state influence. But, important as this difference is in terms of American

jurisprudence, it amounts to a tactical disagreement over how best to secure democratic rule and personal freedom: through education into liberal virtues, or through the enforcement of liberal behavior? What is in question is the best means to an end, not the desirability of the end itself. Thus, Sandel's republicanism does not disqualify him from counting as a liberal in the normative sense of being a proponent of equal freedom, any more than the work of Macedo, Galston, or Berkowitz makes them communitarians.

Sandel leaves no doubt about the strategic intent, and the liberal normative purposes, of his endorsement (in principle) of localistic, moralistic, religious form of politics. Localism, moralism, and religion are, of course, much more popular on the Right than on the contemporary Left. But that is exactly Sandel's point. "A politics that brackets morality and religion too completely," he writes (1996, 322-23 and *ibid.*, 24),

soon generates its own disenchantment. Where political discourse lacks moral resonance, the yearning for a public life of larger meaning finds undesirable expression. Groups like the Moral Majority seek to clothe the naked public square with narrow, intolerant moralisms. Fundamentalists rush in where liberals fear to tread...The public philosophy of contemporary liberalism...creates a moral void that opens the way for intolerance and other misguided moralisms.

Republican communitarianism, then, can not only block the libertarian Right by instilling a "high measure of mutual engagement"; it can defuse the Christian Right by enlisting people's encumbered, often religious conceptions of the good in the project of collective self-government. In this way, the "moral energies of a vital democratic life" can take positive rather than "narrow, intolerant" forms (Sandel 1996, 24). Democracy's Discontent is political philosophy that doubles as an explanation for the advances of American conservatism and, therefore, as a handbook on how the Democratic party can turn the tide.

The triumph of "contemporary liberalism," Sandel writes, "coincided with a growing sense of disempowerment." This discontent was the root cause of the New Right:

Despite the expansion of rights and entitlements and despite the achievements of the political economy of growth and distributive justice, Americans found to their frustration that they were losing control of the forces that governed their lives. At home and abroad, events spun out of control, and government seemed helpless to respond. At the same time, the circumstances of modern life were eroding those forms of community--families and neighborhoods, cities and towns, civic and ethnic and religious communities--that situate people in the world and provide a source of identity and belonging. (1996, 294.)

Politicians as diverse as "George Wallace and Robert Kennedy,

Jimmy Carter and Ronald Reagan" took advantage of this malaise (ibid., 297). Wallace, of course, "revealed the dark side of the politics of powerlessness"; but "of all the presidential candidates of recent decades who sought to articulate the inchoate frustrations that beset American politics, the one who offered the most compelling political vision was Robert F. Kennedy" (ibid., 299). By recognizing that the welfare state was not enough, RFK, nearly alone among the liberals, articulated a republican vision that could have turned American politics in a positive direction. "Once described as 'the last liberal politician who could communicate with white working-class America,' Kennedy was in any case the only candidate of protest--from Wallace to Reagan to Jesse Jackson--who 'was able to talk to the two polarities of powerlessness at the same time'" (ibid., 304). In contrast, "the public philosophy of Reagan-era Democrats lacked the civic resources to answer the aspiration for self-government" (ibid., 314).

Communitarian republicanism is clearly intended to fill this void. "By the 1980s," Sandel asserts, "the ideal of national community had lost its capacity to inspire, at least for purposes of distributive justice." But there is an alternative to the national community. "Civic capacities first awakened in neighborhoods and town halls, churches and synagogues, trade unions and social movements, find broader expression. For example, the civic education and social solidarity cultivated in the black Baptist churches of the South were a crucial prerequisite for the civil rights movement that ultimately unfolded on a national scale" (1996, 314). Just as Sandel, despite his criticism of the inadequacy of redistribution, by no means repudiates the welfare state--contending instead that it is merely an incomplete

expression of the ideal of freedom--his localism does not entail a repudiation of nationalism.

Instead, Sandel portrays localism as a realistic response to the weakening of national bonds--perhaps an alternative to them, but, in passages such as the one just quoted, perhaps also a potential source of their reinvigoration (cf. 1996, 17). "The American welfare state is politically vulnerable because it does not rest on a sense of national community adequate to its purpose," he contends. "The liberalism of the procedural republic proved an inadequate substitute for the strong sense of citizenship the welfare state requires" (ibid., 346). But this does not mean abandoning nationalism any more than it means junking the welfare state. In Sandel's view, the situation seems instead to call for local tutoring in our intersubjective obligations, which might indirectly strengthen national loyalties.

