

ABSTRACT

Title of dissertation: FLIP-FLOPS, DOUBLE STANDARDS, AND OTHER
POLITICAL SINS: A CITIZEN'S GUIDE TO
HYPOCRISY IN POLITICS

Jason Port Stonerook, Doctor of Philosophy, 2020

Dissertation directed by: Professor Karol Soltan
Department of Government and Politics

People detest hypocrisy, and one of the reasons people hold politics in such low regard is that politics appears rife with hypocrisy. The proliferation of hypocrisy in politics can leave many feeling disenchanted and cynical about political affairs. Yet even those with a strong aversion to political hypocrisy are likely to admit there are occasions when an act that has been characterized as hypocritical is actually acceptable in politics. In some cases, the offense of hypocrisy may not be very serious, or conditioned by circumstances; in other cases, the accusation may not even be valid.

This study examines the question of when hypocrisy is more or less acceptable in politics. This issue is explored through a series of case studies drawn from events that occurred in American politics between 2014-2016, an era characterized by high political polarization, high-stakes showdowns between congressional Republicans and the Democratic administration of President Barack Obama, the 2016 presidential primaries, and 2016 presidential election between Hillary Clinton and Donald Trump. The study is organized by type, with a focus on basic violations of principle; logical inconsistencies;

double standards involving partisan competition; discrepancies between the public affairs of public officials and their private lives; and flip-flops. The study finds that the most useful and powerful accusations of hypocrisy are those that effectively assert that a political figure has inappropriately prioritized narrow partisan concerns over a broader commitment to principles related to democratic norms, the exercise of civic virtue, and public-spiritedness.

FLIP-FLOPS, DOUBLE STANDARDS, AND OTHER POLITICAL SINS:
A CITIZEN'S GUIDE TO HYPOCRISY IN POLITICS

by

Jason Port Stonerook

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Advisory Committee:

Professor Karol Soltan, Chair
Professor C. Fred Alford
Professor Sarah Croco
Professor Michael Hanmer
Professor Christopher W. Morris

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INTRODUCTION

The Ties That Bind

The first guest on the October 25, 2012, episode of CBS's *Late Show with David Letterman* was businessman and television personality Donald Trump. Trump had become a fairly frequent visitor to the *Late Show* following the 2004 debut of his reality TV program *The Apprentice* but had been boycotting Letterman's show for over a year after the late-night host called Trump a racist for questioning the legitimacy of President Barack Obama's personal educational achievements. Only after Letterman apologized to Trump on-air did the real estate mogul agree to return as a guest.¹

After discussing their falling out and Trump's obsession with Obama's birth certificate (Trump often speculated Obama had not been born in the United States and was therefore ineligible to serve as president) Letterman shifted the conversation to Trump's endorsement of Republican Mitt Romney for president. With the 2012 presidential election less than two weeks away, Trump reiterated his support for Romney by praising the former Massachusetts governor for his tough rhetoric on China, a country Trump said had been "ripping our heart out" while "we do just nothing to protect ourselves." Trump had become a loud and reliable critic of China, routinely denouncing the nation for manipulating its currency and "stealing" Americans jobs.²

Letterman had come prepared for this line of argument, however. After some banter, Letterman produced a set of shirts and ties from Trump's clothing line:

Letterman: Now where were these made?

Trump: These were made—I don't know where they were made, but they were made someplace, but they're great. ... Number-one-selling tie anywhere in the world....

Letterman: [Holding up the shirts] Where are the shirts made?

Voice (Off-camera): Bangladesh.

Letterman: Bangladesh.

Trump: Well that's good. We employ people in Bangladesh. That's good.

Letterman: Ties. Where are the ties made?

Trump: [The people of Bangladesh] have to work too.

Letterman: These are beautiful ties.

Trump: They are great ties.

Letterman: The ties are made in, where, China?

Voice (Off-camera): China.

Letterman: The ties are made in China.

Letterman then looked at Trump, who grinned and nodded his head sheepishly, first to the host and then to the camera. The audience swelled with laughter, cheers, and applause. Letterman couldn't keep a satisfied smile off his face. As the segment came to an end, Trump defended his business practices by arguing it was very difficult to find products in the United States that weren't made in China given the way the Chinese government toyed with its currency. Letterman countered by stating he had no objection to people anywhere in the world finding jobs but would prefer that American companies prioritize the hiring of American workers. Letterman then suggested Trump shut down the "Donald Trump factory in Beijing" and "put up a tie factory in Jamaica, Queens." Trump replied he would love to.³

Four years later, Trump would be running for president himself at the top of the Republican ticket. With the issue of trade a cornerstone of his campaign, Trump promised to get tough with China, bring back outsourced manufacturing jobs, and either terminate or renegotiate trade deals he contended hurt American workers and the American economy.⁴ To undercut this message, his Democratic opponent, former First Lady, Senator, and Secretary of State Hillary Clinton, used Trump's *Late Show* appearance in one of the most effective television ads of that campaign.⁵ The ad (titled "Someplace") simply replayed footage of the exchange between Letterman and Trump with few edits or captions, allowing the raw, unmediated, and now seemingly scandalous

event to speak for itself. Clinton's ad implied Trump was not a principled protectionist but instead a grandstander raging against a problem he was actually complicit in perpetuating. And if people found that convincing—that Trump was not what he claimed to be on one of his signature issues—they just might begin to doubt Trump's devotion to the rest of his beliefs.

In other words, the ad wanted to convince viewers that Donald Trump does not practice what he preaches. That he does not put his money where his mouth is. That when he points an accusatory finger at others, three point back at him. That he is all talk and no action. That he is a hypocrite.

Hypocrisy as a Political Problem

People detest hypocrisy. Or at least that's what we like to tell ourselves.

The word "hypocrite" is not a compliment but rather a pejorative. It wasn't always that way. The origins of the word "hypocrisy" can be traced back to the ancient Greek theater, where an actor distinct from the chorus was called a *hupokrites*. The term was purely descriptive and carried no moral weight, but it is easy to see how a word used to describe someone acting a part while wearing a mask (as was the custom in Greek theater) could be repurposed to chastise those accused of presenting themselves as something they were not.⁶ Hypocrisy had acquired its pejorative nature by the time of Christ, as is evident in the Gospel of Matthew when Jesus condemned a group of Pharisees as hypocrites for attempting to flatter him with what he considered to be duplicitous and insincere expressions of admiration designed to lure him into a trap that would either diminish or eliminate him as a rival moral authority. By pretending to be

better than they actually were in order to win the approval of others, this group of Pharisees came to exemplify the classical definition of hypocrisy.⁷

Today, the word “hypocrisy” is commonly used to condemn a wide range of behavior, including violating held moral principles, acting illogically, excusing oneself from standards one believes other similarly situated people ought to follow, promise breaking, and concealing one’s true self behind an inauthentic persona. What all these examples of hypocrisy seem to have in common is that they all involve an accusation of *improperly inconsistent* behavior, or behavior in which someone’s words and/or deeds are at odds with one another in a way that might be considered incorrect, inappropriate, or (as is often the case) morally wrong. That’s a fairly broad definition that may sweep into its net a few examples that don’t belong there, but it does a pretty good job capturing the many kinds of behavior people would recognize as hypocrisy.

Let’s not get too hung up on semantics, however. People share a pretty common understanding of what qualifies as hypocrisy and tend to know it when they see it. Consider the example below (Figure 1) which eastbound travelers on the Pennsylvania Turnpike in 2014 could have spotted on a roadside billboard somewhere between Pittsburgh and Breezewood:



Figure 1

Big Green Radicals/Environmental Policy Alliance, “Billboards Showcase Celebrity Green Radicals,” billboard advertisement, May 2, 2014, <https://www.biggreenradicals.com/billboards-showcase-celebrity-green-radicals/>.

Some who saw the billboard likely thought nothing of it; they may have had no clue as to the identity of the man on the sign (for the record, that’s movie star and environmental advocate Robert Redford), why it’s a big deal he zips around aboard his own personal airplane, or what it means to live “green.” Yet those with just a little bit of knowledge about the issue at hand could probably discern that the billboard was making a rather unflattering assertion about Redford. Knowing they only had a few seconds to convey their message to speeding motorists, the designers of the billboard turned to a simple, familiar formula—“A endorses B. Then A acts in opposition to B.”—that is nearly guaranteed to touch a nerve in passersby and send them on their way with a poorer impression of the actor. Seven words, two phrases, one juxtaposition: It’s practically a form of political attack poetry aimed at accusing Robert Redford of behaving in an improperly inconsistent fashion, or in other words, of being a hypocrite.

Of course, the interest group responsible for the billboard’s message never directly accused Redford of hypocrisy in their advertisement, but that’s the clear implication of their sign. Still, anyone desiring more concrete proof of their intentions

can just visit the website listed on the billboard, where a simple search will lead you to a picture of Redford with the word “HYPOCRITE” stamped in large green capital letters across his forehead (Figure 2):



Figure 2

Big Green Radicals/Environmental Policy Alliance, “Robert Redford’s Alarmist and Hypocritical Campaign,” image from website, April 23, 2014, <https://www.biggreenradicals.com/robert-redfords-alarmist-and-hypocritical-campaign/>.

As mentioned above, people tend to know hypocrisy when they see it.

We also have an intuitive sense that hypocrisy is wrong. How wrong? Well, in *Inferno*, Dante situated hypocrites within the sixth *bolgia* (between the *bolgie* for corrupt politicians and thieves) of the eighth circle of Hell, which was reserved for the fraudulent (think seducers, sorcerers, sowers of discord, etc.) and only one circle away from Satan himself.⁸ Maybe that seems a little excessive. Yet while people may not be inclined to condemn an adulterous pastor, a health food nut dining out at a fast food restaurant, or a parent with a bad habit who tells their children to “do as I say, not as I do” to eternal

damnation for their particular hypocrisies, many would probably find their behavior scandalous and hard to admire.

People's strong aversion to hypocrisy helps explain why so many hold politics in such low regard. Politics, after all, is rife with incidents and allegations of hypocrisy. Donald Trump's double standard on outsourcing jobs to China has already been reviewed. But there's also Hillary Clinton's metamorphosis on the Trans-Pacific Partnership,⁹ Mitt Romney's change of heart on abortion,¹⁰ and Barack Obama's "evolution" on gay marriage.¹¹ There was Senator John Kerry's famous flip-flop on war funding during the 2004 election ("I actually did vote for the \$87 billion before I voted against it")¹² and John McCain's about-face on the Bush tax cuts prior to the 2008 election.¹³ Republican Representative Paul Ryan denounced the 2009 stimulus package as ineffective and a waste of money yet sought stimulus funds for his constituents.¹⁴ Democratic Senator Harry Reid slammed the Koch Brothers for attempting to enrich themselves through multimillion dollar campaign donations yet defended similar efforts undertaken by casino magnate Sheldon Adelson, who happened to be a major political player in Reid's home state of Nevada.¹⁵ When senators of either party are in the majority in the Senate, they often denounce the filibuster as a tool of obstruction and call for its abolition; when those same senators find themselves in the minority, they suddenly morph into defenders of the status quo and have no problem using it to block legislation.¹⁶ Political consultant Corry Bliss once dismissed as a "joke" criticism of a campaign he was working on in Kansas for using stock footage of Ukrainian sunflowers on the campaign's website despite having criticized a rival campaign two years earlier in Connecticut for using stock footage of a Norwegian submarine in a campaign ad.¹⁷ Vice

President Al Gore won a Nobel Peace Prize for warning the world about the dangers of climate change even though studies found his own home leaves a massive carbon footprint.¹⁸ Representative Tim Murphy ran for office on a 100% pro-life record yet encouraged his mistress to get an abortion.¹⁹ Big government liberals have regulated soft drinks but consider government crackdowns on illegal immigration too heavy-handed. Conservatives decry government overreach and want the free market to work without government interference but have supported crop subsidies and transvaginal ultrasounds for women seeking abortions. Many pro-life politicians support the death penalty; many politicians who oppose capital punishment won't defend the life of an unborn child. The list could go on and on.

This is not a new phenomenon either. Some would say hypocrisy in American politics is as old as the nation's founding documents: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness," wrote a well-known slaveowner.

It is often deeply satisfying to see politicians outed as hypocrites. The charge is so potent and damning that opposition researchers focus on it when digging up dirt on candidates for public office.²⁰ Yet daily encounters with political hypocrisy can leave citizens feeling cynical and complacent as well: Cynical in the sense that despite their protestations, political figures still engage in hypocrisy, and complacent in the sense that despite their dislike of hypocrisy, they reluctantly come to accept it as something like an incurable disease endemic to politics. They are left to wonder why a problem so many people find appalling and disgraceful remains so intractable.

The proliferation of hypocrisy in politics can be both infuriating and disheartening. What is needed is a more constructive and discerning way to think about political hypocrisy. Reconsider for a moment all the examples of political hypocrisy that have been mentioned so far in this introduction. Those examples actually describe a range of presumed improperly inconsistent behavior. For example, Clinton, Romney, Obama, Kerry, and McCain are all accused of flip-flopping, or changing their position on an issue to nearly its opposite. On the other hand, Ryan and Reid appear to be engaged in a double standard, which occurs when people excuse themselves or their allies from adhering to a standard they expect others to obey. The pro-life and pro-choice advocates stand accused of a logical inconsistency. Might these distinctions in type shape the way individual cases of hypocrisy are evaluated?

Additionally, there are conditions unique to each case that might affect appraisals of them. For instance, would people be more forgiving of a flip-flop if a politician changed their mind in light of new information or because of a change in their moral reasoning? What if, as a democratically-elected representative, they changed their mind to better reflect the popular will of their constituents or to better position themselves to win re-election? Sometimes, as team players, politicians engage in hypocrisy to improve their party's strategic position vis a vis their opponent's; how acceptable is that, does it matter what their ultimate policy ambitions are, and should people then accept similar behavior from their opponents when it rebounds back onto them? Or what if the hypocrisy is the by-product of a compromise forged with an opponent to pass legislation? How should these and other circumstances alter people's assessments of hypocrisy?

Furthermore, some of these examples seem more serious than others. For instance, while the accusation involving the filibuster finds legislators waffling on an issue central to the nature of democracy (should legislation require a mere majority or supermajority to pass?) the accusation concerning the proper use of stock photos in campaign ads seems on the face of it downright trivial. Consequently, people might decide not to sweat the small hypocrisies. But how does someone distinguish between the more serious and less serious cases of hypocrisy? For instance, while the preceding examples have all in some way touched on inconsistencies in the public records of political figures, the examples concerning Al Gore and Tim Murphy (as well as Donald Trump and Robert Redford, for that matter) concern inconsistencies between their public political work and their private personal behavior. Is it really a big deal if a politician's private life is inconsistent with the values they espouse in public so long as they always act publicly in accordance with their publicly-stated values? This is but one question that could be asked concerning the seriousness of a case of hypocrisy.

Finally, some might wonder if all the accusations of hypocrisy listed above are actually valid. For example, is there no room in a conservative ideology for assertive government action? Are liberals ideologically required to consider every government action acceptable? Is it possible to be pro-life and supportive of capital punishment (or pro-choice and opposed to the death penalty) and avoid the label of hypocrite? Does it even make sense in terms of hypocrisy to compare someone's position on abortion to someone's position on capital punishment? Some accusations of hypocrisy may fail because they lack valid points of comparison or distort the terms of comparison.

It's not just that some accusations of hypocrisy may fail to pass muster, though. It's that important differences pertaining to factors such as type, circumstance, and severity will likely affect evaluations of individual cases. This is not really unusual nor should it be unexpected: Distinctions along similar lines are routinely made when assessing illegal, immoral, or other bad behavior.

Even those with a strong aversion to hypocrisy will probably admit there are occasions when hypocrisy should be considered more or less acceptable in politics. That's not an easy assertion to accept, however, as it seems to throw the door wide open for people to become hypocrites about anti-hypocrisy, for someone to agitate against the improperly inconsistent behavior they spot in some but not others. This raises a question central to any study of hypocrisy: How can someone ever claim legitimacy as a critic of hypocrisy if they are found to have tolerated or indulged in it themselves?

It is important not to allow this paradox to sabotage a sincere effort to work through the problem of political hypocrisy, however. Some of the difficulty here can be assuaged with a dose of modesty. Perfect behavioral consistency—including those moments when a self-proclaimed anti-hypocrite is summoned to denounce an act of hypocrisy itself—is an impossibly high standard to meet. It seems wiser to approach an ethical study of hypocrisy not as a zealot (whose righteous façade is only bound to crack) but with humility in the knowledge that, despite sincere concerns about hypocrisy and our potential for moral improvement, we remain flawed, un-angelic human beings prone to succumbing to such ordinary vices as hypocrisy.

More importantly, however, is that if people intend to take political hypocrisy seriously, then they should be judicious enough to avoid issuing blanket condemnations

of hypocrisy. An act of hypocrisy should not automatically earn its perpetrator a one-way ticket to the inner circles of Hell. Hypocrisy is too complicated to warrant such a sentence. The severity of an act of hypocrisy varies on a case-by-case basis, both in its direct consequences and how it fits into its perpetrator's record of behavior. Accusations of hypocrisy also need to be carefully assessed in order to determine their validity, potential for excusal, and moral significance.

This scrutiny is especially important when dealing with hypocrisy in politics, as the very nature of politics sometimes makes hypocrisy inevitable. In some situations, for instance, a political choice may allow a politician to evade the charge of hypocrisy on one issue but leave them vulnerable to the accusation on another. Some of these decisions may be unavoidable too, forced upon politicians by unanticipated circumstances or a clever opposition. There are other times when hypocrisy may serve a useful political purpose, or when something that someone considers hypocrisy is actually preferable to what Ralph Waldo Emerson may have considered a "foolish consistency."²¹ Sometimes the nature of political competition may permit a certain degree of hypocrisy; at other times it may levy a strong imposition against it. In other cases, an accusation of hypocrisy may not actually bear itself out upon closer examination, remain contingent on technical details or specific circumstances, or only rise to a level of moral significance if it violates certain conditions. A conscientious citizen will give careful thought and consideration to accusations of hypocrisy.

If people are to draw meaningful conclusions about political hypocrisy, it is essential for them to be able to distinguish between those cases that don't qualify, those that are insignificant, those that are forgivable, those that are regrettable, those that

deserve reprobation, and those that are inexcusable. Hence the question at the heart of this work: Under what circumstances is hypocrisy more or less acceptable in politics?

Literature Review

Given people's frustration with its regularity in politics, one would expect to find a wealth of literature on the topic of political hypocrisy. Surprisingly, however, there are only a few major works on the subject, and, while insightful, their inquiries into the permissibility of hypocrisy in politics ultimately reach broad conclusions that do not acknowledge the problem's typological diversity nor offer practical advice as to how to make sense of it on a day-to-day basis.

Any exploration of hypocrisy in politics should begin with Judith Shklar's 1984 book *Ordinary Vices*, a study of common yet immoral behavior like cruelty, snobbery, betrayal, and misanthropy. Shklar devotes an early chapter in her book to hypocrisy, one replete with observations any student of the subject should heed: That our disgust of hypocrisy is enhanced by its prevalence in human affairs;²² that intractable ideological conflict is as likely as moral consensus to generate accusations of hypocrisy, since opposing sides speaking past one another's moral claims will turn to accusations of hypocrisy in an attempt to undermine their opponents' credibility as moral agents;²³ and that, paradoxically, we only encourage hypocrisy by insisting upon greater moral rectitude from others, as such demands encourage people to go to greater lengths to hide hypocritical behavior behind projections of fidelity and sincerity, a maneuver that ultimately favors those most skilled at deception.²⁴

Midway through her essay, Shklar turns her focus to liberal governments, which she observes are more often accused of hypocrisy by those who abide by them than by

their opponents. Shklar attributes this curiosity to the gap that develops between the grand aspirations democracies are founded upon (and the great expectations that follow) and the realities of governance.²⁵ For example, because debates over policy in liberal governments often reference the government's founding principles, those upset with the actions undertaken by their government will often claim those policies contradict the government's core values. This is particularly acute when the aggrieved feel the government—which is supposed to be representative of the people's will—has dismissed their concerns or consists of officials who are out of touch with public sentiments.²⁶ Add to this the tension between ideology and compromise inherent to coalition building as well as the competing demands of campaigning and governing and it is not hard to see how citizens in liberal democracies may come to believe the very nature of their government fosters widespread hypocrisy.²⁷

Shklar, however, cautions readers against getting too agitated over hypocrisy's presence in liberal regimes. Shklar argues hypocrisy is necessary to grease democracy's wheels so that social and political animosities do not ultimately paralyze government. Without hypocrisy, politicians would find themselves unable to flatter, cajole, and negotiate with those whose support they need to govern effectively. Politicians who spoke too frankly or refused to disguise their contempt for others could easily lead the government into gridlock. Subsequently, Shklar heaps greater scorn upon the anti-hypocrite for putting ideological purity ahead of public-spiritedness.²⁸

Shklar concludes we should not condemn liberal orders for generating or even tolerating hypocrisy, as hypocrisy seems to be a necessary vice that can actually help liberal political systems function smoothly; furthermore, a liberal political system that

sought to eliminate hypocrisy from its politics would struggle to resolve political disputes and may even begin to exhibit illiberal political tendencies. Rather than fret so much over hypocrisy, Shklar instead encourages people to direct their outrage toward more serious vices like cruelty.²⁹

Shklar's advice is certainly wise; an all-consuming revulsion of hypocrisy can poison people's perception of politics with cynicism, distract from more significant political concerns, and prevent people from appreciating the benefits society derives from politics. Yet for all her insights into hypocrisy, Shklar does not really address the question of when people should object to its presence in politics. This is problematic for her argument, since the political cynicism Shklar is so keen to caution her readers about is not only the byproduct of a boundless contempt for hypocrisy but also generated by genuinely odious acts of hypocrisy. But at a more basic level, even if people take her advice and decline to get too worked up over political hypocrisy, there are certainly times when it is so offensive or problematic that it ought to be called out. Shklar seems to admit as much in the final paragraph of her essay, writing that her "considerations are not to be taken as an endorsement of hypocrisy, least of all the naïve kind"³⁰ (which she defined earlier in her essay as acts that are consciously wrong.)³¹

Additionally, Shklar also admits in her concluding remarks that accusations of hypocrisy in liberal societies can do some good, arguing,

The only voice that damns hypocrisy to some purpose is one that laments that the society in which we live does not live up to its declared principles, promises, and possibilities. This outraged jeremiad is the mark of a moralistic rather than a moral society, perhaps; but it is not without effect, because this type of antihypocrite does at least have a sense of what is wrong, rather than only an urge to spread the blame. He may well frighten politicians enough to inhibit them to a significant degree. Even the participants in the system of hypocrisy and counterhypocrisy perform unintended services to liberal societies. Each fears the

other enough to restrain himself. Their discourse conveys little moral urgency, but it does maintain some standards of decency.³²

This final point reveals Shklar's argument is actually rather broad: We should not obsess over hypocrisy in politics as there are more serious vices to worry about and we should not condemn liberal political systems for the hypocrisy inherent to them, but there are some unspecified hypocrisies that are wrong that we should object to while some accusations of hypocrisy can help maintain the moral order. How Shklar would apply these conclusions to conventional political affairs, however, remains a mystery.

Ruth Grant's 1997 book *Hypocrisy and Integrity: Machiavelli, Rousseau, and the Ethics of Politics* builds on Shklar's observations about the presence of hypocrisy in liberal political systems. Grant argues any attempt to address concerns related to the presence of hypocrisy in politics by adherents of the liberal tradition is doomed to fail. In Grant's view, liberal regimes—by promising to create a political order built on transparency, honesty, and rationality—have deluded themselves into believing they can transcend the debasing features of politics, including hypocrisy. The problem, of course, is that despite these claims, hypocrisy not only abounds in liberal systems, but in many cases appears to be woven into the very fabric of the liberal political order. Despite heralding liberty, justice, and equality as their central values, many liberal political regimes are still the site of oppression, social injustice, and capitalistic economic exploitation. Additionally, the social mores of liberal societies encourage citizens to hide their authentic selves behind more socially-acceptable bourgeois masks.³³ For some liberal citizens, the hypocrisy at the heart of liberal societies goes unnoticed, rendering them complicit in its perpetuation. Those who do notice it react in one of three ways: Either as a complacent moderate who tolerates hypocrisy to preserve a personally

advantageous status quo; as a zealous anti-hypocrite who insists upon even greater political purity (thus setting the system up for further disappointments); or as a cynic who loses faith not only in liberalism but in the values it espouses.³⁴

Grant turns to Machiavelli and Rousseau—two philosophers outside the liberal tradition—to rescue liberalism from its predicament. In Machiavelli and Rousseau, Grant finds two thinkers who assume politics is driven more by passion than reason and who argue that political relationships are built not only on interest but (more importantly) dependence. Their outlook on politics strikes Grant as a more realistic view of the political realm, one that admits flattery and emotional appeals are often more powerful than cold, rational arguments, and that the actions of political actors will often be constrained by their inextricable relationships with others who may wield some influence over them or whose beliefs they may despise. No politician would be able to function in this world without indulging in some hypocrisy.³⁵ The way forward for Grant, then, is neither a wholesale condemnation of hypocrisy, an abject rejection of politics, nor a complacent acceptance of the status quo, but rather the development of models of political action that accept the necessity of hypocrisy within politics: For example, a moderate who attempts to address public problems by weighing the points of view and political motivations of others in order to craft policies that have the potential to gain widespread popular support, or a moralist who presses their case for moral causes without allowing the ideal policy to stand in the way of an improvement that is politically possible.³⁶

Grant, like Shklar, seeks to remind her readers of the political uses of hypocrisy. In the process, she redeems prudence and the willingness to compromise as political

virtues. (She also warns that a reflexive impulse to seek the middle ground or strike a bargain can be problematic if one sells out too much on principle; the best politicians it seems will know how to strike the right kind of balance in a given situation.)³⁷ Grant's conclusions are certainly worth bearing in mind, as it is often forgotten by the citizens of liberal systems that politics is in part an artistic undertaking whose practitioners need a measure of creative flexibility to react to events, direct the efforts of government, give meaning to public undertakings, and negotiate with other politicians to address public concerns.³⁸

There are two main issues with Grant's arguments, however. In the first place, her assumptions about liberalism are too harsh. The idea that liberals can't make sense of hypocrisy or don't possess an appreciation for prudence, compromise, and the art of politics (or have no appreciation for the political use of hypocrisy) is too sweeping an attack, particularly for a political ideology that looks upon negotiation, deliberation, and inclusion as political virtues. The more fundamental issue is that many people hold a dim view of politics and its practice generally. What is actually necessary is a greater appreciation for the give-and-take inherent to democratic politics, which sources both within and outside the liberal tradition can provide.

Secondly, Grant, like Shklar, does not delve into questions concerning the circumstantial permissibility of hypocrisy in liberal politics. She is mostly interested in hypocrisy as it is broadly-conceived, of how the ideals of a political system (liberalism) are not completely aligned with its operational practices. Many liberals, however, understand why the gap between liberalism's ideals and its administration exists and have already come to terms with that; for instance, they understand governments must be

empowered to act on behalf of “the people” but know it is virtually impossible to act in accordance with the will of every single citizen that constitutes “the people.” These liberals take concerns about the ideological integrity of liberalism seriously but are already where Grant wants them to be: Prepared to work as politically-astute citizens within a respectable yet inevitably compromised liberal political system. They don’t need to be awakened to the realities disclosed by Grant, but instead seek practical guidance to help them assess the mundane political hypocrisies they encounter as engaged citizens.

David Runciman responds to these critiques of Shklar and Grant’s scholarship in his 2008 book *Political Hypocrisy: The Mask of Power, From Hobbes to Orwell and Beyond*. Runciman rejects Grant’s claim that liberalism lacks the intellectual framework to make sense of hypocrisy’s presence in politics.³⁹ Instead, Runciman turns to a number of writers associated with the liberal tradition (Hobbes, Mandeville, the American founders, Bentham, Victorian writers such as Anthony Trollope, and Orwell) who have thought seriously about the political problem of hypocrisy. Because these authors have an appreciation for the liberal project generally and understand the realities that shape and complicate the practice of politics within liberal systems, Runciman argues these authors offer the most useful insights into the subject matter. As Runciman writes,

These [liberal] authors have some of the most interesting and useful things to say about hypocrisy, precisely because they were conscious of its hold on political life, even as they tried to escape it. In other words, they were struggling with the problem from the inside, and could see that it was a problem, unlike those (Machiavelli, Rousseau, Nietzsche) who have looked at the hypocrisy of liberal (or in an earlier guise, “Christian”) politics from the outside, and saw only how easy it would be to pull aside the mask, which is what they did.

The writers that I will be discussing in this book are the ones who were willing to keep the mask in place, despite or because of the fact that they were also truth-tellers, committed to looking behind the mask, and revealing what they found there. Keeping the mask in place while being aware of what lies behind the

mask is precisely the problem of hypocrisy for liberal societies; indeed, it is one of the deepest problems of politics that we face.⁴⁰

Additionally, Runciman aims to pick up where Shklar left off and reach more specific conclusions regarding the permissibility of political hypocrisy.⁴¹ Rather than draw sweeping claims about hypocrisy as it is generally conceived, Runciman instead turns to the authors he reviews in order to determine when people ought to accept or reject hypocrisy in politics. His study shows there are different types of hypocrisy that vary in terms of form, intention, object, etc. In drawing these distinctions, Runciman hopes to identify the circumstances in which hypocrisy is a problem in politics rather than a mere irritant, a side effect resulting from the pursuit of other political goods, or even a benefit of some kind.

By discussing various types of hypocrisy and the circumstances in which they might arise, Runciman's approach yields a more pointed set of conclusions one can apply to various political situations. For those looking for practical counsel regarding the permissibility of hypocrisy in politics, Runciman's work is a good place to start. Still, his work is structured as a collection of philosophical insights one might draw upon when trying to assess hypocrisy. That is helpful in putting various concerns about hypocrisy on the table, but once the issues Runciman raises are illuminated, what would be useful is a more systematic approach drawn from and directly applicable to a wide range of actual political situations. This study hopes to address that gap in the literature.

Political Hypocrisy, Public-Spiritedness, and the Crisis of Democracy

The main objective of this study is to examine hypocrisy as it appears in the political world in order to determine when and under what circumstances it is more or

less acceptable in politics. It is the author's hope that someone who reads this work will gain useful intellectual tools that will help them better evaluate the various instances of political hypocrisy they will inevitably encounter in the political world.

Yet beyond those interested in the topic of political hypocrisy, this work should also be of interest to those concerned with the health and well-being of democracy. This is a timely topic. Many people today argue that democracy is in crisis not only around the world but in the United States as well. It is not simply a matter that authoritarian governments in Russia and China are flexing their muscles on the world stage and challenging the preeminence of democratic regimes. It is that a number of democratically-elected leaders around the world (i.e., Venezuela, Hungary, Turkey, the Philippines, etc.) have proceeded once in office to significantly erode their nations' democratic institutions and norms, while other countries (including the United Kingdom, France, and Germany) have witnessed the rise of illiberal nationalistic political movements that often scoff at democratic traditions, traffic in demagoguery, and whose intentions many fear would set their nations on a path to authoritarianism. This anxiety is acutely felt in the United States, where the norm-shattering presidency of Donald Trump has left many Americans worried about their nation's commitment to the public interest, the rule of law, equality, civil and human rights, freedom of the press, toleration of political differences, the integrity of independent political institutions, the constitutional system of checks and balances, honest and transparent governance, and the legitimacy of democratic processes.⁴²

Multiple books—including (but not limited to) *Demagoguery and Democracy* by Patricia Roberts-Miller (2017), *How Democracies Die* by Steven Levitsky and Daniel

Ziblatt (2018), *The People vs. Democracy: Why Our Freedom is in Danger and How to Save It* by Yascha Mounk (2018), *How Fascism Works: The Politics of Us and Them* by Jason Stanley (2018), *How to Save a Constitutional Democracy* by Tom Ginsburg and Aziz Huq (2018), *Why Liberalism Failed* by Patrick Deneen (2019), *The Road to Unfreedom: Russia, Europe, America* by Timothy Snyder (2019), *Can It Happen Here? Authoritarianism in America* edited by Cass Sunstein (2019), and *Crises of Democracy* by Adam Przeworski (2019)—have addressed this “crisis of democracy.” This work does not address that topic head-on nor offer an explanation of its causes. It instead arrives at the topic by way of its study of political hypocrisy, a subject that repeatedly reveals just how important civic virtues—specifically the virtue of public-spiritedness—are to the maintenance of democracy.

It may seem obvious that democracies will be better off if their citizens and public servants act in accordance with democratic virtues. Yet many democracies—including the United States’—are premised on the idea that democratic governments do not need a virtuous people or virtuous office holders to function adequately. Instead, a greater emphasis has been placed on the importance of institutional design. This is the lesson James Madison imparted in *Federalist 51* (1788): Since men are not “angels” and cannot be trusted to rule benevolently, it is instead necessary to safeguard liberty by “contriving the interior structure” of the government so that political power is distributed across the branches and throughout a diverse and extended republic. Each player in that system would possess enough power to check and balance others, to pursue their own prerogatives, resist encroachment, and counter rivals if necessary.⁴³ Madison did not argue that virtuous people were needed for the United States’ new constitution to

succeed; instead, he based his argument for adopting the new system on its unique, carefully-calibrated institutional design and what he insisted was its ability to advance only that which was truly in the national interest while reining in bad actors.

The United States has operated continuously under its constitution for over 230 years. Credit for its political endurance is often attributed to the institutional design of its government, which proponents argue has allowed the nation to weather multiple crises without sustaining a breakdown in democratic governance. There is no doubt that institutional design plays a critical—even at times decisive—role in the resilience of democratic regimes. Yet that resilience should not be attributed to institutional design alone. Civic virtue, or the moral qualities attendant to good citizenship and conscientious leadership, is also important and often underappreciated.

While modern political theory has often been described as downplaying the importance of civic virtue in favor of a greater emphasis on statecraft, the emphasis modern theorists placed on civic virtue should not go unacknowledged. Scholars have located arguments reinforcing the need for civic virtue in the works of Machiavelli and classical liberals like John Locke, Adam Smith, Madison and Hamilton, and John Stuart Mill.⁴⁴ Classical, modern, and contemporary accounts of republicanism give civic virtue a central role in its political theory; as Philip Pettit wrote in *Republicanism* (1997), “One of the recurrent themes in the [republican] tradition is that the republic requires a basis in widespread civility; it cannot live by law alone.”⁴⁵ Alexis de Tocqueville, a skeptic when it came to democracy, attributed its success in the United States to the mores of its citizens, whose “habits of the heart” as developed through religion, education, and local associations contributed more he believed to the maintenance of the democratic republic

in its earliest decades than the nation's physical circumstances or laws.⁴⁶ Despite the emphasis given to civic virtue by political thinkers at the dawn of the liberal era, interest in the subject eventually fell by the wayside as scholars and political figures focused on the merits of pluralism. It was not until the late twentieth century that contemporary scholars revived interest in citizenship theory and civic virtue as topics worthy of serious inquiry.⁴⁷

Many elements drove the renewed scholarly attention to civic virtue. One significant factor was a growing realization that institutional design alone could not guarantee the adequate functioning or even success of democratic regimes. As William Galston observed, "[The] operation of liberal institutions is affected in important ways by the character of its citizens (and leaders) and that at some point the attenuation of individual virtue will create pathologies with which liberal political contrivances, however technically perfect their design, simply cannot cope. To an extent difficult to measure but impossible to ignore, the viability of liberal society depends on its ability to engender a virtuous citizenry."⁴⁸ This point was given added force by Steven Levitsky and Daniel Ziblatt in their 2018 book *How Democracies Die*. Drawing on two decades of work studying the collapse of democracies around the world, Levitsky and Ziblatt found that since the end of the Cold War, most democracies that backslid into authoritarianism did so when political leaders and political parties allowed demagogues to violate the informal democratic norms that had regulated democratic governance. Even though these demagogues claimed credibility for their actions by using the mechanisms of democracy to scale back democracy, their actions entailed violating norms that would have restrained past leaders. Rather than defend the primacy of those norms, partisan leaders

and citizens instead remained quiet as their nations' democracies slowly but surely broke down.⁴⁹ It was not enough for those nations to have well-designed democratic political institutions; it was also essential for the leaders and citizens of those nations to possess the civic virtue necessary to operate those institutions and ward off those who would hijack them.

