

Chapter One **Defining Hypocrisy and Insincerity**

Introduction

I intend in this first chapter to define hypocrisy and insincerity. Briefly, my claim is that you are insincere when you lie about your preferences.¹ Hypocrisy is a subset of insincerity but it has an explicitly moralistic structure: you are being a hypocrite when you try to act as though you are more virtuous than you know you are.² These definitions aren't meant to signal in this dissertation some ontological exploration of insincerity or hypocrisy per se. My aims are narrower in that I want to provide definitions of insincerity and hypocrisy that are serviceable for this dissertation's exploration of liberalism and its articulation in law. To that end, I try to argue that liberalism sometimes tends to compel us to be hypocrites, for liberalism urges us to act better than we sometimes do.

I. Hypocrisy v. Insincerity

"Hypocrisy" and "insincerity" are sometimes used interchangeably or without clear distinctions. But there is a theoretical difference between the two. Hypocrisy is defined by the *Oxford English Dictionary* as "assuming a false appearance of virtue or goodness, with dissimulation of real character or inclination, especially in respect of religious life or belief."³ And a hypocrite is one who "falsely professes to be virtuously or religiously inclined; one who pretends to have feelings or beliefs of a higher order than his real ones; hence generally, a dissembler, pretender."⁴ Hypocrisy thus aspires to something good in the eyes of others. Let's work with some examples. William Bennett, the preachy former secretary of education, was called a hypocrite by some liberals. Presumably offering himself as a role model, he had persistently urged Americans to lead lives of virtue, as many conservatives understand that term, but was later discovered to be a compulsive gambler. Or the same charge by some liberals was directed to the president of the ultraconservative and religious Hillsdale College who was later discovered to have had a long affair with his son's wife. Among conservatives, charges of hypocrisy are leveled against the "limousine liberal" who pretends to care for the poor but indulges in luxury, or the upper-middle class Berkeley student who in protests and classroom discussions tries to pass himself as part of the oppressed working class.

But insincerity, while a close cousin of hypocrisy, needn't be freighted with these tropes of political piety or social goodness. The *OED* defines "insincere" as "assuming a false guise in speech or conduct; dissembling, disingenuous," and insincerity is described as a "want of purity, corruption" and "dissimulation."⁵ Here, insincerity seems to imply a separation between what one is and what one pretends to be; it thus needn't connote hypocrisy's false attempt at virtue. Consider the following examples where a person isn't a hypocrite but only insincere: Julia can't stand Jason, her departmental colleague, so out of spite, she says she hates the haplessly lovable

¹ Here, I have learned from author's definition of insincerity as a form of preference falsification.

² Ruth Grant offers a complementary definition: "Hypocrisy only occurs where people try to appear better than they are."

³ *OED*, 2ND Ed., online.

⁴ *OED*, 2ND Ed., online.

⁵ *OED*, 2ND Ed., online.

Cubs, Jason's favorite team, even though it's Julia's favorite team, too; Bill wants to break up with his girlfriend and so he lies that he hates her new kitten, even though he finds it adorable; to avoid having to serve as the designated cook in her university housing co-op, Kim prepares a hideous first dish to share even though she is secretly a formally trained chef; Charlie knows the directions to the ballpark but dumbly shrugs to an inquiring lost driver because the lane changes are too hard to explain. None of these examples of insincerity would show, at least straightforwardly, that you're trying--as a hypocrite would--to assume "a false appearance of virtue or goodness" or that you, like a hypocrite, is one who "falsely professes to be virtuously or religiously inclined; one who pretends to have feelings or beliefs of a higher order than his real ones." In this sense, a hypocrite appears to be one who covets a reputation of virtue while an insincere person who isn't a hypocrite doesn't aspire to a similar status of virtue. To be sure, one might argue that my examples of insincerity contain potential instances of hypocrisy: the characters don't want to be sincere and garner a worse reputation as an openly hostile colleague, a jaded lover, a reluctant coop contributor, or a lazy bystander. But these insincere characters, I think, aren't trying to impress the audience as possessors of moral virtue but merely want to come off as those undeserving of blame for lacking moral vices. For it seems that no one would want to covet, at least not in any obvious way, as morally virtuous a reputation as someone who despises kittens, a lousy cook, an ignorant pedestrian, or perhaps even a Cubs hater. Yet one could sensibly covet as morally virtuous a reputation for being kind, honest, loyal, responsible, and religiously devout. So hypocrisy is best understood, I think, as a bid for moral virtue while insincerity performs a more minimalist role as an attempt to conceal moral vice.

Of course, this formulation won't neatly solve every puzzle but it will provide a rudimentary key. Consider this example. Nine-year-old Bart, inconsolably resentful at his sister Lisa, is forced by his mother Marge to apologize to Lisa, also inconsolably resentful at Bart. Is Bart insincere or hypocritical? From Bart's perspective, he isn't trying to be a better person; if anything, he's selling out his moral indignation and knuckling under parental power. Bart would think himself insincere, not hypocritical. But perhaps Marge perceives Bart's apology as a crude, if not entirely sincere, bid at maturity. The boy might not know it just yet but this is a lesson in humility and compromise; Marge might see the apology as hypocritical but not insincere. Or insert what I've styled the distinction between insincerity and hypocrisy into a political context: What if Trent Lott sincerely endorsed racial segregation and loathed every bitter moment when he was compelled to apologize for his appalling public endorsement of racial segregation? From Lott's perspective, he may regard his actions as insincere because he's selling out his racist principles and pandering to the same liberal foes whom he has proudly defied and ridiculed in the past. At the same time, though, the pandering looks like hypocrisy from the perspective of those who embrace racial integration as an objectively correct moral ideal.