Constraints on Republicanism

In Liberalism and the Limits of Justice, Sandel blocked libertarian versions of individualism by substituting a communitarian ontology for that of the disembodied self. Perversely, however, pure communitarianism licensed any collective identity, including libertarianism and other forms of inegalitarianism. Such interpretations were checked, in his first book, by Sandel's essentialist and reflexive provisos. Only when communitarianism was thus constrained could Sandel guarantee that interpersonal obligations to sustain equal freedom would be discovered in the course of people's

exploration of their intersubjective identity. Thus, Sandel's argument, having passed through its pure communitarian moment, dissolved into liberalism. Sandel was reduced to issuing interpretive dicta that could just as easily have been pronounced by a universalistic individualist. While the strategic rationale lurking behind the coherence argument did the real work of justifying communitarian ontology, communitarian ontology then subverted the normative aim of the strategic rationale. The normative work was, in the end, performed not by communitarianism, but by the constraints Sandel imposed on it.

Sandel's second book follows a similar pattern. Were Democracy and Its Discontents to propose republicanism as worthwhile because it is sound, it would be a manifesto for republican liberals. If Sandel were to argue, for example, that only a conception of freedom that includes democratic participation is valuable, he would be suggesting the universal validity of republican political principles, regardless of whether republicanism fits into a given reader's particular identity; and this would make Sandel as universalistic as any other political philosopher. (The same would be true if he were to have claimed in Liberalism and the Limits of Justice that the difference principle is just, rather than that it is accepted as just by Rawls's-- and Sandel's readers'--constitutive communities.) What makes Sandel a republican communitarian is that he does not make such arguments. The only reason Democracy's Discontent gives for accepting republicanism is a strategic one: republicanism will reverse conservative inroads. There is not even an equivalent, in Democracy's Discontents, to the unsuccessful arguments from subjectivism and incoherence; only

straightforward political appeals remain.

Still, most of the book is devoted to showing not that republicanism will fend off the Republicans, but that it was central, historically, to the American political identity, which has "only recently," according to Sandel, assumed an individualistic cast (1996, 103). This might be mistaken for an argument for communitarianism, but in fact it is salient only if one already accepts the communitarian claim that one's collective identity is normatively authoritative. As an argument for this idea, the central role of republicanism in American history would beg the question against individualists who claim that one's collective identity is irrelevant to what is just. Sandel's historiography does not establish the desirability of republicanism, then, except for those of us who are already communitarians, any more than his account of collective obligations that "claim us" establishes the validity of these claims for anyone not already convinced of their legitimacy.

Sandel's historiography does serve, however, to constrain his communitarianism by ruling out libertarian and liberal-individualist versions of it. In this way it connects Democracy's Discontent to Liberalism and the Limits of Justice. If one has already accepted that whatever constitutes American political identity is morally authoritative (for Americans), then Sandel's identification of republicanism as the essence of Americanness can serve as a preemptive rebuttal to the argument I proposed earlier: that Liberalism and the Limits of Justice tautologically licenses all manner of collective identities, including libertarian interpretations of our identity and interpretations that retain individualistic ontology along with

egalitarian norms. In the years following the publication of Liberalism and the Limits of Justice, Sandel can be seen as trying to preclude such an argument by locating the essential identity of the United States not in its individualism, but in its origins as a "civic republic" where "liberty...was defined, not in opposition to democracy, as an individual's guarantee against what the majority might will, but as a function of democracy, of democratic institutions and dispersed power." American liberty is therefore, he wrote, "public, or political liberty" rather than being "primarily individual" (1987, 93).

Again, this is not an argument for communitarianism; it is an argument that constrains communitarianism by ruling out individualistic interpretations of American political identity. No matter how convincing one finds Sandel's republicanism as historiography, it is hard to credit it with philosophical significance, even if one accepts, in principle, the legitimacy of a search for an "essential" American identity. If it is its venerability that is supposed to make republicanism that essence, then Calvinism or theocracy, which dominated the thought of the very first colonists, should probably be seen as even more essential (Shain 1994). More important, any attempt to equate essence with antiquity would seem to point toward a universal standard: Whatever is old is, ipso facto, good. Of course, a venerability proviso may be thought innocuous because it merely reproduces in universal form a communitarian's injunction that whatever is definitive of one's collective identity is, ipso facto, good. Without a venerability proviso, though, communitarianism sanctions contradictory interpretations of the good: when the slaveowner and the slave have conflicting identities, they must both, somehow, be right.

This is, in a nutshell, the problem with communitarianism. Similarly, when it is not clear what one's own identity is--as, in principle, is always the case--which identity should one choose?

The venerability proviso, however, poses a problem of its own: it suggests that when communitarian identities conflict, there is a universal rule of mediation: Choose the older identity. Such a principle would violate what Sandel calls "the higher pluralism of persons and communities who appreciate and affirm the distinctive goods their different lives express" (1996, 116). On the other hand, if venerability is but one of many plural standards, then, by implying the inherent value of republican venerability in America, Sandel has justified a republican version of identity politics exclusively for American readers who are already inclined towards antiquarianism. Communitarians who live in the United States, but do not consider what is old to be constitutive of their identities, would be encouraged, or condemned, to accept whatever constituted the "essential" politics of their communities, even if it were something relatively new--such as libertarianism.