Amidst deep political polarization, close electoral competition, and the norm-shattering presidency of Donald Trump, there is growing concern in the United States that the nation's current supply of civic virtue is proving insufficient to sustain its democratic traditions. Additionally, it is beginning to dawn on some that not only may the United States not be able to rely upon its vaunted constitutional system of checks and balances to arrest the nation's democratic decline, but that the system itself—with its stark separation of executive and legislative power and various anti-majoritarian features—may be a driver of this dysfunction.⁵⁰ One way to potentially reverse this democratic decline would be to reform the United States' constitutional system. Such institutional reform is certainly worth consideration, but, if current concerns about the low stock of civic virtue in the United States are true, embarking on institutional reform in today's environment may be akin to opening a political Pandora's box. An alternative, then, would be to take steps to replenish the nation's supply of civic virtue so that its citizens and leaders reaffirm the principles and norms of democracy and raise the expectation that they ought to be put into practice.

Replenishing a democratic nation's supply of civic virtue requires a reassertion of democratic norms, and one norm that is crucial for democracies to affirm in this regard is the norm of public-spiritedness, or the idea that political action ought to be motivated by

an unselfish concern for the public good, the well-being of society at large, and the widely-shared and broadly-defined values that shape and maintain the participatory public sphere. This norm encourages citizens and leaders to think beyond narrow concerns related to self-, group-, and partisan-interest and instead take into account the well-being of others and the nation as a whole and general ideas concerning right and wrong when engaged in politics.⁵¹

Public-spiritedness appears to be a fairly well-established norm in the United States. Public debates about public policies are usually argued in terms of the public interest, and the media present them as such. Citizens tend to claim that a sense of civic duty and an interest in society's well-being rather than the pursuit of self-interest drives them to the polls. Politicians typically say they are motivated to seek office not out of a desire to secure public benefits for themselves but to serve their country and fellow citizens and craft good policies.⁵² When self-interest does appear to motivate political action (perhaps in the form of a business interest or someone professing to be the victim of an injustice) self-interested arguments are often reconfigured in terms of the public interest to win broader appeal; furthermore, as Steven Kelman writes, "Norms about public spirit in politics restrain the content of the demands that the self-interested can make. And, by implicitly accepting that their claims will be judged against a standard of what policy would be right, the self-interested open their case to scrutiny and make it easier to reject."⁵³ Even those who write their own self-interest into their conception of the public good can often only be faulted for failing to appreciate a broader notion of the public good rather than disregarding the public good altogether.⁵⁴

Yet self-, group-, and partisan-interests remain a potent force in politics, and such interests frequently tempt citizens and politicians who would typically affirm the norm of public-spiritedness into violating it. It is at this point that accusations of hypocrisy come into play. When someone is accused of hypocrisy, people are often drawn immediately to what that accusation suggests about the accused's character. But as many of the case studies in this work reveal, accusations of hypocrisy in politics strike at something deeper. More than anything else, the discovery of hypocrisy—the accusation of which is so often used to call out someone for pursuing a narrow interest at the expense of a previously professed commitment to a political position expressed in terms of the public interest—offends our sense that politics ought to be animated by the norm of public-spiritedness. More specifically, hypocrisy offends the norm of public-spiritedness by elevating excessively partisan, self-interested, and competitive political concerns over public-spirited norms such as impartiality, fairmindedness, egalitarianism, honesty, and rational governance. Accusing someone of hypocrisy, then, is one way to reassert the norm of public-spiritedness, reaffirm the importance of civic virtue, and pull democracy back toward its participatory ideals.

Accusations of hypocrisy can serve as powerful intellectual countermeasures to the threats posed by the current crisis of democracy. Make no mistake: Hypocrisy has always been present in politics, so the presence of hypocrisy in contemporary politics is by no means novel. Additionally, accusations of hypocrisy can be just as potent in more conventional political eras when democratic norms are stronger. The current crisis of democracy, however—brought about in part in the United States by deep political polarization and close electoral competition that compels citizens and leaders to resort to

a hardball, win-at-all-costs brand of politics—makes this a unique moment in American political history. Within this political environment, time-honored political norms associated with civic virtue—including the norm of public-spiritedness—are too often sacrificed to the pursuit of partisan political advantage. In times like these, accusations of hypocrisy can help sustain democracy and counter the most pernicious effects of polarization by insisting upon the importance of norms associated with civic virtue and public-spiritedness.

Yet while it is important for the well-being of democracies to nurture civic virtue and police lapses in public-spiritedness with accusations of hypocrisy, citizens should be careful about taking accusations of hypocrisy at face value. Sometimes such accusations are not valid or are thrown around simply to tarnish an opponent. Also, as mentioned earlier, there will be times when hypocrisy may be more or less acceptable. This will be especially true when other important democratic principles are involved, as they often are.

For example, competition and contestation are considered critical features of democracy, as they allow citizens to challenge authority, pose alternative policies, debate the public good, and express opinions concerning the direction of their government. A system featuring and responsive to political competition is preferable to one that squelches competition and public disagreement.⁵⁵ Competitive political systems, however, also encourage citizens and politicians to think strategically about how they communicate with others, determine political priorities, forge alliances and negotiate compromises, and use the system to their advantage. Hypocrisy easily arises when what began as public-spirited political competition becomes preoccupied with gamesmanship.

If citizens of a democracy care about the principles underpinning democracy, they will need to find some way to reconcile the norm of contestation with the norm of public-spiritedness, which is often asserted through accusations of hypocrisy. This suggests people's dislike of hypocrisy must accommodate itself to some degree with the realities of competitive politics.

Similarly, it has been argued that hypocrisy can be used to call out partisans who sacrifice norms of public-spiritedness to the pursuit of partisan political advantage. But it is also worth remembering that partisan ideologies are themselves public-spirited expressions of the public good. How fair is it to accuse a partisan of hypocrisy—and, by extension, of somehow violating a norm attached to public-spiritedness—when that partisan's hypocrisy is actually a defense of a partisan ideology that is itself a vision of the public good? Might there be times when a partisan principle is more important than a democratic norm?

People know hypocrisy when they see it. It's an improper inconsistency, behavior in which someone's words and/or deeds are at odds with one another in a way that is somehow morally wrong. What people often don't appreciate in politics is that accusations of hypocrisy are not merely accusations of inconsistency but also of a failure to act in accordance with the norm of public-spiritedness, a principle all citizens and politicians in a democracy are expected to adhere to and uphold. But there are also times when hypocrisy may be more or less permissible in politics. These cases arise when norms of public-spiritedness come into conflict with one another or with other democratic norms. To determine the permissibility of hypocrisy, these norms must be weighed

against one another. The main body of this work represents an attempt to work through this dilemma.

Methodology and Organization

This study distinguishes itself from prior scholarly work on hypocrisy by employing a methodological approach that allows for a more direct engagement with the various types of political hypocrisy as well as a more direct focus on questions concerning the permissibility of hypocrisy in politics. While it builds on the theoretical contributions of previous scholars, this study grounds its inquiry in case studies drawn from the real world of politics.

Through its use of case studies, the discussions of political hypocrisy in this work originate from actual accusations related to a variety of actual events. This approach allows for a more complete assessment of and comparison between the types of hypocrisy found in politics as well as a greater consideration of the ways in which real-world political phenomena and circumstances are relevant to questions concerning the permissibility of hypocrisy in politics.

Most importantly, this study encounters hypocrisy in politics the way citizens encounter it—through the news, political commentary, and the back-and-forth between political antagonists—and reckons with it in light of the genuine political stakes and consequences involved. Hypocrisy is not a hypothetical, abstract concept here but something readers may have already encountered and wrestled with. The ultimate goal is to help guide concerned citizens through the puzzle of political hypocrisy by building up something like a case law on the subject, one drawn from a variety of circumstances and

accusations, tested and applicable within the real-world crucible of politics, and ultimately more nuanced, specific, and immediate in its analysis and conclusions than its predecessors.

All the cases featured in this work concern American politics and (for the most part) were drawn from events that occurred between 2014 and 2016, or roughly the final three years of Barack Obama's presidency. This was not a quiet time in American politics. In addition to a standoff over a Supreme Court vacancy and the rise of ISIS in the Middle East as well as contentious debates over such topics as undocumented immigration, gun control, same-sex marriage, and racial inequality in the criminal justice system, this period of time also included the hotly-contested 2014 midterm elections, competitive presidential primaries in both major parties, and the 2016 presidential campaign between Donald Trump and Hillary Clinton. It is an understatement to say that a daily reading of the news provided an ample supply of material—approximately 1,000 examples drawn from all corners of the political world—for this study to work with.

That said, it should be acknowledged that this study's use of case studies raises the concern that the observations and conclusions contained in this text are conditioned by the historical circumstances of its time period. This is an inescapable problem for any scholarly work founded upon case studies, but it seems best to acknowledge that potential limitation up front. Two historical phenomena that shaped politics in this time period stand out in particular.

First, this study was conducted during a period of intense political polarization in the United States.⁵⁶ In politically polarized times, differences between the parties are magnified, partisans increasingly dismiss the ideas and representatives of the opposition

as unacceptable, and centrism and moderation fall out of fashion among the politically engaged. When the competition for political power is close, polarization can encourage heated political rivalry. While there is some debate about whether contemporary polarization is a phenomenon mainly experienced and driven by political elites or one with roots in the broader electorate as well, and whether the current era is the result of a shift in people's opinions toward greater ideological consistency or people merely sorting themselves into the parties that most accurately represent their views,⁵⁷ scholars have identified a number of potential causes for the increase in polarization over the past forty years. These causes include increased economic inequality;⁵⁸ heightened racial, ethnic, and religious divides;⁵⁹ the rise of hyper-partisan media outlets and online media that make it easy for users to filter out dissenting views;⁶⁰ and closely contested competitions for political power.⁶¹ No matter the underlying cause, however, the important thing to remember is that political polarization is often regarded as the defining feature of modern American politics as well as a major contributor to today's political dysfunction.

It is hard to know how times of heightened political polarization shape or alter people's attitudes regarding political hypocrisy. Engaged party members may consider hypocrisy a serious problem, one that afflicts more moderate and conciliatory party members (whose records appear to reflect a less-than-adequate devotion to party principles) as well as the opposition (who, when not branded as extremists, are sometimes portrayed as either confused moralists who don't deserve the moral credibility they've assigned themselves or charlatans tapping into party members' demands for ideological consistency in the pursuit of personal political power.) Their complaints may range from righteous indignation at a perceived violation of party orthodoxy to mere

nitpicking. At the same time, engaged party members might sweep much of their own party's hypocrisy under the rug for the sake of party unity (which may only inflame the opposition's outrage over hypocrisy.) If high polarization produces political gridlock, less-partisan citizens hoping for a more functional government might disregard behavior partisans consider hypocritical and instead praise politicians who prioritize pragmatism over strict ideological consistency.

On the other hand, times of low political polarization may produce different assumptions about political hypocrisy. People in such eras may not think of political hypocrisy as a major public problem or find themselves more willing to ignore it in order to preserve social unity and pragmatic political relationships. Ideologues would probably still consider hypocrisy problematic, but perhaps their critiques would be broader in nature and aimed more at a system that they felt was too complacent to care about principles. It is also possible, however, that most accusations of hypocrisy would originate from within the establishment and mainstream society as a way to control for dissent.

This is all speculation, of course. It may be that accusations of hypocrisy and people's attitudes toward hypocrisy don't vary much depending on whether there are high or low levels of political polarization. It may also be that any conclusions this study draws about hypocrisy are just as applicable to times of low polarization as they are to times of high polarization. It remains possible, however, that hypocrisy takes on a certain charge in times of high political polarization, and that this modern era of polarization conditions our assumptions about politics and our assessments of hypocrisy in ways we

are not fully aware of in the moment. While those concerns cannot be obviated, this study is aware they exist and has tried to account for them in its analysis.

The second historical circumstance that needs to be acknowledged is Donald Trump's startling and victorious 2016 presidential campaign. When this study began in 2014, it was widely assumed Hillary Clinton would enter the Democratic primary for president as a prohibitive frontrunner while the Republican contest would be a wide-open race with many viable contenders. Given Clinton's reputation as a moderate in a party that was becoming increasingly liberal and the hardline conservatism that had asserted itself as a political force in the Republican Party, those campaigns alone were expected to generate plenty of accusations of hypocrisy for this study to draw from. That assumption certainly proved true.

What was not anticipated was Trump's entry into the race and his rapid ascent to the top of the Republican primary field. Trump's campaign was engulfed in controversy from the start, and it was almost as quickly pummeled by charges of hypocrisy. It did not take long for this study to be inundated by accusations of hypocrisy directed at Trump. Those accusations involved both major political issues as well as matters of relative insignificance; concerned both his public, political behavior as well as his private conduct and business affairs; originated from all corners of the political universe; and took the form of nearly every variety of hypocrisy imaginable. It is easy to implicate politicians of every stripe in acts of hypocrisy; Trump's propensity for it, however, was astounding.

It is tempting to use the accusations of hypocrisy directed at Trump and his supporters as the basis for many of the case studies in this work, as they often provide excellent illustrations for the points that need to be made about hypocrisy in politics.

Doing so, however, would threaten to turn this work into an expose on Trump rather than an investigation of hypocrisy. Furthermore, the alleged hypocrisies of Donald Trump seem to be a special case deserving special attention. Therefore, none of the case studies in the main portion of this study are centered on Trump, who instead emerges as an incidental player in the political dramas that unfold within. Instead, the focus is placed on more conventional political hypocrisies and their more conventional perpetrators.

The cases that were ultimately selected for inclusion here were chosen for a number of reasons. Efforts were made when appropriate and opportune to draw on examples from across the ideological spectrum and from different branches and levels of government in order to present as diverse a picture of political hypocrisy as possible. In some cases, the examples used are vivid and drawn from memorable political events; in others, the examples are quirkier or even trivial and drawn from obscure or mundane events. Most importantly, however, they represent the different types of hypocrisy found in American politics. This study is subsequently organized along those lines.

The first case study, “The Torture Report,” examines the hypocrisy surrounding the United States’ use of torture during the War on Terror, a practice forbidden in the United States by both law and treaty and that the US government had criticized other nations for engaging in as a violation of basic human rights. This case study concerns a straightforward violation of principle, which is the most basic type of political hypocrisy, and explains why hypocrisy—a moral condemnation based upon the accused hypocrite’s own moral and ethical standards—is such a potent criticism in liberal societies and so damaging to the accused hypocrite’s credibility as a moral leader and as a steward of the public good. It also considers counterarguments offered by political realists who contend

principles can be violated in dire circumstances. The second case study, “Supreme Rationale,” maintains the focus on violations of principle by reviewing Justice Anthony Kennedy’s majority opinion in *Obergefell v. Hodges* (2015), the Supreme Court case that effectively legalized same-sex marriage throughout the United States. Critics of Kennedy’s opinion claimed Kennedy was a hypocrite for violating a principle he had articulated in past opinions concerning democratic rule (which stated the people, either directly or through their elected representatives, should be allowed to determine their own laws) but this case study demonstrates that violations of principle are rarely this straightforward, as the demands of equally important principles (in this case, the principle of democratic rule and the principle of equality) need to be weighed against one another in order to determine which principle takes priority over the other in a given situation.

The third case study, “The Consistent Life Ethic,” takes as its subject the issues of abortion and capital punishment and whether it is hypocritical for people who consider themselves “pro-life” to oppose abortion yet support the state’s use of the death penalty (and vice versa.) The alleged hypocrisy in this case study is an example of a logical inconsistency, a type of hypocrisy resulting from someone’s flawed reasoning. The appeal of this type of accusation is strong—it often suggests the accused is too confused or dimwitted to serve as a political or moral authority and that they have a poor understanding of what a rational assessment of the public good should lead them to believe—but while all accusations of hypocrisy require a review of the alleged hypocrite’s reasoning, accusers should be careful in these cases not to mistake a mental error for a moral error and to allow for the possibility that the accused have used a

different line of reasoning based on different assumptions to arrive at their own conclusions.

The next three case studies—“The Latte Salute” (concerning Republican outrage over a faux pas committed by President Obama that resembled a gaffe committed years earlier by President George W. Bush that went unchecked by those same Republicans,) “Confirmation Bias” (concerning the shifting standards adopted by Republicans and Democrats when it came to filling Supreme Court vacancies,) and “Settling the Score” (concerning Republican attempts to dismiss reports authored by the Congressional Budget Office when those reports were not to their liking)—focus on double standards, the most common type of hypocrisy found in politics. Double standards occur when people excuse themselves from following principles or standards they have or still expect others to follow. People’s aversion to double standards—which basically amount to treating one group of people differently than another—is rooted in their dislike of unfairness and a sense that the accused hypocrite has placed self-, group-, or partisan ambitions ahead of public-spirited principles that citizens and civic leaders have a responsibility to honor and uphold. Instances of double standards in politics, however, need to be assessed in light of democracy’s competitive nature, which allows in many situations for the expression of favoritism and the pursuit of personal or partisan advantage. In some cases, (such as when partisans hold rivals accountable for mistakes they are just as liable to make but that their rival’s fellow partisans are unlikely to draw attention to,) an engagement in hypocrisy can actually be beneficial; in other cases, (such as the violation of unwritten rules and norms that informally regulate political competition,) the hypocrisy can be debilitating and should be frowned upon.

The seventh case study, which focuses on a married congressman who ran for office on a “family values” platform but who was then discovered to have had an extramarital affair, concerns personal failings, a type of double standard in which one’s publicly-espoused values are inconsistent with their personal behavior. While these types of hypocrisy are often more forgivable so long as the politician’s public behavior remains consistent with the principles that underlie their public service, their misconduct has much greater potential to undermine their credibility as a public servant if their political career was premised on the quality of their personal character.

The final case study, which explores three governors’ reversal of support for the Common Core educational initiative, deals with flip-flops, or instances in which someone switches their position on a political issue to something nearly opposite of what they once believed. Flip-flops often suggest to citizens that the flip-flopper lacks core convictions or cannot be trusted to provide an honest assessment of or pursue what they believe to be the public good while in office. Unlike double standards, flip-flops have a tendency to unnerve fellow partisans, although fellow partisans may also forgive a flip-flopper for moving closer to their preferred position. In evaluating flip-flops, it is important to consider if new information or changed circumstances can justify someone’s change of mind. In some cases, given the notion that democracies ought to reflect the beliefs of the people, it may even be acceptable for a public official to abandon an unpopular position to more closely align the government’s actions with popular opinion.

The conclusion reviews the essential findings of the case studies and connects them back to the main arguments advanced in this work.

NOTES

¹ For an overview of these episodes, see Jason Zinoman, “The Misunderstood History of Trump on Letterman,” *New York Times*, August 15, 2017, <https://www.nytimes.com/2017/08/15/arts/television/trump-letterman-misunderstood-history.html>.

² For a sense of how often Trump criticized China, see Echo Huang, “‘Laughing at Us’: 300-plus Donald Trump Tweets Have the Same Message on China,” *Quartz*, April 3, 2017, <https://qz.com/948182/scary-and-laughing-at-us-donald-trumps-thinking-on-china-is-remarkably-consistent-across-five-years-and-more-than-300-tweets/>.

³ Donald Trump, interview by David Letterman, *Late Show with David Letterman*, October 25, 2012, on CBS, video. CBS no longer archives *Late Show with David Letterman* episodes online, but Letterman’s full segment with Trump from this episode as it was rebroadcast on an Italian television station in English can be found on the YouTube (posted by “serpedaus”) at https://www.youtube.com/watch?time_continue=728&v=68CKIQYl4Gg under the title “Donald Trump al David Letterman (sub ita)”. This video is also embedded in Zinoman’s 2017 article.

⁴ For example: David Jackson, “Donald Trump Targets Globalization and Free Trade as Job Killers,” *USA Today*, June 28, 2016, <https://www.usatoday.com/story/news/politics/elections/2016/06/28/donald-trump-globalization-trade-pennsylvania-ohio/86431376/>.

⁵ Hillary Clinton, “Someplace,” 2016, television commercial, archived as “Hillary Clinton: ‘Someplace’ | Campaign 2016,” *Washington Post*, https://www.washingtonpost.com/video/national/hillary-clinton-someplace--campaign-2016/2016/08/03/32ee4908-5997-11e6-8b48-0cb344221131_video.html?utm_term=.1a573a169591 and as “Hillary Clinton: Someplace” in *New Republic*’s 2016 Campaign Ad Archive, <https://newrepublic.com/political-ad-database/hillary-clinton-someplace/OC8zLzE2OINvbWVwbGFjZQ>. It can also be found by searching YouTube.)

⁶ Béla Szabados and Eldon Soifer, *Hypocrisy: Ethical Investigations* (Peterborough, Ontario: Broadview Press, 2004), 19.

⁷ *Ibid.*, 25.

⁸ Dante, *The Inferno*, canto XXIII.

⁹ Mark Murray, Chuck Todd, and Carrie Dann, First Read, “First Read: Why Clinton’s Trade Flip-Flop is So Unbelievable,” NBC News, October 8, 2015, <https://www.nbcnews.com/meet-the-press/first-read-why-clintons-trade-flip-flop-so-unbelievable-n440831>; Ben Domenech, “Hillary’s Trade Flip-Flop Shows How Dumb She Thinks We Are,” *The Daily Beast*, October 8, 2015, <https://www.thedailybeast.com/hillarys-trade-flip-flop-shows-how-dumb-she-thinks-we-are>.

¹⁰ Louis Jacobson, “Mitt Romney Evolved Significantly in His Position on Abortion,” *PolitiFact*, May 15, 2012, <http://www.politifact.com/truth-o-meter/statements/2012/may/15/mitt-romney/mitt-romney-evolved-significantly-his-position-abo/>; Sheryl Gay Stolberg, “Romney’s Path to ‘Pro-Life’ Position on Abortion,” *New York Times*, February 11, 2012, www.nytimes.com/2012/02/12/us/politics/romneys-path-to-pro-life-position-on-abortion.html.

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²⁰ Alan Huffman and Michael Rejebian, *We’re With Nobody: Two Insiders Reveal the Dark Side of American Politics* (New York: William Morrow, 2012), 145. (“The most effective opposition research isn’t necessarily the most shocking, particularly since few of us are truly shocked by much anymore. What work best are activities that stand in stark contrast to a candidate’s public actions or stated positions on the issues. When a congressman gets caught sleeping with a female staffer, it’s a bit worse if he’s been touting abstinence education. If he’s popular and handles the controversy well, the candidate may yet survive the onslaught, but no one likes a hypocrite. Regardless of their political persuasion, people like consistency, and inconsistency can be documented.”)

²¹ Ralph Waldo Emerson, “Self-Reliance,” *The Essential Writings of Ralph Waldo Emerson* (New York: Modern Library, 2000), 138.

²² Judith N. Shklar, *Ordinary Vices* (Cambridge, MA: Belknap Press of Harvard University Press, 1984), 47.

²³ *Ibid.*, 47–48.

²⁴ Ibid., 49-50. (“Nevertheless, for all their insight, neither the Apostles nor others who have sought seriously to raise the standards of moral purity can escape the spiraling escalation of hypocrisy, unwittingly set in motion by the very hatred of hypocrisy.”)

²⁵ Ibid., 67.

²⁶ Ibid., 68-72.

²⁷ Ibid., 70.

²⁸ Ibid., 72-75.

²⁹ Ibid., 86.

³⁰ Ibid., 86.

³¹ Ibid., 58.

³² Ibid., 86.

³³ Ruth W. Grant, *Hypocrisy and Integrity: Machiavelli, Rousseau, and the Ethics of Politics* (Chicago: The University of Chicago Press, 1997), 15.

³⁴ Ibid., 171-72.

³⁵ Ibid., 13-14.

³⁶ Ibid., 171-72.

³⁷ Ibid., 172.

³⁸ See Henry Fairlie, “The Politician’s Art,” *Harper’s*, December 1, 1977.

³⁹ David Runciman, *Political Hypocrisy: The Mask of Power, from Hobbes to Orwell and Beyond* (Princeton: Princeton University Press, 2008), 5.

⁴⁰ Ibid., 6.

⁴¹ Ibid., 3-4.

⁴² For a succinct summary, see David Leonhardt, “Donald Trump vs. the United States of America,” *New York Times*, September 22, 2019, <https://www.nytimes.com/2019/09/22/opinion/trump-ukraine-whistle-blower.html?action=click&module=inline&pgtype=Homepage>.

⁴³ James Madison, “The Federalist No. 51,” *The Federalist Papers* (New York: Bantam Classics, 2003), 314-319.

⁴⁴ William A. Galston, “Liberal Virtues,” *American Political Science Review*, 82, no. 4 (December 1988): 1278.

⁴⁵ Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997), 245.

⁴⁶ Alexis de Tocqueville, *Democracy in America*, ed. J.P. Mayer, trans. George Lawrence (New York: HarperPerennial, 1988): 307.

⁴⁷ Will Kymlicka, *Contemporary Political Philosophy: An Introduction* (Oxford: Oxford University Press, 2002): 284-287.

⁴⁸ Galston, 1279.

⁴⁹ Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown, 2018), 5-8.

⁵⁰ See Matthew Yglesias, "American Democracy is Doomed," *Vox*, October 8, 2015, <https://www.vox.com/2015/3/2/8120063/american-democracy-doomed>.

⁵¹ For an explication of public-spiritedness, see Steven Kelman, "Why Public Ideas Matter," in *The Power of Public Ideas*, ed. Robert B. Reich (Cambridge, Massachusetts: Ballinger Publishing Company, 1988), 31-53.

⁵² *Ibid.*, 39-47.

⁵³ *Ibid.*, 53.

⁵⁴ *Ibid.*, 44.

⁵⁵ See Robert A. Dahl, "Chapter 1," in *Polyarchy: Participation and Opposition* (New Haven, Connecticut: Yale University Press, 1971), 1-16.

⁵⁶ Pew Research Center, "The Partisan Divide on Political Values Grows Even Wider," Pew Research Center, October 5, 2017, 12, <https://www.people-press.org/2017/10/05/the-partisan-divide-on-political-values-grows-even-wider/> (see link on page to "Complete Report PDF").

⁵⁷ See Alan I. Abramowitz, *The Polarized Public? Why American Government is So Dysfunctional* (Boston: Pearson, 2013) and Morris Fiorina, *Unstable Majorities: Polarization, Party Sorting, and Political Stalemate* (Stanford: Hoover Institution Press, 2017).

⁵⁸ See Nolan McCarty, Keith T. Poole, and Howard Rosenthal, *Polarized America: The Dance of Ideology and Unequal Riches* (Cambridge, Massachusetts: The MIT Press, 2006).

⁵⁹ See Alan I. Abramowitz, *The Great Alignment: Race, Party Transformation, and the Rise of Donald Trump* (New Haven, Connecticut: Yale University Press, 2018).

⁶⁰ See Jeffrey M. Berry and Sarah Sobieraj, *The Outrage Industry: Political Opinion Media and the New Incivility* (Oxford: Oxford University Press, 2014) and Cass Sunstein, *#Republic: Divided Democracy in the Age of Social Media* (Princeton: Princeton University Press, 2017).

⁶¹ See Frances Lee, *Insecure Majorities: Congress and the Perpetual Campaign* (Chicago: The University of Chicago Press, 2016).

1. THE TORTURE REPORT

In December 2014, the United States Senate Select Committee on Intelligence under the leadership of Chairman Dianne Feinstein (D-CA) released a comprehensive study of the Central Intelligence Agency's detention and interrogation program. The study detailed the CIA's use of torture during the first five years of the United States' so-called "War on Terror," which commenced as a response to al Qaeda's attacks on the World Trade Center in New York City and the Pentagon on September 11, 2001. In addition to describing the numerous methods of torture inflicted upon detainees by American personnel, the report also concluded that the use of torture was not an effective means of gaining intelligence or cooperation from detainees; that the CIA had underreported the number of individuals it had detained, and had wrongly detained over two dozen individuals; that interrogators sometimes exceeded the CIA's own guidelines for interrogation yet were rarely punished for doing so; that internal CIA critiques of the program were often ignored; and that the CIA had lied to policymakers about the severity of its interrogation methods and the conditions of prisoner confinement, and had often impeded executive and legislative oversight of the program.¹

The Senate select committee's report was hardly a revelation, since the United States' use of torture during the War on Terror was well-known by December 2014. Its publication was newsworthy, however, because it was a thoroughly documented admission by an official arm of the United States government that the United States had routinely engaged in torture. Current and former CIA officials condemned the release of the report and its findings, arguing the study reached a number of incorrect conclusions and would inflame anti-American sentiment around the world.² Many Republicans (with

the notable exception of Senator John McCain of Arizona) also criticized the report's declassification on the grounds that it was the product of a partisan process, contained inaccuracies, and threatened to damage the image of the United States overseas; for their part, Democrats generally praised the release of the report as a way to formally set the record straight on torture.³

Following publication of the study, President Barack Obama issued a statement supporting its release. While acknowledging the service and sacrifice of United States intelligence operatives during the War on Terror, Obama also used his comments to reaffirm his opposition to torture. A key passage from his statement (beginning with the statement's opening sentence) follows below:

Throughout our history, the United States of America has done more than any other nation to stand up for freedom, democracy, and the inherent dignity and human rights of people around the world. ... In the years after 9/11, with legitimate fears of further attacks and with the responsibility to prevent more catastrophic loss of life, the previous administration faced agonizing choices about how to pursue al Qaeda and prevent additional terrorist attacks against our country. As I have said before, our nation did many things right in those difficult years. At the same time, some of the actions that were taken were contrary to our values. That is why I unequivocally banned torture when I took office, because one of our most effective tools in fighting terrorism and keeping Americans safe is staying true to our ideals at home and abroad.⁴

"Some of the actions that were taken were contrary to our values." In stating this, Obama basically admitted that by engaging in torture—an action “contrary to [the nation's] values”—the United States had engaged in hypocrisy. Granted, Obama doesn't use the word “hypocrisy” in his statement; perhaps as President he hoped to save some face by avoiding such a strong condemnatory term, or maybe it was just so obvious that hypocrisy was the charge that he didn't feel the need to use it. Regardless, the gist of his

statement—again, that the United States took actions that were contrary to its values—amounts to an admission of hypocrisy.

This work begins with this particular case study because it is a clear-cut, straightforward example of political hypocrisy. In this case, a political actor (the government of the United States) claimed adherence to a principle (specifically, a principle prohibiting the use of torture) and then proceeded to violate that principle. Acts such as these are easily condemned as moral failings, their perpetrators easily accused of wrongdoing (or at least behaving in a less than morally optimal way.)

This is too simplistic, however. Hypocrisy is not mere wrongdoing. In politics, for instance, politicians accuse each other of doing the wrong thing all the time. Political opponents regularly accuse each other of voting the wrong way on contested legislation. Rather than accuse their opponents of hypocrisy, though, politicians in such situations instead argue their opponents are acting the wrong way and in accordance with the wrong set of moral values, leading inevitably to debates about the right and wrong ways to run a country. Politicians can make this case without resorting to accusations of hypocrisy. All they would need to do is cite reasons why they believe they are in the right and their opponents are wrong.

An accusation of hypocrisy, then, is a particular kind of accusation of wrongdoing, one in which someone is accused of acting in a way that runs counter to their own earlier articulated beliefs and principles concerning the right or proper way to act. In other words, a hypocrite (in the moral sense of the term) is someone who does something wrong according to their own standards of right. They are improperly inconsistent with themselves. Someone who accuses another of hypocrisy does not base

their moral claim of wrongdoing on an objective moral code or their own standards of right and wrong, but by referencing the beliefs and prior actions of the accused. In this way, the accused condemn themselves.

It is fairly easy to prove that the United States acted hypocritically and violated its own held principles when it initiated a torture program following 9/11. The United States, after all, is a signatory of the Universal Declaration of Human Rights (of which Article 5 reads, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”);⁵ the Geneva Conventions (of which Convention III, Part III, Section 1, Article 17, paragraph 4 reads, “No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever”);⁶ and the 1985 United Nations Convention Against Torture (of which Article 2.2 reads, “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”)⁷ Principles against torture and ensuring due process for the accused are further enshrined in the domestic law of the United States in the Bill of Rights, specifically in the 5th and 6th Amendments (due process) and the 8th Amendment (“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”) Torture is also criminalized in the United States criminal code (see Title 18, Chapter 113C.)⁸ Furthermore, the United States has positioned itself as one of the world’s most prominent advocates for human rights and has often made that advocacy a cornerstone of its foreign policy. It has frequently condemned nations that have not protected the human rights of their own citizens, and actually released State Department reports criticizing nations (namely China, Indonesia, Iran, Jordan, Libya,

North Korea, Pakistan, Saudi Arabia, Sri Lanka, Tunisia, Turkey) for using methods of torture (waterboarding, stress positions, forced standing, forced nudity, threats of harm to person and family, sleep deprivation, loud music, prolonged solitary confinement, confinement in small spaces) that the United States was using when those reports were published.⁹ It is abundantly clear that in sanctioning the use of torture, the United States *by its own standards* committed a grievous wrong and thus behaved hypocritically.

Yet is it really necessary to call out the United States for hypocrisy on this matter if our purpose is to simply call out the United States for its immoral behavior? To revisit the last sentence of the previous paragraph, isn't it abundantly clear that in sanctioning the use of torture, the United States committed a grievous wrong not just *by its own standards* but *regardless of its own standards*? What does the accusation of hypocrisy add to the moral condemnation? What is its utility?

To illustrate this quandary, consider the very basic example of someone who murders another human being. That's wrong regardless of whether the murderer has a principle against killing other people or not. Even if the murderer did have a principle against killing other people, an accusation of hypocrisy would seem to add little to anyone's moral condemnation of the murderer. People don't usually rush out to condemn a murderer as a hypocrite ("You said you opposed killing others, but then you did!") when they can simply condemn a murderer as a murderer ("You killed someone!") The pejorative "murderer" is more severe than and does not need the reinforcement of the pejorative "hypocrite."