II. Intent

Does hypocrisy and insincerity require an intent to mislead? It's true that some of our contempt for both derives from their deceptive tendencies.⁶ Recall the *OED*'s definition of hypocrisy as "assuming a false appearance of virtue or goodness, with dissimulation of real character or inclination, especially in respect of religious life or belief."⁷ Judith Shklar has

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⁷ *OED*, 2ND Ed., online.

commented on this passage that "the religious hypocrite is the first and most enduring of all. Glossing over his errors to himself and inventing endless shifts, he actually tries 'to hoodwink the Almighty.'"⁸ So too the moral hypocrite "pretends that his motives and intentions and character are irreproachable when he knows that they are blameworthy."⁹

But to pretend falsity isn't the same thing as to intend to deceive others of such falsity. Accordingly, hypocrisy and insincerity needn't logically require an intent to deceive others. Consider when elementary school children say the pledge of allegiance; we surely can't assume that all or even most of them sincerely believe its words as good citizens ostensibly do.¹⁰ The students are silently compelled by school rules and the teacher to recite the words, and besides, it's easier to go through the motions than to assert a conspicuous refusal. So the pledge is a ceremony of hypocrisy for many kids and there's no intent by these kids--some of whom are yawning, bored, spaced out, or even politically resentful--to deceive the administrators, and there's no expectation by the administrators that all of the kids believe what they're saying. The social function of the pledge can thus assume a role that differs from its formal purpose. It may be a reminder to the students about who's boss and thus an effort to instill deference for the school's authorities. Or, less ominously, perhaps it's mostly a means to initiate the anxious and potentially unruly students into a manageable routine conducive for teaching and learning.

Or think about your best friend's first piano recital at Carnegie Hall. You'll applaud even if she stumbles and you'll hug her backstage saying that she performed wonderfully; you don't intend to deceive her, especially after what everyone knows was a flawed performance, and she doesn't believe you mean what you say. But as her best friend, you say it, anyway, and as your best friend, she expects you to. Indeed, a crucial part of love involves, under certain circumstances, making the pretense of applause to help the friend to save face and feel wanted.

We can work with a misanthropic example, too. Convention implies that we wouldn't want an insincere apology; the very purpose of an apology is to show sincere remorse, or so we tend to say. But it would also seem that one of the delicious payoffs for one to whom an apology is formally due is the prospect of an apology that is relinquished with palpable agony and seething resentment, one, in other words, that is utterly insincere (or, depending on your perspective, hypocritical). For then you, let's say Lisa, force Bart who has done you wrong to suffer, rather than redeem himself through remorse. Plus, that Bart is forced--against his sincere resentment--to apologize to you, Lisa, signifies your power over him and, conversely, his relative impotence.¹¹ Both you and he know that the apology is insincere but that's precisely what affords you such dark pleasure.

Or, consider the examples from the mundane and repetitive. When asked by my departmental colleague the perfunctory daily question, "How are you?" I say "fine," whether I'm sincerely fine or not, and when I reciprocate, she also responds with the same "fine," probably whether she sincerely feels fine or not, either. And I sign my letters with "sincerely yours," whether I'm being consciously sincere or not. Similarly, I conclude my numerous stream of emails to all of my students with "best" or "best regards." Such platitudes are often rendered with a reflexive frequency that tends to belie their sincerity.

But what about where I have mixed motives, where one part of me is sincere but another part doesn't want to be? I take that up next.

⁸ Ordinary Vices, p. 47.

⁹ Ordinary Vices, p. 47.

¹⁰ Gobitis

¹¹ Faking It, 73 offers a complementary discussion.

III. Motives, Slippery and Sloppy

According to what some scholars call “sincerity as entirety,” sincerity must be an “undividedness or singleness of mind.”¹² That is, we call something sincere only if there is a single coherent motive that impels it. While the term “sincerity as entirety” is the formal invention of contemporary academics, the idea harkens back to sincerity’s etymological origins. The *Oxford English Dictionary* defines “sincere” as “clean” and “pure”.¹³ Its definition as “genuine” and “pure” can be traced back to at least 1536, and its definition as “pure, unmixed” and “free from any foreign element or ingredient” can be traced back to at least 1538. So too “sincerity” by at least 1546 is called “[f]reedom from falsification, adulteration, or alloy; purity, correctness.”¹⁴ Similarly, by 1578, “sincerely” is sometimes called “in a pure or innocent manner” or by 1577, “in a pure, absolute, or perfect manner or degree,” or by 1576, “[c]ompletely, thoroughly, wholly.”¹⁵

We can explore with the following examples this emphasis on the purity of one’s motives. According to sincerity as entirety, you’re not being sincere when you publicly praise your departmental head’s new book even though you admire it, if the compliment is motivated partly by your desire to get tenure. Or, you aren’t sincerely regretful to see your fond colleague being denied tenure if you’re partly happy at the prospect of inheriting his large office. By briskly directing our attention to the purity of motives, sincerity as entirety presents a potentially attractive approach to understanding sincerity. But it suffers from some problems, too.

For one, there is the problem of incoherence. If the point of sincerity as entirety is to make sure that the speaker’s articulated reasons are impelled by the entirety of her motives, why should we logically stop at what the speaker herself consciously knows? After all, people are often moved to say all sorts of things because of motives which are unknown or obscured to them.¹⁶ To take a familiar example, a Freudian explanation might hold that a law professor’s stated position on gays in the military or the right to pornography, while the formal result of due deliberation about law and policy is actually the product of repressed sexual desires. But because sincerity as entirety doesn’t present any inherent limits to an inquiry concerning one’s actual motives, there is a perpetual question-begging quality about the approach that undermines its practical usefulness. Any articulated reason, if subject to an omniscient observer, can be theoretically traced back to some cause or causes unknown to the individual. To wit: Did the Freudian arrive at his commitment to Freudianism through careful examination; or because his favorite professor in graduate school was a Freudian; or because his ex-wife whom he despises hated Freud; or because he has read little of anything else; or because his loving daughter resembles Anna Freud; or, in a droll instance of life imitating art, because of his resentment against his father (a hater of Freudianism), and his desire for his mother (a zealous adherent); or because of some mushy combination of all these things? A strong version of sincerity as entirety thus mires us in an impractical epistemic search. If we were omniscient observers, perhaps sincerity as entirety would be operational. But we’re not; and so it isn’t.