The point here, as in my earlier discussion of Sandel's attempt to resist Nozick, is not that libertarianism is valid. Rather, the point is that libertarianism happens to be, for Sandel, a two-edged sword. By invoking its threat, he separates the difference principle from individualism; but in interpreting his ontological response to this threat not as a stratagem but a truth-claim for the normative authority of an "intersubjective being," Sandel is driven toward pure communitarianism, which would defeat its strategic aim: defending the difference principle from the threat Nozick is supposed to pose to it.

If, as Sandel contends, Rawls's individualist metaphysics opens the door to libertarianism, then the alternative is a metaphysics that appears to equate "the good" with whatever "connects us" (Sandel 1982, 133). If this appearance is supposed to be valid, however, and not just expedient, then (without some kind of essentialist winnowing process) we must endorse whatever connects us as, therefore, good. At the collective level, welfare states would be sanctioned only where they already command popular allegiance--and libertarianism, for example, would be sanctioned wherever it commanded allegiance. Not only laissez faire, but slavery, authoritarianism, and dictatorship might be sanctioned if the only thing communitarianism requires is "a shared conception of the good life" (Sandel 1996, 205, emphasis added) - - regardless of the content of that conception.

On the level of the individual, similarly, Sandel is, in his pure communitarian moment, unable to appeal beyond people's own interpretations of their identities to locate the boundaries between them. The antebellum South would have been legitimate to the extent slave-owning Southerners thought it was; but their slaves would have been equally justified in considering themselves to be separate from the slaveholding community around them. When, as in this case, interpretations conflict, there is no conceivable way for a pure communitarian to adjudicate. Sandel suggests that such conflicts can be resolved through "moral reflection and political deliberation that will vary according to the issue at stake. The best deliberation will attend to the content of the claims, their relative moral weight, and their role in the narratives by which the participants make sense of their lives" (1996, 343-44). This formula, however, combines

capitulation to standard, universalistic liberalism with opacity regarding intracommunal decision making. On the one hand, paying attention to the "content" and "relative moral weight" of conflicting claims is precisely what a universalist would try to do. Unless Sandel means, circularly, attention to what one's communal identity defines as the content and moral weight of conflicting claims, he has given us a prescription for abandoning communitarianism in favor, for instance, of deliberation behind a veil of ignorance. On the other hand, advising us to attend to the role of moral claims in "the narratives by which the participants make sense of their lives" merely restates the problem: how are we to define what counts as a legitimate narrative? Will any narrative that makes sense of our lives do--including libertarian, authoritarian, and Confederate narratives? At this juncture pure communitarianism becomes incoherent in the strictest sense--a sense that does produce real moral arbitrariness, unlike the more modest "incoherence" heralded by Nozickian objections to Rawlsian metaphysics.

By attempting to distinguish essential (republican) from contingent (individualistic) elements in the American identity, Democracy's Discontent constrains pure communitarian arbitrariness, but only by admitting through the back door Sandel's transcendent convictions about what is good: inter alia, the welfare state; laws against plant closings and chain stores; local self-government directed against selling pornography and marching in support of Nazism, but not directed toward promoting these activities. In this way the book precludes libertarian and other unsavory expressions of collective identity, but only by relying on covertly universalist value judgments.

The republicanism that issues from the venerability proviso is not enough to constrain pure communitarianism; the goodness of "self-government as an activity rooted in a particular place, carried out by citizens loyal to that place and the way of life it embodies" (Sandel 1996, 350) is no barrier to a wide variety of "narrow and intolerant" communitarianisms. What if the particular place in question and its way of life are racist or otherwise incompatible with norms of equal freedom?

One response to this difficulty is a multicultural variation on the reflexive proviso that Sandel employed in Liberalism and the Limits of Justice. Republicanism can be "corrupted," Sandel writes in Democracy and Its Discontents, by "the tendency to fundamentalism, the response of those who cannot abide the ambiguity associated with divided sovereignty and multiply-encumbered selves" (1996, 350). Like Frankfurt-school theorists of the "authoritarian personality," Sandel reaches here for a psychological explanation for why some Americans fail to accept his interpretation of our collective identity. But how do we know that it is Jerry Falwell's communitarianism (ibid., 309), not Sandel's, that is a corruption of republicanism?

Fundamentalism is a corruption of republicanism rather than a legitimate interpretation of it because, Sandel asserts, self-government

today...requires a politics that plays itself out in a multiplicity of settings, from neighborhoods to nations to the world as a whole. Such a politics requires citizens who can think and act as multiply-

situated selves. The civic virtue distinctive to our time is the capacity to negotiate our way among the sometimes overlapping, sometimes conflicting obligations that claim us, and to live with the tension to which multiple loyalties give rise. (Ibid., 350, emphasis added.)