An accusation of hypocrisy can be used, however, to make an end run around a political argument whose strength may be seen to depend in part on the arbitrary

subjective authority of its advocate. In liberal democracies, individuals are free to believe whatever they want for whatever reasons they cite, while tolerance of other people and their ideas is considered a virtue. While some arguments or beliefs could be said to be objectively better than others, someone in a liberal society can always as a last resort opt to fall back on their subjective authority as a sovereign citizen and respond to a political argument by saying, “That’s simply what I believe, and you happen to believe something different. It comes down to your beliefs against mine, so we’ll have to agree to disagree.” Consequently, democratic societies—which often tout their openness to all ideas as an ideal way to ascertain the truth or determine the best course of action—can easily devolve into stalemates between sides who insist their subjective beliefs are right and deserving of tolerance in the public sphere.¹⁰

When someone is discovered to be a hypocrite, however, their own subjective authority works against them, as their accuser does not need to rely on their (the accuser’s) own subjective beliefs to counter the hypocrite’s arguments but can cite instead the hypocrite’s own previously-articulated beliefs to undermine the hypocrite’s case. If it is believed the self is supreme and impervious to any outside critique that can be written off as subjective, no one is in a better position to critique the self than itself. Hence the allure of the accusation of hypocrisy in a system that elevates the authority of the sovereign self over that of any outside independent authority, as a hypocrite basically bears witness against oneself.

In other words, don’t just take the accuser’s word for it: Accusations of hypocrisy—and their implications of wrongdoing—are based upon the premises established by the accused rather than the accuser. It is hard for the accused to escape the

charge of wrongdoing when it is their own argument that condemns them. The accusation of wrongdoing is also most devastating when it is made by someone who agrees with the hypocrite's original position, as the hypocrite's new position is no longer consistent with a position the accuser believes is right and that perhaps motivated the accuser to support the hypocrite in the first place. The accuser's accusation of hypocrisy then becomes an accusation of not only wrongdoing but betrayal of both the accuser and the hypocrite's own values.

This gets a little more complicated when the accuser is an opponent who actually prefers the hypocrite's new position. For example, a politician who raises taxes when they had earlier pledged not to raise taxes may be accused of hypocrisy not only by their supporters but by political opponents who, as it turns out, actually favor the tax hike. The purpose of the opponents' accusation would not be to voice their displeasure with the hypocrite's new position on taxes but to paint the hypocrite as untrustworthy, unprincipled, or politically craven, or to make sure the hypocrite's supporters are aware the hypocrite is now embracing a position they (the hypocrite's supporters) consider wrong and undeserving of support. This can get even more confusing for a neutral observer who may wonder why the hypocrite's opponent is attacking the hypocrite for adopting a position the opponent agrees with. A morally ambivalent neutral observer may also in all the back-and-forth remain at a loss as to which of the hypocrite's two positions is actually right, knowing with certainty only that the hypocrite switched positions but not that the hypocrite's switch is correct. In this way, the accusation of hypocrisy can sow further moral confusion.

If we scale all that back, however, and focus merely on an accusation of hypocrisy originating from a supporter and directed at a politician for adopting a position inconsistent with a prior position held by the politician and still held by the supporter (and that may have led the supporter to support the politician in the first place) we can see how the accusation of hypocrisy is an accusation of wrongdoing based on the hypocrite's own subjective moral authority that does not rely on the subjective moral authority of a political critic or opponent.* This is a powerful deployment of the accusation of hypocrisy. When someone accuses the United States of hypocrisy on torture, that accusation of wrongdoing is especially difficult to counter when it appeals not only to the outside authority of (for example) the United Nations, or the western liberal democratic tradition, or a religious or philosophical doctrine, but to the United States' own standards. One can insist that torture is wrong and that the United States was wrong to torture not just because someone else said it is wrong to torture but (most potently) because the United States itself said it is wrong to torture.

One can convincingly argue, however, that the rightness of moral precepts is not determined by nation-states. The United States does not decide if torture is morally permissible, and few would consider torture moral if the United States legalized it on its own moral authority. Torture has been determined to be morally wrong not because a government or any other subjective entity has declared it morally wrong but because it violates a number of moral precepts. We may ask again why it matters to call the United States a hypocrite on torture if the United States ultimately lacks the objective authority

* This is not to say there isn't a subjective component to the determination of whether or not an accusation of hypocrisy actually is an instance of hypocrisy. Making that determination is a necessary undertaking in evaluating hypocrisy, but that level of inquiry is not the main concern at this moment.

to make authoritative moral determinations and therefore is in no position to declare actions right or wrong. Why not simply say the United States is wrong and leave aside the added accusation that the United States is wrong according to its own non-authoritative standards?

The answer is fairly simple: The United States may lack the objective moral authority to determine morals but it can certainly claim moral *credibility* with others by declaring its support for and then acting in accordance with a set of moral principles. An accusation of hypocrisy—in which someone is accused of failing to act in accordance with a moral principle they have declared their support for—is useful then as a way to not only criticize someone for doing something wrong but also for questioning someone's credibility as an agent for a moral cause.

Moral credibility matters in politics. Many citizens' politics are motivated by moral and philosophical beliefs pertaining to the development of a good society and the operation of good government. In determining who to support in politics, many people look to a political actor's moral and philosophical beliefs out of the hope that that political actor, once politically empowered, will pursue policies based on those beliefs. A political actor who betrays those beliefs by becoming a hypocrite risks losing the support of those inclined to support that person on account of their shared beliefs and potentially damages their (the actor's) credibility not only as an agent for those beliefs but as an actor primarily motivated by moral beliefs generally.¹¹

A political hypocrite who fails to act in accordance with a moral principle they had earlier openly supported potentially shatters the trust others had placed in that person as a moral agent working for a higher moral purpose. It also raises the possibility that the

hypocrite is motivated by something other than a moral cause, unconcerned with the well-being of others to whom their morality should ostensibly apply, or using a false sense of morality as a weapon to bludgeon their opponents or simply make themselves look good. The hope that people would rally around the hypocrite as an agent for a moral cause or a moral order is diminished.

This desire to avoid hypocrisy in politics in order to build or maintain one's moral credibility was made explicit in President John Kennedy's June 1963 speech calling for the passage of a civil rights act ending segregation in public facilities. Delivered in the wake of the Southern Christian Leadership Conference's Birmingham campaign and as a reaction to Alabama Governor George Wallace's attempt to physically block the integration of the University of Alabama, the speech was also set against the backdrop of the Cold War, a tense competition for geopolitical influence that pit the United States and its liberal democratic allies against a bloc of communist nations led by the Soviet Union. Many Americans believed the United States could not rely on military or economic might alone to win the Cold War but would have to convince citizens in countries around the world that democratic values were better than communist values. Kennedy realized, however, that the Jim Crow laws that codified racial segregation in the American south undermined the United States' moral credibility as a champion of democracy. It wasn't just that Americans would find it hard to look themselves in the mirror and claim their nation acted in accordance with democratic principles so long as Jim Crow reigned, but that it would be hard for Americans to persuade other nations to embrace democratic notions of liberty and equality when there was plenty of evidence indicating the United States did not follow those principles itself. In his speech, Kennedy used Americans'

desire to win the Cold War along with their moral devotion to democracy as reasons to end segregation:

We preach freedom around the world, and we mean it, and we cherish our freedom here at home, but are we to say to the world, and much more importantly, to each other that this is the land of the free except for the Negroes; that we have no second-class citizens except Negroes; that we have no class or caste system, no ghettos, no master race except with respect to Negroes? Now the time has come for this Nation to fulfill its promise.¹²

It was a moral and strategic argument: If the United States wanted respect and credibility as a moral agent and hoped others would follow its moral lead, its actions would need to reflect its moral principles.

A similar notion motivated President Obama when he declared in his statement on the Senate's CIA torture report that "one of [the United States'] most effective tools in fighting terrorism and keeping Americans safe is staying true to our ideals at home and abroad." A major advantage the United States has over many of its rivals on the world stage is its embrace of values connected to democracy and human rights. It claims that its foreign policy is guided by those values, and that even the ultimate goal of its military interventions (in addition to keeping the country safe) is the promotion of those values. The United States often contrasts these values with those of its rivals, whose beliefs, actions, and conduct often reflect a lack of concern for democracy and human rights. The moral values of the United States help the country gain moral credibility, admiration, and allies around the world. When it betrays those values—as it did when it trampled on the human rights of prisoners by torturing them—citizens everywhere begin to wonder if the United States should be considered a credible moral actor or just another player on the international stage more interested in pursuing its narrow national interests than in supporting and upholding a moral code. People drawn to politics as an

expression of moral and political values may finally regard the United States as a cynical and craven actor unworthy of rallying around. Engaged this way in hypocrisy, the United States appears no better than its oppressive, authoritarian, and inhumane rivals. By accounting for its mistakes, the senate's report and Obama's statement sought to remind Americans that fidelity to its values (and avoiding hypocrisy) was not only right but strategically sound.

And make no mistake, several of the United States' rivals (or at least those who had been criticized by the U.S. for their own poor human rights records) jumped at the opportunity to diminish the United States' moral credibility by highlighting America's hypocrisy on torture. China's state news agency Xinhua devoted a page on its website to the story and titled it "How Long Can the US Pretend to be a Human Rights Champion?" An editorial on that page read,

[The United States] should clean up its own backyard first and respect the rights of other countries to resolve their issues by themselves.

America is neither a suitable role model nor a qualified judge on human rights issues in other countries, as it pertains to be.

Yet, despite this, people rarely hear the US talking about its own problems, preferring to be vocal on the issues it sees in other countries, including China. ... What the US appears to be doing is defending its own national interests and wielding human rights issues as a political tool.¹³

A pro-Beijing newspaper in Hong Kong stated, "The report will be powerful evidence that will totally unveil the ugly human rights face of the US and will serve a heavy blow to its credibility and international image."¹⁴ Iranian Supreme Leader Ali Khamenei posted two messages on Twitter addressing the subject:

Any noble man would feel the sweat of shame about #GTMO; then-US.Pres. order on torture is shameful. #TortureReport #HumanRightsDay 1/3/08

[The United States] claim #humanrights &trample its basics in their prisons, in interactions w nations &even w their own ppl.#TortureReport #Ferguson 2/8/10*

The newly installed government of Egypt—which faced international condemnation for its crackdown on political dissent following a 2013 coup that deposed President Mohamed Morsi of the Muslim Brotherhood—did not offer comment, but, as reported by *The Guardian*, “Those [Egyptians] who did react said the report highlighted the hypocrisy of the US, who have often condemned Egypt’s recent human rights abuses. ‘America cannot demand human rights reports from other countries when this proves they know nothing about human rights,’ said a pro-regime television host, Tamer Amin, on his show.”¹⁵

Let us state the obvious: The governments of China, Iran, and Egypt are in no position to stand in judgment of the human rights records of other countries. Even accounting for the United States’ flaws, it is difficult to take seriously a critique levied against a nation with widespread human rights protections by three nations with abysmal human rights records. Any charge of hypocrisy they make against the United States ultimately rebounds by degrees of magnitude onto them. It is a classic case of the pot calling the kettle black.

Yet it is doubtful the leaders of those countries care much about what the rest of world thinks about their records on human rights. Even if they did, it is easy to see their concern is a façade. They’re probably more interested in taking the United States’ moral credibility down a notch and undermining America’s reputation on the global stage. So

* Khamenei’s inclusion of #GTMO is a reference to the United States’ military prison at Guantanamo Bay, Cuba, which is often referred to as “Gitmo.” Khamenei’s mention of “#Ferguson” is a reference to Ferguson, Missouri, the site of a fatal police shooting of an African American teenager in the summer of 2014 that resulted in protests, riots, and a forceful intervention by law enforcement officers.

maybe it's not so much a case of the pot calling the kettle black as it is a case of the pot making it abundantly clear for all to see that this kettle that thinks it's so great and that criticizes others for not being as great as it claims to be is in fact—just like everyone else around here—black and therefore in no position themselves to lecture others on human rights or claim the exalted moral high ground on the issue.

If people around the world become convinced the actions of the United States are not motivated by its moral principles, perhaps they will lose faith in the United States as an agent interested in making the moral order it propagates a reality and instead assume (and operate in accordance with) a world order based on less-principled concerns. Such a world order is likely to favor nations like China, Iran, and Egypt, which are willing to ignore human rights concerns in pursuit of their regimes' interests. And as for the United States? While their commitment to human rights is considerably greater than their critics, their reputation suffers in light of the torture report, as they appear as willing as any other nation to violate moral principles, including those that are widely-accepted by others and that they have acknowledged as valid.

There is a final political perspective to weigh here. Those who consider themselves political realists may argue we are assuming too much in this case of hypocrisy and violation of principle. They may in fact argue the worldview of less-principled political actors is, at the end of the day, the only worldview that matters, as it reflects the true nature of international relations. Principles don't guide politics, they would say; what ultimately matters are security and order. Principles are fine to follow when the political stakes are low, but we should not bind ourselves to them if doing so jeopardizes our well-being. And if it is acceptable to break principles in a world of

political expediency, then we definitely should not obsess over something like hypocrisy, which is only a sin if moral principles are the ultimate political concern.

These views are most often associated with the 16th century's foremost advocate of *realpolitik*, Niccolò Machiavelli. For Machiavelli, the security of the state was supreme, and the state's security was bound up in the success of a prudent and virtuous ruler, one who could defend the state from foreign threats and secure it against internal disruption and palace intrigue. This meant the ruler at times would need to resort to "well committed" cruelties, or, as Machiavelli wrote, "those (if it is permissible to use the word well of evil) which are perpetrated once for the need of securing one's self, and which afterwards are not persisted in, but are exchanged for measures as useful to the subjects as possible."¹⁶ Faced with the need to quell a domestic uprising or halt a plot against his position, Machiavelli was not opposed to a surgical act of cruelty, one that would demonstrate to his subjects and rivals that he would not be constrained by conventional morality if his rule or the security of his state (and by extension, his subjects) was threatened.¹⁷

Consequently, Machiavelli is also often considered an apostle of political hypocrisy. Despite peoples' noble aspirations and moral expectations, Machiavelli felt it was necessary for rulers to assume the world was a fundamentally "vulgar" place. This required a hypocritical duplicity whereby a ruler presented himself to his people as better than the means he was willing to adopt if necessary:

I would even be bold to say that to possess [positive qualities] and always to observe them is dangerous, but to appear to possess them is useful. Thus it is well to seem merciful, faithful, humane, sincere, religious, and also to be so; but you must have the mind so disposed that when it is needful to be otherwise you may be able to change to the opposite qualities. And it must be understood that a prince, and especially a new prince, cannot observe all those things which are

considered good in men, being often obliged, in order to maintain the state, to act against faith, against charity, against humanity, and against religion. And, therefore, he must have a mind disposed to adapt itself according to the wind, and as the variations of fortune dictate, and, as I said before, not deviate from what is good, if possible, but be able to do evil if constrained.

A prince must take great care that nothing goes out of his mouth which is not full of the above-named five qualities, and, to see and hear him, he should seem to be all mercy, faith, integrity, humanity, and religion. And nothing is more necessary than to seem to have this last quality, for men in general judge more by the eyes than by the hands, for every one can see, but very few have to feel. Everybody sees what you appear to be, few feel what you are, and those few will not dare to oppose themselves to the many, who have the majesty of the state to defend them; and in the actions of men, and especially of princes, from which there is no appeal, the end justifies the means.¹⁸

Machiavelli certainly believed a ruler should appear to be what he ultimately is not. In broad terms, the ruler should appear to others as moral while willing to behave immorally if necessary. Machiavelli also believed the people would fall for this charade if it was well-executed. That is the mark of a devious political hypocrite, albeit one Machiavelli would consider highly effective.

There is a certain kind of superhuman thrill we experience when reading Machiavelli's *The Prince* (similar to what we feel when watching *The Godfather*, *Dirty Harry*, or *Breaking Bad*) in which we revel in someone's triumph via means that go beyond conventional morality. We perhaps at times even long to do so ourselves in our daily lives (albeit on a less violent scale) by shucking aside tedious procedure or politesse to simply do what so obviously needs to be done. With Machiavelli, however, readers are too often swept away by his stark prose and sensational examples and forget that he is fundamentally an advocate for political prudence. His endorsement of cruelty is always accompanied by the caveat of necessity.

As a political realist, Machiavelli knew that leaders sometimes need to resort to extreme measures that violate their moral principles in order to secure the state. Yet

Machiavelli was also well-aware that citizens place great stock in principled leadership and could lose faith in a ruler who does not live up to their moral expectations. That loss of moral credibility could risk the domestic stability the prince so ardently desires.

According to Machiavelli, cruelty well committed would spare others the kind of cruelty that would accompany invasion or civil war. Cruelty for cruelty's sake or cruelty poorly committed would only alienate the people the ruler has a duty to serve and protect and potentially create the conditions that would lead to a time of conflict and cruelty. A prudent ruler with a keen appreciation for the way the world really works is also one who, absent an existential emergency, acts in accordance with moral principles. Despite his focus on cruelty and fear, Machiavelli maintains the ruler should avoid it in normal circumstances. A ruler should only indulge political hypocrisy—in which a ruler reveals himself to be morally worse than he had led people to believe—as a last resort when the security of the state is imperiled.¹⁹

The overseers of the United States' torture program insisted the torture program met this standard. After 9/11, they argued it was necessary to acquire as much information as possible from detainees captured during the War on Terror in order to prevent another devastating terrorist attack. National security concerns trumped the United States' fidelity to its principles pertaining to human rights and in turn justified the use of "enhanced interrogation techniques" (the George W. Bush administration's term of choice for "methods of torture.") Given the circumstances, the overseers of the torture program would claim their hypocrisy ought to be excused.²⁰

It's not a convincing argument. In the first place, the Senate Intelligence Committee's report indicated no valuable intelligence was gathered through the use of

torture. Still, the overseers of the program insisted there was, and, even if there wasn't, it may be a case of Monday-morning-quarterbacking to criticize someone for trying to extract information from a detainee through torture since American intelligence officials could not know that a torture method would prove unproductive until it was tried. Yet even before the program got underway, the United States knew torture was an ineffective way to glean accurate and actionable intelligence from a detainee,²¹ a finding subsequent studies have supported.²² (Better methods would include building relationships with detainees or offering to help them or those they care about in exchange for their cooperation.) Others defended torture on the grounds that no other method had the potential to compel detainees to pass along information concerning imminent terrorist attacks. Yet the Senate report found no evidence that this "ticking time bomb scenario" ever existed in reality.²³ In purely utilitarian terms, there is not much to recommend torture as a necessary evil. If the emergency of 9/11 in some way justified action that violated the core moral principles of the United States, one would be hard-pressed to make the case that torturing detainees passed that threshold.

With little to show for its efforts except a damaged reputation on the world stage, the United States probably did more to hurt than protect itself by initiating a torture program. People around the world were probably less inclined to think of the United States as a morally conscientious agent in light of the country's hypocrisy on torture. Regardless of whatever truly motivated the United States in foreign affairs, residents of other countries could reasonably believe the United States would not be constrained by moral principle when acting beyond its borders and perhaps began to wonder if its talk of human rights was merely a way to disguise imperialist or self-interested ambitions. If part

of the United States' War on Terror was to win the "hearts and minds" of western skeptics who could be persuaded to embrace the worldview and assurances of a terrorist group like al Qaeda, then torture did nothing to advance that cause. Unable to excuse it, the United States became hypocrites and saw its moral credibility diminished. It's a lesson worth learning. Torture, it turned out, was both a moral and strategic wrong. Even Machiavelli would have disapproved of America's hypocrisy.

NOTES

¹ Senate Select Committee on Intelligence, Committee Study of the Central Intelligence Agency's Detention and Interrogation Program together with Foreword by Chairman Feinstein and Additional and Minority Views, 113th Cong., 2d sess., December 9, 2014, S Rep. 113-288, xi-xxvi, <https://www.intelligence.senate.gov/sites/default/files/documents/CRPT-113srpt288.pdf>.

² Tenet, Goss, Hayden, et. al., "Ex-CIA Directors: Interrogations Saved Lives," *Wall Street Journal*, December 10, 2014, <https://www.wsj.com/articles/cia-interrogations-saved-lives-1418142644>; Juliet Eilperin, "CIA Director Rebuts Report, Says Interrogation Techniques 'Saved Lives'," *Washington Post*, December 9, 2014, https://www.washingtonpost.com/politics/cia-director-rebuts-report-says-interrogation-techniques-saved-lives/2014/12/09/27a5f520-7fc6-11e4-81fd-8c4814dfa9d7_story.html?utm_term=.857f175e49b0.

³ Sarah Galo, "How America's Politicians and Activists Reacted to Senate's CIA Torture Report," *The Guardian*, December 9, 2014, <https://www.theguardian.com/us-news/2014/dec/09/americas-politicians-activists-reacted-senates-cia-torture-report-twitter>.

⁴ Barack Obama, "Statement by the President Report of the Senate Select Committee on Intelligence," The White House, December 9, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/12/09/statement-president-report-senate-select-committee-intelligence>.

⁵ United Nations, Universal Declaration of Human Rights (Paris: UN, 1948), <http://www.un.org/en/universal-declaration-human-rights/>.

⁶ International Committee of the Red Cross, Geneva Conventions of 1949 and Additional Protocols, and Their Commentaries, 1949, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>.

⁷ United Nations Office of the High Commissioner for Human Rights, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (New York: UN, 1984), <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

⁸ 18 U.S. Code Chapter 113CC – Torture, Legal Information Institute of Cornell Law School, 1994, <https://www.law.cornell.edu/uscode/text/18/part-I/chapter-113C>. (Torture is defined in §2340 as "an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering [other than pain or suffering incidental to lawful sanctions] upon another person within his custody or physical control.")

⁹ “USA and Torture: A History of Hypocrisy,” Human Rights Watch, December 9, 2014, <https://www.hrw.org/news/2014/12/09/usa-and-torture-history-hypocrisy>.

¹⁰ See Alasdair MacIntyre, 1981, *After Virtue* (Notre Dame, Indiana: Notre Dame Press, 2008), 6. (“The most striking feature of contemporary moral utterance is that so much of it is used to express disagreements; and the most striking feature of the debates in which these disagreements are expressed is their interminable character. I do not mean by this just that such debates go on and on and on—although they do—but also that they apparently can find no terminus. There seems to be no rational way of securing moral agreement in our culture.”) It is MacIntyre’s argument that the Enlightenment project—out of which democratic liberalism emerged—could not produce an adequate moral philosophy because it abandoned Aristotle’s virtue ethics for an emphasis on the moral agency of individuals, meaning morality was now subjectively defined. Interlocutors easily asserted their moral claims in this setting but did not share a moral basis they might argue from or upon which they might find common ground. Translated to democracy, this moral “incommensurability” (70-71) meant many political arguments were not won or lost but merely uttered.

¹¹ See the conception of “moral capital” in John Kane, *The Politics of Moral Capital* (Cambridge, England: Cambridge University Press, 2001), 10. (“Political agents and institutions must be seen to serve and to stand for something apart from themselves, to achieve something beyond merely private ends. They must, in other words, establish a moral grounding. This they do by avowing their service to some set of fundamental values, principles and goals that find a resonant response in significant numbers of people. When such people judge the agent or institution to be both faithful and effective in serving those values and goals, they are likely to bestow some quantum of respect and approval that is of great political benefit to the receiver. This quantum is the agent’s moral capital.”)

¹² John F. Kennedy, “Radio and Television Report to the American People on Civil Rights, June 11, 1963,” John F. Kennedy Presidential Library and Museum, June 11, 1963, <https://www.jfklibrary.org/archives/other-resources/john-f-kennedy-speeches/civil-rights-radio-and-television-report-19630611>.

¹³ Tania Branigan, “CIA Torture Report: China and North Korea Quick to Settle Scores,” *The Guardian*, December 10, 2014, <https://www.theguardian.com/us-news/2014/dec/10/cia-torture-report-china-and-north-korea-quick-to-settle-accounts>.

¹⁴ “CIA ‘Torture’ Condemned by World Media,” BBC, December 10, 2014, <https://www.bbc.com/news/world-us-canada-30411466>.

¹⁵ Matthew Weaver, “CIA Torture Report: Global Reaction Roundup,” *The Guardian*, December 10, 2014, <https://www.theguardian.com/us-news/2014/dec/10/cia-torture-report-global-reaction-roundup>.

¹⁶ Niccolò Machiavelli, *The Prince*, 1532, trans. Luigi Ricci (New York: Signet Classic, 1999), 62.

¹⁷ *Ibid.*, 89. As a sort of proto-utilitarian, Machiavelli argued a ruler’s immoral act could actually be more moral than a moral act if the moral act left his subjects vulnerable to others’ (or each other’s) ill-intentions and ultimately resulted in more harm than good. (“A prince, therefore, must not mind incurring the charge of cruelty for the purpose of keeping his subjects united and faithful; for, with a very few examples, he will be more merciful than those who, from excess of tenderness, allow disorders to arise, from whence spring bloodshed and rapine; for these as a rule injure the whole community, while the executions carried out by the prince injure only individuals.”)

¹⁸ *Ibid.*, 93-94.

¹⁹ Sheldon Wolin, *Politics and Vision* (Princeton: Princeton University Press, 2004), 198-200.

²⁰ See Tenet, Goss, Hayden, et. al.; Chris McGreal, "Dick Cheney Defends Use of Torture on al-Qaida Leaders," *The Guardian*, September 9, 2011, <https://www.theguardian.com/world/2011/sep/09/dick-cheney-defends-torture-al-qaida>; Dick Cheney, interview by Chuck Todd [transcript], *Meet the Press*, NBC, December 14, 2014, <https://www.nbcnews.com/meet-the-press/meet-press-transcript-december-14-2014-n268181> (Key line: After Todd asked Cheney if he was okay with that fact that 25% of the tortured detainees were innocent, Cheney replied, "I have no problem as long as we achieve our objective. And our objective is to get the guys who did 9/11 and it is to avoid another attack against the United States.")

²¹ See the United States Army, Field Manual 34-52 Intelligence Interrogation, Department of the Army, 1992, 1-8, <https://fas.org/irp/doddir/army/fm34-52.pdf> ("Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear. Revelation of use of torture by US personnel will bring discredit upon the US and its armed forces while undermining domestic and international support for the war effort. It may also place US and allied personnel in enemy hands at greater risk of abuse by their captors.")

²² See Shannon C. Houck and Lucian Gideon Conway III, "Ethically Investigating Torture Efficacy: A New Methodology to Test the Influence of Physical Pain on Decision-Making Processes in Experimental Interrogation Scenarios," *Journal of Applied Security Research* 10, Issue 4 (2015): 510-524; Mark Costanzo and Ellen Garrity, "The Effects and Effectiveness of Using Torture as an Interrogation Device: Using Research to Inform the Policy Debate," *Social Issues and Policy Review* 3, Issue 1 (2009): 179-210; Christopher Michael Sullivan, "The (In)effectiveness of Torture for Combating Insurgency," *Journal of Peace Research* 51, Issue 3 (2014): 388-404; John W. Schieman, "Interrogational Torture: Or How Good Guys Get Bad Information with Ugly Methods," *Political Research Quarterly* 65, Issue 1 (2012): 3-19.

²³ Denver Nicks, "Torture Debate Once Again Hinges on a 'Ticking Time Bomb'," *Time*, December 9, 2014, <http://time.com/3626076/torture-report-ticking-time-bomb/>. See also Conor Friedersdorf, "The 'Ticking Time Bomb' Defense of Torture is Evasive and Irrelevant," *The Atlantic*, December 17, 2014, <https://www.theatlantic.com/politics/archive/2014/12/the-ticking-time-bomb-defense-of-torture-is-embarrassing/383797/>.

2. SUPREME RATIONALE

The easiest, most straightforward way to conceptualize a case of hypocrisy involving a violation of principle is to imagine a scenario involving an isolated, abstract act of wrongdoing. That is, to imagine someone having a principle—i.e., always attending church on Sunday—and then not following through on it.

But when someone violates a principle and consequently commits hypocrisy, that person almost always has an excuse for doing so. In evaluating their hypocrisy, it needs to be determined if their reason for violating a principle actually excuses their violation. In some instances, a violation of principle might be attributed to events outside the violator's control or to extraordinary circumstances that would make honoring the principle either extremely difficult or irresponsible (i.e., missing church due to a flat tire, a flooded basement, or illness.) People are usually fairly forgiving when something like that happens. Other excuses, however, are less convincing (i.e., skipping church to sleep in, to nurse a hangover, or to catch an NFL game) because they involve actions within our control and do not establish moral claims that would supersede those animating the principle; in fact, the examples listed above seem to be actions the principle is intended to check.

There is also, of course, a gray area into which potentially excusable actions fall (i.e., missing church because your favorite football team was visiting this week, or because all your college buddies were in town and Sunday morning was the only time all of you could get together, or because your family was celebrating your parents' fiftieth anniversary.) Someone might be a stickler and insist the violator's hypocrisy remains unexcused since the big game, class reunions, and family get-togethers do not trump a

principle about remembering the sabbath and keeping it holy. It's a commandment, after all. But even if that principle hadn't been etched into stone by the finger of God on Mount Sinai, the stickler still might add that the violator did consider attending church important enough to make it a principle, meaning it shouldn't be subordinated to another action no matter the intention behind the action or its merits. Others might be more magnanimous given (among a variety of reasons) the unique and exceptional circumstances concerning the events provoking the violation, the moral significance of the principle being violated, and the violator's prior record of adherence to the principle. But let's not get hung up on this. The main point here is that sometimes people violate principles by taking actions unmandated by principle.

But what if a violation of principle resulted from adherence to another principle? What if the principled church-goer also had a principle stating, "I will always attend my favorite team's games when they come to town," or "I will always attend my class get-togethers," or "I will honor my father and mother"? (That last one's a commandment too, of course.) In other words, if we hope to avoid hypocrisy, what should we do when two principles come into conflict with one another in such a way that we cannot adhere to one without violating the other?

If we're honest about it, most political issues can be framed in one way or another as conflicts between competing principles. We've already (kind of) confronted this dilemma in the previous case study about the United States' torture program ("The Torture Report") where it was suggested the United States' principle prohibiting torture conflicted with a principle concerning national security. The catch there, however, was that no evidence existed to suggest the well-being of the United States was either secured

or advanced through the use of torture, meaning the conflict between principles only existed in a far-fetched and highly unlikely scenario. Still, many political issues we deal with on a day-to-day basis can be viewed as conflicts between held principles. One could even argue that one of the main purposes of politics is to manage this sort of dilemma, as there is little need to debate what to do when faced with a choice between an action that accords with a principle and one that does not. Once it gets more complicated than that, though, and people find themselves divided over which proper course of action to follow, we often turn to politics as a way to resolve this dilemma. Yet if politics is a realm in which its practitioners must inevitably subordinate held principles for the sake of acting on other held principles, is anyone who practices politics doomed to be a hypocrite?

As the nation's court of last resort, the United States Supreme Court is confronted with cases involving stark conflicts between principles all the time. For example, consider *Obergefell v. Hodges*, the 2015 case that required states to license and recognize same-sex marriages.¹ The dispute at the heart of the case was fairly straightforward: Various states through duly-enacted legislation had defined marriage as a union of one man and one woman. A number of same-sex couples in those states sued their state governments claiming it was unconstitutional for those states to treat them differently than opposite-sex couples by either denying them marriage licenses or refusing to recognize their lawful out-of-state marriages. A slim five-judge majority consisting of the Court's four liberal members and Justice Anthony Kennedy (who authored the majority opinion) sided with the same-sex couples in the case. The four remaining conservative judges (including Chief Justice John Roberts) sided with the states that had enacted bans on same-sex marriage.

Obergefell pit two major principles against one another: The principle of equality, or the idea that all people ought to be treated the same under the law, and the principle of democratic rule, or the idea that the people either directly or through their elected representatives have the authority to determine the laws of the land. No matter where anyone stands on the issue of same-sex marriage, it is probably fair to say the vast majority of Americans hold those two principles dear. Neither principle is regarded by Americans as a minor guideline applicable only in rare circumstances. Americans instead celebrate and cherish them both as supreme political values.

They are also two principles the Supreme Court is committed to upholding. Significantly, neither Kennedy nor Roberts dismissed the importance of the principle that was on the losing end of their opinions in *Obergefell*. In fact, Kennedy actually took time to recognize the importance of the principle of democratic rule (“Last Term, a plurality of this Court reaffirmed the importance of the democratic principle in *Schuette v. BAMN* [an affirmative action case], noting the ‘right of citizens to debate so they can learn and decide and then, through the political process, act in concert to try to shape the course of their own times.’ Indeed, it is most often through democracy that liberty is preserved and protected in our lives”) while Roberts acknowledged the validity of the principle of equality (“Petitioners make strong arguments rooted in social policy and considerations of fairness. They contend that same-sex couples should be allowed to affirm their love and commitment through marriage, just like opposite-sex couples. That position has undeniable appeal.”) If anything, there was a tacit assumption that both principles were important, must somehow coexist with one another, and could never completely cancel the other out.

The Court's duty in *Obergefell* then, as in nearly all the cases it hears, was not to determine which long-held principle had to be rejected but rather which principle in this particular situation took priority over the other. That required the justices to turn to another standard or principle for guidance, one that would help them make such a determination. In *Obergefell*, that standard was voiced by Kennedy: "[T]he Constitution contemplates that democracy is the appropriate process for change, so long as that process does not abridge fundamental rights." In other words, the principle of democratic rule should prevail over the principle of equality unless the principle of democratic rule runs afoul of a fundamental right, which, by definition, is a right possessed by all.

It was on the issue of what constituted a "fundamental right" that the Court ultimately found itself divided. For Kennedy, the concept of a fundamental right included liberties related to the "personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs." Kennedy concluded that the right to marry was, according to this definition, a fundamental right protected by the Constitution, and that the reasons the Court considered marriage a fundamental right (that marriage was "inherent in the concept of personal autonomy," "support[ed] a two-person union unlike any other in its importance to the committed individuals," "safeguards children and families," and "is a keystone of our social order") could be "appl[ied] with equal force to same-sex couples" and opposite-sex couples. On the other hand, Chief Justice John Roberts used a narrower definition of "fundamental right" and arrived at a different conclusion than Kennedy. For Roberts, a fundamental right (citing *Washington v. Glucksberg*, a 1997 case concerning assisted suicide that Kennedy was in the majority on) is a right "objectively, deeply rooted in this Nation's history and

tradition,” and “implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” Finding no evidence that same-sex marriage met those standards and therefore could not be considered a fundamental right, Roberts concluded that democratically-enacted bans on same-sex marriage were constitutionally permissible.

Some considered the five judges in the majority on *Obergefell*—particularly Kennedy—hypocrites for betraying a commitment to democratic rule. Roberts wrote in his dissent, “As a plurality of this Court explained [in an opinion written by Kennedy] just last year [in the affirmative action case *Schuette v. BAMN*], ‘It is demeaning to the democratic process to presume that voters are not capable of deciding an issue of this sensitivity on decent and rational grounds.’” Travis Weber of the Family Research Council echoed this critique:

Justice Kennedy should have heeded his own advice, from just last term in *Schuette v. BAMN*, that sensitive public policy matters should be left to the states. He did refer to *Schuette*, observing that “this Court reaffirmed the importance of the democratic principle in *Schuette*...noting the ‘right of citizens to debate so they can learn and decide and then, through the political process, act in concert to try to shape the course of their own times.’... Indeed, it is most often through democracy that liberty is preserved and protected in our lives.”