¹² A. D. M. Walker, *The Ideal of Sincerity*, Mind, p. 484 (describing the work of Stuart Hampshire).

¹³ Vol. and page?

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¹⁶ Walker, p. 484.

Perhaps we can salvage sincerity as entirety by eliminating the omniscience element. It's sufficient, we can say, for the speaker herself to believe that she is moved by a single motive. But this also proves problematic, for it restricts sincerity to only those most simplistic or mundane examples of social existence: When I buy coffee at a restaurant, I sincerely ask for sugar but not cream in my coffee; when a reckless driver cuts me off, I sincerely shake my fist at him; when I win the office lottery, I sincerely grin with satisfaction. All of these are seemingly easy examples of sincerity as entirety. And indeed, it is telling that there is by some a tendency, perhaps intuitively right, to want to call those expressions sincere which are spontaneously derived.¹⁷

But social existence is considerably more complicated than suggested by these examples. We are often visited by more than one emotion at the same time.¹⁸ When you attend the funeral of an uncle who has left you a fortune in his will, you are giddy about becoming a millionaire but you also regret the giddiness (and then you become giddy again, and then regret it again, and back and forth). You also recall how the inheritance speaks of your uncle's generosity, but your gratitude is punctuated by memories of his many cruelties and how he, as a hard-nosed industrialist, delighted in publicly belittling your accomplishments as a graduate student, and later ridiculed your failure to earn a living wage as a fiction writer; you go back and forth between these two emotions and they mix and mash uneasily. How precisely can you determine whether the appropriate motive entirely animates your public and sustained show of grief during a prolonged funeral?

Or consider the etymological origins of "sincere" which I've argued fits comfortably with the contemporary view of sincerity as entirety. The *Oxford English Dictionary* locates the historical meaning of sincerity in a sort of synonym for piety:

1536 *Act 27 Hen. VII, c. 42, Sec. 1* The Syncere and pure doctrine of Goddes worde. **1597** BEARD *Theatre God's Judgem.* (1612) 189 A Popish priest that was once a professor of the sincere religion. **1653?** HALE *Brevis Disq.* in *Phenix* (1708) II. 340 Many think.. that these are the true and genuine Doctrines.., which nevertheless have nothing at all common with the sincere Gospel of Christ. 1679 BURNET *Hist. Ref.* (Pocock) I. 583 It was necessary to establish a form of sincere doctrine. **1827** G. S. FABER *Sacr. Calend. Prophecy* (1844) III. 209 When sincere Christianity was propounded in all its native lustre.¹⁹

The problem with these breezy references to sincerity as a kind of stand-in for piety is that they tend to ignore how religious devotion in its practical form is almost never an instantiation of sincerity as entirety. For Christianity contains two basic injunctions which exist in normative tension. On the one hand, there's the deontological injunction: you as the selfless Christian want to further God's command regardless of whether it benefits you. On the other hand, there's the teleological injunction: you as the prudent Christian also want to go to heaven and avoid incurring the wrath of God the omniscient policeman. It seems as though the two injunctions can't theoretically coexist in the faithful but in practice they do, as many Christians entertain both beliefs in relative peace by treating their relationship with a manageable ambiguity and a selective forgetfulness. They also rely at moments on good doses of self-delusion, by telling

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¹⁸ Cite Miller, Disgust.

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themselves untruthfully that they do some given deed because they want to honor God and not because of heavenly reward.²⁰

Inherent in this normatively unstable relationship is the tension between selflessness and self interest. Thus worded, it is a tension that is hardly exclusive to religion for we practice it frequently in our micro-social relationships. I do seemingly selfless things for my friends partly because I sincerely like them but also because I also want to be liked. Similarly, I volunteer to cover classes for my departmental colleagues who attend job interviews partly because I sincerely want to help them but also partly because I don't want to alienate myself from them. These examples would seem to suggest that from the perspective of sincerity as entirety we are sincere in very limited instances and that even these are questionable. Sincerity as entirety would thus seem to condemn us to the unsettling conclusion that virtually nothing we express is sincere.

There is, I believe, a more feasible way to define sincerity and insincerity. I would propose a "but for" test: But for my insincerity I wouldn't have said what I did. (notice that a test premised on "but for my *sincerity* I wouldn't have said what I did" would lead us back to sincerity as entirety). This approach can accommodate our mixed motives while asking us to reflect on which motives might be more weighty. I can use my test to revisit the previous hypothetical. Janet asks Kay to cover her classes while she is away at a job interview, and Kay tells her, "I'll be happy to do so because I want you to perform your best without distractions at the interview." It's also true that Kay is covering her classes partly because he hopes Janet will do the same for him when he has his own interview offers, and partly because Kay hopes that Janet will get the job and vacate her endowed chair, thus opening it for him. Kay would be insincere if he felt that he wouldn't have wished Janet well if he were indifferent to Janet covering his classes or to obtaining her endowed chair. Consider another example. Greg is "volunteering" to tutor inner-city kids to fulfill a court-ordered community service requirement for being caught drunk while driving. When asked by his precocious tutee why he is tutoring him, Greg answers, "I'm doing it because I care for the welfare of inner-city children." The statement looks utterly insincere and it may very well be. But it needn't if Greg, after careful deliberation, believes that his punishment is valuable in its own right as a morally redemptive enterprise, and that his desire to help his tutees outweighs his desire to conceal his legal embarrassment. We can work with another example. What about you being both giddy and sad at your rich uncle's funeral? Again, it depends on whether you would have publicly expressed your grief but for your desire to be insincere to your uncle's best friend and wife about your resentment against your uncle. Given the severe ambivalence, this situation perhaps won't permit any obvious answers even after careful deliberation. So my test can't provide clear answers in every instance (and perhaps it is well that it shouldn't). But it is still a better alternative, I think, than sincerity as entirety.