This multiculturalism, however, only pushes the problem back a step, and then it does nothing to solve it. Identifying unique contemporary requirements of a communitarian politics only brings new incursions of universalism. It is possible, after all, to resist contemporary trends --as Falwell does; and as Sandel is advising us to do, in the main line of his narrative, by proposing that we abandon procedural liberalism in favor of our antique republican heritage. How do we determine, on communitarian grounds, that presentism, rather than traditionalism--multiculturalism, rather than fundamentalism--is truly communitarian?

Sandel answers by asserting that "most of us find ourselves claimed, at one time or another, by a wide range of different communities, some overlapping, others contending. When obligations conflict, there is no way of deciding in advance, once and for all, which should prevail" (ibid., 343). But if there is no way to decide these conflicts in advance, how is it that there is a way to decide them at all? And is it the purported fact that most of us are conflicted about our identities that legitimizes our confusion? If so, then if, instead, a majority of us were unconflicted fundamentalists, it would follow that clear-headed fundamentalist republicanism would become legitimate, and multicultural republicanism would be the

corruption. If not, then the fact that most of us are, allegedly, multiculturally conflicted would appear to be significant only in the sense that whatever the state of one's identity, and regardless of whether that state is representative of the majority opinion or not, it is dispositive. But this leaves unanswered the question of why conflicted identities are somehow more genuine than fundamentalist ones.

Moreover, however Sandel answers such questions, it is unclear whether these answers are intended to be universally valid or are merely dispensations of Sandel's own conflicted identity. If the former, then multicultural reflexivity has swallowed Sandel's communitarianism whole; the new universal maxim is, "Resolve conflicted (and therefore genuinely republican) identities as follows:...." If, on the other hand, Sandel's resolutions (whatever they are) of multicultural identity conflicts are not universal maxims, then why should members of other communities, such as Jerry Falwell, feel any interest in Sandel's strictures against them? And how can outsiders to such conflicts take sides without violating communitarian dictates?

These intractable difficulties, and the many others one could name, stem from the inherent unfeasibility of pure communitarianism, which inevitably leads to contradictions between particular identities. These must be resolved--constrained--universalistically. In other words, the problem is the dynamic of communitarianism. That the resolution of identity conflict--the structure of Sandel's communitarianism--must be universalistic is suggested by the fact that, unlike the essentialist and reflexive provisos, which do succeed in muting the dynamic of communitarianism (by trumping pure-communitarian

arbitrariness and indeterminacy), the multicultural version of reflexivity, which attempts to turn the inherent indeterminacy of the boundaries of collective identity to political advantage against "fundamentalists," does not reduce arbitrariness and indeterminacy: in embracing conflicting identities, it provides no universalist criterion for transcending them. It is not, to be sure, legitimate to criticize Sandel for failing to give crisp answers to every conceivable boundary dispute. Fuzziness is unavoidable in any philosophical system. The problem is that Sandel would appear to have no conceivable criterion for mediating these disputes that does not collapse into universalism. Any resolution of conflicts between multiply situated selves would seem inevitably to rely on some principle that transcends the conflicted selves in question.

There is another possible constraint on pure communitarianism: a democratic proviso that is, perhaps, supposed to be implied by Sandel's emphasis on collective self-government. A democratic proviso might be interpreted as screening out "collective purpose[s]" (Sandel 1996, 220) that are not pursued democratically. We would want to distinguish such a proviso from the republicanism Sandel identifies as essential to American identity, because he deploys this essence against individualistic definitions of liberty that place freedom "in opposition to democracy" (Sandel 1987, 93). Democracy, however, can be used against not only individualism, but against collectivism, if democracy is defined narrowly enough. Perhaps Moral Majoritarianism can be defined as essentially undemocratic--for instance, by pointing to its potential contradiction of republican traditions that equate democracy with "dispersed power" (ibid.). In any event, democracy can

surely be invoked against totalitarian communities, and perhaps against any intolerant or exclusionary community--rescuing Sandel's communitarianism from the Christian Right without falling into the conundrums of multicultural reflexivity.

The democratic proviso would have what seems to be the advantage of stemming from republicanism, but that would make it only as strong as republicanism is, and republicanism itself functions as a particularist expression of communitarianism, rather than a universalistic constraint on it, only if something like the venerability proviso equates our communal identity with republicanism. In Democracy's Discontents Sandel provides only one reason to accept republicanism, other than that it is more venerable than liberalism. This other reason is the political usefulness of republicanism in the pursuit of liberal norms. Thus, both republicanism and any democratic constraint legitimized by it presuppose the validity of liberal norms as impingements on the essence of a community, contradicting pure communitarianism.