But he (unfortunately) decided not to follow his own pro-democracy precedent. Why did Justice Kennedy decide to not follow his own advice? Although he cited constitutional rights language from *Schuette* (which no one would disagree with on its face), in essence, Justice Kennedy appears to feel differently about private sexual matters compared to other issues, as evident in his consideration of *Bowers v. Hardwick* and *Lawrence v. Texas* [cases involving sodomy laws] in the *Obergefell* opinion.²

Roberts’ accusation of hypocrisy misses its mark, however, because Kennedy never dismissed the principle of democratic rule. He instead argued the principle of equality superseded the principle of democratic rule when a fundamental right was involved. (Kennedy, in *Obergefell*: “But as *Schuette* also said, ‘[t]he freedom secured by

the Constitution consists, in one of its essential dimensions, of the right of the individual not to be injured by the unlawful exercise of governmental power.’... Thus, when the rights of persons are violated, ‘the Constitution requires redress by the courts,’ notwithstanding the more general value of democratic decisionmaking.”) For Roberts’ accusation of hypocrisy to have stuck in a case like this, he would have needed to have aimed his accusation at the standard Kennedy used to justify giving priority to one principle over the other and then argued Kennedy had used that standard inconsistently. What matters as far as hypocrisy is concerned isn’t so much which principles are prioritized or deprioritized but rather if those decisions are being made on a consistent basis.

Weber’s accusation of hypocrisy goes a step further than Roberts’ accusation, however, by suggesting Kennedy prioritizes or deprioritizes the principle of democratic rule not in accordance with some objective standard but rather the kind of issue he is dealing with. Specifically, Weber seems to believe that Kennedy lets his standards slip on issues involving “private sexual matters.”³ The narrowmindedness of his critique aside (same-sex marriage—let alone any marriage—is more than a “private sexual matter”) Weber does not interrogate the possibility that the standards Kennedy uses to mediate disputes involving the principle of democratic rule inevitably place laws regulating peoples’ private affairs under greater scrutiny. If so, Kennedy would not act hypocritically if he allowed the principle of democratic rule to prevail over the principle of equality in (for example) a case involving an economics liberty dispute that did not involve a “fundamental right” by his definition of the concept. Instead, he could claim to have applied his standard consistently in both cases.

If Kennedy could be implicated in an act of hypocrisy, it is perhaps in reference to the 2013 case *U.S. v. Windsor*, which overturned a key section in the Defense of Marriage Act (DOMA) that required the federal government to only recognize marriage as a union of one man and one woman, thus compelling the federal government to recognize same-sex marriages licensed by states. In his dissent to *Obergefell*, Justice Antonin Scalia wrote,

It would be surprising to find a prescription regarding marriage in the Federal Constitution since, as [Kennedy] reminded us only two years ago (in an opinion joined by the same Justices who join him today):

“[R]egulation of domestic relations is an area that has long been regarded as a virtually exclusive province of the States.”

“[T]he Federal Government, through our history, has deferred to state-law policy decisions with respect to domestic relations.”

To paraphrase, Scalia accused Kennedy of a logical inconsistency since Kennedy had overturned DOMA just two years earlier in *Windsor* by arguing the federal government had no business regulating domestic relations like marriage, which he said had historically been the province of the states. In *Obergefell*, however, Kennedy appeared to trample all over the state’s right to regulate marriage. Weber also noted this inconsistency, calling it “hypocrisy” and a “blatant contradiction.” Kennedy does not confront this critique head-on, but seems content instead to fall back on his claim that marriage is a fundamental right of supreme importance to American society that ought to be enjoyed by both opposite- and same-sex couples:

There is no difference between same- and opposite-sex couples with respect to this principle. Yet by virtue of their exclusion from that institution, same-sex couples are denied the constellation of benefits that the States have linked to marriage.

Kennedy recognized that it is the states that establish marriage laws; it was his contention, however, that they cannot regulate marriage in such a way that they abridge the fundamental rights of some of their citizens and in turn treat them unequally.

There is certainly room to disagree with the reasoning of the justices in this case. One may believe that Kennedy's standard is too subjective and open to judicial abuse, or that Roberts' standard does not take a full reading of the historical record concerning the treatment of same-sex individuals in the United States into account. Those critiques, however, are jurisprudential disagreements, not matters of hypocrisy. Even an accusation of intellectual hypocrisy concerning a logical inconsistency in either Kennedy or Roberts' arguments would need to allow for the possibility that the inconsistency is really nothing more than a matter of personal interpretation of complex ideas and legal concepts (see "The Consistent Life Ethic").

Obergefell demonstrates that principles do not exist in vacuums; they are instead almost always in the company of other principles that together form the moral architecture that shapes and defines our broader understanding of a Good Life or a Good Society. These principles, despite our best intentions, will inevitably come into conflict with one another, often in ways we do not anticipate. It is also inevitable that we will turn to politics as a way to resolve these conflicts. Yet we should not rush to label those who wrestle with dilemmas of this nature hypocrites. These dilemmas are not resolved easily and often require accommodations or compromises most would prefer to avoid. Still, decisions over which principle to prioritize when principles are in conflict with one another must be made, and the best we can hope for is that those decisions themselves are made along principled lines. In cases like this, hypocrisy won't be found in the decision

but in the decision-making, and any accusation of hypocrisy should only be made after a careful analysis of the decision-making process.

NOTES

¹ For any reference to *Obergefell v. Hodges* in this case study, see *Obergefell v. Hodges*, 576 U.S. ____ (2015) https://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf.

² Travis Weber, “Critical Analysis of Obergefell v. Weber,” Family Research Council, 2015, https://www.frc.org/criticalanalysis-obergefellhodges#_ftn11.

³ Ibid.

3. THE CONSISTENT LIFE ETHIC

Is it possible for someone who believes the death penalty should be banned yet thinks abortion should be legal, or alternately, who opposes abortion yet supports the death penalty, to escape the charge of hypocrisy?

It's a case study right out of Ethics 101. The assumption behind the question is that those who oppose the death penalty on the grounds that it terminates a human life should also, in accordance with sound reasoning, also oppose abortion, which terminates the life of a human embryo or fetus. By the same logic, those who cite pro-life arguments to defend their opposition to abortion should also therefore oppose the death penalty, which takes the life of a convict.

It's called the "consistent life ethic," an idea developed in the early 1980s by the Archbishop of Chicago Cardinal Joseph Bernardin. The phrase itself can be traced back to a 1971 speech by Archbishop Humberto Medeiros of Boston and is considered synonymous with the idea of the "seamless garment" as articulated by Roman Catholic activist Eileen Egan in the early 1970s. The consistent life ethic is a fairly straightforward concept: Human life is sacred and should therefore be protected without condition at all times. In Bernardin's view, this meant opposing abortion, the death penalty, euthanasia, unjust war, and nuclear proliferation while supporting efforts to alleviate economic injustice and poverty.¹

Reorienting American politics around the consistent life ethic would entail a significant shift in American public opinion, since few Americans are consistently "pro-life" on these issues. The divide on capital punishment and abortion illustrates this well. According to an August 2019 Pew Research Center study, 61% of Americans believe

abortion should be legal in all or most cases while 38% believe it should be illegal in all or most cases. This divide is particularly sharp when it comes to party affiliation, with 82% of Democrats and Democratic leaners believing abortion should be legal in all or most cases compared to 36% of Republicans and Republican leaners.² When it comes to capital punishment, a June 2018 Pew study found that 54% of Americans supported the death penalty for those convicted of murder while 39% remained opposed. Significantly, however, 77% of Republicans supported the death penalty compared to only 35% of Democrats.³ In other words, Republicans for the most part believe abortion should be illegal but support the use of capital punishment for capital crimes while Democrats for the most part believe abortion should be legal but oppose the use of capital punishment. This means the beliefs of many Americans are not aligned with Cardinal Bernardin's consistent life ethic.

Many Americans likely developed their views on abortion in isolation from their views on capital punishment, and vice versa. Many may have never even considered how the reasoning that shaped their views on one of those issues could be just as applicable to the formation of their views on the other. Still, CNN commentator Carol Costello found it perplexing that Americans over time had not adopted a consistent life ethic on these matters. In a 2014 article in which she tested the "logic" of the anti-abortion/pro-capital punishment position, she wrote that the apparent contradiction "smacks of hypocrisy" and left her "confused." (She also acknowledged the inconsistency of the pro-abortion/anti-capital punishment position.) Citing a 2010 study showing that only 8% of Americans supported the consistent life ethic, Costello remarked, "Apparently, consistency is not America's strong suit."⁴

It's pretty clear Costello believes the failure of so many Americans to adopt a consistent life ethic regarding abortion and capital punishment is a glaring moral shortcoming. Yet Costello also seemed to suggest bad morals are not at the root of the hypocrisy but rather bad thinking. It is not their beliefs but their "logic" that has left her not outraged but "confused." It's an intellectual dilemma, one that could be solved not with a change of heart but a change of mind.

So far in this work, political hypocrisy has been framed as a moral failing. In the first case study ("The Torture Report") the United States was shown to have committed an act of moral wrongdoing when it violated a principle it had adopted prohibiting the use of torture. The fact that the United States had engaged in torture was a serious moral violation in its own right; what made it that much more damning was that the United States had earlier acknowledged via a number of international agreements and in its own legal code that torture was wrong but did it anyway, implicating itself in an act of hypocrisy.

Nearly every political issue has some sort of moral dimension to it. This is readily apparent when it comes to issues that fall under the purview of the consistent life ethic such as capital punishment and abortion, issues that inevitably deal with how the state defines life, when it is legitimate for someone or the state to take a life, and the assumptions we ought to adopt when weighing matters of life and death. When people argue over these issues, they often argue in explicitly moral terms and accuse their opponents of propagating beliefs that are profoundly immoral.

When hypocrisy comes into play on moral issues like these, the presumed hypocrite is typically characterized as someone who does not practice what they preach;

for example, a pro-life politician caught seeking an abortion for an acquaintance, or a pro-choice politician who admits to being personally pro-life. Again, in these instances, the presumed hypocrite is accused in some way of committing a moral wrong by their own standards. But some accusations of hypocrisy, such as Costello's above, trade accusations of moral inconsistency for accusations of logical inconsistency. In these situations, the accuser implies the hypocrisy at hand is not the result of a deliberately immoral decision (even if it produces a result the accuser would consider immoral) but of faulty reasoning. If the accused hypocrite had only been more consistent in their thinking, they could have avoided becoming a hypocrite.

It has already been established that the idea of consistency is central to a study of hypocrisy. Hypocrisy can be avoided if individuals act consistently with their beliefs. Someone who states they believe people (including themselves) ought to act a certain way and then acts in a way inconsistent with those beliefs runs a serious risk of becoming a hypocrite by doing something they would consider wrong by their own standards. Consistency is also central to the field of logic. According to the rules of logic, a set of claims are said to be consistent with one another when every claim in the set is true at the same time. For example, if someone stated that they always act in accordance with their beliefs, that they have always believed abortion is wrong, and that they got an abortion last week, people would say that these claims lack logical consistency since that set of statements contains a contradiction. The person who made those statements would also be regarded as a hypocrite for the same reason, namely that there is a contradiction between their beliefs and actions, which is only reinforced by the claim that they do not allow themselves such a contradiction.

While most accusations of hypocrisy imply some sort of moral failing, occasionally they are presented as the result of an intellectual error or oversight. Certain words and phrases related to thought processes tend to pop up in accusations of this type, such as “it doesn’t make much sense”⁵ or “I don’t understand,”⁶ references to “logic”⁷ and “reasoning”⁸ and one’s “rationale,”⁹ phrases describing someone as suffering from “a lack of self-awareness”¹⁰ or “cognitive dissonance,”¹¹ descriptions of situations as “ironic” or suffused with “irony,”¹² and words associated with muddled thinking such as “absurdity”¹³ and “ridiculous.”¹⁴ One example even went so far as to offer people a “hypocrisy test” they could use to diagnose someone’s willingness to “take their philosophy to its logical conclusions.”¹⁵ All these signals suggest the accuser believes the hypocrite’s problem is essentially more mental than moral.

Framing an instance of hypocrisy as a logical inconsistency is appealing for a number of reasons. It appears that at least one function of this sort of accusation is to suggest the accused is not smart enough or is too confused to be regarded as a trusted voice on political matters. The idea is that the hypocrite’s logical inconsistency—that is, their inability to think straight without contradicting their own thoughts and beliefs—undermines their credibility as a political authority. Perhaps the accusation is merely meant to imply the accused has made a mental error that damages their argument. Less generous readings of these accusations seem to suggest, however, that the accuser has concluded the accused is guilty of a serious mental lapse and shouldn’t be trusted on a particular issue. In some cases, it’s not hard to believe the accuser considers the apparent hypocrisy proof that the accused simply isn’t intelligent enough to be trusted as a source of reason in the public sphere or with political power period. Either way, the accusation

has the potential to cut to the core of the accused's credibility as a thoughtful political participant.

The accusation can work the other way, as well. Rather than suggesting the accused is too dumb to notice their hypocrisy, an accusation might instead suggest the accused is too clever by half, someone dressing their arguments up in high-minded rationale that sound thoughtful but are actually intellectually shallow. In such cases, an accusation of hypocrisy can cast the accused as a duplicitous and condescending political type trying to pull one over on us on the assumption that we're too stupid to notice. Calling that person a hypocrite is one way to let the world know someone's onto their game.¹⁶

Accusations of hypocrisy based on mental rather than moral errors are also used by political interlocutors to make end runs around intractable moral debates. Debates about abortion involving the consistent life ethic are good examples of this. Moral arguments over abortion in the United States have proved difficult to resolve: Neither side seems willing to budge on the issue, moral pleas alone have been unable to win the debate, and no apparent stratagem has emerged that could resolve the dilemma once and for all. Consequently, rather than continue to assault their opposition's moral position, advocates on both sides may opt instead to cast their opponents' beliefs as logically inconsistent and nonsensical and therefore undeserving of a thoughtful person's consideration and devotion. This, for example, is the strategy used by those who criticize pro-life advocates for failing to follow through on their defense of "life" by also renouncing their support for capital punishment. By suggesting pro-life advocates don't have a good intellectual grasp on the concept of life and what the defense of life therefore

requires of them, critics hope to show people that pro-life arguments are built on grounds that are logically unsustainable and therefore deserving of serious skepticism. Or to put the argument another way, however morally appealing the pro-life position is on the face of it, greater scrutiny of the intellectual arguments supporting it suggests it actually doesn't make much sense as a basis for one's beliefs.

A couple notes are in order, however. First, the discovery of a logical inconsistency in a set of claims does not automatically mean each of the claims in the set is untrue, just that those claims together cannot be true at the same time. In terms of the preceding example, someone who is pro-life on abortion and pro-capital punishment may be accused of holding an inconsistent life ethic, but that does not automatically render the person's views on both issues invalid. It may only mean they need to adjust their views on one or the other issue, perhaps by changing their mind to oppose the death penalty while retaining their opposition to abortion.

Secondly, while criticizing another person's moral position as logically inconsistent may have a certain strategic appeal, it is also usually very personally satisfying for the critic to do so, as they may now feel they have prevailed in a political conflict by reconfiguring it from a moral debate to a war of wits. Few accusations of hypocrisy deliver as fulfilling a sense of *schadenfreude* as accusations of logical inconsistency, but few are also as likely to leave the critic looking so smug, which, in arguments about people's heartfelt beliefs, may not win the critic much sympathy from others. Such a consideration is irrelevant to the validity of an argument, but it certainly has the potential to affect its reception.

Returning now to the main argument, the final and perhaps most powerful reason for framing hypocrisy as a logical inconsistency is related to concerns about civic virtue and public-spiritedness. As explained in this work's introduction, the norm of public-spiritedness is the idea that political action ought to be motivated by an unselfish concern for the public good, the well-being of society at large, and the widely-shared and broadly-defined values that shape and maintain the participatory public sphere. The norm encourages citizens and leaders to think beyond narrow concerns related to self-, group-, and partisan-interest and instead advocate for policies that advance the well-being of others and the nation as a whole. Yet public-spirited policy arguments are not automatically accepted at face value, as citizens may wonder if an advocate for a policy is merely using public-spirited rhetoric to advance a policy that actually serves a narrower interest. To alleviate this concern, policy advocates will often strive to introduce a greater sense of objectivity into their arguments, one that can be said via its basis in truth and sound reasoning to compel belief and action. By demonstrating that one's political opinions are not merely reflective of one's personal political preferences but shaped instead by a factual, logical, and rational assessment of the public interest that has an authority independent of any personal perspective on matters at hand, citizens can more convincingly claim that their political positions are motivated by a dispassionate and disinterested concern for the public good. Conversely, exposing someone's argument as logically inconsistent can also potentially expose that presumably public-spirited person as a hypocrite whose beliefs and actions are not consistent with what a rational, objective assessment of the public good should lead them to believe.

This vision of a rational republic has strong appeal, but, as history often reminds us, it is one more likely to find expression on the big screen in a portrayal of the science-fictional world of Vulcan than in democratic societies here on Earth. The problem isn't simply a matter of historical reality or the compelling claim that democracy itself is an incubator of irrational tendencies.¹⁷ It's that politics cannot be reduced to a "calculative ideal" based upon "the mathematicization of reason,"¹⁸ one in which the cold dictates of logic lead inexorably to a definitive conclusion. Political considerations are more complicated and nuanced than that. Additionally, such a view narrows the field of politics to bureaucratic management and administration while diminishing the subjective normative concerns that give politics its purpose. As Thomas A. Spragens, Jr., writes, (while quoting Max Weber,) "Rationality is a meaningful concept *vis à vis* politics only in the context of determining the means 'adequate to the realization of an absolutely unambiguously given end.' Concerning the ends themselves, reason has nothing whatever to say."¹⁹ Finally, and perhaps most importantly, it fails to recognize that the logic of politics may lead people in different directions to different conclusions and draw from sources some would be inclined to dismiss as irrational and incompatible with their own beliefs and rational understanding of the world. Some would even argue the whole point of democratic politics is to mitigate conflicts between rational and irrational perspectives that might otherwise remain irreconcilable.²⁰

It would be easy at this point to resign oneself to the conclusion that it is impossible to establish an objective rational motivational basis for democratic politics. This admission would in turn render attempts to link political hypocrisy to logical inconsistencies mostly pointless, as people could always dismiss accusations of hypocrisy

leveled against them as resulting from their accuser's inability to appreciate the logical/rational terms of their own arguments. But even if an objectively *rational* pluralistic democracy seems implausible, a *reasonable* pluralistic democracy does not. As John Rawls explains,

Persons are reasonable in one basic aspect when, among equals say, they are ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so. Those norms they view as reasonable for everyone to accept and therefore as justifiable to them; and they are ready to discuss the fair terms that others propose.²¹

Alternately, "The rational is...a distinct idea from the reasonable and applies to a single, unified agent...with the powers of judgment and deliberation in seeking ends and interests peculiarly its own."²² It is upon this idea of the reasonable that citizens in a liberal democratic society, despite their differing (and perhaps irreconcilable) moral, philosophical, and religious views, can debate and justify policy amongst themselves.

Reasonable agreement forms the basis of public reason, which is premised on values and a conception of justice all those in a diverse society can independently affirm as acceptable and legitimate. Public reason establishes the terms of political cooperation, a shared notion of the common good, and the range of reasons (as derived from the common good) that all involved can respect as acceptable justifications for state action.²³ When there is disagreement over policy, citizens and politicians can turn to public reason to justify their arguments and demonstrate how their position is aligned with what their fellow citizens would recognize as the public good. Public officials can also seek to legitimize the exercise of state power and respond to critics who claim they (the public officials) are actually motivated by arbitrary, authoritarian, personal, or partisan reasons

by citing public reason to show how a desire to pursue the public good informed their actions.

Consequently, reason-giving emerges as an important democratic norm. In healthy democracies, politicians will not last long if they rely on their statutory authority alone to justify their actions (i.e., “I did it because the law says I can”); instead, they are expected to offer reasons for acting. These reasons must show that their actions are undertaken with the public good in mind, and they must be offered in public where those reasons can be challenged and tested. The reasonableness of these arguments should also be discernable to other citizens: Facts ought to be drawn from widely-credible sources, arguments should be logical and well-reasoned, and reasons used to justify action in one case should generally retain their motivational force in similar cases under similar conditions. These are all qualities of good argumentation that hold within and outside the political construct of public reason. Ultimately, arguments based on public reason allow their advocates to potentially persuade others on terms they can accept and respect as legitimate; they also allow others to critique arguments on terms their advocates can comprehend. Because of the role public reason has traditionally played in American politics, Cass Sunstein has characterized the United States’ constitutional democracy as a deliberative “republic of reasons.”²⁴

Accusations of hypocrisy may begin to materialize in a republic of reasons if a political argument is found to be poorly reasoned or logically inconsistent. If logic and reason have a compelling authority in their own right, people ought to abide by them even when it is politically inconvenient to do so. In fact, one can build a reputation for impartiality and civic virtue in politics by relying upon reason rather than partisanship or

self-interest to guide one's decision-making process. Accusations of hypocrisy based upon the discovery of a logical inconsistency can suggest the accused hypocrite is following a personal or partisan agenda rather than the impartial dictates of logic and reasoning.

We have seen this sort of accusation already at work in the case study about the Supreme Court's decision regarding same-sex marriage (see "Supreme Rationale"—you thought that was just a Wu-Tang pun, didn't you?) Justice Kennedy was charged with hypocrisy for not applying the same reasons concerning the primacy of states' rights he had used in previous court cases to *Obergefell v. Hodges*. Had he done so, his critics claimed, he would have allowed states to determine the legality of same-sex marriage; instead, he seemed motivated less by the impartial logic of his reasoning on constitutional law than by a personal desire to legalize same-sex marriage throughout the United States. The criticism of Kennedy's decision (and the charge of hypocrisy) hinged on the rationale Kennedy used to decide the case, namely that he was applying that rationale inconsistently across cases. (Kennedy, in an elaboration on his own reasoning, begged to differ.)

While accusations of hypocrisy are sometimes framed as logical inconsistencies, there is good reason to be careful about conflating the concepts. This work noted in its introduction that it did not intend to get too picky about what technically counted or didn't count as hypocrisy and would instead allow the parameters of its analysis to be determined by the ways in which the term is commonly used in politics. Yet there does seem to be a big difference between an act of "hypocrisy" and a "logical inconsistency," namely that the former is a *moral* error while the latter, if taken at face value, is best

understood as a *mental* error. Now it is certainly possible that a logical inconsistency could result in an outcome some might consider immoral and that such an outcome might be enough to convince someone that the inconsistent actor should not be trusted with public power. Note, however, that in such a situation, the cause of the immoral act is not an immoral desire but a mental shortcoming. The problem is not that the official knew better and did something wrong regardless, but that the (presumably) well-intentioned official wasn't wise enough to reach the correct conclusion and ended up doing something that produced a morally bad result.

The same is true in logical inconsistencies resulting in hypocrisies. If the cause of a hypocrisy is a mental error rather than a moral error, it seems there would be an easy way for the accused to escape the charge of hypocrisy: Admit the mental error and then correct the mistake. Their wounded pride aside, someone committed to logical consistency and sound reasoning would have few objections to doing so. Furthermore, their accusers (if gracious) would quickly see their inconsistency was not the result of partisan or personal motives but simply a mistake and withdraw the moral condemnation of hypocrisy.

If the accused insisted their logic and reasoning was sound, it may be more accurate to say the person is "mistaken" rather than a "hypocrite," with judgment centering on their mental acuity instead of their moral fiber. But it would also be worth considering in such a situation why someone persists in their logical inconsistency. Maybe they aren't smart enough to see the problem, or are operating according to reasons we find unconvincing but that somehow make sense to them (a very tricky impasse to resolve.) Or it could be the case that the accused is actually aware his or her reasoning

and logic doesn't add up yet carries on regardless with no concern for their mistake. It would not be surprising for observers to wonder why this logically inconsistent person maintains their error, which increasingly comes to look less like a mental mistake than a deliberate act. Their preference to cling to a logical inconsistency that leads them to a certain policy outcome (rather than an unintentional entanglement in an inconsistency they could easily correct) would certainly go a long way toward earning them the label of hypocrite, but the accuser would also need to ascribe a motive beyond the mental error (say, a preference for a particular policy outcome) to the accused's hypocrisy. The main semantic point, though, is that the problem here as it is diagnosed would actually not be a mental one but rather the product of a conscious moral choice, which makes calling hypocrisy of this nature a "logical" inconsistency inaccurate.

This, of course, does not mean logic and reason have no role to play in evaluating accusations of political hypocrisy. Establishing logical support between the premises and conclusions of moral arguments is of significant importance to sound moral reasoning. Accusations and defenses against hypocrisy often rely on appeals to logic, specifically claims of argumentative consistency and inconsistency. This is most evident when testing someone's argument against the established logic of that argument.

Yet moral reasoning is not a cold calculus with clearly defined premises leading to inarguably true conclusions. People of good faith will disagree about what moral obligations and public reason require of them, what terms condition their moral obligations, and which moral obligations take priority over others. As a result, even when operating according to a mutual understanding of public reason, different people's

reasoning on an issue will often lead them to different conclusions, including whether or not a particular action qualifies as hypocrisy.

This is likely the case when it comes to issues involving the consistent life ethic. As mentioned earlier, the logic of the consistent life ethic is rather straightforward: Human life is sacred and should therefore be protected at all times without condition. Additionally, in cases that raise questions concerning life—abortion and capital punishment, for instance—those who adhere to the consistent life ethic are advised to err in the direction of life’s preservation. It’s a clear-cut, compelling argument that makes a lot of logical sense, particularly for someone who believes the preservation of life is a supreme value.

But there are alternatives to the consistent life ethic, and one should not assume the logic and reasoning underlying the consistent life ethic control arguments about issues typically associated with it. For example, someone may qualify the defense of life by granting greater protections to *innocent* human life than *guilty* human life. This distinction could lead them to argue that an unborn child deserves legal protection while allowing for the possibility that someone convicted of taking another person’s life should forfeit their own in the name of justice.²⁵ Alternately, one could argue the issue of abortion is best understood not as a matter of “life” at all but as an issue pertaining to women’s health and autonomy, which makes abortion irrelevant to the consistent life ethic.²⁶ Both of these arguments have a logical consistency of their own that adherents of the consistent life ethic cannot disqualify as hypocritical via appeals to the logical terms of the consistent life ethic itself. If someone hoped to disqualify a pro-life/pro-capital

punishment or pro-choice/anti-capital punishment position as hypocritical, those positions would need to be disqualified on their own terms.

It is certainly fair to wonder how many people holding beliefs on abortion and the death penalty that adherents of the consistent life ethic would consider inconsistent arrived at those beliefs in a way that could plausibly be considered logically consistent. Perhaps most people who hold such beliefs are simply towing the party line or adopted their beliefs without considering how the premises of those beliefs are logically relevant to other beliefs they hold. As mentioned earlier, however, it is probably most accurate to describe someone who holds such logically inconsistent beliefs—i.e., someone who believes “all life” should be protected but still supports the death penalty, or someone who opposes the death penalty because it takes a life yet still remains pro-choice despite conceptualizing the issue of abortion as a matter of “life”—as guilty of poor reasoning rather than hypocrisy. Their mistake seems more like a cognitive oversight rather than a deliberate moral choice to ignore a conclusion generated by their moral reasoning. It is exceedingly hard to know, however, when a sincere mental error turns into a moral misdeed amounting to hypocrisy, when someone transitions from not knowing their reasoning is flawed to knowing but carrying on as though they still remain convinced their logic is sound.

Situations like this are tough to work through. Ideally, everyone in a political community would argue from the same logical and rational basis. This would allow members of the community to correct those who make mistakes, who in turn would appreciate being shown the error of their ways. In democracies, however—even those operating under the auspices of public reason—citizens are expected to be fairly tolerant

of where their fellow citizens' reasoning leads them, even when that reasoning appears erroneous or is covertly done in bad faith. This is not to say democratic arguments need not appeal to reason and logic; on the contrary, citizens should expect that they do. It's just that democracies require citizens to have a high tolerance for what they would personally consider to be poor arguments.

This does not mean we need to be convinced by the reasoning behind such arguments, however. We may somehow find them flawed, even logically inconsistent. We may point out what we believe to be their shortcomings, attempt to show their advocates the errors of their way, and explain why the positions we have arrived at are on firmer footing and more compatible with public reason than theirs. We may ultimately conclude via our own rational analysis that their arguments are hopelessly irrational. Misguided. Even wrong on their merits. But hypocritical? It turns out that's hard to tell. But then again, maybe it really doesn't matter much in the long run. Maybe calling someone a hypocrite in such a case is nothing more than rubbing salt into a bad argument.

NOTES

¹ See Joseph Cardinal Bernardin, "A Consistent Ethic of Life: An American-Catholic Dialogue," in *Selected Works of Joseph Cardinal Bernardin: Homilies and Teaching Documents*, ed. Alphonse P. Spilly (Collegeville, Minnesota: The Liturgical Press, 2000), 81-90.

² Pew Research Center, "U.S. Public Continues to Favor Legal Abortion, Oppose Overturning Roe v. Wade," Pew Research Center, August 29, 2019, <https://www.people-press.org/2019/08/29/u-s-public-continues-to-favor-legal-abortion-oppose-overturning-roe-v-wade/>.

³ J. Baxter Oliphant, "Public Support for the Death Penalty Ticks Up," Pew Research Center, June 11, 2018, <https://www.pewresearch.org/fact-tank/2018/06/11/us-support-for-death-penalty-ticks-up-2018/>.

⁴ Carol Costello, "Can You Be Pro-Life and Pro-Death Penalty?," CNN, May 28, 2014, <https://www.cnn.com/2014/05/14/opinion/costello-pro-life-pro-death-penalty/index.html>.

⁵ See Leslie Salzillo, “Barbara Boxer Knocks It Out of the F*cking Park Calling Out GOP Hypocrisy and Irresponsibility,” *Daily Kos*, February 24, 2015, <https://www.dailykos.com/stories/2015/2/24/1366654/-Barbara-Boxer-Hits-It-Out-Of-The-F-cking-Park-Regarding-Irresponsible-Republicans-The-New-Shutdown>. Salzillo interpreted a speech Senator Barbara Boxer (D-CA) made on the floor of the Senate in February 2015 as an accusation of hypocrisy. During the speech, Boxer wondered “how [it made] sense” for Republicans to threaten a shutdown of the Department of Homeland Security at a time when Republicans were constantly warning the American people about threats to the nation’s security. (“Republicans say, ‘Oh, we’re in danger, we have to go to war, put combat troops on the ground!’ But they’re willing to shut down the department that protects Americans here in the homeland from a terrorist attack. How does it make sense, at a time when we’re facing serious threats to our national security, to furlough 30,000, thirty thousand, Department of Homeland Security workers, and to force more than 100,000 frontline homeland security personnel to work without pay?”)

⁶ See Associated Press, “Mike Huckabee Slams Obamas for Letting Daughters Listen to Beyoncé,” *Billboard*, January 13, 2015, <https://www.billboard.com/articles/columns/the-juice/6436652/beyonce-mike-huckabee-obamas>. To quote the article, “Former Arkansas Gov. Mike Huckabee has accused President Barack Obama and his wife Michelle of parenting by double-standard, in an interview published Tuesday (Jan. 13), saying they shelter their daughters from some things but allow them to listen to the music of [pop star] Beyoncé. While promoting his new book, Huckabee told *People* magazine, ‘I don’t understand how on one hand they can be such doting parents and so careful about the intake of everything – how much broccoli they eat and where they go to school...and yet they don’t see anything that might not be suitable’ in the lyrics and Beyoncé choreography ‘best left for the privacy of her bedroom.’” (Beyoncé’s self-titled 2013 album contained a number of frankly sexual songs such as “Drunk in Love” and “Partition”). In an added twist, Huckabee had earlier been accused of hypocrisy by Jon Stewart on the January 19, 2015, episode of *The Daily Show* for condemning Beyoncé’s music while performing with classic rocker Ted Nugent four years earlier during an episode of Huckabee’s FOX News program. The song they performed was “Cat Scratch Fever,” which contains the lyrics [as performed on Huckabee’s show], “And I make that pussy purr with the stroke of my hand/ They know they’re getting it from me/ Know just where to go when you need a loving man/ You know I’m doing it, Mike, and I’m doing it all the time/ I like to scratch that fever.” Stewart suggested Huckabee had no problem with Nugent because Nugent’s politics aligned with his (Huckabee’s) while Beyoncé seemed “alien” to him. Huckabee defended himself by arguing his performance with Nugent aired at night and that when Nugent released the song in 1978 he received no music industry awards for it and did not perform it on national television. (Nugent had actually performed the song on the late-night program *The Midnight Special* in 1978.) Mike Huckabee, interview by Jon Stewart, *The Daily Show with Jon Stewart*, on Comedy Central, January 19, 2015, <http://www.cc.com/video-clips/ccr3m3/the-daily-show-with-jon-stewart-mike-huckabee>.

⁷ See Jessica Schulberg, “Nikki Haley Called Out for Hypocrisy After Refusing to House Guantanamo Detainees,” *Huffington Post*, April 28, 2016, https://www.huffingtonpost.com/entry/nikki-haley-guantanamo-detainees_us_57223c15e4b0f309baf00069. After Republican Governor Nikki Haley of South Carolina told a House committee in April 2016 that transferring terrorists detained at the Guantanamo Bay military base in Cuba to a naval brig in Charleston would damage the city’s reputation, Schulberg described ranking committee member Rep. Bennie Thompson (D-MS) as “jump[ing] at the chance to point out a contradiction in [Haley’s] logic” by noting that the man who had killed nine people during a racially-motivated church shooting in Charleston—someone who could easily be described as a “terrorist”—was already imprisoned in Charleston.

See also Glen Clark, “Cecil the Lion – A Perfect Example of Liberal Hypocrisy,” *The Federalist Papers*, July 30, 2015, <https://thefederalistpapers.org/us/cecil-the-lion-a-perfect-example-of-liberal-hypocrisy>. Clark reacted incredulously to liberal anger over the shooting of a beloved lion named Cecil in Zimbabwe by an American big game hunter. Clark’s article called out the irrationality that led liberals to react indifferently to the deaths of millions of unborn babies in abortion clinics while turning the death of one big cat into a *cause célèbre*: “I’ve seen the story of Cecil the lion being killed, allegedly by mistake, by an American dentist and have heard the outrage over the senseless death of one of ‘God’s amazing creatures.’ Liberals, in particular, are up in arms about it. ... I find it truly sad that people get angry over one lion, the media goes crazy, the hunter himself faces the ruination of his business and livelihood because of media coverage, but stay silent or demand the right to kill innocent, unborn children by the millions and

even try to justify it by saying their organs are being utilized in research. It's difficult to grasp the thought process in which a lion has rights but an unborn baby does not. Isn't a human baby a perfect example of one of 'God's amazing creatures?' ... Sometimes liberalism simply defies logic."

⁸ See W. James Antle III, "Torture is Also Big Government," *The American Conservative*, December 10, 2014, <https://www.theamericanconservative.com/articles/republicans-torture-report-jonathan-gruber-hypocrisy/>. Antle used his article to criticize conservative lawmakers who attacked Obamacare as a big government infringement of personal freedom but refused to denounce the United States' torture program on the same grounds. As he wrote, "Defending [the government's torture program] may be a habit many conservatives have fallen into, but it does not reflect an authentically conservative *habit of mind*. [Emphasis added.] Imagine a liberal defense of [Obamacare] on the grounds that health care is, like fighting terrorism, a life-and-death matter. Indeed, if history is any guide, cancer and heart disease are far likelier killers than even the most ruthless terrorist cells. You don't have to imagine such defenses, in fact. They're made routinely. Republican opposition to Obamacare's Medicaid expansion has been equated to killing, since health coverage saves lives. The conservative response would be that the morality, legality, and efficacy of policies aimed at increasing health coverage matter, and the benefits must be weighed against the costs, even if all our allies have single payer. That same reasoning should apply to dealing with terrorism, even if all our enemies torture. ...[T]he case for limited government is weakened when those making it ignore or defend torture, testicle-crushing, and waterboarding, complaining only about big government when someone proposes spending taxpayer dollars to help people." Antle concluded, "Refusing to apply the same scrutiny to more sweeping government powers as insurance regulations isn't conservatism. It's...*stupidity*." [Emphasis added.] [NOTE: Some may wonder if this is an example of hypocrisy since Antle does not use that specific word in his article, but note the word is included within the article's hyperlink. Someone at *The American Conservative* read Antle's article and equated it with an accusation of hypocrisy.]