In the next section, I want to situate hypocrisy in the politics of liberalism.

III. Liberalism and Hypocrisy

There are two principal ways in which liberalism tends to promote hypocrisy. On the one hand, there is a familiar criticism that liberalism holds people to unreasonably lofty moral

²⁰ I realize that this statement contains a potentially fatal paradox whereby the self-deluded would have to tell herself to forget what's really driving her, and then to forget the injunction to forget, which in turn requires yet another injunction to forget *that* injunction, and so on, ceaselessly.

standards. But on the other hand, one might argue that liberalism also paradoxically generates insincerity by prohibiting people from acting on their most lofty moral standards.

A. High Ideals

Professor Ruth W. Grant has suggested the following in her excellent book that according to liberalism's critics liberal regimes "have never actually achieved the promise of liberty, justice, and equality for all."²¹ While I will want to modify this view later, I want to suggest for now that liberty and justice under a liberal regime shouldn't be conflated with equality, and hypocrisy can be experienced differently under each. To wit, liberty under a liberal regime might ring hollow when it doesn't refer to the liberty to choose a president among several viable candidates with distinct differences or the liberty to watch a diversity of meaningful political programs on T.V., but refers instead to the liberty to choose among twenty-five brands of cereal at the supermarket and the liberty to click on one mindlessly numbing cable channel after another. This potential perception of hypocrisy also applies to liberalism's promise of justice. For those in a liberal regime who dispense justice, whether judge or jury, are afflicted with things that tend to work against justice in biases and prejudices as well as worldviews that are partially resistant to liberalism. Nor can we ignore how justice as a formal judicial concept is often compromised by bureaucratic obfuscation and the artificial constraints imposed by rules of procedure.

While these examples might imply that the perception of liberalism's hypocrisy can be theoretically felt by all regardless of social standing, liberalism is most likely to be derided as hypocritical by those who see themselves as victims of inequality. In this sense, it's not just the promise of liberty or justice in some ontological sense that come up short in a liberal regime; more precisely, liberty or justice seem most likely to be perceived as coming up short when they are unequally denied to a certain group of people largely because of the group's ascriptive identity. Take justice, for example. While I explore the topic further in one of the chapters, the promise of equal justice is obviously most likely to be perceived as hypocritical by those who feel keenly unequal and marginalized in a formally liberal regime. I trust that examples here are all too readily available. Here's one: Consider how liberalism's promise of equal justice would present itself as a bundle of hypocrisies for many black Americans living in the inner-city neighborhoods of Chicago. Equal justice would seem a curious thing to celebrate in light of the absurdly unequal life choices and chances available to you. So too equal justice would seem more gossip than truth in a world where you're unemployed, subject to police harassment, threatened by gangs, and live in despicable surroundings. And imagine the bitter hypocrisy of liberalism felt by parents when they're faced with the grim truth that their children are born into a fundamentally hopeless environment riddled with drugs and violence and where they will most likely die at a young age; equal justice appears appallingly ironic under these circumstances.

Liberty, a crucial liberal virtue, would seem to face similar charges of hypocrisy from these same residents because it is an emblem of their inequality. Liberty is important in liberalism because, among other things, it affords people the right to engage in what Mill called "experiments in living" where they can explore alternative identities that can lead to a socially richer existence. The opportunity to engage in experiments in living presupposes that certain prerequisites have been met--financial stability and protection from violence, for example. Yet in the neighborhood that I've described both of these factors are either non-existent or so precarious as to redirect a person's attention to basic matters of survival, thus challenging

²¹ P. 15.

liberalism's promise of liberty. Something similar might be said of liberalism's view of liberty, in the form of voting rights, as a cherished necessity for democratic politics. But from the perspective of those in the inner city, what difference does this kind of political liberty really make? In 2004, they were presented with two candidates for president; both were white, both were rich, and both were graduates of exclusive boarding schools and colleges. And both, once elected, will almost surely ignore the problems of this neighborhood. (In this sense, liberalism's promise of government by consent also seems suspiciously hypocritical here.). Plus, it's practically impossible that someone in this neighborhood can herself exercise the liberty to run for president and try to change things.

The perception of inequality also taints as potentially hypocritical contemporary liberalism's faith in public reason. Liberalism assumes that those in a liberal society are capable of negotiating conflicts through reason and with a corresponding desire to understand and respect each other's perspectives.²² Yet this liberal celebration of reason seems potentially hypocritical in the face of politics as practiced, which is often permeated by passion, prejudice, bias, and greed. Furthermore, the idea of liberal reason takes for granted that people will regard each other as moral equals in at least two ways: as beings deserving of justifications and as beings possessing equal epistemic authority. But this disposition isn't easily acquired especially for those who regard themselves as superior to their fellow citizens. Indeed, liberalism is partly defined by its struggle against the conservative presumption that the lower orders weren't entitled to justifications, and if offered, weren't capable of understanding them.²³ Even ostensive liberals themselves can find themselves privately resisting the informal requirement for justification. Consider how Benjamin Franklin grappled with the liberal injunction to justify his views to others whom he could never quite accept as his equals:

The modest way in which I propos'd my Opinions, procur'd them a readier Reception and less Contradiction. . . This Mode, which I at first put on, with some violence to natural Inclination, became at length. . .easy. . .to me. . . And to this Habit I think it principally owing, that I had. . .so much Influence in public Councils.²⁴

Judith Shklar has commented that "[p]ersuasion is not natural; it requires a great deal of effort, and in a man as superior to his fellows as Franklin was, it takes exactly what he described."²⁵

Accordingly, while insincerity can appear hypocritical in different ways, I want to focus on liberalism's promise of equality, for equality seems to generate more perceptions of hypocrisy than liberalism's other aspects.