As in Liberalism and the Limits of Justice, then, the strategic rationale deployed in Democracy's Discontent serves both to motivate pure communitarianism and to contradict it. The need to protect equal freedom--now, not only from the antigovernment Right but the Christian Right--calls forth a politics devoted to articulating a common good. But since such a politics--if not only a convenient Left strategy but one based on a true metaphysics--is so tautological that it might itself threaten liberal values, it must be constrained: now, not only by means of essentialist readings of American history, but also by means of ad hoc constraints on the definition of self-government; on

multicultural reflexivity; and on the anti-individualist content of republicanism, and perhaps on its anti-collectivist content, too. Sandel, having thus modified his communitarianism so as to be compatible exclusively with communal identities that promote people's equal freedom, has merely given us a second circuitous form of universalistic liberalism.

Sandel's Departures from Liberalism

Nevertheless, we might wonder whether it is fair to say that Sandel's communitarianism is completely indistinguishable from liberalism. Does his critique of the truth of individualist ontology, hence his pure communitarian moment, entirely vanish beneath the caveats that ensure that he sanctions no "undesirable" communities?

There is no doubt that Sandel has the courage to depart from contemporary liberals' preferred policies when it seems to him that these policies "fail to respect persons encumbered by convictions or life circumstances that do not admit the independence the liberal self-image requires" (1996, 116). Usually, as Susan Okin (1997, 441) writes, this concern for encumbered selves is one-sided; "we hear of encumbered Holocaust survivors but not encumbered civil libertarians"--or, one might add, encumbered neo-Nazis; "the encumbered homosexual (so long as he is monogamous)," but not "the encumbered homophobic religious believer." This one-sidedness almost always produces results that will be congenial to liberals--but (as Okin points out) not always. Sandel argues that divorce law encourages women to pursue

careers rather than staying at home with the children, because of the disastrous economic consequences of divorce to an unemployed woman; such laws militate against family encumbrances and in favor of financial atomism. If Sandel means to oppose such laws (which is unclear, as Okin notes), then he is surely at odds with prevailing liberal opinion. And Sandel is critical of abortion-rights advocates for overlooking the fact that if fetuses are, indeed, human beings, then abortion is murder, such that abortion rights can hardly be grounded in neutrality on the question of the status of fetuses.

It would be a mistake, however, to allow our political interpretation of Sandel to degenerate into either compliments or complaints about these positions. The point of underscoring Sandel's normative commitments is not to unmask--or applaud--communitarianism as liberalism in disguise; it is to shed light on why communitarians find themselves in the untenable position of universalistically advocating particularism, which they must then universalistically constrain. Convinced that if individualist metaphysics is valid, equal freedom is threatened, Sandel propels himself toward pure communitarian relativism, self-contradiction, and incoherence. If these problems were not enough, pure communitarianism sanctions illiberal as well as liberal communities. Hence the need for various provisos to limit the scope of pure communitarianism. Liberal norms are the engine that happens to be driving this process, but any set of norms that one felt was threatened by individualism could, in theory, produce structurally identical effects.

That a given theorist is persuaded by his pure communitarian inclinations to rethink liberal positions on divorce law or abortion

rights does not undermine this analysis. A conservative, too, might be driven toward communitarianism on the ground that traditional values, including the sanctity of traditional families, are being undermined by individualist metaphysics. But in setting out to defend encumbered selves as not only useful but "true," she might come to see that not only nuclear-family housewives but career women and other untraditional selves are encumbered, and this might dispose her to take seriously, or even to endorse, their political claims. This goes to show that it is not the content of liberal political positions but the communitarians' efforts to defend the metaphysics they find conducive to liberal norms as valid that is decisive.

Thus, Sandel's departures from liberal policy orthodoxies would force us to revise our picture of the motivation of his communitarianism --albeit not our evaluation of its contradictions--only if they signalled that his communitarianism flowed from nonliberal normative commitments; for then we would wonder why he is tempted to argue for the truth-value of an intersubjective being in the first place. This, however, does not seem to be a question we need answer. For at most, Sandel's deviations from the liberal mainstream reflect the traditional tension in liberalism between individual rights and democratic governance. When Sandel extols "collective agency" and tries to satisfy yearnings for "solidarity" and "mastery" of a nation's fate (1996, 293), he may seem to have moved beyond limited, liberal majority rule toward the (caricatured) Rousseauvian version of democracy. Sandel frequently uses such "positive libertarian" language. But closer inspection suggests that, like the "moderate" republicans he

contrasts against stronger, Aristotelian virtue theorists (ibid., 26), Sandel views collective self-governance as instrumental to individual freedom. Indeed, he openly worries about Rousseauvian coercion and admits that it was "by no means unknown among American republicans." But then he assures us that "civic education need not take so harsh a form" (ibid., 319-20). Although republican politics is "a politics without guarantees," such that coercion is a danger (ibid., 321), we can be comforted that "the political economy that informed nineteenth-century American life...worked not by coercion but by a complex mix of persuasion and habituation" (ibid., 320).