⁹ See Igor Bobic, "GOP Admits It's Hypocritical to Sue Obama Yet Urge Him to Act Alone on Border Crisis," *Huffington Post*, August 1, 2014, https://www.huffingtonpost.com/2014/08/01/border-crisis-tom-cole_n_5641292.html. When House Republicans called on President Obama in August 2014 to act unilaterally without congressional approval to secure the border against illegal immigration a day after suing him for acting unconstitutionally by unilaterally delaying the implementation of provisions in a congressionally approved health care law, Bobic wrote Republicans' "rationale raised eyebrows across Washington" and prompted two Republican House members to "[admit]...it made little sense to sue President Obama over executive overreach and, at the same time, urge him to act without Congress to solve the border crisis." Said Representative Tom Cole [R-OK]: "Look, you can't say on the one hand that the president is overreaching by acting without legislative authority and direction and then refuse to give him legislative authority and direction in another area." This article is an interesting example because people rarely accuse themselves of hypocrisy yet the headline of Bobic's article suggests congressional Republicans did just that ("GOP Admits It's Hypocritical..."). Nothing in Bobic's article indicates Republicans branded themselves hypocrites. As Rep. Cole's quote demonstrates, however, some did confess to intellectual inconsistency, which Bobic (or at least the person who wrote the headline for Bobic's article) interpreted as hypocrisy. For another example that makes a similar point, see Dana Milbank, "An Upending of Reason in the House," *Washington Post*, August 1, 2014, https://www.washingtonpost.com/opinions/dana-milbank-an-upending-of-reason-in-the-house/2014/08/01/d5787cd4-1970-11e4-9e3b-7f2f110c6265_story.html, which concludes by stating, "The problem with day-to-day leadership, though, is inconsistency. What you do on Thursday has a way of contradicting what you said on Wednesday."

¹⁰ See Conor Friedersdorf, "The Apex of CIA Hypocrisy," *The Atlantic*, December 11, 2014, <https://www.theatlantic.com/politics/archive/2014/12/the-apex-of-cia-hypocrisy/383651/>. During an interview with BBC's Katty Kay, former CIA Director Michael Hayden voiced his displeasure with the 2014 Senate report on the CIA's use of torture, stating, "No one actively involved in this [CIA] program was ever interviewed by the Senate Select Committee on Intelligence staff. It's as if we were tried and convicted in absentia. We were not given an opportunity to mount a defense. And there was no discovery process by which alleged evidence could be revealed and challenged." Calling Hayden's response "the least self-aware complaint in the history of the U.S. intelligence community," Friedersdorf wrote that Hayden's

concern for due process for himself didn't seem to extend to the suspected terrorists detained at Guantanamo Bay and targeted by drones in Pakistan. ("So imprisoning Muslims without charges or trial is morally defensible, as Hayden sees it, as is killing without due process, even when scores of children predictably die as 'collateral damage,' *and even when U.S. citizens are targeted in secret*. ... But criticizing Hayden in a Senate report that was researched for years, based on CIA documents, and given to the current CIA director to review before publication? Criticizing him in a report that results *in no penalties whatsoever* without due process? *That's* an outrage to him.")

¹¹ See the Occupy Democrats meme posted on Facebook in April 2014 below (Figure 3):



Figure 3

Occupy Democrats, social media meme, April 27, 2014,

<https://www.facebook.com/OccupyDemocrats/photos/a.347907068635687/625876267505431/?type=1&theater>.

This meme contrasts some conservatives' support for Cliven Bundy with their support for the construction of the Keystone XL Pipeline. Bundy is a Nevada rancher who initiated an armed standoff with the federal government in 2014 over his refusal to pay over \$1 million dollars in grazing fees accumulated over twenty-one years for his use of federal land. Bundy argued he did not owe the government money and had the right to graze his cattle on that land because the federal government lacked the power to own state land. This made Bundy a hero in the eyes of many who believed a heavy-handed government encroached too often on individual rights. The Keystone XL Pipeline is a pipeline that, once constructed, would transport Canadian oil across Montana, South Dakota, and Nebraska. It is generally opposed by Democrats (typically on environmental grounds) and supported by Republicans (who see it as a good investment in the nation's economy.) The TransCanada Corporation (now TC Energy), who would build and own the pipeline, needed to gain permission from the federal government to exercise eminent domain in order to seize privately-owned land from people unwilling to either sell their property or grant the corporation an easement for construction of Keystone XL. The meme contrasts conservative support for Bundy, who believes the federal government is not allowed to own land and acts oppressively when it charges fees for use of public land, with their support for the Keystone XL Pipeline, which can only be constructed if the federal government approves the seizure of land from private land owners.

Note that this usage of "cognitive dissonance" doesn't square with the psychological definition of the term, which actually describes the *distress* people feel when confronting contradictory feelings or beliefs. (Psychologist Leon Festinger premised his *A Theory of Cognitive Dissonance* [1957] on the belief that people long for psychologically consistent states of mind and affairs and will act to alleviate the stress that arises when an inconsistency is discovered by either changing one's behavior or beliefs, justifying one's behavior with excuses or additional information, or ignoring or denying some element contributing to the dissonance.) In popular parlance, however, distress sometimes has nothing to do with it. Instead, the phrase "cognitive dissonance" is often used to describe the basic (and often unwitting) condition of holding

contradictory feelings or beliefs. According to this usage, people suffer from cognitive dissonance in politics because they have not carefully reviewed their beliefs for intellectual consistency, which leads them to effectively function as hypocrites.

¹² See Carl M. Cannon, “Government Hypocrisy, Thinly Disguised,” *RealClearPolitics*, April 20, 2014, https://www.realclearpolitics.com/articles/2014/04/20/government_hypocrisy_thinly_disguised_122327.html. Cannon pointed out “[t]he obvious irony [that] was somehow lost on administrators at [City University of New York],” who “offered liberal [*New York Times*] columnist and Princeton professor Paul Krugman \$225,000 to join a new center focused on ‘income inequality.’” Cannon noted Krugman’s nine-month salary was double what CUNY paid its highest-paid faculty members and considerably more than the \$3,000 it paid adjuncts to teach a single course.

Irony and hypocrisy are distinct yet closely related concepts. (See Szabados and Soifer, 289-312.) Irony (specifically verbal irony) is most commonly understood as a literary device in which the literal meaning of a message is opposite the actual meaning of the message (i.e., telling a basketball player who just airballed a three-pointer, “Nice shot.”) For someone to appreciate an ironic statement, they need to somehow be aware that the speaker intends to mean the opposite of what they actually said. Hypocrites, on the other hand, would seem to want their audiences to take their statements literally so as to banish from their audiences’ minds anything that might possibly contradict those messages. In this way, irony seizes on contradiction to make its point, while hypocrisy seeks to conceal or gloss over contradiction. There is also situational irony, which is used to describe a situation whose outcome is nearly opposite of what was expected (i.e., stealing away to the library for a few hours of peace and quiet only to have to cope with noisy patrons all afternoon.) While both situational irony and hypocrisy feature some sort of incongruity, situational irony lacks the sense of impropriety associated with hypocrisy. In general usage, however, the words “irony” and “ironic” are sometimes used to describe incongruous (and by extension, preposterous) situations in which the creators or abettors of the incongruity lack the presence of mind to spot the incongruity. This is a twist on verbal irony in that the irony of the situation is lost on the creators of the irony (who did not intend to be ironic) but noticed by those wise enough to appreciate the absurdity of the situation. This is also what links “irony” (a contradiction or incongruity which only a keen mind can appreciate) to logical hypocrisy (which is associated with mental error.) For additional examples linking “irony” to situations described as political hypocrisy, see Anne Applebaum, “Europe’s Multi-Layered Hypocrisy on Refugees,” *Washington Post*, September 4, 2015, https://www.washingtonpost.com/opinions/the-crisis-on-europes-shores/2015/09/04/2fb38864-5319-11e5-933e-7d06c647a395_story.html?utm_term=.788440808856 (“Picking apart the layers of irony and hypocrisy that surround the European refugee crisis is like peeling an onion without a knife.”) Lydia O’Connor, “The Hypocrisy of Trump Saying Rep. Ilhan Omar Should Resign Over Anti-Semitism,” *Huffington Post*, February 12, 2019, https://www.huffingtonpost.com/entry/trump-ilhan-omar-anti-semitism-hypocrisy_us_5c63358de4b08da0ec7fbfd1 (“No stranger to hypocrisy, President Donald Trump told reporters Tuesday morning that Rep. Ilhan Omar [D-Minn.] should either resign from Congress or step down from a House committee assignment over recent tweets some lawmakers decried as anti-Semitic. His sharp criticism of Omar is ironic given how many times Trump has made anti-Semitic comments or hesitated to denounce such rhetoric in the past.”) and Matt Walsh, “WALSH: Bernie Sanders is an Arrogant, Power-Hungry, Hypocritical, Cowardly, Morally-Deranged Communist,” *The Daily Wire*, February 20, 2019, <https://www.dailywire.com/news/43722/sanders-matt-walsh> (“Someone [like Sanders] who lectures others about ‘greed’ and deliberately fosters hatred and suspicion toward the wealthy with overheated class warfare rhetoric, cannot buy three homes and collect millions in book royalties without being guilty of rank hypocrisy.... Surely, Bernie’s fans must see the irony of a man making millions on a book advocating a socialist revolution.”).

¹³ See Kimberly Strassel, “Comey’s FBI Double Standard,” *Wall Street Journal*, August 18, 2016, <https://www.wsj.com/articles/james-comeys-double-standard-1471560485>. After it was revealed during the course of the 2016 presidential primary campaign that Hillary Clinton had maintained a private email server that she had used at times for public business, the FBI conducted an investigation to see if Clinton had mishandled sensitive government information. In the summer of 2016, FBI Director James Comey announced that while Clinton had been careless in her handling of that material—some of which contained classified information—the Bureau recommended no charges. When Congress began a review of the

investigation in the following weeks, the FBI made documents used in the investigation available for members of Congress to review in a high security room in the Capitol. Writing, “As for the suspicion that there is one standard for the Clintons and one for everyone else,” Strassel observed, “the process highlights not only the absurdity of Mrs. Clinton’s claim that her server was no big deal, but also the irresponsibility of the FBI’s decision not to prosecute. Duly elected members of Congress are traversing layers of security and guards, clearances in hand, to view a few top-secret documents. Ask Mr. Comey why what is demanded of them was not demanded of Hillary. But the contradiction gets even more extreme. ... It warned lawmakers against publicly sharing *any* information from the documents—even unclassified information. So the FBI chief won’t prosecute Mrs. Clinton for spreading secrets across the globe, but he bars Congress from talking about unclassified issues that potentially get to the heart of today’s presidential race. One might wonder why.”

¹⁴ See Sophia Tesfaye, “FOX’s Krauthammer Derides GOP Flip-Flop on Obama’s Executive Actions,” Media Matters, July 31, 2014, <https://www.mediamatters.org/fox-news/foxs-krauthammer-derides-gop-flip-flop-obamas-executive-actions>. Endnote 9 in this case study contains the political context for this case. Tesfaye drew attention to an appearance by conservative commentator Charles Krauthammer on FOX News’ *Special Report* to show how even conservatives saw Republican maneuvering as a flip-flop on executive action. Said Krauthammer, “It is ridiculous to sue the president on a Wednesday because he oversteps the law, as he has done a dozen times illegally and unconstitutionally, and then on a Thursday say that he should overstep the law, contradict the law that passed in 2008 and deal with this himself.”

¹⁵ See RJ Eskow, “Here are 11 Questions You Should Ask Libertarians to See If They’re Hypocrites,” *AlterNet*, January 20, 2019 (earliest publication date traced back to September 11, 2013), <https://www.alternet.org/2019/01/11-questions-you-should-ask-libertarians-see-if-theyre-hypocrites/>. Eskow, a liberal writer who doubted the Tea Party movement’s embrace of libertarianism was as consistent and principled as some claimed, argued that unlike the general libertarianism most Americans expressed in the form of a desire for greater individual freedom, political libertarianism lacked ideological rigor and the courage of its convictions, especially when the interests of the millionaires who espoused it were at risk. Eskow asserted that if libertarians were to seriously interrogate their beliefs and “take their philosophy to its logical conclusions,” they would find a political philosophy and policy program that made little sense. To this end, Eskow created an eleven-question quiz called “The Libertarian Hypocrisy Test” that promised to reveal the intellectual contradictions at the heart of libertarianism and expose those who continued to adhere to the ideology despite being made aware of its logical inconsistencies as self-interested hypocrites. The test includes such questions as, “*Are unions, political parties, elections, and social movements like Occupy [Wall Street] examples of “spontaneous order”—and if not, why not?*,” “*Is our libertarian willing to acknowledge that workers who bargain for their services, individually and collectively, are also employing market forces?*,” “*Does our libertarian use wealth that wouldn’t exist without government in order to preach against the role of government?*,” and “*Does our libertarian recognize that large corporations are a threat to our freedoms?*”

¹⁶ This sort of hypocrisy is related to Henry Frankfurt’s conception of “bullshit” (see Henry Frankfurt, *On Bullshit* [Princeton: Princeton University Press, 2005]) an idea whose essence Frankfurt defines as a “lack of connection to a concern with truth—[an] indifference to how things really are” (33-34). According to Frankfurt, the difference between a liar and a bullshitter is that while a liar’s interest in the truth is as something he longs to conceal from others, a bullshitter has no interest in whether what he says is true or false (54-55). The bullshitter’s true motive is to simply leave some sort of impression on their audience (perhaps of thoughtfulness or compassion) and pass the time. In politics, “bullshit” is often called out through accusations of hypocrisy, particularly when politicians try to claim the high ground of reason by evoking standards they demonstrably do not attend to.

One such example is New Jersey Governor Chris Christie’s reaction to a question posed by Becky Quick on CNBC’s *Squawk Box* in mid-summer 2014 concerning his thoughts on a Supreme Court decision that exempted closely-held corporations from following the contraception coverage mandate required by the Affordable Care Act if the owners of the corporation voiced a religious objection to the mandate. Quick wanted to know what Christie thought of the decision. Christie replied, “Who knows? The fact is that when you’re an executive, your Supreme Court makes a ruling and you’ve got to live with it unless you can get the legislative body to change the law or change the Constitution. The point is: Why should I give an

opinion as to whether they were right or wrong? At the end of the day, they did what they did. That's now the law of the land." While many outlets evinced shock that the typically outspoken Christie did not have an opinion on this issue, Igor Bobic at *Huffington Post* noted Christie had criticized Supreme Court cases in the past. After the Court struck down the Defense of Marriage Act as unconstitutional a year earlier, Christie "blasted [the Court] as 'wrong' and 'insulting' for reaching such a 'bad decision' that he called an example of 'judicial supremacy.'" Less than three weeks after Christie's no comment on the contraception mandate, the governor told a questioner in Iowa that he did support the Court's decision. See Igor Bobic, "Chris Christie Won't Comment on Supreme Court Cases—But He Blasted One Last Year," *Huffington Post*, July 1, 2014, https://www.huffpost.com/entry/chris-christie-hobby-lobby_n_5547605 and Amanda Terkel, "Chris Christie Comes Out in Support of Supreme Court's Hobby Lobby Decision," *Huffington Post*, July 17, 2014, https://www.huffpost.com/entry/chris-christie-hobby-lobby_n_5597468.

¹⁷ See Jason Brennan, *Against Democracy* (specifically Chapter 2: "Ignorant, Irrational, Misinformed Nationalists") (Princeton: Princeton University Press, 2016).

¹⁸ Thomas A. Spragens, Jr., *Reason and Democracy*, (Durham, North Carolina: Duke University Press, 1990), 15.

¹⁹ *Ibid.*, 41.

²⁰ John Rawls, *Political Liberalism*, (New York: Columbia University Press, 2003), xvi-xviii.

²¹ *Ibid.*, 49.

²² *Ibid.*, 50.

²³ *Ibid.*, 212-227. See also Rawls 179 ("A basic feature of a well-ordered political society is that there is a public understanding not only about the kinds of claims it is appropriate for citizens to make when questions of political justice arise, but also a public understanding about how such claims are to be supported. A political conception of justice provides a basis for such an understanding and thereby enables citizens to reach agreement in assessing their various claims and in determining their relative weight.")

²⁴ Cass R. Sunstein, *The Partial Constitution*, (Cambridge, Massachusetts: Harvard University Press, 1993), 17-20.

²⁵ See Emile A. Doak, "Capital Punishment and Abortion are Separate Issues," *The American Conservative*, June 30, 2017, <https://www.theamericanconservative.com/articles/capital-punishment-and-abortion-are-separate-issues/>.

²⁶ See Rebecca Traister, "Let's Just Say It: Women Matter More Than Fetuses Do," *The New Republic*, November 11, 2014, <https://newrepublic.com/article/120167/womens-abortion-rights-trump-fetuses-rights>.

4. THE LATTE SALUTE

In September 2014, just as the United States began military strikes against ISIL (the Islamic State of Iraq and the Levant) in Syria, President Obama was caught on camera saluting two American servicemen with a cup of coffee in his raised hand as he disembarked the presidential helicopter Marine One in New York City. Many conservatives interpreted the gesture as evidence of the president's disrespect for the nation's military and took to lambasting Obama over what began trending on social media as the #LatteSalute.¹ The most high-profile criticism originated on FOX News during a segment featuring host Sean Hannity and former White House adviser and George W. Bush campaign manager Karl Rove.² Over on *The Daily Show*, however, Jon Stewart—whose creative team had an uncanny ability to unearth political hypocrisy—was having none of Hannity and Rove's indignation:

Stewart: When [President George W.] Bush took us to war [in Iraq in 2003], any criticism was shouted down as treasonous, but when a president you don't like has the country poised on the same precipice, no transgression—no matter how immaterial and ridiculous—is too small to cite as evidence that this president isn't as American as you are. You want a hot cup of cognitive dissonance? Watch this:

CLIP from FOX News' *Hannity*

Hannity: Would President Bush ever [salute a Marine while holding a beverage]?

Rove: Yeah, are we surprised? I mean, after all, we've got a chai-swilling, golf-playing, basketball trash-talking, leading-from-behind, I-got-no-strategy, Osama-bin-Laden-is-dead, GM-is-alive, community-organizing commander-in-chief. How disrespectful was that?

Stewart [After mocking Rove for “feeding us a steaming bowl of liberal epithets”]: But in their haste, they forgot to answer the question: Would President Bush ever salute the troops with a cup of coffee in his hand? And the answer is no, because his hands were too filled with dog, a Scottie, out of respect. [Picture from 2001 of President Bush saluting while holding a dog appears on screen.] So here we've got two presidents, both sending the United States to war citing the same legal authorities, both without any seeming exit

strategy, and both holding shit in their hands while saluting our troops, but in [the minds of those on FOX News] only one did it because he loved America. The other did it because he hated it.³

There you have it: Two presidents of different parties caught saluting members of the United States military while holding something in their arms or hands (see Figures 6 & 7) yet their respective supporters will only criticize the president who is a member of the opposite party for his offense. We have here the inconsistent application of criticism stemming from a principle concerning how presidents ought to properly show respect to the men and women serving in America's armed forces.* That's a double standard.



Figure 4
“Latte Salute”
White House via Instagram, screenshot
September 23, 2014



Figure 5
“Scottie Salute”
AP Photo/Susan Walsh
June 25, 2001

Double standards occur when public actors excuse themselves or their political allies from following a principle or standard they expect other similarly situated people to follow. Double standards have much in common with violations of principle. In both

* Granted, Stewart's ire is directed at Republicans but it is probably safe to assume that if there was any criticism directed at Bush for saluting with dog-in-hand it probably originated with Democrats who likely did not leap to condemn Obama for his salute, which would implicate Democrats in hypocrisy as well. Also, some might argue Stewart did not prove that Hannity and Rove did *not* criticize Bush for his salute, but it's reasonable to assume they didn't.

cases, the public actor fails to adhere to a principle they believe should be followed.

Double standards, however, come with an extra twist, which is that the public actor who has violated the principle still expects or has expected others—typically their political opponents—to follow the same principle. Hence the “double” standard: One standard everyone is expected to follow, and another, laxer standard for one’s self and allies.

The sight of someone violating or ignoring a principle they believe others like them ought to follow probably strikes many people as profoundly wrong and unjust. More than any other form of hypocrisy, double standards reveal how people’s aversion to hypocrisy is intertwined with their aversion to unfairness. In this case, it seems very unfair for Republicans like Rove to chastise a Democratic president for disrespecting members of the United States Armed Forces when those Republicans did not direct the same level of vitriol toward a Republican president for doing basically the same thing. The fair thing to do would have been for Republicans to either criticize both presidents for their mistake or withhold criticism in both cases.

Evolutionary psychologist Robert Kurzban, in his book *Why Everyone (Else) is a Hypocrite*, links our visceral dislike of hypocrisy to a nearly instinctive desire for fairness rooted in self-interest. Kurzban’s hypothesis owes much to Hobbes and the elemental logic of the social contract. Without rules, an individual is free to pursue their self-interest and desires without restraint, but so are others, who may harm the individual in their own pursuit of the same. Rules place constraints on how people pursue their ambitions, but people are only inclined to accept rules that also constrain the behavior of others and that are administered and enforced impartially. This prevents rules from becoming tools would-be rulebreakers can use to oppress or disadvantage the obedient.⁴

The problem with double standards is that they replace impartiality with favoritism. As Kurzban writes, “[W]hen a moral principle is applied in one case but not another to which it is relevant, people are, in essence, trying to get those and only those moral rules good for them (or bad for others) while excluding rules that harm them (but help others). ... At its core, then, hypocrisy really amounts to *favoritism*.”⁵ The hypocrite benefits by excusing themselves from a rule they expect others to follow; in turn, the offended party discovers their interests have not been served by the hypocrite’s selective application of the rule. This leads them to demonize the hypocrite, the subtext of which is that the hypocrite cannot be trusted to uphold the social compact that fairly regulates our pursuit of self-interest. As a matter of self-interest, humans seem conditioned to spot hypocrites and call them out for their hypocrisy.⁶ This also helps explain why we have such a visceral reaction to the discovery of hypocrisy in politics.

Kurzban arrives at this insightful conclusion despite his less-than-convincing attempt to graft his ideas concerning hypocrisy onto a psychological conception of the mind as divided into a seemingly infinite number of specialized “modules” that handle different cognitive functions.⁷ A simpler explanation would just assume self-interested individuals faced with a conflict about how best to pursue their self-interest: Through either impartiality (which requires the sacrifice of self-interest in the short term in order to preserve the social contract that will serve their self-interest in the long term) or favoritism (which pursues self-interest in the short term but potentially damages the social contract that serves their self-interest in the long term.) Resolving the outcome of that conflict often entails some sort of cost-benefit analysis—what is gained or lost by

favoring impartiality over favoritism, and vice versa—and some strategic consideration concerning how the decision is likely to play itself out.

According to this theory of hypocrisy, the demand for fairness along with people's antipathy to double standards is rooted in the pursuit of self-interest. People take umbrage with double standards that disadvantage them but tend to ignore or dismiss double standards that work to their benefit. As alluded to in the title of Kurzban's book, this belief that everyone (else) is a hypocrite seems to suggest self-interest plays a much greater role in forming people's notion of fairness than many may like to admit. This does not mean there aren't people who believe fairness is a good in-and-of itself. These individuals will look beyond self-interest as a reason to treat others fairly and simply accept fairness as a social good owed to all equally. Such fair-minded people would be more likely to object to any double standard, whether employed by an opponent or an ally. It's just difficult to ascertain how many of these fair-minded people are out there, or if they outnumber those who like to think they're one of those fair-minded souls who prioritize fairness as a good in-and-of itself but actually only accept fairness as a component of their greater concern with self-interest.

Given this corrupted motive, how seriously should people take charges of a double standard? If we seek to remedy a double standard for someone who, as a matter of self-interest, has said they have been treated unfairly when they are themselves blind to their own hypocritical actions, aren't we simply acting to help an individual fulfill their own self-interest rather than serving the needs of fairness? One might be inclined to answer yes, particularly if the offended individual is later allowed to slide on their own double standards. (It would also mean the enforcer held a double standard concerning

their denunciation of double standards.) But maybe the bigger question is why anyone should get upset over double standards in the first place if it is assumed most everyone—which includes the person committing the double standard and the person disadvantaged by the double standard—is simply pursuing their self-interest and likely to adopt the opposite position if the tables were turned? In other words, why should impartiality be granted a position of esteem over favoritism (or partisanship) when impartiality is also often motivated by self-interest, favoritism, and partisanship? Why should anyone intervene on the side of fairness when those calling for it only do so when fairness happens to coincide with their partisan ambitions?

The answer is kind of obvious. When people align themselves with fairness, they're aligning themselves with the principle of fairness and outcomes consistent with that principle. It doesn't matter who those outcomes are said to "favor," and, if the judges of fairness are genuinely fair-minded, their identities didn't factor into their decision anyway. Yes, people are bound to benefit from actions that make unfair situations fair, but given that those who gain the benefit were being disadvantaged by an unfair situation, it's fine that the previously disadvantaged now derive the benefits they (like all involved) deserve of and from fair conditions. Furthermore, this does not mean the side that drew advantage from the double standard is now unfairly disadvantaged, just that they are now deprived of the advantages that came at the expense of the unfair treatment of others. Overall, it can be said there is greater fairness and equity among all in a situation where fairness and equity are due.

This may seem obvious, but perhaps this point gets obscured in the daily give-and-take of politics. In an era of highly contentious politics, it is easy for citizens—

especially those who fashion themselves as non-partisans—to regard complaints about double standards as just another attempt by partisans to gain benefits at the expense of their adversaries when it is far from clear they deserve the spoils of political victory. One could conclude that since neither side is consistently fair, neither side deserves sympathy or support; a pox on both houses then. Yet such a disposition would require citizens to abdicate the role they should play as arbitrators of fairness in a society committed to the principles of justice and equality. Yes, that is a high-minded aspiration, and one many partisans would struggle to fulfill, but it is also an honorable, public-spirited way to fulfill one’s role as citizen. Citizens, committed as they ought to be to the public good and the preservation of public principles like the fair and equitable treatment of all citizens, have an obligation to sort through these issues of fairness and insist on fair outcomes, which in turn requires them to work through the complexities of double standards.

When it comes to evaluating double standards in relation to hypocrisy and politics, the first question that ought to be asked is what expectation for fairness accompanies the double standard under scrutiny, with the general rule being the greater the expectation for fairness, the greater the demand to avoid the improper inconsistency attendant to hypocrisy. Oddly enough, the greater the expectation for fairness (along with the greater stakes involved in keeping a situation fair) the more likely the improper inconsistency won’t be described as an instance of hypocrisy at all. For example, applying the law differently to two similarly situated people may be characterized in some quarters as hypocritical, but because treating people unequally under the law is considered such a serious wrong, people tend to refer to such an instance not as an example of “hypocrisy” but with the much more serious condemnation of “injustice.”

Similarly, treating two people differently on account of their race is more often described as an act of “discrimination” or “prejudice” or “bias,” terms that seem to capture the significance of the transgression better than the word “hypocrisy.” This is not to say the word “hypocrisy” is never used in such circumstances, just that there are stronger words that better convey the seriousness of the offense.

The accusation of hypocrisy seems more fitting for cases like the Latte Salute that are embedded in more conventionally political settings that allow more room for the expression of favoritism. The case of the Latte Salute involves partisans treating figures from the United States’ two major political parties differently. This isn’t necessarily objectionable; far from it, in fact. Parties are central to the United States’ competitive democratic political system, and citizens are frequently allowed—even expected—to favor one party over the other, especially when it comes to matters of policy. Consequently, partisanship and favoritism are allowed in partisan politics to a certain degree. At the same time, however, many would argue there are circumstances in which the parties should be treated the same and held accountable to the same set of rules and standards, and that partisans themselves should follow the same set of public-spirited standards they expect members of the opposite party to follow, particularly when those standards are not matters of political contention. This is where accusations of hypocrisy are often deployed. Accusations of hypocrisy can be used to regulate partisan competition and rein in excessive partisanship by suggesting that political players who may ordinarily favor one side in a political dispute over another have gone too far in their favoritism by placing their partisan ambitions ahead of what should be a fair-minded, public-spirited principle.

In the case of the Latte Salute, Republicans were caught holding the leader of the Democratic Party to a higher standard than they held the leader of their own party, all in the pursuit of partisan political gain. This behavior was more self-serving than fair: Rather than honorably and equitably condemning anyone—including a fellow partisan—who violated an accepted political norm, Republicans chose instead to support their friends and hurt their enemies, principles of right action be damned. That seems to be a pretty clear-cut case of political hypocrisy.

Furthermore, the principle/norm being violated here isn't even a point of partisan contention. No one is arguing over whether or not presidents should salute members of the military while holding something; it's just assumed that if they are going to salute, they should do so properly and respectfully. That has nothing to do with a difference between the parties that would allow for the expression of favoritism. Calling out one president but not the other just seems like a way to smear a member of the opposite party while making one's own party appear better by comparison. Again, a fairly clear-cut case of political hypocrisy.

On the face of it, there appears little room for hypocrisy in a case like the Latte Salute. Yet indulging in this sort of hypocrisy may actually serve a useful political purpose. One of the most important functions parties perform in multi-party democracies is to hold each other accountable for their behavior. Parties—particularly those in power—cannot be trusted to check themselves. Democrats, after all, did not make an effort to criticize Obama for his disrespectful salute; even if Democrats concluded the Latte Salute was nothing more than a minor and uncharacteristic faux pas, they still probably preferred that no one draw attention to it. Therein lies the problem. Without an

opposition, too much bad behavior would slide by unnoticed. Despite people's dislike of partisan sniping and political bickering, the oversight function parties play is a major benefit of a competitive political system. The parties keep each other in check. It is good, too, that this partisan criticism involves issues lacking a partisan dimension, since if the parties only engaged on issues they disagreed about they would never deal with issues that have a general public interest and that demand accountability, such as rooting out corruption, ensuring good management of government services, or holding politicians to high ethical standards and standards of conduct.

If the price of good governance—a non-partisan, public-spirited aspiration—is an occasional engagement in hypocrisy, then we need some tolerance for political hypocrisy. While bad political behavior should not go unchecked, neither party can inoculate itself from bad political actors. Bad apples will pop up in both parties. That insight should foster in politicians a sense of humility, particularly when it comes to criticizing members of the opposing party, who are just as liable as members of the accuser's own party to engage in bad political behavior. Partisans need to realize they will likely hold their opponents to a higher standard than members of their own party, meaning the criticism they aim at their rivals can easily rebound with the same amount of force back onto their own party and fellow partisans.

Partisanship can easily distort our political judgment. People have a tendency to see the worst in their opponents while overlooking the obvious faults of their allies. In 2017, Dan M. Kahan, Ellen Peters, Erica Cantrell Dawson, and Paul Slovic published a study that asked respondents to analyze the findings of an empirical experiment. One group in the study was asked to assess the results of a study on a skin rash treatment; the

other was asked to assess the results of a study on gun control measures. Both cases required respondents to look at some data and then perform a few mathematical calculations akin to what might be found on a high school standardized test or a college entrance exam (in other words, something the average American wouldn't run into on a daily basis but that can be solved using fairly basic computational skills.) Kahan, et al., discovered something very interesting: Those respondents who had earlier demonstrated that they were good at math were most likely to analyze the findings of the skin rash treatment study correctly, but when presented with the gun control study, mathematical aptitude no longer mattered. Instead, respondents tended to analyze the results of the gun control study in light of their political beliefs. Remarkably, those respondents who were good at math were the most susceptible to the effects of partisanship, as they became more likely than the average respondent to analyze the data correctly if the data affirmed their political preferences and more likely than the average respondent to analyze the data incorrectly if the data countered their political preferences.⁸ As Ezra Klein of *Vox* wrote in reaction to this conclusion, "The smarter the person is, the dumber politics can make them. ... People weren't reasoning to get the right answer; they were reasoning to get the answer that they wanted to be right."⁹

Kahan, et al., ascribe people's tendency to interpret facts in light of their partisan inclinations to what they call "identity-protection cognition," a form of "motivated reasoning" that serves as a "psychic self-defense mechanism" intended to keep them in good standing with others who share their moral beliefs. When something—whether at the level of an issue or a symbol—acquires a political charge, people quit evaluating it on whatever terms they would normally use to evaluate it and begin interpreting it through a

partisan lens, which keeps them in good company with their fellow partisans.¹⁰ What is lost is the hope for a dispassionate analysis of the circumstances.

The study conducted by Kahan, et al., contrasted scientific/mathematical cognition with identity-protection cognition, but it is reasonable to think their findings could extend to a situation like the Latte Salute. There was no more prominent symbol of liberalism in the 2010s than Barack Obama. Just as any mistake he made would be red meat for conservatives to feast upon, liberals would be just as likely to forgive him. Ominously, people's reasoning on this issue won't help them figure out an appropriate response as their very reasoning is corrupted by their partisanship. It sets partisans up to become hypocrites once the political circumstances are turned.

The way out for partisans—consciously acknowledging that their reasoning is likely clouded by their partisan opinions and then taking multiple mental steps to counter and check those impulses—requires a pretty heavy cognitive lift. Once they do that, however, they'll probably reach a few key conclusions in the case of the Latte Salute. First, while one could certainly admonish Obama for his careless salute, it's ultimately a minor presidential offense and wholly out of character for a president who typically goes out of his way to respect the nation's servicemembers. Secondly, because Obama's lapse did not involve a point of partisan contention and is something any politician of any political stripe could have done on accident, it would probably be best for people to temper their criticism in the absence of a larger pattern of misbehavior.

Additionally, it would be wise for all involved but particularly Obama's Republican opponents to remember that politics is usually played in glass houses furnished with stones. A bombastic reaction to the Latte Salute may land a politician on a

cable news segment or build a huge Twitter following—and that may no doubt be what a certain style of politician aspires to—but a more prudent course of action would involve a dose of humility in order to ward off an accusation of hypocrisy. After all, anyone can screw up a salute; there's nothing right or left, Republican or Democratic about it. If a member of your side hasn't already made a mistake like that, fate has a funny way of making what goes around, come around. While drive-by attacks like the #LatteSalute give partisans a tempting opportunity to claim the high ground with voters by arguing their side does a better job adhering to the non-partisan principles that unite us all (while implying the opposition comes up short in that regard) they also set up the attacker for a fall. Our own experience tells us that when we point our finger at others, there are always three fingers pointing back at us. A politician with a sense of shame and honor and an aversion to hypocrisy may want to tread lightly when dealing with cases like this.