IV. How Liberal Equality Invites Hypocrisy

The democracy of everyday life, which is rightly admired by egalitarian visitors to America, does not arise from sincerity. It is based on the pretense that we must speak to each other as if social standings were a matter of indifference in our

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²³ Poisoning

²⁴ Quoted in Shklar, p. 73.

²⁵ P. 73. Ruth Grant approaches the subject of reason and persuasion from a different angle where equality isn't a primary concern. Pp.?

views of each other. That is, of course, not true. Not all of us are even convinced that all men are entitled to a certain minimum respect. Only some of us think so. But most of us always act as if we really did believe it, and that is what counts.²⁶

--Judith Shklar

While prominent communitarians have complained that liberalism doesn't possess a commitment to moral principles,²⁷ the necessity and appropriateness of hypocrisy in a liberal society originates from the outward premise that it does. For liberalism makes the formally moral insistence that we all treat each other as equals entitled to the same respect, an expectation which, especially in its strong form, seems too lofty for many people most of the time and for most of us all of the time. This isn't to say that only liberalism as political ideology invites hypocrisy. Nazism, communism, and regimes based on religious fundamentalism surely generate their own forms of hypocrisy where dissidents and social outcasts pretend to conform to their state-proscribed norms and duties. So my project here isn't to indict liberalism as an ideological failure but to explore how its normative commitments, which I believe laudable, are functionally underwritten by a particular kind of hypocrisy.

I can develop the thesis as follows. In Section A, I outline how liberalism both requires people to treat each other in public as equals and permits them privately to indulge their biases and prejudices and thus regard each other in deeply unequal ways; this disjunction, I suggest, invites and justifies hypocrisy. In Section B, I address the challenge presented by Don Herzog's provocative reading of Locke which holds that liberalism as sociological theory is best understood as a plea for role differentiation, not hypocrisy. I argue that Herzog's thesis, as brilliant as it is, remains incomplete because hypocrisy is inevitable in a liberal society, like ours, which is marked by multiple social contexts and publicly unspeakable biases and prejudices.

A. Equal Respect and Its Discontents

A defining characteristic of liberalism is that we eschew treating each other on the basis of invidious categories like race, gender, class and so on. This commitment inheres in familiar slogans like "Equal Justice Under Law" or "Justice is Blind". So too there are countless informal prohibitions against saying offensive things in a person's presence about her race, gender, class and more. And of course the commitment to equal respect animates plenty of institutional representations: Court decisions striking down de jure racial segregation; antidiscrimination statutes like the 1964 Civil Rights Act; legal prohibitions against sexual harassment; and more controversially, university rules against hate speech.

The commitment to equal respect, so familiar to us, finds part of its origins in the idea of impartiality like that which derives from Kant's categorical imperative "or law of morality,"²⁸ whereby you must act "only according to that maxim whereby you can at the same time will that

²⁶ Shklar, *Ordinary Vices*, p. 77. In the passage, Shklar has in mind hypocrisy, not insincerity per se.

²⁷ See, for example, Michael Sandel, "The Procedural Republic and the Unencumbered Self," 12 *Political Theory* 81-96 (1984); Charles Taylor, "Atomism," in *Communitarianism and Individualism*, pp. 29-50 (ed., Shlomo Avineri & Avner de-Shalit (New York: Oxford University Press, 1995); Roberto Unger, "Liberal Political Theory," pp. 15-35 in *Critical Legal Studies* (ed., Allan C. Hutchinson) (Totowa, New Jersey: Rowman and Littlefield, 1989); Mark Tushnet, "Following the Rules Laid Down: A Critique of Interpretivism and Neutral Principles," pp. 157-80, in *Critical Legal Studies*.

²⁸ P. 29, Sec. 420.

it should become a law.”²⁹ That is, for Kant, you must treat others as you yourself would be treated, and therefore, you must treat them with equal respect.³⁰ This isn’t to say that impartiality and equal respect are necessarily the same thing³¹ but to suggest that both are informed by an aversion to discrimination on the basis of invidious social distinctions.

Arguments against such discrimination that are rooted more explicitly in the language of equal respect are articulated by contemporary liberals. Ronald Dworkin, for example, says that “[c]itizens governed by the liberal conception of equality each have a right to equal concern and respect”³² and that “the right to treatment as an equal must be taken to be fundamental under the liberal conception of equality. . . .”³³ Dworkin also writes:

I presume that we all accept the following postulates of political morality. Government must treat those whom it governs with concern, that is, as human beings who are capable of forming and acting on intelligent conceptions of how their lives should be lived. Government must not only treat people with concern and respect, but with equal concern and respect. It must not distribute goods or opportunities unequally on the ground that some citizens are entitled to more because they are worthy of more concern.³⁴

John Rawls similarly explains that a “well-ordered society”--meaning one that is governed by the liberal principles from his “public conception of justice”--is one where

the members of such a society are, and view themselves as, free and equal moral persons. That is, they each have, and view themselves as having, fundamental aims and interests in the name of which they think it legitimate to make claims on one another; and they each have, and view themselves as having, a right to equal respect and consideration in determining the principles by which the basic structure of their society is to be governed.³⁵

One can quibble, as Dworkin does,³⁶ about whether Rawls derives equal respect from the latter’s “original position” or whether the original position presupposes beings entitled to equal respect, but I take it that the contemporary liberal insistence on equal respect is fairly familiar to those in our society.

More problematic for liberalism is how the insistence on equal respect grates against people’s natural tendency to be partial to themselves. By partiality, I mean either “particularity” or “affective attachment or desire”.³⁷ The latter refers to “being partial to something, as when

²⁹ P. 30, Sec. 421.

³⁰ For similar intimations, see p. 423, *Foundations of the Metaphysics of Morals* Prussian Academy Ed., Vol. 4 Trans. By H. J. Paton in *The Moral Law*. London: Hutchinson (1948) (orig. 1785).