Clearly, Sandel (1996, 320) wants his republicanism to be "a gentler kind of tutelage" than Rousseau's; less clear is whether it is possible to justify this desire on grounds that do not go beyond the circle of communal values that Sandel tries to close. Indeed, he admits that "if there were a way to secure freedom without attending to the character of citizens, or to define rights without affirming a conception of the good life, then the liberal objection to the formative project might be decisive"; but he insists that there is no such way (ibid., 321). In other words, liberal universalism is sound in its normative ends, and even in its fears about the dangers of republicanism as a means to them, but nonetheless, republicanism is a necessary means to those ends.

Sandel agrees with liberals about the undesirability of coercion (and inequality: 1996, 6); the point of republicanism is to guard against coercion better than liberalism can, for "the procedural republic, it turns out, cannot secure the liberty it promises because it cannot inspire the moral and civic engagement self-government

requires" (ibid., 323 and 6). Why not? For one thing, even the welfare state does not eliminate "a growing sense of disempowerment" that stems from "the insecurity of jobs in the global economy" and, more generally, from "a world governed by impersonal structures of power that defy our understanding and control" (ibid., 323). Moreover, the procedural, Rawlsian form of liberalism produces "disenchantment" by excluding the "wide range of moral and political obligations that we commonly recognize, such as obligations of loyalty or solidarity." This disenchantment is fertile ground for "fundamentalists" (ibid., 322). In short, to protect equal freedom from global capitalism, from its libertarian defenders, and from their religious allies on the Right, we need to restore "moral resonance" to "political discourse" (ibid., 322); we need communitarianism, ironically, to reinvigorate the political conditions for individual freedom. While there are dangers involved, we have no choice but to face them: if we are to achieve the goals liberals describe abstractly, we must defend them concretely, as emanations of our collective identity, and therefore as "the good." No matter how far Sandel strays on policy issues, the reason is always to achieve liberal aims.

Yet there is, in Sandel's continuing opposition to the priority of the right over the good, the potential for deviating from this pattern. To see how, we need only go back a few years, to Sandel's 1994 essay on Rawls's Political Liberalism. There Sandel was able to divorce "the good" from "the communal." In opposition to liberals who would prescind from the moral status of homosexuality in considering whether people have a right to engage in homosexual practices, Sandel boldly declared that we should base the legal treatment of homosexuals

on the absolute merits of homosexuality itself (Sandel 1994, 1786). While it has a continuing rhetorical presence, the constitutive role of the community does no work in this argument, which is predicated not on our collective identities but on the claim that "it is possible to reason about the good as well as the right."

In the course of making this argument Sandel (1994, 1788) asks: "If government can affirm the justice of redistributive policies even in the face of disagreement by libertarians, why cannot government affirm in law, say, the moral legitimacy of homosexuality, even in the face of disagreement by those who regard homosexuality as sin?" This question is, at the very least, in tension with his refusal, in Liberalism and the Limits of Justice, to base the justice of redistributive policies on anything other than the implicit agreement with them that he found in Rawls's constitutive community: he never openly asserted that Rawls's community was right and Nozick's, wrong (although this was the covert message), since such an overt universalism would obviate Sandel's entire approach to the question of justice through communal identity rather than universal principles.

In 1994, Sandel does not appeal to community except in passing references to "the many cultures and traditions within which [moral] deliberations take place," and, implicitly, in his continued disapproval of the idea that "we are free and independent selves, capable of choosing our own ends" (1994, 1768, 1769; see also *ibid.*, 1770). When it comes to actually "reasoning" about such issues as homosexuality, though, his approach is unstintingly universalistic: we should decide conflicts between "claims arising from within comprehensive moral and religious doctrines" by determining "which of

the contending moral or religious doctrines is true" (ibid., 1776, emphasis added); there is nothing here about reflecting on our collective identities as a legitimate epistemic upshot of our collective ontology.¹

Similarly, in a 1989 essay Sandel urged that a right to marital privacy can be justified across all communities, "in the name of the intrinsic value or social importance of the practice it protects" (Sandel 1989, 524).² Indeed, in response to what he interprets as Rawls's recent efforts to justify liberal conclusions on liberal-communitarian grounds--as expressions of the "conception of the person as a free and independent self" that is "'implicit in the public political culture of a democratic society'"--Sandel denies that such grounds should matter. "Suppose Rawls is right, and the liberal self-image he attributes to us is implicit in our political culture," Sandel writes. "Would this provide sufficient grounds for affirming it, and for adopting the conception of justice it supports?" (Sandel 1994, 1774). In contending that the answer to this question is No, Sandel leaves communitarian epistemology, if not communitarian ontology, behind.