Yet this is not to say political figures should completely refrain from calling out bad behavior in cases like the Latte Salute out of fear they will eventually be branded a hypocrite. Let's face it: If people always refrained from criticizing others given the potential for that claim to rebound back onto them and turn them into hypocrites, people would get away with a lot of bad behavior. Critics can chastise Hannity and Rove for whipping their conservative viewers into a frenzy over the Latte Salute, but if they offered no criticism at all, it is doubtful Democrats would have stepped up on their own to hold Obama accountable instead (including those who may have criticized President Bush back in 2001.)

In criticizing the opposition, it is always possible for a partisan to make a mountain out of a molehill or focus more on a telegenic faux pas than a policy blunder.

It's also hard to get press coverage of an event like the Latte Salute right: Any coverage—even of the measured kind—will inevitably magnify it, but not covering it runs the risk of appearing biased. The media's best options would be to either sit on the story and only report it in the context of an emerging pattern of disrespectful behavior or frame it as human error while defusing the partisan hysteria and reminding viewers that anyone from any party is prone to making a similar error. So credit where credit is due: During a contemporaneous appearance on the *Fox and Friends* morning show, FOX News host Bill O'Reilly said of Obama's gaffe, "I know a lot of people don't like President Obama, but once in a while...you got to cut him a little slack, you know? He didn't mean anything malevolent about it." Pressed by host Elisabeth Hasselbeck about if he understood why the Latte Salute was "bothering people," O'Reilly replied, "Yes, I understand a lot of people are very sensitive about it, but, you know, in life, you don't sweat the small stuff."¹¹

No one would ever mistake Bill O'Reilly for a humble man, but there you have it. One of the most important lessons that can be learned from this study of hypocrisy is how vital the virtue of humility is in politics, not only in dealing with our opponents but in preserving our own moral reputation as well. You can have your passions and convictions and argue them assertively, but a dose of humility and generosity can go a long way.

NOTES

¹ Dan Lamothe, "Obama's 'Latte Salute' Controversy Spins Into Second Day," *Washington Post*, September 24, 2014, https://www.washingtonpost.com/news/checkpoint/wp/2014/09/24/obamas-latte-salute-controversy-spins-into-second-day/?utm_term=.dc82d24dc8f6; Ahiza Garcia, "Conservative Media Freaks Out Over Obama's 'Latte Salute'," *Talking Points Memo*, September 24, 2014, <https://talkingpointsmemo.com/livewire/president-obama-drink-salute-marines>; Debra Heine, "Obama's Disrespectful 'Latte Salute' Shocks and Offends," *Breitbart*, September 23, 2014, <https://www.breitbart.com/blog/2014/09/23/obama-s-disrespectful-latte-salute-shocks-and-offends/>.

² Eddie Scarry, “Karl Rove Not Surprised by ‘Latte Salute’ from ‘Basketball Trash-Talkin’ Obama,” *Mediaite*, September 24, 2014, <https://www.mediaite.com/tv/karl-rove-not-surprised-by-latte-salute-from-basketball-trash-talkin-obama/>.

³ *The Daily Show with Jon Stewart*, “The Way We War,” hosted by Jon Stewart, on Comedy Central, September 25, 2014, <http://www.cc.com/video-clips/b7hxzd/the-daily-show-with-jon-stewart-the-way-we-war>.

⁴ Robert Kurzban, *Why Everyone (Else) is a Hypocrite* (Princeton: Princeton University Press, 2010), 214.

⁵ *Ibid.*, 216.

⁶ *Ibid.*

⁷ *Ibid.*, 24.

⁸ Dan M. Kahan, et al., “Motivated Numeracy and Enlightened Self-Government,” *Behavioural Public Policy* 1, no. 1 (2017): 54-86.

⁹ Ezra Klein, “How Politics Makes Us Stupid,” *Vox*, April 6, 2014, <https://www.vox.com/2014/4/6/5556462/brain-dead-how-politics-makes-us-stupid>.

¹⁰ Kahan, et al., 56-57.

¹¹ Bill O’Reilly, interviewed on *Fox and Friends*, “O’Reilly on ‘Latte Salute’: Have to Cut Obama Some Slack Once in a While,” FOX News, September 24, 2014, <http://insider.foxnews.com/2014/09/24/oreilly-latte-salute-cut-him-some-slack-once-while>.

5. CONFIRMATION BIAS

Since the early 1990s, a corps of five judges has formed a conservative majority on the United States Supreme Court. That majority, however, was imperiled in February 2016 following the sudden death of Justice Antonin Scalia, a Ronald Reagan appointee often regarded as the ideological soul of the Supreme Court's conservative wing. With Scalia's passing, the Court was now evenly divided between four Republican and four Democratic appointees. The responsibility to nominate Scalia's successor fell to Democratic President Barack Obama, who at the time was less than a month into his final year in office. Any person Obama selected was not only likely to flip a seat from conservative to liberal but also tilt the Court's overall ideological balance in favor of liberalism for the first time in over a generation.

Every student of American politics knows, however, that the president does not get the final say regarding membership on the Supreme Court. Judicial nominees must also be confirmed by the Senate, which, as a result of the 2014 midterms, was now controlled by Republicans uninterested in filling the federal bench with Obama appointees. Additionally, 2016 was a presidential election year. Republicans realized that if they could stall the confirmation process, retain control of the Senate, and elect one of their own to succeed the term-limited Obama, the new Republican president could select a different nominee and preserve the Court's conservative majority. Alert to this possibility, Democrats preferred to confirm a new justice during the waning months of Obama's term.

It did not take long for the politics involving this latest Supreme Court vacancy to kick into high gear. About an hour after news of Scalia's death broke, Senate Majority

Leader Mitch McConnell (R-KY) issued a statement of condolence that ended by declaring (in bold print, nonetheless,) “The American people should have a voice in the selection of their next Supreme Court Justice. Therefore, this vacancy should not be filled until we have a new president.”¹ When asked about the vacancy at a Republican presidential primary debate later that very night, then-candidate Donald Trump affirmed McConnell’s strategy in blunt language: “Delay, delay, delay.”²

Democrats, taken aback by how quickly McConnell had turned to politics, heard nothing but hypocrisy in the majority leader’s words. In the past, McConnell had insisted Democrats allow votes on the judicial nominees of Republican presidents. For example, in a 2007 radio interview, McConnell—then serving as the Senate Minority Leader at a time when Democrats were refusing to consider President George W. Bush’s judicial nominees—asserted, “All of these judges are entitled to an up-or-down vote.”³ To highlight McConnell’s hypocrisy, Senate Minority Leader Harry Reid (D-NV) patched together a letter both addressed to and signed by McConnell composed entirely of McConnell’s past statements calling upon the Senate to set aside partisan politics and hold hearings on judicial nominees.⁴

Most Republican Senators followed McConnell’s lead on this, but they soon found themselves accused of hypocrisy as well. The website *Right Wing Watch* uncovered a 2005 interview with Senate Judiciary Committee Chairman Chuck Grassley (R-IA) in which he urged senators (again quarreling over a batch of stalled Bush-era judicial nominees) to “do our jobs” while likening Democrats to “being a bully on the schoolyard playground” for delaying the confirmation process.⁵ After Senator John McCain (R-AZ) endorsed McConnell’s plan, McCain’s general election opponent, Rep.

Ann Kirkpatrick (D), posted a list on her campaign website of occasions in which McCain had taken a hard stance against the politicized obstruction of judicial nominees.⁶ In early March, Obama authored a Facebook message reading, “Senators leading the obstruction on a Supreme Court nominee have demanded up-or-down votes many times in the past,” along with a link to a *Medium* article featuring ninety examples of Senators Grassley, John Cornyn (R-TX), Orrin Hatch (R-UT), and Jeff Sessions (R-AL) doing just that.⁷

Yet Democrats were hardly immune to charges of hypocrisy, either. In defending himself from Kirkpatrick’s attacks, McCain cited a 2007 speech by Vice Chair of the Senate Democratic Caucus (and Reid’s heir apparent) Chuck Schumer (NY) in which Schumer called upon his fellow Democrats to embrace a new precedent for handling late-term court appointments and reject President Bush’s latest judicial nominees.⁸ Cornyn followed suit, telling a Dallas radio station, “We’re embracing this precedent that Sen. Chuck Schumer advocated for back in 2007. ... If it’s good enough for them when they’re in the majority, then it’s good enough for us when we are. ... This is a hypocritical argument on the part of Senator Schumer.” (Schumer claimed the two situations were different: “One’s apples, one’s oranges.”)⁹ Republicans also cited what they called “The Biden Rules,” which were based on a speech delivered by Vice President Joe Biden in June 1992 while serving as Chairman of the Senate Judiciary Committee. In the speech, Biden vowed not to hold hearings on judicial nominations made by Republican President George H.W. Bush during the run-up to the 1992 election.¹⁰ (*Washington Post* columnist George Will, who described, “The Republican Party’s incoherent response to the 2016 Supreme Court vacancy” as “a partisan reflex in

search of a justifying principle,” wondered why Republicans would cite a Democratic politician as precedent in this case.¹¹ And of course, one might also wonder why Democrats would point to Republican demands to hold up-or-down votes on nominees from a time when Democrats’ own behavior seemed to condone the obstructionism they now deplored.)

There were other prominent examples of Democratic hypocrisy as well. Obama’s vote to support a failed filibuster of nominee Samuel Alito in 2006 while Obama was serving in the Senate came back to haunt him. (White House Press Secretary Josh Earnest described the vote as “symbolic” in that it allowed some Democratic senators to voice their displeasure with Alito without upending the confirmation.)¹² In an op-ed in the *Washington Post*, McConnell and Grassley pushed back against Reid’s assertion that the Senate has an obligation to give a hearing and a vote to a Supreme Court nominee by drawing attention to a floor speech Reid delivered during the George W. Bush presidency in which Reid said, “Nowhere in [the Constitution] does it say the Senate has a duty to give presidential nominees a vote.”¹³ After Democratic presidential candidate Hillary Clinton called on Republican senators to quit stalling, commentator Cal Thomas, in an article titled “Hypocrisy, Thy Name is Hillary Clinton,” directed his readers to remarks Clinton made in 2005 in which she stated the Senate has the power to “deny advice and consent” for judicial nominees.¹⁴ As commentator Carl Cannon wrote regarding the leaders of the Democratic Party, “When it comes to the Supreme Court...they are two-faced. Perhaps a better way of putting it is that these Democrats have demonstrated that they have two standards when it comes to judicial appointments: one for themselves, another for Republicans.”¹⁵

The hypocrisy of both sides was on full display during a March 2016 episode of NBC's *Meet the Press*. In separate interviews with Reid and McConnell, host Chuck Todd played clips of what the party leaders had said in the past concerning the nomination process, juxtaposed them with more recent statements in which they argued something close to the opposite, and then asked them to explain the contradiction. McConnell briefly revealed a partisan motive before tacking back to his non-partisan standard, stating, "I don't think it's a good idea to move the Court to the left. But that's not really the issue here. It's not the person. It's the principle." Todd summarized the spectacle well, observing, "There feels like there's hypocrisy on both sides. Democrats essentially don't want to confirm a Supreme Court justice if a Republican's doing it, and Republicans don't want to confirm a Supreme Court justice if a Democrat is doing it. Isn't that what we're staring at here?" McConnell's reply was curt but accurate: "Nobody's been entirely consistent."¹⁶

"The dirty little not-so-secret fact about the Senate," wrote Carl Hulse of the *New York Times* just four days after Scalia had died, "is that both sides have engaged in ruthless tactics to deny presidents not of their party the chance to make lifetime appointments to courts where they could influence public policy long after that president is gone. Veteran senators develop remarkable dexterity, capable of seamlessly flipping their stance on filibusters and obstructionism depending on whether they are in the majority or the minority or who is in the White House."¹⁷

This case about the 2016 Supreme Court vacancy is a classic case of political hypocrisy and a prime example of a political double standard. Interestingly, while there are matters of policy at stake here (the appointment of a liberal justice rather than a

conservative justice, and vice versa, could have significant implications for issues involving health care, environmental regulation, religious freedom, LGBT rights, etc.,) there is no direct material policy in dispute here. At issue are the rules and procedures concerning how the Senate is to handle Supreme Court vacancies, an issue that, prior to Scalia's death, did not appear to divide the parties. While the parties will likely have differences of opinion over what kind of people ought to fill Supreme Court vacancies, there is nothing about being liberal or conservative that informs anyone's opinion about the procedures and customs that ought to be followed when filling an open Court seat. It's not even a point of contention on either party's radar.¹⁸ There is just a process that, in isolation, both parties appeared to accept.

Such non-partisan processes are useful when it comes to mediating and resolving partisan squabbles. These enduring rules and procedures guide political disputes to a point of conclusion and lend the process a credible sense of fairness. Without them, the losers of a political dispute might claim their opponents did not play fair and deprived them of any chance to win.

Sometimes, however, the side that cannot achieve a political victory playing by the rules will attempt to bend or change the rules to their advantage, which is likely to draw a strong rebuke from the side that assumed they were going to win so long as everybody followed the agreed-upon rules. The ensuing argument over a set of rules and procedures that had previously drawn bipartisan support is in reality a proxy argument over policy. This brings the issue of fairness to the forefront again, as a fair person plays by the rules. Questions of how to handle unfair rules set aside, the concern now is that one party, hoping to snatch political victory from the jaws of defeat, might cheat to win.

Polemarchus would have no problem with that. You may recall Polemarchus as one of Socrates' early interlocutors in Plato's *Republic*. He is not often cited as a model for fairness (although it is reasonable to fear he is often a model in practice.) When Socrates asks him, "What does the craft we call justice give, and to whom or what does it give it?" Polemarchus replies, "[Justice] gives benefits to friends and does harm to enemies."¹⁹ Hopefully your instincts tell you that is wrong. Polemarchus's mistake is confusing partisanship with justice. It's fine to be a partisan, to want your team to triumph over another. But prioritizing your side's victory over respect and adherence to the rules is not just or fair or right in nearly all cases.

Many instances of double standards in politics—including the previous case study ("The Latte Salute")—could be described as a kind of "polemarchian hypocrisy," or as a kind of hypocrisy undertaken by someone to hurt their enemies while helping themselves and their allies. This is especially true when it comes to cases of hypocrisy involving rules and procedures, like the current case concerning Supreme Court vacancies. Impartial rules regulate partisan disputes. That's not a problem if your side wins playing by the rules. If it looks as though your side is going to come out on the losing end of a contest played by the rules, however, you may be tempted to skirt or change the rules. Hence the polemarchian hypocrisy: Insist upon the rules when following them benefits your side in a partisan dispute, and try to find a way around them when they don't.

A politician's primary motivation may be winning, but another obligation attendant to their office—upholding the rule of law to preserve justice and fairness—supersedes that. On the face of it, then, that should make passing judgment in this particular case fairly easy: All parties should follow the accepted rules, procedures, and

conventions pertaining to the nomination and confirmation of individuals to the Supreme Court, meaning that any hypocrisy resulting in the inconsistent application of the rules between the parties should be considered unacceptable.

But what if the “accepted rules” were never officially “rules” to begin with. The truth is that there are very few official written rules governing the way the president and the Senate are to handle judicial nominations. Most of the rules discussed so far in this case study only concern a series of norms, customs, and conventions of the Senate—what could be called “unwritten rules”—that are not legally binding on the parties. Can someone be accused of hypocrisy for violating a rule they have no legal obligation to obey? Perhaps someone can only be accused of hypocrisy for violating official rules (which come with the expectation of obedience) but not unwritten rules (which, because we have chosen not to officially codify them, allow for the possibility of violation.)

This political drama over judicial nominations has been going on for decades. The history of this will be explored shortly, but for now one just needs to know that what probably began with an attempt by Democrats to block a handful of Republican nominees to the federal bench in the 1980s and 1990s (including one to the Supreme Court) has escalated to the more recent standoff over Scalia’s vacant seat. In all that time, however, it needs to be acknowledged that no one in either party during any of these political showdowns over judicial nominations has ever violated any written rule, law, or procedure pertaining to the confirmation process. Everything they did—whether that was holding up nominations in committee, voting down nominees on the Senate floor, filibustering nominees, eliminating the filibuster for judicial nominees, refusing to even consider judicial nominees for confirmation—was done by the books. Even when the

parties changed the rules to their advantage, not once did they violate the Constitution, a federal statute, or the written rules of the Senate.

The politicians involved in this case have instead been accused of violating the *unwritten* rules concerning judicial appointments. This is where the charge of hypocrisy comes into play: The politicians accused of hypocrisy in this case have indicated they believe the unwritten rules governing judicial appointments ought to be respected yet have violated them when it was to their advantage or their opponent's disadvantage to do so. It's a classic double standard.

And what exactly are these unwritten rules? They boil down to this: That the Senate should confirm the president's nominees for judicial office so long as the nominees are of good character, possess the professional qualifications necessary to carry out the job, and have demonstrated the aptitude necessary to serve as a judge. Judicial nominees should be vetted carefully but efficiently and are not to be judged through a partisan political lens.

It goes without saying that politicians have so eroded these unwritten rules and their related conventions over the past thirty years that few senators likely assume they remain in effect or trust their opponents to respect them. It is worth asking, then, why these unwritten rules were developed to begin with. There are likely many reasons.

In the first place, the Constitution does not offer a lot of guidance when it comes to matters concerning the judicial branch. Article III, which deals with the judiciary, is very brief and almost seems like an afterthought; it does not even specify how many judges are to sit on the Supreme Court. As far as the nomination process goes, it merely states that the president "shall nominate, and by and with the Advice and Consent of the

Senate, shall appoint...Judges of the supreme Court.” The Senate’s role—“Advice and Consent”—is vague and wide open to interpretation. For the Senate to carry out its constitutional duties, it became necessary for the Senate to augment the Constitution with its own informal institutional rules concerning the confirmation process.

Those same rules also helped stave off political crises concerning the size and composition of the Court and reduced the likelihood that American politics would devolve into a potentially crippling game of hardball. The strict letter of constitutional law does not prevent the Senate from blocking or ramming through presidential nominees or even altering the size of the Court. Perhaps there isn’t necessarily anything wrong with that; maybe that would simply be a matter of politics playing itself out within the parameters of the Constitution. As a practical matter, however, it would probably imperil the Court’s authority as well as the nation’s political stability, as fights would constantly erupt between the parties over the use and legitimacy of judicial power.

Yet while the Senate’s unwritten rules supplement the vague language of the Constitution while alleviating the potential for political hardball, they do not completely eliminate the possibility of raw constitutional conflict between the parties. The unwritten rules still allow for senators to resort to strictly legal constitutional means to stop a nomination, but it is generally accepted this should happen rarely and only if senators seriously objected to a nominee. The unwritten rules do not turn the Senate into a rubber stamp when it comes to appointments; because the unwritten rules do not have the force of official Senate procedure or the Constitution, senators can still turn to those legal mechanisms as a tactic of last resort.

That means it would also be wise for presidents to avoid nominating individuals whom senators would consider too political, partisan, or controversial. Even though the Constitution grants the president the first move in this process, and despite the unwritten rules basically turning the power to make judicial nominations into a prize awarded to the winner of the presidency, the unwritten rules do not write the concerns of senators (including, quite often, on account of the filibuster, senators who are members of the party opposite the president) out of the process. The unwritten rules encourage collaboration among all players while granting the president some extra leverage. This has benefits for the Court as well: The Supreme Court's credibility as a mediator of contentious political disputes is reinforced when a bipartisan coalition of politicians stretching across two branches of government legitimizes its members.

The ideological diversity of both parties throughout most of the twentieth century (with the presence of southern conservatives in the Democratic Party and northern progressives in the Republican Party) made it easier for senators to follow these unwritten rules. Presidents could expect to find support from across the aisle if a judge had a noticeable ideological bent and probably had the leverage to cut deals with skeptical members of his own party to win over their votes. The current era, however, is characterized by high political polarization and ideologically homogeneous parties, which helps explain the strain placed on the Senate's unwritten rules. Presidents perhaps feel emboldened to nominate more ideological judges who engender more ideological support from likeminded senators who in turn expect to be rewarded by their base for their partisan behavior. Given the ideological purity of the parties today and the ideological

distance separating them as well, a nominee's prospects for bipartisan support are also diminished.

In highly polarized times, the unwritten rules governing judicial appointments can seem more like obstacles to partisans than tools that can be used to regulate political conflict. Unwritten rules, however, play a vital role in democracies and should not be dismissed for partisan gain. In their book *How Democracies Die*, Steven Levitsky and Daniel Ziblatt argue the health of a democracy is secured not only by constitutional rules but also by “informal rules that, though not found in the constitution or any laws, are widely known and respected.” Levitsky and Ziblatt characterize these rules and norms as the “guardrails of democracy,” essentially setting the bounds for acceptable political gameplay while “preventing day-to-day political competition from devolving into a no-holds-barred conflict.”²⁰ The two most important norms in democracies are mutual toleration (or “the idea that as long as our rivals play by constitutional rules, we accept that they have an equal right to exist, compete for power, and govern,”²¹) and institutional forbearance (which entails “avoiding actions that, while respecting the letter of the law, obviously violate its spirit,” or refusing to push “institutional prerogatives to the hilt, even if it is technically legal to do so[.]”²²)

The norm most-relevant to the current case study is institutional forbearance. Forbearance assumes political conflict can never be eliminated from society, that the best way to manage this political conflict is via democracy, and that democratic politics is a game both sides would like to play indefinitely. Consequently, conscientious politicians and citizens will not press their political advantages to the point of total victory so that their opponents do not feel the need to resort to destabilizing tactics to reassert

themselves in the political game. Concerned less with total political domination than with preserving democracy as a way to resolve political disputes, good democratic politicians will find ways to accommodate their opponents. Crushing political victories are sacrificed for the long-term viability of democracy.²³ (And of course, this can't be realized unless those involved express a sense of mutual toleration toward each other and essentially agree to disagree without treating the other as an existential political threat.)

The norm of forbearance calls on senators to honor the unwritten rules of the Senate governing judicial nominations. Political reality reveals why it is so important to respect this norm. Since 1975, when the Senate lowered the number of Senators needed to end a filibuster to sixty, a party has only been able to assemble a 60+ majority for a total of twenty-eight months, meaning it is virtually impossible for the Senate to legislate without bipartisan cooperation. Furthermore, of those twenty-eight months, only four of them coincided with a president from the same party as the majority. It is also worth noting that since 1975, control of the Senate changed hands nine times, Democrats occupied the White House for twenty years while Republicans will have occupied it for at least twenty-four, and fourteen vacancies appeared on the Supreme Court. While most of those vacancies occurred during times when the president's party controlled the Senate, the need for bipartisan cooperation—particularly when vacancies throughout the federal court system are taken into account—should be obvious. Political power trades hands with relative frequency. Divided government is as likely if not more likely than unified rule. Without cooperation and the unwritten rules that foster it, the functional capacity and credibility of the judicial branch would be jeopardized. The current trend of obstructionism along with the countervailing trend of expeditiously confirming nominees

run counter to the important norm of forbearance and undermine the goodwill necessary to preserve the institutional well-being of the Senate.

Yet some will insist the only rules being violated in the Senate during these battles over judicial nominees are unofficial rules senators have no obligation to obey and all the leeway to break. So long as senators follow the official letter of the law and act within its bounds, anything they do is legitimate. Some may counter by arguing it harms democracy to violate these unwritten rules, but the official democratically-adopted rules of democracy permit it. And one can hardly be called a hypocrite for violating a rule that does not require people to follow it.

This is all technically true. No senator would ever be held legally accountable for breaking an unwritten rule while acting in accordance with the letter of the law. But everyone has been party to informal agreements based on trust and goodwill that all involved, despite the absence of a legal requirement, are still expected to respect and obey. When people break them, they disappoint others who were expecting them to deliver a particular result while diminishing their reputation for trustworthiness. It is often inadequate for someone to say the law or written rules gave them permission to act a certain way when an informal or unwritten agreement between the parties created the expectation that all involved would honor a different standard. Unwritten rules cannot be written off so easily.

Some may wonder why, if unwritten rules are so important, society doesn't give them added force and authority by actually codifying them so that everyone will have to follow them. In some cases, that might not be a bad idea. Yet as Levitsky and Ziblatt point out, every set of rules contains gaps and ambiguities that will inevitably need to be

worked out in their implementation. Unwritten rules can help guide people through that problem so that those who would exploit a legal loophole or a doctrinaire reading of a law's text do not undermine the spirit of the law and wield it as a bludgeon against their opponents.²⁴ Unwritten rules also help dull the edge of a rule-bound society so that people are not constantly calling one another out for just the slightest of deviations from codified rules. This is extremely important in democracies, where the people are sovereign and the law is regarded as an extension of their will; without unwritten rules complementing and softening the enforcement of written rules, people may feel the law is a tool of oppression rather than a mirror reflecting their vision of a just and good society.

Finally, unwritten rules are often not written down because of a need for them to remain somewhat nebulous, perhaps because the letter of the law itself is vague and its implementation needs to accommodate that ambiguity, or because the letter of the law is strict and needs some leeway built into it, or because society needs to allow for some give-and-take in the application of the law when so many people are living under the law, or because of a desire to preserve the opportunity for deviation and dissent in the sort of situations the rules typically apply to. Unwritten rules acknowledge this gray area between the letter and implementation of the law. Although those who honor unwritten rules often insist that people follow such rules, they will also admit occasions may arise when it is acceptable to bend, violate, or even eliminate them and that determining when this is permissible is often a matter of subjective judgment. Adherents cannot utilize this judgment if they are forbidden from doing so by the dictate of codified law. While unwritten rules are not meant to be broken under ordinary circumstances, they reserve for their adherents the right to do so (and resort to legalistic, hardball tactics) if necessary.

Unwritten rules introduce flexibility into what could otherwise be a very rigid legal system.

Ultimately, people cannot escape the charge of hypocrisy simply by claiming the rule they violated is unwritten and therefore carries no obligation for its adherents to abide by it. Even if an unwritten rule is not officially on the books and holds open the possibility for violation, there still remains a strong expectation that, under most circumstances, that rule will be obeyed.

In fact, it actually seems more fitting to accuse someone of hypocrisy in politics when it involves an unwritten rule than it does a written rule. Some legal, moral, and ethical requirements are so strong people are virtually obligated to obey them. If someone does violate them, that person may be accused of hypocrisy (that is, of an improper inconsistency) for failing to uphold a legal, moral, or ethical obligation that it was incumbent on them to uphold. But the word “hypocrisy” does not seem to adequately characterize an offense of this nature. Compared to other words that could have been used in those cases (“injustice,” “discrimination,” “prejudice,” “bias”) the word “hypocrisy” feels too weak. When faced with a high-inviolable legal, moral, or ethical claim that people are virtually obligated to obey, calling someone who violates such claims a “hypocrite” underplays the severity of the offense. Improper inconsistencies of this type demand stronger words.

But “hypocrisy” seems to capture the sort of improper inconsistency that results when someone violates an unwritten rule they were presumed to have been following. It is easy to imagine the excuse: “Yes, I said I would follow the unwritten rule, but *technically* I didn’t have to.” And while it has already been argued that such an excuse is

automatically exculpatory (far from that, in fact) it may be, in certain circumstances, a justifiable excuse nonetheless, as well as a plausibly legitimate excuse for many. This sort of improper inconsistency—one based on a less-than-obligatory/conceivably violable commitment that those to whom the commitment applies are still, on their honor, strongly expected to honor—seems to be the kind of hypocrisy so frequently discovered in politics.

Say what may be said of the adage “rules are meant to be broken,” but unwritten rules—despite the strong expectation that people ought to obey them—are certainly designed to allow people to violate them. People should hope that when someone violates an unwritten rule like the one concerning Supreme Court vacancies that the violator is not a Polemarchus, or someone willing to embrace a double standard when it comes to an unwritten rule in order to disadvantage his enemies and advantage himself or his allies, but rather someone attempting to preserve a principle that takes precedence over the principles that would be preserved by obeying the unwritten rules. After all, rules can be used negligently or for ill purposes, as when politicians hide behind rules to conceal corruption, obstruct majorities, or ignore crises. Again, in such cases, it may be acceptable to sidestep the rules in order to expose bad behavior or to restore the functionality of government. Rules might also be used to advance unjust policy. A law passed via a proper legal process is not necessarily a just law, particularly if its enactment results in an injustice. While children are taught that “it doesn’t matter if you win or lose, it’s how you play the game” (a maxim that typically, among other things, precludes cheating) the stakes involved in political games are considerably higher than those found on a field of play. Consequently, it may be acceptable at times to take the rare and

extraordinary step of violating a rule in order to ensure a just outcome. In such cases, people may be willing to forgive the hypocrisy attendant to violating a rule that had previously been honored if doing so corrects a serious wrong or means they are not hypocritical when it comes to their support of justice.

These extreme scenarios are always possible but occur rarely, meaning citizens should not be quick to resort to extra-legal tactics to achieve policy goals. In fact, doing so may only heighten the chance that others will begin following that example and damage the ordinarily cherished principle of due process. In most cases, it is probably better off to play within the rules. Furthermore, it is important to remember that the issues one side considers extremely important are usually equally significant to their opposition, who probably feel as certain about their causes as their opponents.* Thanks to rules, political passions can be channeled into socially acceptable arenas of contention; absent them, political disputes could easily turn violent. This is not to say extra-legal tactics are always forbidden. In some circumstances, they may be the only option available. If that is the case, however, anyone using extra-legal tactics should openly justify their actions in a statement explaining with specificity the severity of the problem they are confronting and why these particular means are necessary to achieve the supremely important ends they desire.

It would be difficult to justify hypocrisy in the current case involving the Supreme Court vacancy using the argument that standard rules and procedures needed to be violated to guard against an injustice or serious wrong. Preventing one's opposition from

* It is at this point that the elephant in the room—abortion—should be mentioned. For many activists and voters in the United States today, the politics of Supreme Court nominations boil down to this issue, which involves fundamental matters of life and liberty some may consider serious enough to justify violating rules concerning judicial appointments.

seating judges that would likely advance their preferred policy objectives does not meet any of the necessary criteria for taking such an extreme step; in fact, nominating and confirming judges is a fairly routine and necessary political practice undertaken by the president and Senate and should follow fairly routine procedures no matter who holds political power. This of course is not a rubber stamp for judicial appointments—a review of a judge’s qualifications may reveal information that disqualifies them from office—but it does mean that actions deviating from the normal confirmation process should rarely occur.

There is one final matter in this case to consider. Some will argue it is acceptable to become a hypocrite on a matter concerning obedience to rules if your opponent breaks the rules first. If one party suddenly changed the unwritten rules concerning judicial appointments, it would seem acceptable for the other party to take maximum advantage of the new rules even if they had earlier denounced the change, since not doing so could leave them at a significant political disadvantage. It makes little sense for a party to bind themselves to the old rules and inhibit their ability to shape the political direction of the judiciary when their opponents unilaterally freed themselves of those rules to their advantage. Of course, a party may choose to continue to play by the old rules concerning judicial appointments if they believe there is some political advantage to be found in standing up for the old rules, and they may be morally obligated to play by the old rules if they believed the new rules were fundamentally undemocratic.

Barring that, however, it seems acceptable for a party to follow the new rules concerning judicial appointments even if they are critical of the new rules and denounced their opponents for changing them. In fact, if one party ruled out the possibility of

retaliating in the event of a rule violation, the other party may never feel dissuaded from violating rules and permanently adopt the identity of a Polemarchus.

There is one important caveat to this principle, however: If the situation allows, the rules should only be violated on a tit-for-tat basis. If the retaliatory party believes the old rules have value—and nearly all parties to the current dispute over judicial appointments have indicated rhetorically at one point or another that they believe they do—then the retaliatory party should do whatever they can to preserve those rules even as they rectify a rule violation with a violation of their own. A tit-for-tat strategy has the potential to achieve this. In responding to a rule violation with a tit-for-tat approach, the retaliatory party needs to make clear to their opponents and the public what specific rule violation they are responding to and that their response is genuinely proportional to the original violation in amount and degree. Once completed, everyone will know all sides have benefitted equally from the violation, that the score should now be considered settled, and that the old rules—which earlier had appeared to have been suspended—have been restored.

Some may object to this “eye for an eye” approach on the grounds that it lowers the moral standing of the retaliatory party to the level of the offending party. In some circumstances, that may be the case, meaning a rule violation is better left as evidence of the offending party’s poor moral standing. If there is a need, however, to correct a wrong wrought by a rule violation, a tit-for-tat strategy is an effective way to clearly and fairly compensate an aggrieved party without escalating the feud or ending prospects for future cooperation.²⁵

A tit-for-tat strategy sounds like a nice way to resolve this problem, but it's not always easy to implement given how difficult it is for both sides to agree that a response is proportional rather than an escalation. This is true even in the current case, where we might assume violations and responses would be easy to quantify simply by counting the number of judges either blocked or rammed through the nomination process. The problem is some may argue the retaliation needs to be more than just quantitative but qualitative. This may explain why Republican justifications for hardball tactics concerning judicial nominations always come back to the Democrats' successful effort to block the confirmation of Robert Bork to the Supreme Court in 1987. For Republicans, the "borking" of Robert Bork was the Democrats' original (and enormous) sin. Bork—widely regarded as an arch-conservative—would have replaced Justice Lewis Powell, Jr., a conservative judge who nonetheless was part of the majority in *Roe v. Wade* (1973). After Bork was voted down by the Senate, President Ronald Reagan nominated Anthony Kennedy, who was part of the narrow 5-4 majority in *Planned Parenthood v. Casey* (1992) that upheld the central holding in *Roe*. Republicans could have borked any of President Clinton's or President Obama's nominees to the Court and called it quantitatively even, but qualitatively many Republicans might argue the score from Bork's nomination can't be settled until they have a conservative majority in place on the Court that will overturn *Roe*.

In the three decades since Bork's nomination, both sides have traded retaliatory blows with each other over judicial nominations. At this point, it's hard for a tit-for-tat strategy to work effectively as both sides blame the other for either starting or sharply escalating the conflict. In the 1980s, Republicans were driven to counter the activist

liberal legacy of Supreme Court justices like Earl Warren, William Brennan, and Harry Blackmun (all nominated by Republican presidents) by appointing ideologically conservative judges like Bork, while Democrats worked to prevent what they felt was an overt effort by Republicans to politicize the nation's courts. This is perhaps what led Democrats to block around ten judges during the George H.W. Bush presidency. Republicans countered by obstructing about double that number during Bill Clinton's two terms in office. During George W. Bush's presidency, Democrats actually began filibustering judicial nominees, marking a significant escalation in the conflict. Republicans did the same to Obama but to a much greater degree, leading Harry Reid to implement the so-called "nuclear option," an unprecedented move that eliminated the filibuster for all federal judicial appointments except to the Supreme Court. And, of course, once Republicans regained control of the Senate in 2014, Mitch McConnell took the unprecedented step in 2016 of not even considering a nominee for an open Supreme Court seat.

After all this back-and-forth, it's hard to hear either side take a stand in defense of the unwritten rules governing judicial nominations without regarding them as hypocrites. Perhaps that means the unwritten rules simply don't apply anymore. If that's the case, it's probably time for both parties to drop the moral pretense and just accept that future federal judicial vacancies will be filled through a process of political hardball. Without unwritten rules to guide them through the process, however, it's easy to imagine a series of crises engulfing the Senate and eventually crippling the Supreme Court. Rather than abandon the old unwritten rules for political hardball, it may be better instead to develop a new set of rules to take their place (i.e., term-limiting Supreme Court justices to allow

for more regular/lower-stake appointments, or setting up an independent commission that can identify qualified nominees using non-political criteria, etc.)²⁶ These rules may not be airtight, meaning politicians may still try to find ways to work around them, but if both parties agreed they needed to restore the stability the earlier rules had provided, the new rules could serve as a new baseline for cooperation.