³¹ Thomas Nagel and John Rawls, for example, find similarities between the two without collapsing them as a theoretical matter. P. 65, *Partiality and Equality* (New York: Oxford University Press, 1991), Rawls, p. 24, *A Theory of Justice* (rev. ed.).

³² P. 273, *Taking Rights Seriously*.

³³ P. 273.

³⁴ P. 272.

³⁵ P. 475, *A Theory of Justice* (Rev. Edition).

³⁶ P. 181, *Taking Rights Seriously*.

³⁷ The terms are borrowed from Sharon Krause, “Partial Justice,” 29 *Political Theory* (2001), 318-19. See also Ruth W. Grant’s discussion about how partiality necessitates hypocrisy. Grant, chpt. 2, especially p. 49,

one is partial to chocolate cake, or committed to the principles of liberty and equality, or attached to the philosophic life” while the former means “taking a partial view of some matter, seeing it narrowly or incompletely.”³⁸ The two forms of partiality have porous boundaries, it seems to me: One’s particularity can be conditioned by one’s affective attachment or desire (I am partial to America because that is what I have been taught to love), and one’s affective attachment or desire can be conditioned by one’s particularity (I love America because it is the only country that I have known). My concern, then, is less to patrol the borders separating particularity from affect and desire than to invoke their properties for purposes of showing why they resist the liberal expectation for equal respect.

We can find examples almost everywhere of partiality’s resistance against liberalism’s insistence on equal public respect. Indeed, if liberalism’s premise that we deserve to be treated as equals seems boringly familiar, it is paradoxically no less boringly familiar that we tend to resent it. Consider the following examples. Even though there are many formal rules and even more informal norms against gender discrimination at the university, some male professors in the department, while outwardly respectful of their female colleagues, will during their Friday night poker games mock women including their female colleagues as whiny and emotional. The male professors in this scenario can be said to be partial in both senses to which it has been alluded: they hold an affective attachment to the idea that men are more professional and mature than women, and their assessments derive from a particularistic and hence incomplete view of women. A similar situation is played out where some white law firm partners during formal meetings seem unusually supportive of their black associates but when the former retire to their homes, they will deride blacks generally as incompetent and silly. The white partners are affectively attached to the notion of racial superiority by whites over blacks and their views stem from a particularistic and incomplete view regarding blacks.³⁹

But we can go beyond intuitive conjectures. A wealth of empirical evidence from public polling shows that many whites, for example, continue to view blacks as contemptibly inferior, and that many blacks continue to regard whites with suspicious resentment.⁴⁰ And what is represented in the orderly statistics of public polls is expressed viscerally in events that help to define the past two decades: George Bush’s amazing success with his Willie Horton advertisements⁴¹; the acquittal by a mostly white jury of Rodney King’s batterers; the ensuing Los Angeles riots; the stunning acquittal by a mostly black jury of O. J. Simpson; the racially-charged debates about affirmative action in several parts of the nation.

Under these circumstances, hypocrisy becomes both inevitable and justifiable in a liberal society, for hypocrisy can satisfy liberalism’s egalitarian ethos without having it overwhelm people’s inevitable partialities which are by nature non-egalitarian. As Professor Shklar observes, it is

³⁸ Krause, at 319.

³⁹ Lest I appear preoccupied with puncturing the inflated hypocrisy of the ruling classes, it should be added that insincerity can traffic across social orders: Among themselves, women professors may mock their male colleagues for masquerading their incompetence but formally compliment them in academic conferences, and black law firm associates may criticize their white partners’ condescension and thinly-veiled prejudice, but modestly defer to them at firm socials.

⁴⁰ Perhaps the authoritative study is Donald R. Kinder and Lynn M. Sanders, *Divided by Color: Racial Politics and Democratic Ideals* (Chicago: University of Chicago Press, 1996).

⁴¹ *Id.*, at 246-47.

no longer acceptable in the United States to make racist and anti-Semitic remarks in public; yet in private conversation racism and anti-Semitism are expressed freely and frequently. . . . Would any egalitarian prefer more public frankness? Should our public conduct really mirror our private, inner selves?⁴²

Still, this view encounters resistance from liberals themselves who subscribe to a certain understanding of role differentiation. The argument from role-differentiation is that liberalism doesn't require you to be hypocritical but requires instead that you differentiate your various social roles and then simply immerse yourself in them as your context demands. But this vision is incomplete by ignoring the role of hypocrisy, as I show in the next section.

B. Liberalism and Social Differentiation

Liberalism's proposal to divide contexts into the public and private spheres and to divide too what Erving Goffman calls the "presentation of the self"⁴³ that attends these divisions originated from a desire to preempt needless political violence. A primary objective of liberalism was to end the bloody religious conflicts ravaging Western Europe in the 16th and 17th centuries.⁴⁴ Such conflicts were partly reflected in and provoked by the forcible and public assertion of one's sincere religious beliefs to the exclusion of others.⁴⁵ Another principal cause was the paranoid obsession by some political leaders to ferret out and usually destroy suspected hypocrites who pretended to belong to the state-sanctioned church but secretly belonged to another.⁴⁶ Liberalism thus responded to a world where an obsession with sincerity led not to trust but to a distrust that engendered fear and intolerance. To end what they perceived as needless and cruel violence, liberals from Locke to Rawls advocated the relocation of religious arguments from the public stage to the private; liberals argued that men may believe as they wish in their private churches and meetings but they should not be permitted to justify publicly government laws and policies on the basis of religious authority.⁴⁷ As Shklar aptly notes, "this is a liberalism that was born out of the cruelties of the religious civil wars, which forever rendered the claims of Christian charity a rebuke to all religious institutions and parties. If the faith was to survive at all, it would do so privately."⁴⁸ Dichotomizing a previously unified self into a private religious one and a nonsectarian public one was seen as a means to mitigate the threat of civil war.