Even communitarian ontology seems to be abandoned in the course of Sandel's 1994 argument against libertarianism. Here he relies on the very same Rawlsian arguments that he took to task, in 1982, for entailing metaphysical "incoherence." "Intolerant though it may seem at first glance," Sandel writes, "the notion that theories of distributive justice at odds with the difference principle are not reasonable, or that libertarian theories of justice would not survive due reflection, is no arbitrary claim. To the contrary, in A Theory of

Justice Rawls offers a rich array of compelling arguments on behalf of the difference principle and against libertarian conceptions." Among these compelling arguments, according to Sandel, is the claim that "if people deliberated about distributive justice without reference to their own interests, or without prior knowledge of their talents and the value of those talents in the market economy, they would agree that the natural distribution of talents should not be the basis of distributive shares" (1994, 1785). Where previously, Sandel held that Nozick's complaints about the disembodied nature of such deliberators eviscerated the difference principle--which could be revived only by means of an intersubjective being--now neither Nozick's complaint nor the intersubjective being are even mentioned. For it is independently obvious, on the basis of the abstract deliberations of disembodied subjects, that the difference principle is right, no matter what the constitutive community of libertarians (or even liberals) thinks.

The writings in which Sandel shifts away from an intersubjective ontology toward a universalistic critique of subjectivism address such topics as homosexuality, abortion, and privacy. Debates over these issues are contests between constitutive communities with mutually antagonistic values. Abstract invocations of "community" in such debates would be worse than useless, precisely because of the relativism inherent in this criterion. To take sides on these issues, as Sandel is doing in these articles, means condemning as wrong the constitutive communities with which one disagrees. It is also probably worth noting that many local communities and possibly the American "community" at large would reject Sandel's positions on these issues. To have relied on communal authority to decide these questions, then,

would arguably have aligned Sandel against equal freedom. Sandel (1998b, 328) explains the origins of Democracy's Discontents in the fact that "after the civil rights movement, liberals ceded to cultural conservatives a monopoly on some of the most potent terms of political discourse--family, community, patriotism, morality, and religion....The insistence that government be neutral toward competing visions of the good life left liberals ill-equipped to engage moral and religious argument in political debate." But when political debate descends from generalities about "community" to actual issues, such as marriage law, Sandel's strategic aim might be hindered by his metaphysics. In any event, the metaphysics disappears.

Similarly, it is possible that, when Liberalism and the Limits of Justice was being written in the late 1970s (Sandel 1982, ix), Sandel viewed libertarianism as primarily a philosophical threat with little political backing--despite the election of Thatcher and Reagan shortly before the book went to press. By 1994, however, conservative parties had been in power in Britain and the United States for a decade and a half; appeals against conservatism to "the community" might have seemed strategically ineffective in that context. When A Theory of Justice argued (in effect) against the community of free-marketeers, Rawls seemed, at least, to be asking that its members evaluate their constitutive ends and reject them outright. When, in 1994, Sandel finds this mode of argument "compelling," he must assume that, contrary to Liberalism and the Limits of Justice, it is both possible and desirable for people to step back from their constitutive identities so as to judge and, possibly, reject them. After initially oscillating between a pure communitarian critique of Rawls and constraining

provisos, Sandel now removes the communitarian veneer from his transcendent evaluations of the egalitarian liberal state. In the process, he breathes life into his previously inert critique of the arbitrariness among ends produced by the liberal prioritization of the right: for he effectively severs this critique from the equally arbitrary communitarian alternative, which equated the good with the community's conception of it.

Had Sandel persisted in this moral objectivism, Democracy's Discontent (1996) would have been an entirely different book. It might have defended republicanism as instrumental to liberal values, but it would not have derived either those values or republicanism itself from collective identity; it would instead have argued that they are universally valid. But then what is distinctively communitarian about Sandel's position would have been missing.

Perhaps, despite his two books, Sandel is no longer a communitarian. In an astonishing preface to the second edition of Liberalism and the Limits of Justice (1998), Sandel repudiates as "insufficient" the notion that "principles of justice derive their moral force from values commonly espoused or widely shared in a particular community or tradition" (1998a, x), contradicting the gravamen of the first edition of the book (the text of which, however, is unchanged in the second edition). Instead of assigning moral authority to either the community or the sovereign individual, Sandel now suggests that "principles of justice depend for their justification on the moral worth or intrinsic good of the ends they serve" (ibid., xi). His new position seems to be that while one's communally constituted identity is a necessary basis for the validity of good ends

and valid principles of justice (although he does not explain why), something else is needed so we can distinguish between good and bad communally constituted ends and principles. After all, "situated selves can display solidarity and depth of character or prejudice and narrow-mindedness" (ibid., xiii).