There is no doubt that spirit of cooperation is sorely needed, especially after the way the Senate handled the vacancy created by Scalia's death. In March 2016, President Obama nominated Merrick Garland, Chief Judge of the D.C. Circuit Court of Appeals, for the open seat. Garland had supervised federal prosecutors in the Oklahoma City bombing case in the 1990s before being appointed to the D.C. Circuit by President Clinton. Despite his age (sixty-three, which meant his tenure on the Court would be relatively brief) and his reputation as a moderately liberal judge (at the time of another vacancy in 2010, Republican Senator Orrin Hatch called Garland "a consensus nominee" of whom there would be "no question" concerning his confirmation) Garland never received a vote let alone a hearing in the Republican-controlled Senate.²⁷

After upsetting Hillary Clinton in the 2016 presidential election, President Trump nominated Neil Gorsuch, a Circuit Court of Appeals judge with a solid conservative record, to take Scalia's spot. In touting Gorsuch for the Court, Republicans stressed his professional resume as a judge even though, as E.J. Dionne, Jr., of the *Washington Post* pointed out in an op-ed titled "It's Time to Make Republicans Pay for Their Extreme Hypocrisy," they did not see that as a reason to elevate Garland.²⁸ Democrats, who remained in the minority in the Senate, moved to filibuster Gorsuch's confirmation even though, as David Rutz of the *Washington Free Beacon* made clear in an article titled

“Take Two-and-a-Half Minutes to See How Hypocritical Democrats Are on Filibustering Supreme Court Nominees,” many of them had denounced Republican use of the filibuster for judicial nominees when Democrats were in the majority just a few years back.²⁹ Republicans, who could not initially overcome the Democratic filibuster against Gorsuch, then moved to take the unprecedented step of eliminating the filibuster for Supreme Court nominees even though they had condemned Democrats for eliminating the filibuster for all other judicial nominees just four years earlier.³⁰ John McCain, who at one time argued it would be “sheer hypocrisy” for Republicans to retain the Democrats’ 51-vote threshold for judicial nominees once Republicans were in the majority,³¹ then asserted that anyone who believed it was good for the Senate to eliminate the filibuster for Supreme Court nominees was a “stupid idiot;”³² he then voted to eliminate the filibuster.³³ Finally, in April 2017, the Senate confirmed Neil Gorsuch’s appointment to the Supreme Court, effectively restoring the Court’s 5-4 conservative majority.

Postscript

From a May 29, 2019, CNN article by Ted Barrett: “Speaking at a Paducah Chamber of Commerce luncheon in Kentucky, McConnell was asked by an attendee, ‘Should a Supreme Court justice die next year, what will your position be on filling that spot?’ The leader took a long sip of what appeared to be iced tea before announcing with a smile, ‘Oh, we’d fill it,’ triggering loud laughter from the audience.”³⁴

NOTES

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¹⁸ Some Democrats running in the 2020 presidential primary (South Bend, Indiana, Mayor Pete Buttigieg, former congressman Beto O’Rourke [TX], and senators Kirsten Gillibrand [NY], Kamala Harris [CA], and Elizabeth Warren [MA]) expressed interest in possibly expanding the number of seats on the Supreme Court. See Burgess Everett and Marianne Levine, “2020 Dems Warm to Expanding Supreme Court,” *Politico*, March 18, 2019, <https://www.politico.com/story/2019/03/18/2020-democrats-supreme-court-1223625>.

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²⁰ Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown, 2018) 100-101.

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²³ *Ibid.*, 107-109.

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6. SETTLING THE SCORE

With jobless rates rising at the onset of the Great Recession in 2008, Congress passed a bill offering federally-funded unemployment benefits to individuals who had used up their allotment of state-funded unemployment aid. Following a couple reauthorizations, the program expired at the end of 2013 as Republicans and Democrats in Washington failed to agree on how to pay for another extension. A bipartisan effort in the Senate, however, did produce a compromise in March 2014, but its prospects for passage were scuttled by Republican Speaker of the House John Boehner when he announced such a bill had no chance at seeing a vote in his chamber. In a statement posted to his website, Boehner declared,

We have always said that we're willing to look at extending emergency unemployment benefits again, if Washington Democrats can come up with a plan that is fiscally-responsible, and gets to the root of the problem by helping to create more private-sector jobs. There is no evidence that the bill being rammed through the Senate by [Senate Majority Leader Harry] Reid meets that test, and according to [state administrators who wrote a letter opposing the bill], the bill is also simply unworkable. Frankly, a better use of the Senate's time would be taking up and passing the dozens of House-passed jobs bills still awaiting action.¹

Some observers, such as Danny Vinik at *The New Republic*, objected to Boehner's assertion that there was "no evidence" the Senate bill would create private-sector jobs. He noted the Congressional Budget Office (CBO), a nonpartisan agency created by and for Congress to "[produce] independent analyses of budgetary and economic issues to support the Congressional budget process,"² found that extending emergency unemployment benefits actually created jobs.³ (This happens because the unemployed tend to spend their benefits immediately, which leads businesses to boost production and hire workers to meet demand.)⁴

Huffington Post's Arthur Delaney took his criticism of Boehner one step further by accusing him of not simply ignoring the facts but of hypocrisy. Wrote Delaney:

While Boehner is just not that into what the budget office says about unemployment extensions, he *loves* their take on raising the federal minimum wage to \$10.10 per hour, which the CBO figures could reduce employment by half a million jobs.

“What I’ve long said is that raising the minimum wage destroys jobs — and that was confirmed last week by the Congressional Budget Office — at least 500,000 jobs would be lost, maybe as many as a million,” Boehner said last month.⁵

Delaney’s implication here was that Boehner was guilty of a double standard when it came to the CBO in that Boehner considered the agency authoritative when its findings supported Republican positions but was quick to dismiss it when its reports debunked Republican arguments.

Congress founded the CBO in the 1970s in order to free itself from a reliance on executive branch accounting during budget negotiations between the president and the legislature. Since its creation, the CBO has developed a reputation for political independence, methodological transparency, and credible analysis, with politicians of both parties often inconvenienced by its findings. It established itself as a nonpartisan institution during the Carter administration when the office—led at the time by Democratic appointee Alice Rivlin—questioned the overly-optimistic estimates offered by the White House for the cost of its proposed energy legislation. Since then it has drawn the ire of Ronald Reagan, Speaker of the House Newt Gingrich, and Bill Clinton, whose administration and allies tried unsuccessfully to pressure the CBO into issuing a positive score of its doomed health care plan. At the same time, politicians who can defend their arguments about policy by citing the findings of the CBO gain an extra measure of credibility in the public arena. For this reason, Democrats working on health

care reform in 2009-10 chose to accept the CBO's findings and modify their legislation accordingly to ensure the Affordable Care Act was at least projected to do what they and the president had promised.⁶

More recently, the CBO has been in the news for a set of projections concerning Republican legislative proposals. After the CBO issued a report in September 2017 finding that a Republican proposal to repeal and replace the Affordable Care Act would leave millions of Americans uninsured, Senator Susan Collins (R-ME) announced her opposition to the bill, effectively ending its legislative prospects.⁷ The CBO played a more direct role in the passage of Republican tax cuts in the Senate, where Senate rules stipulate that bills affecting the budget can use the reconciliation process to avoid the possibility of a filibuster so long as the CBO determines the bill reduces deficits after ten years. In order to pass the CBO's analysis, Republican lawmakers made the tax cuts for individuals temporary so that they would expire at the end of the ten-year window.⁸

The Trump administration and its Republican allies became vocal critics of the CBO during the recent debates over health care and taxes. Anticipating a less-than-flattering score on their health care proposals, Republicans began questioning the credibility of the CBO almost as soon as they began their efforts to repeal Obamacare in the early months of 2017.⁹ In May 2017, White House budget director Mick Mulvaney, frustrated with what he described as the "absurd" scoring of a Republican health care bill, wondered if "the day of the CBO had come and gone."¹⁰ Health and Human Services Secretary Tom Price, who was tasked with passing Trump's health care overhaul through Congress, stated in June 2017 that "the numbers the CBO had before with the [Affordable Care Act], and the numbers they have now, are not accurate."¹¹ There was

also some talk in Republican circles of circumventing the CBO altogether by replacing their projections with estimates from executive agencies or conservative think tanks.¹²

This Republican rhetoric did not sit well with the *Washington Post*'s editorial board, who penned an op-ed on March 11, 2017, titled "The GOP's Mind-Blowing Hypocrisy on the CBO." They wrote:

Over the past two decades, CBO is perhaps best known for analyses that put a stamp of budgetary responsibility on Obamacare, but also papers that enabled Republicans to cut taxes during the George W. Bush years and, later, to slam President Obama on the long-term debt picture. Time after time, Republicans had nothing but praise for the office's "nonpartisan" work. They were quick to cite the CBO when it concluded that some people would willingly work less under Obamacare.

The board also noted that Keith Hall, the director of the CBO, had been appointed to his post in April 2015 by congressional Republican leadership after then-congressman Tom Price had demanded the removal of the previous director. (The director of the CBO is selected jointly by the leadership of both the House and Senate.) The new director was even a proponent of "dynamic scoring," a method of budget analysis that has the effect of lessening the cost of tax cuts, a policy objective prized by Republicans.¹³ Price's statement at the time of Hall's appointment declared, "Keith Hall will bring an impressive level of economic expertise and experience to the Congressional Budget Office. His vast understanding of economic and labor market policy will be invaluable to the work of CBO and the important role it will continue to play as Congress seeks to enact policies that support a healthy and growing economy."¹⁴

This case is again about a double standard, but it is not the institution in question—the CBO—that is accused of a double standard; instead, that charge has been leveled against certain Republicans who have recently dismissed the CBO's findings

despite having accepted the institution as a trustworthy source of information in the past. Significantly, the Republicans in this case have been accused of dismissing the CBO not because they believe the nonpartisan institution is acting with a partisan bias but because they are presumed to believe the nonpartisan institution's findings would prove disadvantageous to certain aspects of their partisan agenda.

As explained in an earlier case study ("The Latte Salute") one reason people dislike double standards is because they offend people's sense of fairness. It is generally accepted that it is wrong to favor some people over others when all involved are entitled to equal treatment. In some situations, however, favoritism and preference are acceptable. This is often the case in politics, an undertaking defined by its competitive nature. Politicians and parties representing competing ideologies, agendas, and policies work hard to win the support of citizens, who are encouraged to take sides in political debates and support their preferred candidates and parties. Once in power, parties and politicians plot to enact their policy objectives and retain their hold on power while their opponents maneuver to stop and usurp them. Supporters are often rewarded with the enactment of preferable policies. Regular elections ensure this competitive spirit is an ever-present consideration in politics.

Yet politics is not a free-for-all. While it is fine to settle political disputes competitively, there is a legitimate concern that the ambitious quest for victory and power will tempt some into seeking an unfair edge over their opponents or manipulating the system to their advantage. In so doing, policy outcomes may be geared more toward narrow partisan or personal concerns than the broader public good. Consequently, citizens and politicians are expected to obey rules regulating political contests, justify

their policy proposals with public-spirited reasons that explain how their policies will benefit society as a whole, and accept that their opponents have as much of a right to compete within the terms of the competition as their preferred side does even if they don't want their opponents to win. (See "Confirmation Bias.")

Partisans and political ideologues often struggle with finding the right balance between pushing their own partisan agenda and respecting the rules and norms that regulate political competition. Many partisans rally behind a partisan political agenda because they believe that agenda embodies the public good, which, by extension, would not be realized if their opponents were to gain power. Of course, their opponents might feel the same way about their own partisan political agenda and the damage to the public good that could result if their opponents were to gain power. In some cases, it may be true that one partisan side actually does have a superior appreciation for the public good while their opponents, if empowered, would do serious harm to it. In these cases, acts of civil disobedience or drastic political action may be called for. Daily political circumstances rarely necessitate such actions, however, as change can be pursued through regular political channels. Partisans need to be careful that the overzealous pursuit of power or a policy agenda does not take priority over their more important civic responsibilities as stewards of the rules and norms that govern a competitive democratic political society. As much as they want to win—and as much as they believe it is essential for the good of the country that their side win—partisans must in nearly all circumstances accord greater respect to the rules of the democratic game and accept that they are just as entitled to win by those rules as their opponents. Consequently, citizens should prioritize the maintenance of democratic norms, rules, standards, and principles

over partisan and ideological principles. Prioritizing partisan principles over such civic-minded principles leaves citizens vulnerable to legitimate accusations of hypocrisy.

One way governments have sought to prevent partisanship's hyper-competitive impulses is by establishing rules and agencies to oversee political competitions. The Federal Elections Commission, which enforces campaign finance laws, was designed for this purpose. Another example would be the various state-level non-partisan redistricting committees tasked with drawing congressional districts following every census so that the districts are not gerrymandered by a party for partisan advantage.¹⁵ Neutral competence is the aspiration of any government bureaucratic agency (and one, given every person's unique subjective perspective, impossible to guarantee) but it is of particular importance to any agency tasked with overseeing political competitions, since without a sense of obligation to it, a partisan regulator could rig the competition in such a way to render any hope of an open and fair competition obsolete.

This is where the CBO comes into play. Although the CBO is the product of political rivalry (as you'll recall, it was created so the legislative branch could counter the executive branch's budget numbers) over the years it has established a reputation as a neutral, impartial institution that can help mediate disputes within the partisan halls of Congress. "Mediate" does not mean the CBO actually negotiates disputes between the parties concerning the budget. Instead, it aims to provide the House and Senate with accurate, nonpartisan assessments of budgetary proposals, a useful service in a highly competitive institution like Congress, whose members are often inclined to sell the public on the merits (or demerits) of proposed legislation with numbers that do not accurately capture a bill's estimated costs and benefits. The CBO can rise above this partisan

conflict by providing the public and members of Congress with accurate, authoritative assessments of budgetary proposals. The CBO's efforts also help ground debates about the proposals in estimates all sides can trust and accept. Sometimes a CBO report will affirm a partisan's arguments; at other times, a report may refute them. Regardless, the CBO can credibly maintain that their conclusions do not reflect a preferred partisan outcome but are instead the product of a nonpartisan model that they believe generates the most accurate forecast of the proposed legislation's effects. Discussion and debate on the proposed legislation can then proceed from the facts certified by the CBO.

When the CBO is asked to analyze a legislative proposal, it is often said they are being asked to "score" the bill. The report they produce is often described as a "score." The CBO is even sometimes referred to as Congress's "scorekeeper." This is an instructive way of thinking about the role the CBO plays in American government. Just consider any athletic competition. None of the participants in the competition would want a scorekeeper prone to fixing scores. Of course, a part of us may long for a scorekeeper who fixed the score on our behalf, but absent that (and the accompanying likelihood that our competitors would retaliate by employing their own crooked scorekeepers to counter our own) we would all prefer a scorekeeper who kept the most accurate score possible so that the efforts of the competitors on the field of play ultimately determine the outcome of the competition and to prevent the competition from devolving into debates over the validity of a score or which final score to accept. Ideally, this scorekeeper would be a neutral observer exhibiting neutral competence—someone whose only interest was not who won the game but rather getting the final score correct—and all competitors would agree to accept the scorekeeper's tally as the authoritative final score. In this way, the

CBO is like a scorekeeper, someone who, without partiality, sets the objective reality of an objectively definable aspect of a competition in order to provide an objective basis upon which the competition can be waged and evaluated.

Within the halls of government, a CBO score establishes the budgetary reality of a bill. Both sides agree its calculations ought to be treated as authoritative and the basis upon which debate about the bill ought to proceed. Both sides agree to this regardless of whether or not the CBO's findings support or undermine their claims about the bill because the CBO's findings are derived not from partisan preferences but from respected economic models utilizing the best available information about the way the American economy works. The CBO's methods are also transparent so that anyone can check their methods and review their work.

Consequently, accepting a CBO score is a matter of fairness and fair play. It's easy for one side to accept a CBO score when it buttresses their side's argument. It's harder when the math doesn't work out the way they'd like it, but there's nothing about the CBO's methods that indicates it is biased against one side or the other. In fact, tomorrow, on another bill, their side's case for that different piece of legislation may be strengthened by a CBO report. The key idea, however, is that once the parties to a debate accept the CBO as a de facto congressional scorekeeper—as someone whose rulings are considered authoritative in regulating the contentious legislative process and binding on all sides—then its rulings should be accepted. Support for the CBO and its reports should not be contingent on the CBO producing scores that support a particular political agenda. That wouldn't be fair to those who are willing to accept the CBO's reports even when they prove disadvantageous to their agenda. Accepting (and expecting an opponent to

accept) the rulings of an impartial official when those rulings favor you but rejecting them when they don't would be unfair and hypocritical.

Of course, it is always possible the accountants at the CBO could act with bias. That would certainly be a problem if that was the case (and it's something we can never put entirely out of mind) but as a 2017 survey of economists conducted by the University of Chicago's Initiative on Global Markets reveals, the CBO has a sterling nonpartisan reputation.¹⁶ Its transparent methods also allow anyone to review its work for evidence of bias and to source its methodological assumptions. Furthermore, any recent Republican accusation of bias has a high bar to clear given that, as mentioned earlier, the CBO's director was appointed by Republicans and has demonstrated a willingness to adopt accounting methods preferred by Republicans.

One might be inclined to dismiss a CBO score if they believed the CBO's work was faulty, but there's not much evidence to support that argument either. It is true the CBO vastly overestimated the number of Americans who would sign up for health insurance through the Affordable Care Act's marketplace, but because many of those expected signees instead got health care through the law's Medicaid expansion, the number of Americans without health insurance dropped by about the amount the CBO projected. Like any economic forecaster, the CBO is not perfect, but its projections have proven well-informed and reasonably reliable. Don Lee at the *Los Angeles Times* put it best in a May 2017 article:

Although there's no comprehensive measure on the hundreds of cost estimates on bills it does every year, the CBO's analyses and forecasting are regarded as good or better than others doing similar work.

It's true that on economic forecasting, the CBO in recent years has been overly optimistic about growth while underestimating the rate of job creation, but so was

almost every other private forecaster. And economists say that the CBO's economic projections generally compare favorably against other outfits, and its long-term budget estimates have been fairly accurate.

“While no individual or organization can perfectly predict the future, the CBO has a long history of providing credible and impartial estimates based on the center of a range of likely outcomes,” said Maya MacGuineas, president of the nonpartisan Committee for a Responsible Federal Budget. “CBO is our nation’s fiscal referee and should be respected even if you do not like the call.”¹⁷

That last statement by MacGuineas is well-put. There is room to quarrel with the CBO and even openly disagree with its conclusions. Yet members of Congress have a strong obligation to accept the CBO's findings as the authoritative ruling regardless. A baseball analogy is useful here: We may disagree with what an umpire calls a ball or a strike, but as long as we're playing the game and the umpire is using the same strike zone for both teams, the ump gets the final say over the matter. It's certainly better than letting the batter or catcher make the call. The only significant difference is that an umpire can throw a player out of the game for arguing balls and strikes. The CBO can only offer a report, leaving it much more vulnerable to seeing one of the teams take the ball and go home if they don't like a particular call. It really does depend on the parties to honor their commitment to their mutually-agreed-upon scorekeeper to make this work.

So are certain members of the GOP hypocritical when it comes to their acceptance of the CBO as Congress's scorekeeper? They come pretty close to crossing that line. One might give Boehner a pass; it's not entirely clear from the article that's cited that he's aware of the CBO's finding that unemployment benefits help create jobs, although one might expect the Speaker of the House to have read that report. Price seems more intent on undermining the credibility of the CBO, which itself is problematic, especially since he personally vouched for the qualifications of the agency's director. He

doesn't quite throw it under the bus, although he seems to be setting himself up to do just that. As for Mulvaney, perhaps the only way he could escape the charge is if he never accepted the CBO's role as a neutral scorekeeper to begin with, even from his days as a congressman. More plausibly, Price and Mulvaney could claim they don't need to accept the CBO's numbers in their new roles as members of the executive branch. It would seem, though, that the CBO's status as a nonpartisan independent agency would make it difficult for them to dismiss its role in the legislative process.

There is one final point to note. While the CBO provides Congress and the public with useful budgetary information, that information does not then necessitate one's support of or opposition to the budgetary issue in question. Remember Hume's Law: Is \neq Ought. For instance, a legislator who wants to create jobs or increase people's access to healthcare does not need to automatically support a bill that is forecasted by the CBO to create jobs or increase people's access to healthcare. It may be that the legislator believes the current bill does not go far enough to increase those numbers, is too costly or inefficient, or violates important normative concerns to generate its results. Other concerns matter. Boehner, for example, might have replied to the accusation of hypocrisy leveled against him by accepting the CBO's findings as a matter of fact but then asserting he did not believe it was right for the government to create jobs through the mechanism of unemployment benefits.

NOTES

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7. THE KISSING CONGRESSMAN

The state of Louisiana has a reputation for rather colorful (and at times randy) politics. Its most famous son, Governor Huey Long (1928-1932), raged against the state's wealthy political elites for their corruption and cronyism but was hardly a paragon of good governance. Long's brother Earl, who served three stints as governor himself (1939-1940, 1948-1952, 1956-1960), carried on an affair with a New Orleans stripper while in office. The whiff of scandal dogged Edwin Edwards, but that did not stop Louisiana voters from sending him to the governor's mansion a record four times (1972-1980, 1984-1988, 1992-1996); it also finally sent him to jail in 2001. More recently, Congressman William Jefferson was convicted of bribery in 2009, while Senator David Vitter was outed as a client of a Washington, D.C., prostitution service in 2007. At the same time, Louisiana is in the heart of the Bible Belt, so it is not unusual to hear politicians touting their Christian faith and strong family values on the campaign trail. This blend of religious righteousness and salacious politics makes Louisiana a breeding ground for some of the nation's more sordid tales of political hypocrisy.

Louisiana's 5th congressional district is located in the reliably conservative northeastern region of the state and includes the cities of Monroe and Alexandria. When Representative Rodney Alexander resigned to take a job with the state government in 2013, the state scheduled a special election for later that year to select his replacement, with a jungle primary in October and a general election in November. Republican businessman and political neophyte Vance McAllister emerged as the winner of that contest, a victory some in the state attributed to endorsements he'd received from

members of the Monroe-area Robertson family, hunting-product entrepreneurs who had acquired national fame as stars of the reality television series *Duck Dynasty*.¹

The political clout of reality TV stars aside, McAllister used his business experience and status as a newcomer to politics as selling points with voters. He also emphasized his Christian faith and family values, as seen in a commercial he aired during the campaign titled “Dishes.” The commercial featured his wife and kids gathered alongside him in their kitchen as they prepared a routine Sunday morning breakfast prior to church. During the ad, McAllister stated, “It’s here in this house that [my wife] and I work to instill the values of faith, family, and country in our five children. If you will trust me with your vote, you can count on me to take those values to Washington, defend our Christian way of life, protect the unborn, and be right back here every Sunday to do the dishes.”²

In April 2014 (less than six months after McAllister had taken office) the *Ouachita Citizen*, a weekly Louisiana newspaper, posted a story to their website upending the family values narrative McAllister had pushed during his campaign. The article featured surveillance camera footage of McAllister sharing a passionate kiss with a female staff member in one of his district offices. After the story’s release, McAllister offered an apology and asked for forgiveness “from God, my wife, my kids, my staff, and my constituents who elected me to serve,” adding, “Trust is something I know has to be earned whether you’re a husband, a father, or a congressman. I promise to do everything I can to earn back the trust of everyone I’ve disappointed.”³

One person who was not quick to grant forgiveness was the husband of the staffer McAllister was having an affair with. He and McAllister had been classmates and co-

workers in the past, and their families were on friendly terms.⁴ During an interview on CNN, the jilted husband described himself as “devastated” before casting doubt on McAllister’s religious devotion, stating, “I know his beliefs. When he ran one of his commercials, he said, ‘I need your prayers,’ and I asked, ‘When did you get religious?’ He said, ‘When I needed votes.’ He broke out the religious card and he’s about the most non-religious person I know.”⁵

While some constituents were forgiving or willing to take McAllister’s behavior in stride as just another example of Louisiana’s debauched politics, others expressed deeper disappointment. *New York Times* reporter Trip Gabriel surveyed the mood of local voters. “Our community is known for Christian values. We were so proud to be sending to Washington someone representing us in that way. He let us down,” said one constituent. Another remarked, “It feels like he took my vote and wasted it.” Added another, “I think he should man up and step down.”⁶

The leaders of Louisiana’s Republican Party also called for McAllister to give up his seat. Louisiana GOP party chairman Roger Villere issued a statement deploring McAllister’s “extreme hypocrisy,” declaring that “a breach of trust of this magnitude can only be rectified by an immediate resignation.”⁷ Republican Governor Bobby Jindal also urged the congressman to step aside, but some voters found Jindal employing a double standard since he had not also demanded the resignation of Senator Vitter despite Vitter’s own sex scandal.⁸ McAllister did not resign but announced at the end of April he would not seek reelection; two months later, however, he changed his mind and indicated he would again be a candidate for his seat in Congress that November.

If someone asked a group of people for hypothetical examples of political hypocrisy, there's a strong likelihood many would come up with a scenario similar to McAllister's: A politician whose moral veneer masks an immoral personal life, whose private behavior does not reflect their political positions and values. This case study offers a variation on the kind of double standards that have been examined so far. Unlike the double standards in the previous case studies, which were strictly confined to matters of public actions, the double standard in this case study implicates the private behavior of a politician. In cases like this, a public figure's public political positions appear to be at odds with their private behavior or personal experience. In other words, these politicians are accused of not practicing privately what they preach publicly.

"Preach" is a fitting word here. A classic example of hypocrisy in general is that of the adulterous pastor, and cases like McAllister's seem related to those. What people find so shocking about these examples is that they involve people who have gone to great lengths to emphasize the importance of private virtues (either by praising those virtues directly or condemning those who violate them) and have positioned themselves as custodians of those virtues, but still fail to conduct their own private lives in accordance with those standards. They tell others how to live but do not follow their own advice. They praise a set of values they apparently do not personally value. They bask in the glow of a goodness they have not earned. They emphasize soulcraft but cannot take care of their own soul.

It is dispiriting to learn a person is not as good as people assumed, especially when that person was admired as a role model for advocating positive values and exhibiting good behavior. People's disappointment can morph into anger if they conclude

they've been duped, that the hypocrite fooled them into believing he or she was a good person and took advantage of their trust for his or her own personal gain. The hypocrite's betrayal may even lead people to lose faith in the values the hypocrite promulgated, their failure either undercutting the strength of their message or leaving others to suspect their own beliefs are foolish sentiments that made them easy marks for con men.

These are all understandable reactions to the discovery of a personal failing, but in such cases it is important to figure out what exactly is damaged when it is revealed a politician is not living their private life in accordance with the values they have embraced in public, values that are presumably attached to a vision of the public good and the good society. It is fair to wonder how a politician can be a spokesperson for those values when they cannot model those values in their personal behavior. One may even question the validity of those values if one of their most prominent public advocates cannot adhere to them. Yet unlike the double standards in the previous case studies, the public political implications of the double standards here are not always clear. A private indiscretion does not necessarily actively disadvantage an opponent or alter policy outcomes within the competitive political arena. A personal failing may simply reflect poorly on the character and reputation of the hypocrite. Consequently, it becomes important to determine when a double standard involving a discrepancy between a politician's private and public life becomes politically significant. The current case involving Vance McAllister offers an opportunity to begin a more in-depth study of these issues.

To begin with, McAllister's personal failings do not prove that the values he claimed to adhere to are wrong, only that he hasn't lived up to them. The tenets and ethics of Christianity are either valid or invalid on their own terms and do not depend on

Vance McAllister's personal behavior for legitimacy. Granted, it is dejecting to see a leader endorse these values and then fail to live up to them. People may wonder about the practicality of such values if even a champion of those values cannot abide by them, or worry that such a high-profile betrayal may hurt the reputation of those values in the eyes of others. Yet ethical precepts are ultimately justified through ethical reasoning, not via prominent endorsements or the sheer number of people who support them (and even if ethical precepts gained legitimacy as a result of popular acceptance, then the Louisiana voters who were let down by McAllister can find affirmation of their values in the large number of people who shared their disappointment.)

As for the damage done to the law, McAllister might be vulnerable to charges related to workplace romances between managers and subordinates and unlawful termination. Those remain difficult issues to assess in this case, however, since the full history of McAllister's relationship with the woman he was having an affair with and the circumstances that led to her hiring in the first place remain unknown. Having an extramarital affair, though, is not illegal, so on the main issue at hand it's hard to argue McAllister is a hypocrite for breaking the law while acting as a lawmaker (as if calling a "lawbreaker" a "hypocrite" adds much necessary insult to injury anyway.)

Turning to the political fallout, one might wonder if McAllister's hypocrisy would lead his fellow lawmakers to trust him less as a legislator and negotiator. While his affair may raise some red flags, it is likely that so long as McAllister honors his word when it comes to political matters, many would still likely regard him as a faithful colleague even if he is not a faithful husband.

What is left, then, is the damage done to a politician's relationship with their constituents when it is discovered the politician is not living their private life in accordance with their public values. To begin with, one can make a strong argument that a politician's private conduct ought to have little bearing on citizens' assessment of the politician's public record. This isn't simply a matter of saying a politician is entitled to a private life outside the public eye. It is instead to argue that what matters in peoples' evaluations of politicians is purely a function of their public conduct in their role as public figures. Do they exhibit good judgment in their management of public affairs? What positions and values did they say they would uphold in their role as a public actor? How did they ultimately vote? What decisions did they ultimately make? Were their public pronouncements concerning their anticipated public behavior consistent with their public actions?

This focus on public action over private conduct could significantly diminish the severity of McAllister's hypocrisy. It simply wouldn't matter much if McAllister failed privately to live up to the Christian and family values he espoused on the campaign trail so long as his votes in Congress reflected those values. One could argue McAllister's constituents did not send him to Washington so he could be a shining example of a Christian family man on the banks of the Potomac; they sent him there instead to do a job, which amounts to casting votes in the House of Representatives in accordance with the Christian family values he articulated during his campaign. If he does that, he would be fulfilling his duty as an elected representative regardless of his personal shortcomings. Furthermore, his actions in that public role will have a far greater consequence for his

constituents and the nation than anything he would do in his private life. Being a bad person would not necessarily make Vance McAllister a bad representative.

Ironically, the political inexperience McAllister touted as a virtue during his campaign for Congress could make it difficult for him to rely on the distinction between public and private concerns as a defense from scandal. As a political outsider, McAllister lacked the baggage that comes with being an incumbent politician, but that also meant he lacked a voting record that could establish his *bona fides* as a politician whose votes are consistent with Christian and family values. This would require McAllister to ask his constituents for their trust and patience so he could prove himself worthy of their support. With a scandal churning, however, trust and patience would probably be in short supply, meaning his private behavior may be the only thing his constituents could use in forming an opinion of the congressman.

Or his constituents could decide that the details of McAllister's private life are immaterial to their assessment of his public service and therefore accept nothing but evidence drawn from the public record before passing judgment on him. Pending that, McAllister's grade probably remains incomplete: While he may have been unfaithful to his wife and his personal values, there was virtually nothing to suggest at the time the scandal broke that he had been unfaithful to his constituents and the values they expected him to uphold as their representative. American politics is littered with disreputable people serving their constituents well in public office. It's long been argued the genius of the American political system is that it encourages devils to behave as angels by prompting the selfish to cooperate, cheaters to honor their word, and the power-hungry to mind their constituents.⁹ So long as politicians can demonstrate to their supporters that

they have their constituents' backs, voters may exhibit a willingness to overlook their representatives' personal indiscretions.

It is appealing to draw a strict distinction between public and private affairs in politics, but few people would go so far as to say a person's private behavior ought to have no bearing whatsoever on evaluations of a person's suitability to serve in government. For example, many people probably know someone whose private life is in such disarray that it's hard to imagine entrusting that individual with the responsibilities of public office, particularly if people believe the disarray is related to the individual's character and likely to permeate the conduct of their public affairs. People may therefore conclude that an individual who is so unable to manage their private affairs is not qualified to manage their collective public affairs. Additionally, some personal indiscretions may be so severe, deviant, or disreputable that voters could not countenance someone who has committed such acts as a representative of the people.

Disqualifying someone from public office on these grounds, however, would not depend upon an accusation of hypocrisy. If, for example, voters were to believe someone who committed adultery was not fit to serve in public office, then they would have to deny anyone who committed adultery their support, meaning both someone who took a public stand against it as well as the person who remained silent on the matter or even indicated they did not believe adultery was wrong. It might sting a bit more to learn an anti-adultery politician had an extramarital affair, especially if their anti-adultery position had convinced voters of their personal virtue, but in the end, it's the adultery—not the hypocrisy—that would weigh more in peoples' assessment of them and compel voters to withdraw support. In fact, in drawing the line against adultery, avoiding hypocrisy would

become the citizen's burden to bear: It would fall on them regardless of their support for the politician's policies to sanction the politician for his or her marital infidelity.

Setting aside concerns for some kinds of personal behavior that would disqualify any person from serving in public office regardless of their prior comments on that behavior, it has been argued thus far that constituents in most cases ought to generally treat hypocrisies resulting from inconsistencies between an individual's publicly-endorsed principles and that individual's private behavior as relatively insignificant so long as the individual's public behavior remains consistent with their publicly-endorsed principles. But constituents may have other legitimate concerns arising from hypocrisies related to discrepancies between a politician's publicized beliefs and their private conduct. One concern that would be of great relevance to McAllister's case involves the premises upon which citizens grant a politician the authority to lead, specifically whether a politician is selected to advance a specific policy agenda or entrusted to serve in public office on account of the quality of their character.

So far, this case study has reviewed scenarios in which politicians are elected to pursue a specific policy agenda. But what about politicians whose primary appeal is the quality of their private character? These politicians don't base their leadership on their advocacy for certain policies but on personal characteristics that they contend make them well-suited to serving their fellow citizens in public office. Perhaps they are known for their wisdom, common sense, integrity, resolve, courage, self-discipline, responsibility, reliability, or sense of duty and honor, virtues that serve people well in both the private and public realm. Or maybe they are regarded as role models for how they live their lives in accordance with a certain set of highly-respected communal values that suggests they

have a strong sense of right and wrong. For many voters, these types of candidates are appealing not because of the positions they take on a range of issues but because of the character of the candidates themselves, as voters trust that someone who embodies those values will naturally channel those values into their service to the public. Such political figures could be said to have their souls in order, which makes them well-suited to ordering the affairs of the polis.

A personal failing could shake the public's confidence in a politician like this. When a politician's record matters less than the character that generated that record, the discovery of a character flaw could prompt the public to reassess that politician's suitability for public office. It may not even matter if the politician in question has a long and respectable record that satisfies voters; once their prestige and high-mindedness is undermined by a personal failing, citizens may come to see them as a flawed moral vessel or (even worse, perhaps) a run-of-the-mill politician using the façade of virtue to trick the public into trusting them. That is likely to lead the public to wonder if they've been sold a bill of false goods or if the decisions of the politician were made in good faith.