But that was not the only aim of liberalism. The distinction between private and public spheres permitted people in contexts outside of religion to be one thing in one place, another thing in another place. Whereas Rousseau argues that bourgeois men possess a coherent but delusional identity⁴⁹ and Herman Melville describes men who appear to lack any conventionally

⁴² Ordinary Vices, p. 78.

⁴³ *Id.*

⁴⁴ Rawls, *Political Liberalism* 1996, p. xxvi.

⁴⁵ Herzog, *Happy Slaves*, 1989, pp. 157-60.

⁴⁶ *Id.*

⁴⁷ Locke, 1983; Rawls, 1996. Of course, Locke and Rawls have very different specific recommendations for how the private and public spheres should be delineated for purposes of projecting religious beliefs onto government practices.

⁴⁸ Shklar, p. 5, *Ordinary Vices*.

⁴⁹ 1964, pp. 148-49, 155-56. See also the very useful explication in Grant, 1997, p. 87.

coherent interiority,⁵⁰ sociologists like Georg Simmel,⁵¹ Emile Durkheim,⁵² Niklas Luhmann,⁵³ and the uncanny Goffman⁵⁴ argue that modern society is composed of social contexts that are divided and multiple in complex ways. These contexts are occupied by socially differentiated individuals who assume multiple and even mutually conflicting roles depending on the context. So a person can be a devout Catholic, an impersonally harsh district attorney, a loving father, and a jocose member of a softball team. He may counsel his children to be fair and kind to others at school while he himself unabashedly manipulates rules and bullies witnesses as a district attorney; he may joke during softball practice while contemplating austere during Sunday Mass; a person can thus see himself primarily as one thing and not another depending on the context. And the idea of context is further complicated by the fact that even within a given context, there are still smaller contexts that may undergird it, as for example, in a church, clerics may have to assume various contextually defined goals including serving at different times as fiscal administrators, biblical interpreters, social counselors, and fund raisers. William James's observation captures well this kind of social differentiation envisioned by liberalism:

a man has as many different social selves as there are distinct groups of persons about whose opinion he cares. He generally shows a different side of himself to each of these different groups. . . . We do not show ourselves to our children as to our club companions, to our customers as to the laborers we employ, to our own masters and employers as to our intimate friends.⁵⁵

More than anyone else, Don Herzog lucidly argues that liberalism's familiar bid to dichotomize the public and private spheres is meant to accommodate the proliferation of social contexts which have their own partly independent norms and rules.⁵⁶

Herzog presents a rewarding account of separation of spheres that relies on an attitude of "selective forgetfulness".⁵⁷ He argues that different norms control (or should control) different settings and that accordingly we as individuals should selectively forget some aspect of our identities depending on what those norms socially require. Herzog's views can be illustrated with the following example from his book, *Happy Slaves*. He presents us with Eileen, "a student, a waitress, a devoted daughter, a fundamentalist, a forward on an intramural basketball team, and the resident adviser on her dormitory floor."⁵⁸ In these varied social contexts and roles, Eileen, Herzog argues, should "attend only to considerations that are contextually defined as relevant."⁵⁹ So she "can be stern with students on her floor," but "needs to be quietly solicitous of her customers in the restaurant," and she "should not punish students on her dormitory for outscoring her on the basketball court."⁶⁰

⁵⁰ 1990

⁵¹ 1946, Part II

⁵² 1984

⁵³ 1982.

⁵⁴ See *Presentation of the Self in Everyday Life*, especially pp. 48-49.

⁵⁵ William James, *The Philosophy of William James* (Modern Library ed., NY: Random House, n. d.), pp. 128-29 (quoted in Erving Goffman, *Presentation*).

⁵⁶ Herzog, 1989, Chpt. 5; Shklar, 1984, pp. 75-78. Michael Walzer's discussion of the "spheres of justice" operates from the assumption that individuals can engage in role differentiation.

⁵⁷ *Happy Slaves*, p. 166.

⁵⁸ Herzog, p. 166.

⁵⁹ P. 166.

⁶⁰ P. 166.

But to frame the proper attitude as one of forgetfulness explains, I think, only part of the picture. I would argue that liberalism requires individuals to *appear* to have divided themselves along such lines. One reason is practical: their partialities are too entrenched to permit people simply to immerse themselves in those ascribed social roles which require an equality of treatment. The second reason is philosophical: to require people in a liberal society to forego their individual autonomy to shape their life plans and realize their preferences, especially in private, is antagonistic to liberalism itself, even if those life plans and preferences are partially illiberal. A coerced insistence that citizens "sincerely" comply with an all-encompassing faith or ideology would be reminiscent of some premodern religious monarchies or modern totalitarian regimes. By insisting that individuals only pretend to be liberals for limited social purposes, hypocrisy delineates in part the liberal rights of autonomy, privacy and toleration that are enjoyed by people who are, outside of the public gaze, openly resistant to liberalism.

I can begin to explain the need for hypocrisy by describing those individuals who aren't best understood through the language of social differentiation offered by Herzog. Individuals like Eileen in socially complicated contexts probably have to forget some aspect of their identities, but they also have to repress and misrepresent others as well. For the very idea of religion, if taken seriously, is that it should order all significant aspects of one's life. This is why John Rawls believes that there "is a tendency for religious and philosophical conceptions to be general and fully comprehensive; indeed, their being so is sometimes regarded as an ideal to be realized."⁶¹ It's not that religionists in general are somehow exclusively premodern in their conception of identity (although some may be) but that there are aspects of their religiosity that fundamentally resists what Herzog calls the "highly differentiated society of modernity."⁶² So someone like Eileen may very well be tempted or feel obliged to consult religion in deliberating about the moral questions which her contexts present to her.