How, then, are we to know that solidarity and depth of character are good, prejudice and narrow-mindedness bad? (And how are we to determine which communal "attachments" are deep as opposed to narrow, solidaristic as opposed to prejudiced?) Sandel offers an example: neo-Nazis marching on Skokie, Illinois, versus Martin Luther King marching in the South in the 1960s. Condemning "the nonjudgmental impulse liberals and communitarians share" (1998a, xv), which would preclude distinguishing between the two kinds of demonstration, Sandel writes:

The obvious ground for distinguishing the cases is that the neo-Nazis promote genocide and hate, whereas Martin Luther King, Jr., sought civil rights for blacks.... There is also a difference in the moral worth of the communities whose integrity was at stake. The shared memories of the Holocaust survivors [living in Skokie] deserve a moral deference that the solidarity of the segregationists does not. Moral discriminations such as these are consistent with common sense but at odds with the version of liberalism that asserts the priority of the right over the good and the version of communitarianism that rests the case for rights on communal values alone. (Ibid., xvi.)

At the risk of laboring the "obvious," several points need to be made about this passage, and the Preface from which it is drawn. First, it confirms the strategic purpose of Sandel's philosophy: the reason for objecting to the priority of the right is not to deny but to strengthen individual freedom to live as one wishes; this freedom, which is embodied in the Rawlsian conception of justice, is the ultimate good, both in the sense that no other good is allowed to trump it, and in the sense that it is the master ideal behind the assumption that civil rights are "intrinsic[ally] good" (ibid., xi), genocide and hate intrinsically bad. Sandel's purpose in dethroning the priority of the right is to "lin[k] justice with conceptions of the good" (1998a, x), which he still seems to assume must be communally constituted; but, he now holds, some "version[s] of" communitarianism--he implies that he has in mind Taylor's, Walzer's, and MacIntyre's versions (ibid., ix)--go too far by making all communal identities equally valid (pure communitarianism). But as we shall see, the other communitarians, just like Sandel in his two books, constrain their communitarianisms with caveats designed to weed out illiberal communities.

Second, neither Sandel's attachment to the idea that conceptions of the good must flow through one's social "encumbrances," nor his drastic attenuation of this idea by means of the "obvious" values that allow one to distinguish good from bad communal identities, are justified on metaphysical grounds. The one non-political argument for this idea in Liberalism and the Limits of Justice--the question-begging notion that communal "aims and attachments" are "indispensable aspects of our moral experience" (1982, 179)--is now effectively abandoned,

since Sandel acknowledges the invalidity of this experience when it is had by members of the wrong kind of communities, and since the transcommunal standards against which he now feels entitled to judge different communal attachments cannot themselves be grounded in communal attachments if they are to serve their purpose. It is hard to imagine why "understanding ourselves as the particular persons we are-- as members of this family or city or nation or people, as bearers of that history, as citizens of this republic"--should have any bearing on our "moral and political ties" (Sandel 1996, 14), when by Sandel's own account communal identity must be transcended in assessing the validity of those ties. Whatever metaphysical reason one might have for insisting on the relevance of communal identity must, by implication, be as invalid as the communal identities that, in the Preface, Sandel condemns as intrinsically bad.

Third, however, by continuing to insist, however unjustifiably, on the relevance of communal identity, Sandel retains the contradiction between his politics and his metaphysics that requires a "structural" response. Now, however, the structure of Sandel's communitarianism takes not the covert form of caveats, but the overt posture of an unencumbered self who evaluates different identities' validity, a universalistic perspective in everything but name that deprives communal identity of any role except a tautological one. Any conviction now counts as a communal "encumbrance," and the task of distinguishing good from bad encumbrances, and indeed the good from the bad, and (thence, in Sandel's view) the just from the unjust, rests squarely with transcommunal judgments of intrinsic value based on (a liberal American professor's version of) common sense. Why, then, have

we needed a critique of Rawlsian liberalism? Or, looked at from the point of view of "the good," what is it about Sandel's critique that has rendered itself otiose?

NOTES

1. In Democracy's Discontent, Sandel adds that proceduralist liberalism is likely to be ineffective in securing gay rights on neutralist grounds (1996, 106). The universalism standing behind this strategic argument is not compromised by any attempt to suggest that the alternative strategy is to appeal to "our identity" (possibly because it is highly unlikely that such an appeal would produce, in the United States, the gay rights Sandel supports). In the space of several pages (*ibid.*, 103-108), then, Sandel breaks free of communitarianism and makes an appeal to a nonrelative good.

2. In 1989, Sandel still seemed torn between "intrinsic" and "social" arguments; immediately after the quoted passage, he endorsed a Supreme Court decision basing marital privacy rights on the "critical role in the culture and traditions of the Nation" marriage plays "by cultivating and transmitting shared ideals and beliefs" (Sandel 1989, 524). Sandel also placed great weight in 1989 on the dichotomy of "social practices" against "individual choice" (*ibid.*, 528), while in 1994 the issue appears simply to be truth against falsehood. In 1989 as in 1994, however, Sandel broke out of the social/individual dichotomy, with its echoes of communitarian particularism, when considering homosexuality; this he defended on the (universalistic) basis of its contribution to "important human goods" (*ibid.*, 535).