But her social contexts may preclude her from sincerely expressing her religious views and instead cause her to communicate hypocritical preferences. Thus, as a dormitory assistant, she might have to repress a powerful desire, if not a perceived duty, to rebuke soundly a sexually promiscuous gay resident. Instead she must hypocritically act as though the resident, like any resident, deserves to be treated publicly with equal respect. So Eileen must with outward respect attend to his complaints about the verbal abuse stemming from his sexual orientation that he has suffered at the hands of the other residents. Similarly, Eileen as the waitress might have to repress the inclination to scold a group of customers who are bombastically invoking God's name or telling jokes about Baptists or Christians or about Christ himself. Here again Eileen must perform those contextually-defined tropes of equal public respect: she must greet her customers with a smile, courteously take their orders, efficiently bring their food, politely attend to their requests for more water and ketchup, and, at the end, gratefully thank them for their patronage and then begin the dreary task of cleaning up their messy table. The customers, like the gay resident, can justifiably rely on her to refrain from acting out her sincere disgust and indignation, and if necessary, the customers may legitimately expect her to misrepresent cheerfully her resentment.⁶³

⁶¹ John Rawls, *Political Liberalism* p. 175 (New York: Columbia University Press, 1996). See also Rawls's definition of comprehensive views, pp. xxviii-xxix.

⁶² Happy Slaves, p. 167. See also my discussion about the religionists of Bob Jones University in "Between Aspiration and Alternity: Sotirios Barber and Robert Cover on Constitutional Fidelity," 23 *Studies in Law, Politics and Society* pp. 113-34 (2001).

⁶³ Of course, in a contemporary liberal society, it is sometimes the case that the *customers* who patronize those of lower social standing must refrain from sincerely speaking their contempt to their hired hands, while the latter may

It's not just the religious Eileen, though, who must struggle with a socially differentiated world. Professor Herzog offers the example of Michael, "a printer, an avid poker-player, the local coordinator for Greenpeace, an active member of the Democratic Party, an inactive Christian, and a frequent letter-writer to newspapers and magazines." Again, appealing to an attitude of selective forgetfulness, Herzog recommends that Michael should simply forget some aspect of his identity and attend to those required by his social context: "Michael should not deliberately delay jobs already contracted for by industrialists or Republicans in the print shop, even if he finds them politically objectionable."⁶⁴ But here too Michael can potentially face the same ambivalence that confronted Eileen. Inside, Michael simmers with rage against the industrialists or Republicans who brazenly approach his store counter and summon him to put together a glossy leaflet that lampoons and libels Greenpeace. But he must courteously smile to his customers, express gratitude for their patronage, cheerfully assist in their leaflet's design, and, at the end, gratefully ask them to come again. Through all of this, Michael must repress, and like Eileen, actively misrepresent his sincere rage against the Republicans or industrialists and do what his job requires.

The scope and intensity of Michael's commitment to Greenpeace might not rival the more comprehensive worldview of Eileen's Christian fundamentalism, but the repression of one's sincere thoughts and the delivering of hypocritical ones don't turn on whether they are formally comprehensive or consciously ideological. For there is in all of us a bottomless tank of partiality--beliefs, preferences, prejudices, biases, and affective ties--many of whose elements are random, ad hoc, and ephemeral, but which nonetheless conflict with those duties that derive from the various roles we play. Consider how Michael and Eileen, one working as a copier at Kinko's and the other as a waitress at Denny's, daily face the drudge of having to greet their customers with solicitous smiles even though they may be exhausted from overtime or bored to death from their mindless routines, or find many of their customers to be tiresome, rude, garish, and morally vile. To *act* professionally--to look as if you're not perturbed by an endless train of offensive people and gestures--is one thing and many people, including Michael and Eileen, can probably do it. To *feel* pristine and unperturbed during your five hours at Kinko's or Denny's is an entirely different matter, for no one can do that. Even if William Ian Miller is right in delivering the mischievous (or terrifying) observation that there might not be "true" selves lurking in us and that we are all of us just mimicking a variety of roles,⁶⁵ the daily moral travails of Michael and Eileen, so familiar to anyone who has worked in the service economy, imply that we as individuals still possess "genuine" selves to the extent that we resent efforts to assault our dignity by being forced to attend to those whom we perceive as morally unworthy or socially contemptible.⁶⁶

At this point, you might object that these hypothetical spins that I'm offering are incomplete. Can't Eileen or Michael thoroughly immerse themselves in their roles? You might here want to enlist the intuition that emotions aren't exclusively reflected in our expressions but that our expressions can affect our emotions, too (so smiling can make you happy; frowning can

ironically assume their sincerely insolent selves. See William Ian Miller's rambunctious account of "upward contempt" by the lower orders. William Ian Miller, *The Anatomy of Disgust* pp. 206-34 (Cambridge, Mass.: Harvard University Press, 1997).

⁶⁴ *Happy Slaves*, p. 166.

⁶⁵ William Ian Miller, *Faking It*, especially pp. 1-8 (Cambridge: Cambridge University Press, 2003).

⁶⁶ Miller himself suggests this latter view: This book's "primary article of faith is that humankind is vain, inescapably vain,..." The most pithy and incisive observations on vanity that I've read are still those of Francois Duc de La Rochefoucauld, *Maxims* (Trans. Leonard Tancock, 1959) (orig. 1665).

make you sad). But this intuition doesn't quite work as a serviceable recommendation. While we can perhaps identify moments when by smiling we feel happier and by frowning we feel sadder, it's hard to identify long stretches of time--five hours at work, five days a week, as in Eileen's and Michael's cases--where we can tirelessly repeat the professional smiles and warm welcomes, over and over, against a steady stream of diversely offensive people without feeling that our gestures are sometimes dismayingly contrived. Better, I think, to consider the usefulness of hypocrisy under such circumstances.

But if hypocrisy and insincerity are useful and even inevitable in a liberal society, what, if any, are its normative and sociological limits in a liberal society whose Enlightenment influences rest on optimistic assumptions about the possibilities for honest, rational discussion? Or stated more straightforwardly, can or should those in a liberal society be "completely" insincere or hypocritical?

I take up that issue in the next chapter.