Perhaps it is unwise to ever place so much confidence in the character of a politician. Like anyone else, politicians are flawed individuals, and they almost always run for office in pursuit of a partisan agenda; believing otherwise only leaves voters vulnerable to those who would deceive them. Yet it also makes sense for voters to long for candidates with personal characteristics and virtues they consider well-suited to public service. Those who believe institutional safeguards are not enough to ensure a well-functioning and durable democracy certainly believe that. It seems necessary for

democratic citizens to hold both of these conflicting ideas—that politicians are morally flawed but are expected to act virtuously—in their heads at the same time.

As far as Vance McAllister is concerned, the key question seems to be what sort of leader he told people he intended to be: One who promised to pursue a specific policy agenda if elected that was said to reflect his moral values, or one who promoted himself as uniquely qualified to serve the public given his personal character and values. If it is the latter, his hypocrisy may be less forgivable. McAllister did suggest in his television commercials that the Christian and family values that guide his personal life would also guide his public service. The setting of the commercial—his kitchen, surrounded by his wife and kids—also personalized the appeal, making his campaign less about the issues than himself as a candidate. Additionally, there is evidence in the *New York Times* article by Trip Gabriel that his constituents supported him on account of his character and values. McAllister’s hypocrisy could suggest to voters that he does not have a firm grasp on what those values require of him, potentially making him a poor steward of those principles. If voters sent McAllister to Washington based on his reputation as a Christian family man whose personal virtue would guide his public service, then his hypocrisy could be said to undermine the premises upon which his claim to leadership is based and his constituents could be justified in withdrawing their support from him.

Of course, McAllister did not only run as a Christian and family values candidate. Part of his appeal also rested on his business experience and his status as a political outsider, and some voters likely based their votes on those credentials. Others probably weighed his positions on policy. It would be useful to know just how much emphasis McAllister placed on his character and values during the campaign versus these other

considerations, and if his message about character was only emphasized in commercials. After all, many politicians run ads featuring themselves in their homes with their families, as it makes them more relatable and conventional in the eyes of voters. Perhaps that was all McAllister aimed to accomplish with his TV spots as well.

It is also worth considering what exactly McAllister meant when he talked about “family values” and “Christian values.” Were these actually abstract principles related to character and personal conduct? Or were they a kind of political shorthand signaling a specific conservative policy agenda calling for policies aimed at (for example) restricting abortion, supporting families that home school, halting the expansion of gay rights, or allowing individuals the freedom to conscientiously object to government mandates that offend their religious beliefs? Again, if citizens believed McAllister’s values talk was actually more representative of a policy agenda than a personal affirmation of his character, then perhaps it is easy to forgive him for his hypocrisy. (Maybe it would have just been wiser for McAllister to have avoided personalizing his politics to begin with. Rather than asking voters to trust him on account of his holding the right values and possessing the right kind of character, McAllister could have emphasized how his values led him to support specific policies he intended to fight for once he got to Washington. It would have required a dose of humility on his part—he would have had to downplay his personality in favor of his platform—but it would have helped insulate him from his personal failings.)

There is also one other issue worth thinking about in McAllister’s case, which is that Vance McAllister, like all Christians, is a sinner. He made a mistake as any person of faith is liable to do, so maybe people just need to cut the guy some slack. Granted,

adultery is a very serious mistake (and it's worth noting the full details of the affair as well as the state of his marriage are unknown) and perhaps it does disqualify him from office. But maybe his affair was also the result of a moment of weakness. Despite the comments made by his mistress's husband/long-time friend concerning the sincerity of his Christian faith, maybe McAllister has otherwise led a rather upstanding life. Perhaps his Christian constituents might find it in their Christian hearts to forgive him or at least not rush to judgment. (What did Jesus say about the adulterer? "Let anyone among you who is without sin be the first to throw a stone[.]")¹⁰ It makes sense to be disappointed in McAllister, but knowing human nature and peoples' tendency to sin and become hypocrites, maybe it also makes sense to give the congressman a second chance to prove himself to his constituents.

McAllister's constituents were not in much of a mood to do that, however. McAllister's indiscretions set off a scramble for his seat and cost him the support of the *Duck Dynasty* clan. Robertson family patriarch Phil Robertson, speaking at a rally for his nephew Zach Dasher (one of a handful of Republicans who challenged McAllister) said of the congressman, "I asked him [during his initial campaign] if he was a Godly man and he said, 'Yeah.' I asked him if he walked by faith in the Lord Jesus, and he said, 'Yeah.' I asked him if he was a strong family man and he said, 'Yeah.' Two months in, it proved otherwise."¹¹ McAllister responded, "I am disappointed that Phil is speaking against the words that he writes about, like forgiveness, when we're all sinners. What Phil and I have in common is we believe in the same Lord, and that's the God of second chances." In an attempt to flip the charge of hypocrisy back on Robertson, McAllister

cited Robertson's wife as a model of forgiveness, as she once took Phil back in after a period of substance abuse and infidelity.¹²

McAllister's wife stood by him as well, appearing alongside him in a campaign commercial titled "Blessed." The TV spot began with McAllister stating, "Life is filled with ups and downs," before his wife added, "But a man's character is based on how many times he gets back up and stands again." Both then claimed to be "blessed": McAllister by his family and "wonderful Christian wife" (as a shot of her reaching out to touch her husband's hand plays, her wedding band in place) she for having "a husband who owns up to his mistakes, never gives up, always fighting for the good people of Louisiana."¹³

Those people went to the polls in November 2014. McAllister finished fourth in the jungle primary with 11% of the vote and a little less than half of what Robertson family member Zach Dasher (who came in third) won. A year later, McAllister attempted to win a seat in the state senate but was trounced in the primary by the Republican incumbent. McAllister remains out of politics.

NOTES

¹ Lisa de Moraes, "Did Louisiana Pol Ride 'Duck Dynasty' to Victory?," *Deadline*, November 18, 2013, <http://deadline.com/2013/11/duck-dynasty-vance-mcallister-louisiana-house-victory-638105/>; Alex Isenstadt, "A 'Duck Dynasty' Endorsement in La.," *Politico*, November 13, 2013, <https://www.politico.com/story/2013/11/duck-dynasty-endorsement-louisiana-vance-mcallister-willie-robertson-099821>.

² Vance McAllister, "Vance McAllister 'Dishes'," RedPrintStrategy, YouTube, October 9, 2013, campaign commercial, <https://www.youtube.com/watch?v=ddlRfkysIAQ>.

³ Zach Parker and Sam Hanna Jr., "UPDATED: McAllister Caught In Extramarital Encounter, Issues Apology (Video)," *Ouachita Citizen*, April 7, 2014, http://www.hannapub.com/ouachitacitizen/news/updated-mcallister-caught-in-extramarital-encounter-issues-apology-video/article_dce7369e-be77-11e3-9b86-0017a43b2370.html.

⁴ Ibid.

⁵ Chris Frates and Curt Devine, “First on CNN: Husband on Kissing Congressman: ‘He Has Wrecked My Life,’” CNN, April 8, 2014, http://politicalticker.blogs.cnn.com/2014/04/08/husband-on-kissing-congressman-he-has-wrecked-my-life/?hpt=hp_t2.

⁶ Trip Gabriel, “Amid Charges of Hypocrisy, Louisiana Lawmaker Faces Calls to Step Down,” *New York Times*, April 13, 2014, https://www.nytimes.com/2014/04/14/us/amid-charges-of-hypocrisy-louisiana-lawmaker-faces-calls-to-step-down.html?_r=1.

⁷ Melinda Deslatte and Bill Barrow, “La. Congressman Says He Won’t Heed Republicans’ Call to Resign,” AP, PBS News Hour, April 11, 2014, <https://www.pbs.org/newshour/politics/louisiana-congressman-says-wont-resign-caught-kissing-someone-elses-wife>.

⁸ Gabriel.

⁹ This notion of “enlightened self-interest” is perhaps most eloquently explained by Tocqueville in his chapter titled “How the Americans Combat Individualism by the Doctrine of Self-Interest Properly Understood” from *Democracy in America*. Alexis de Tocqueville, *Democracy in America*, ed. J.P. Mayer, trans. George Lawrence (New York: HarperPerennial, 1988): 525-58.

¹⁰ John 8:7 NRSV.

¹¹ Mario Trujillo, “‘Duck Dynasty’ Star Knocks ‘Kissing’ Congressman,” *The Hill*, September 8, 2014, <http://thehill.com/blogs/blog-briefing-room/216956-duck-dynasty-patriarch-knocks-mcallister>.

¹² Jeremy Alford, “McAllister Becomes Target of Duck Shoot,” *Shreveport Times*, September 8, 2014, <http://www.shreveporttimes.com/story/opinion/2014/09/09/mcallister-becomes-target-duck-shoot/15285449/>.

¹³ Vance McAllister, “Vance McAllister ‘Blessed,’” Vance McAllister, YouTube, September 22, 2014, campaign commercial, <https://www.youtube.com/watch?v=Esc5zCjP2Q>.

8. UNCOMMON CORE

Compared to their peers in other nations, American primary and secondary school students are pretty average. On international standardized reading, math, and science tests, the United States is usually somewhere in the middle of the rankings. These scores always generate much consternation in the U.S., as they suggest American students are not as well educated (particularly when it comes to math) as students in high-scoring nations like Singapore, South Korea, Estonia, Canada, and China. Yet American scores are also statistically similar to other “average” nations, which means focusing on rankings alone can be somewhat deceiving. What can be said is that when it comes to education (or at least the academic skills tested at certain grade levels on these tests) the United States doesn’t crack the top ten globally, gets results similar to many other comparable nations while finishing well ahead of other countries, has not seen a marked improvement in its scores over the past twenty years, and still struggles to improve the scores of low-income and minority students.¹

The obsession with international test scores isn’t just a matter of national pride for American leaders. There is a concern that American workers will need to be highly educated in order to compete and thrive in a post-industrial global economy that places a premium on information processing and innovation. American workers and the American economy risk being outpaced by foreign competitors if they are not learning in school the skills a 21st century economy will demand of them.

With these concerns in mind, the National Governors Association, the Council of Chief State School Officers, and the education reform group Achieve, Inc., in 2010 created the Common Core State Standards, which was quickly backed by the Obama

administration. Common Core aimed to standardize what was taught at every grade level from kindergarten through twelfth grade so that school curricula and instruction throughout the nation reflected internationally benchmarked standards and practices in language arts and math. Common Core also sought to raise academic standards across states. Nearly a decade earlier, President George W. Bush's signature education program, the No Child Left Behind Act (NCLB), had required states to set educational standards and administer standardized tests measuring student progress; states, however, could set their own statewide standards, leading some to establish easier goals in order to avoid the law's penalties for low achieving schools. Common Core looked to end this practice with the help of Obama's Department of Education, which granted states waivers on NCLB's enforcement mechanisms if they adopted and tested in accordance with Common Core's standards. States were not required to adopt Common Core, but Texas, Virginia, and Minnesota still received waivers by proving their own standards effectively prepared students for college and careers.²

Common Core initially had broad bipartisan support, with 63-65% of both Republicans and Democrats supporting the initiative. By the end of Obama's presidency, however, support among both parties had slipped under 50%, with only 35% of Republicans approving it.³ Reasons for opposition were varied. Some Democrats felt Common Core did not do enough to undo the heavy-handed legacy of No Child Left Behind. Teachers bristled at the program's prescriptive design or felt they were not given enough preparatory material to implement it. Public school advocates argued Common Core advanced the interests of charter school and voucher advocates. Republicans—many of whom had earlier championed NCLB as a long overdue reform that could fix

underachieving local schools—now feared the loss of state and local control over education policy; that a Democratic president had thrown his weight behind the plan only added to their unease. Parents voiced displeasure with the new and unfamiliar way math was being taught to their children and complained that subjects such as science and social studies were being shortchanged. And as nearly everyone complained of fatigue over high-stakes standardized testing, Common Core only seemed to double down on the practice.⁴

The GOP's loss of faith in Common Core proved something of a problem for Republican governors running for president in the 2016 electoral cycle. The federal government pushed Common Core, but it mainly fell upon state governments and their governors to adopt and implement it. Most states did so as a way to escape the NCLB's requirements while staying onboard the education reform movement. Yet by 2015, a governor's association with Common Core often proved to be a liability.

Consider, for instance, Louisiana Governor Bobby Jindal. With Jindal's support, Louisiana adopted Common Core in 2010. Two years later, he named a Common Core supporter state superintendent of education and praised the program as an initiative that "will raise expectations for every child."⁵ By the fall of 2013, however, he began to waffle. At a rally for school vouchers, without mentioning Common Core, he insisted the state was "not going to move one inch off more rigorous and higher standards for our kids" but also expressed concern about Washington's role in state education policy.⁶ Less than a year later, citing the federal government's increased involvement in curricular matters and parental opposition, Jindal backed further away from Common Core, writing in a *USA Today* editorial, "I have news for Washington: We can have rigorous standards

without giving control to the federal government. Parents deserve a voice in this debate.”⁷

Finally, in May 2014, the governor solidified his newfound opposition to Common Core by relating it to the failure of “centralized planning...in Russia.”⁸ Reacting on Twitter, conservative firebrand Michelle Malkin wrote, “Jindal was for [Common Core] before he was against it,” a gibe, as will be seen shortly, that would have resonated with those familiar with the history of political vacillations.⁹ *PolitiFact* rated Jindal’s change of mind a “Full Flop” on their Flip-O-Meter.^{10*}

New Jersey Governor Chris Christie was also an early proponent of Common Core. In 2011, he described the program as “a building block in our state’s education system meant to ensure that teachers and districts can innovate within a framework of high expectations and accountability.”¹¹ Two years later, with Republican opposition to Common Core growing, Christie reaffirmed his support at the KIPP School Summit in Las Vegas:

We are doing Common Core in New Jersey and we’re going to continue. And this is one of those areas where I have agreed more with the President than not. And with Secretary [of Education Arne] Duncan. They haven’t been perfect on this, but they’ve been better than a lot of folks have been in terms of the reform movement. I think part of the Republican opposition you see in some corners in Congress is a reaction, that kneejerk reaction that is happening in Washington right now, that if the President likes something the Republicans in Congress don’t. If the Republicans in Congress like something, the President doesn’t. It is this mindset in D.C. right now that says we have to be at war constantly. Because to not be at war is to show weakness and to show weakness leads to failure. And, I just don’t buy that.¹²

* According to *PolitiFact*’s website, *PolitiFact*’s Flip-O-Meter feature is only intended to measure a politician’s consistency on an issue as a matter of fact. It is not intended to make a normative judgment about the politician or the acceptability of the flip-flop. See Bill Adair, “Principles of *PolitiFact* and the Truth-O-Meter,” *PolitiFact*, February 21, 2011, <https://www.politifact.com/truth-o-meter/article/2011/feb/21/principles-truth-o-meter/>.

In July 2014, however, Christie initiated a review of Common Core in New Jersey. By the end of that year, he began to express “real concerns” with the program.¹³ At CPAC in 2015, during an interview with FOX News host Laura Ingraham (who asked him why he didn’t follow Virginia’s example and establish standards independent of Common Core in New Jersey) Christie expressed “regrets” over the program’s implementation and lamented the “heavy foot of the federal government” and the loss of “local control” over setting the educational standards.¹⁴ While campaigning in Iowa a few months later, the governor decried “the way the Obama administration has tried to implement it through tying federal funding to these things.”¹⁵ A few months later at Burlington County College in New Jersey, Christie said,

It’s now been five years since Common Core was adopted and the truth is that it’s simply not working. It has brought only confusion and frustration to our parents, and has brought distance between our teachers and the communities where they work. Instead of solving problems in our classrooms, it is creating new ones, and when we aren’t getting the job done for our children, we need to do something different.¹⁶

Christie did confirm New Jersey would continue to use standardized tests calibrated to Common Core in New Jersey schools. Writing on NJ.com in response to Christie’s flip, op-ed contributor Tom Moran observed, “[Christie] was for [Common Core] before he was against it.”¹⁷ *PolitiFact* rated Christie’s change of mind a “Full Flop” on their Flip-O-Meter.¹⁸

Wisconsin Governor Scott Walker also flip-flopped on Common Core, but his switch was a little more ambiguous. Walker was never a loud supporter of Common Core, but his administration embraced it as a matter of policy. His first state budget as governor in 2011 directed Wisconsin’s Department of Public Instruction to develop a test to “measure mastery” of Common Core standards. A year later, a task force Walker

formed and chaired boasted of Wisconsin's early adoption of Common Core and recommended developing learning standards in accordance with the program. Common Core was an apparent point of agreement between himself and Wisconsin's Democratic state superintendent of public instruction. But in 2013, Walker's second state budget forbid the Department of Public Instruction from "requiring" Wisconsin schools to continue enactment of Common Core while leaving previously adopted Common Core standards in place. Early in the following year, after stating Common Core standards weren't tough enough and had not originated in Wisconsin, the governor announced a plan to create a commission to review Common Core. This was followed in July 2014 with a terse, one sentence statement reading, "Today, I call on the members of the state Legislature to pass a bill in early January (2015) to repeal Common Core and replace it with standards set by people in Wisconsin." Yet on the date of his re-inauguration in 2015, Walker's press secretary called for a repeal of Common Core while remaining open to allowing school districts to opt-out of the program on their own. *PolitiFact* rated Walker's change of mind a "Half Flip" on their Flip-O-Meter.¹⁹

Each of these governors stand accused of flip-flopping, one of politics' most reviled forms of hypocrisy. A flip-flop is an instance in which someone changes their position on an issue or principle, typically to a position nearly opposite their original position. The term is popularly used as a pejorative, as a person accused of flip-flopping is charged with adopting a position improperly inconsistent with past views.

Some of the most notorious cases of hypocrisy in politics are considered flip-flops. One of the most prominent examples involves President George H.W. Bush, who agreed to a tax increase with congressional Democrats as part of the 1990 budget

agreement despite having declared, “Read my lips: No new taxes,” during his acceptance speech at the 1988 Republican National Convention. That broken promise—described by Republican campaign consultant Ed Rollins at the time as “the most serious violation of any political pledge anybody has ever made”²⁰—contributed to Bush’s defeat in 1992 by disenchanting conservatives and other voters who would have otherwise been inclined to turn out for him at the polls.²¹ But perhaps the most famous example—and the one most often cited as a cautionary tale—is Democratic Senator John Kerry’s shift from voting to authorize military action in Iraq in 2002 to opposing the war there while running for president in 2004. President George W. Bush’s re-election campaign weaponized Kerry’s switch to raise questions about Kerry’s sense of conviction, most memorably in a television ad featuring footage of Kerry windsailing as a narrator wondered,

In which direction would John Kerry lead? Kerry voted for the Iraq War, opposed it, supported it, and now opposes it again. He bragged about voting for the \$87 billion to support our troops before he voted against it. He voted for education reform and now opposes it. He claims he’s against increasing Medicare premiums, but voted five times to do so. John Kerry: Whichever way the wind blows.²²

Kerry didn’t help counter his reputation as a flip-flopper when, after being asked about his vote against the \$87 billion appropriation bill for military operations in the Middle East, he replied, “I actually did vote for the \$87 billion before I voted against it.”²³

It is generally assumed citizens dislike flip-floppers. As posited by Anthony Downs in 1957, rational voters would certainly prefer candidates they judged “reliable” (defined as someone whose “policy statements at the beginning of an election period...can be used to make accurate predictions of [their] behavior”) and “responsible” (defined as someone whose “policies in one period are consistent with [their] actions...in the preceding period”) as such characteristics suggest to voters that a politician will

reward their voters' support and the effort their voters put into voting by delivering on their voters' political preferences.²⁴ Alternately, voters would likely regard a politician who changed their positions on policies as an unpredictable representative who couldn't be trusted to deliver or build upon campaign pledges and policy legacies. Without a greater degree of certainty concerning how their vote would translate into actual policy, voters would be inclined to withdraw their support for the flip-flopper.

Social science research also indicates flip-flopping can disadvantage politicians. A series of studies by Michael Tomz and Robert P. Van Houweling have shown that flip-flopping damages the reputation of politicians even when the politicians adopt positions more closely aligned with their supporters.²⁵ This is probably because the shift in positions suggests to voters the politician is open to changing their mind, leaving voters to wonder what other positions the politician might be willing to abandon as a matter of political expediency. Indeed, as modeled by Patrick Hummel, candidates are constrained by the costs of flip-flopping as they contemplate moderating their positions for a general election following primary campaigns in which they hewed closely to the positions of ideological partisans.²⁶ Additionally, Navin Kartik and R. Preston McAfee have shown it can be more advantageous for a politician to stand by an unpopular position (rather than switch positions) in order to exhibit character, integrity, and conviction.²⁷ As President Bill Clinton said while analyzing the Democrats' defeat during the 2002 midterm elections (which occurred just over a year after the 9/11 attacks and in the midst of a national debate over military intervention in Iraq) "When people are feeling insecure, they'd rather have someone who is strong and wrong rather than somebody who is weak and right."²⁸

Yet other studies suggest the evidence against flip-flopping is more mixed. David Doherty, Conor M. Dowling, and Michael G. Miller have found that while switching positions can be costly for a candidate, voters also prefer candidates who switch to positions closer to their own than maintaining fidelity to a position they dislike. Voters are also more likely to tolerate a flip-flop depending on the issue, how much time has passed between adoption of the original position and the flip-flop, and if overwhelming majorities support the new position.²⁹ Research by Sarah Croco indicated the sanction on flip-flopping is overstated, as most citizens will tend to disregard a policy switch so long as the flip-flopper adopts a policy they support; this suggests the strategic advantage of flip-flopping should not be discounted.³⁰ The perceived competence of a politician can also lessen the backlash over a flip-flop, as Ayala Yarkoney Sorek, Kathryn Haglin, and Nehemia Geva found.³¹ These studies suggest flip-flopping is not viewed in isolation by citizens, but is accounted for alongside other political considerations.

Real world examples also show voters do not reflexively punish flip-floppers. Just consider the career of New York Democratic Senator Kirsten Gillibrand, who was appointed to fill the vacated Senate seat of Hillary Clinton in 2009 after Clinton resigned to become Secretary of State. Gillibrand had been elected to the House in 2007, representing a large district in northern New York that trended conservative. Her voting record on gun issues in the House reflected her constituency: She defended the rights of hunters and signed an amicus brief asserting the rights of individuals to own handguns. Gillibrand received an “A” rating from the National Rifle Association (NRA) in her 2008 re-election bid and touted the group’s endorsement on her House website.³² Once she became a senator representing one of the most liberal states in the union, however,

Gillibrand became an ardent supporter of gun control legislation. One of her first votes as a senator was in opposition to gun rights legislation that was similar to a bill she had supported in the House just five months earlier.³³ When she ran for re-election to the Senate in 2010, the NRA gave her an “F” rating.³⁴

Owing to her record on gun issues as well as immigration and gay rights, many liberals initially expressed unease about Gillibrand’s appointment to the House. New York Representatives Carolyn Maloney, Steve Israel, and Carolyn McCarthy (whose husband was a victim of gun violence) contemplated primary campaigns against her.³⁵ Those challenges did not materialize, however, as Gillibrand morphed from a centrist Democrat into a reliable liberal. She easily dispatched her lone primary contender in 2010 by winning 76% of the vote and cruised to re-election with 63% support. Two years later, after facing no primary competition, 72% of New York voters delivered Gillibrand a full six-year term. She has since said she “didn’t do the right thing” concerning her votes in favor of gun rights in the House.³⁶

Despite people’s apparent disdain for flip-flopping, it does seem citizens have a certain amount of tolerance for it. It may even be that when it comes to flip-flopping, citizens are the best judges of its acceptability, as those affected by a flip-flop—whether that flip-flop is a betrayal of a politician’s supporters (i.e., George H.W. Bush’s flip-flop on taxes) or an attempt to more closely align a politician’s views with their base (i.e., Kirsten Gillibrand’s flip-flop on guns)—are almost always in a position to effectively punish or reward a flip-flopper (or a flip-flopper’s party) for their maneuver. If they feel they’ve been betrayed or that the flip-flop indicates the politician is untrustworthy, unprincipled, or unwise, citizens can rescind their support; on the other hand, if citizens

for whatever reason find the flip-flop acceptable, they can back the politician in the voting booth.

This suggests an important difference between the way most flip-flops and most double standards work: Whereas a politician's supporters are often not inclined to punish a politician for using a double standard since double standards usually disadvantage shared political opponents, a politician's supporters are more likely to punish a flip-flopper since flip-flops typically trade on the trust and backing of a politician's supporters, who themselves may feel disadvantaged or vulnerable as the result of a flip-flop. By extension, while disciplining a double standard often requires a partisan to set aside partisanship in the name of civic virtue, fairness, and equal justice under the rules and law, partisanship alone can often effectively police flip-flops.

It should be said, however, that politicians will not automatically get away with flip-flopping whenever they switch to a position more popular with fellow partisans. As Tomz and Van Houweling found, flip-flopping can damage a politician's reputation among supporters even when flipping to their supporters' preferred position by suggesting the politician is willing to put their own political survival ahead of principle and their established (and in this case, shared) beliefs concerning the public good. Kartik and McAfee even demonstrated it may be more advantageous for a politician to stand-by an unpopular position to avoid the reputational damage of flip-flopping. And of course, non-partisans who judge politicians on their character will likely be turned off by a politician who appears to be chasing votes rather than acting in accordance with their beliefs and judgment concerning what is best for the political community. As these arguments suggest, flip-flopping is not always evaluated according to a purely political

calculus; for many citizens (as well as this study) what matters is what the flip-flop says about the judgment of someone entrusted with the stewardship of the public good.

In a democratic republic like the United States, politicians speak the language of public reason. Their political beliefs are derived from a vision of the public good all citizens can identify with. The policies they support are justified with references to those beliefs. It can be assumed politicians endorse those policies as the best way to realize the public good. Even when a politician appears to endorse a policy narrowly tailored to the interests of a specific group or constituency, they can often defend their position by referencing reasons attached to the public good.

Citizens assume politicians should be motivated by and act in accordance with the public good. Consequently, they frown upon flip-flopping. A politician's political beliefs, attached as they are to the public good, should not be easy to discard. It is assumed such beliefs are born of deep conviction and serious thought. Granted, some policy decisions are tough calls and politicians could easily break one way or the other on them. Yet politicians are still expected to make those hard decisions and take ownership for them. If they do swap positions, they would need to do so in light of the public good; that is, they would need to explain why, in their judgment, their new belief or position is a better reflection of their understanding of the public good. What would not be acceptable would be for a politician to flip-flop and essentially disavow their understanding of the public good solely to improve their electoral odds.

It is permissible for politicians to change their minds under certain conditions. Perhaps the most legitimate reason for flip-flopping involves changed circumstances—i.e., the acquisition of new information, exposure to new perspectives, or revelations

about the consequences of political action—that are significant enough to prompt a politician to alter a position or belief as it relates to the public good. It is reasonable for people to change their minds after learning something new or being exposed to new ideas. It’s happened to everyone, and it can happen to politicians too. Few people would probably want a politician so inflexible or afraid of becoming a hypocrite that they would never alter their positions even in the face of information or perspectives that render their positions untenable or unwise, especially in light of the public good.

Additionally, real world developments sometimes reshape people’s views concerning political matters. It is easy to imagine how new events—for example, an economic downturn, a national security crisis, or a policy failure—might prompt a politician to jettison an old position and adopt a different one. Some citizens—particularly those most devoted to an ideological agenda—may object to flip-flopping even under this scenario on the assumption that preferred ideological solutions to problems are more optimal in the long term even if they result in short term pain. Yet many would also understand why a politician changed their mind on an issue or principle upon realizing their old views and policy prescriptions no longer adequately addressed current circumstances. This is what perhaps redeems George H.W. Bush’s flip-flop on tax hikes in the early 1990s: Faced with a ballooning deficit and a shortage of revenue that imperiled numerous government programs, Bush sought to address that pressing problem by forging a compromise with Democrats that entailed a violation of his “no new taxes” pledge.³⁷ While that flip-flop alienated Bush’s Republican base, according to the Committee for a Responsible Federal Budget, it played a significant role in shoring up government spending and generating the budget surpluses that would emerge by the

close of the decade.³⁸ By 1990, it had become clear to Bush at least that his blanket opposition to tax hikes was no longer consonant with the public good.

Republican Rep. Steve LaTourette (OH) also cited new developments to explain why he in 2011 no longer considered himself bound to a “Taxpayer Protection Pledge” he signed in the mid-1990s. That pledge, sponsored by conservative activist Grover Norquist’s Americans for Tax Reform, was created to bind politicians to a promise not to raise taxes of any kind while in office. Signing the pledge became an important litmus test for Republican candidates. Concerned about the federal budget deficit, however, and holding out hope that a bipartisan grand bargain could be struck that might balance the budget through a compromise package of spending cuts and tax increases, LaTourette renounced the pledge he had signed eighteen years earlier, saying it had expired “like milk in a refrigerator.” Said LaTourette,

Although my instinct is not to raise taxes, when I signed this pledge in 1994, unemployment was 6 percent, and the federal deficit was \$4 trillion instead of today’s \$14 trillion. The number one movie was *Lion King*. The world was different. To say that you have signed for life, no matter what the circumstances are, I believe would be an abdication of my responsibility.³⁹

All said, however, citing changed circumstances does not automatically excuse flip-flopping. Some might argue a promise—no matter the circumstances—is still a promise one is obligated to uphold. (As Norquist said in response to LaTourette, “Commitments in principle don’t have an expiration date.”)⁴⁰ Even if one is not persuaded by the claim that promises must be upheld even after circumstances have changed, it is still necessary to determine if circumstances really have changed, if what has changed is relevant to the policy or belief under re-evaluation, or if circumstances have changed enough to merit a switch in position. And even in the event of changed

circumstances, citizens may legitimately wonder if a flip-flop understood as a corrective act calls for a re-examination of the flip-flopper's original position and the judgment and motivations that informed that position. (Along these lines, it's fair to wonder if Bush should have made his "no new taxes" pledge in 1988 if some of his advisers believed he might have to break it. And if he *knew* economic circumstances suggested he was going to have to walk back that pledge, one can wonder if he intentionally misled voters with a false promise to enhance his own electoral prospects.)⁴¹

With all this in mind, it is possible now to review Jindal, Christie, and Walker's flip-flops on Common Core. The fact is Common Core did not change much from when the governors adopted the program to when they rejected it, which makes the reasons they gave for flip-flopping dubious. Common Core was always a set of prescriptive national standards keyed to international benchmarks. States had discretion in building curricula around those standards, but the point was to establish a consistent set of standards across states to raise standards and educational achievement nationwide. It's hard for the governors to claim they lost faith in the program upon learning just how prescriptive and nationalized Common Core was since that was the kind of program they signed up for in the first place. If the governors claimed they only learned this after Common Core had been implemented in their state, then it seems legitimate to question just how carefully they evaluated the program prior to adopting it. Because the nature of Common Core did not change over time, the flip-flop does not reflect well on those who claimed they changed their minds because the program changed. Such an excuse suggests the governors were either negligent in their initial assessments of the program or

ultimately abandoned a program that consistently met their established standards for what constituted good state educational policy.

There may be a little more room for the governors to flip-flop on Common Core when it comes to the idea that the federal government's implementation of the program grew too heavy-handed for their states. This suggests there may have been extra administrative burdens added to the program that they had not anticipated, making the program too onerous to carry out and comply with. It is not entirely clear what these unforeseen administrative burdens were, however, or if they went beyond the extra work that a reasonable person would expect to deal with during a transition to a new program. Some might also argue this claim alone is a relatively minor complaint that does not warrant a complete reversal on Common Core.

It is hard not to see these flip-flops on Common Core as electorally motivated. When Jindal, Christie, and Walker adopted Common Core in their states, the program was popular and at the cutting edge of the education reform movement. By the time the governors turned on Common Core, the initiative had grown unpopular (particularly among Republicans, whom their presidential aspirations relied upon) and the education reform movement had worn out its welcome. It may even have been that the governors didn't really have any overriding convictions concerning education policy in the first place; maybe they just concluded they would follow whatever policy was popular at the moment in order to remain aligned with popular opinion on an issue that wasn't a priority for them to begin with.

And frankly, it's fair to wonder if there's anything wrong with that. So far it has been argued politicians ought to pursue policies that correspond to their understanding of

the public good and should not abandon that pursuit for the sake of their own political survival. Yet when politicians flip-flop to improve their political advantage, that also means they have in all likelihood aligned their views with a position that is in some way more popular than their old position. And in a democracy—a form of government that is supposed to be responsive to the people—what exactly is wrong with a politician endorsing the preferences of the people? The citizens of a democracy may even praise a politician for listening to the people and changing his or her position on an issue in order to better reflect the views of the people. And if the people themselves can flip-flop on an issue like Common Core, why shouldn't their representatives—particularly those they otherwise admire—be able to do the same? How many people would actually prefer a politician who remained defiantly out-of-step with the people's views?

There are limitations to such an approach. A politician shouldn't abandon a core principle in the face of popular opposition, just as they shouldn't sacrifice key democratic principles to political expediency. But there is something to admire in a politician who confesses they are willing to be swayed by the public's preferences, especially when the public steps forward to say a policy isn't working or does not correspond with their understanding of the public good. The politician may need to eat some humble pie in such a case, but citizens may come to respect a politician who admits the people's evaluation of a policy ought to carry some weight in a democracy. It's basically an admission the public good is not a dictate but a collaboration.

The three governors here don't quite reach that justification for a flip-flop, however. While they do seem intent on letting the people know they hear their grievances, Jindal, Christie, and Walker seem more interested in blaming Obama and the

federal government for executing a bait and switch on educational policy than in admitting their own role in implementing the policy. By shifting blame out of state, it appears they hoped to avoid the wrath of their fellow partisans, but a quick study of the issue shows they had as much ownership over Common Core in terms of both policy and rationale as anyone else. They're going to take a reputational hit either way as flip-floppers, so instead of appearing shifty by bluffing, why not simply admit to hearing the pleas of the people in the hope of being seen as a responsive leader? Trying to justify the flip-flop with a flimsy excuse only compounds the problem associated with their reversal.

Or they could have simply stood by their initial conviction that Common Core was good educational policy that reflected their understanding of the public good. That also may have been an unpopular move, but it would have reinforced their reputation as someone averse to flip-flopping on core principles and devoted to the public good. It could have fostered trust and a grudging respect rather than suspicion. As one Republican governor from a traditionally Democratic state said in 2015 in what was interpreted as a swipe at Scott Walker, "[Building support is] not about pandering, it's not about flip-flopping on issues. People want folks who they believe believe in what they say and don't change.... The fact is you don't have to change your positions."⁴²

That governor? Chris Christie of New Jersey.

NOTES

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CONCLUSION

Politics is rife with hypocrisy. For various reasons (of both the honest and motivated kind) we are not always consistent in our reactions to that observation. Sometimes we accept the presence of political hypocrisy as an inevitable, somewhat lamentable, but largely inconsequential side effect of politics that cannot be eliminated without simultaneously depriving politics of many of the features that make it a beneficial social undertaking. At other times, we recoil in disgust at hypocrisy's prevalence in politics, regarding it as proof of politics' inherently foul and even irredeemable nature. On other occasions, we conclude we need not resign ourselves to a politics inundated with hypocrisy, and that it remains possible to practice and even expect a purer, less hypocritical politics that would earn people's admiration and respect.

Various scholars have addressed the issue of hypocrisy in politics, but, despite their insights, their conclusions have been either broadly conceptual or applicable to specific circumstances. Someone looking for more practical guidance concerning how to assess a range of allegedly hypocritical behavior will find many gaps in their arguments. This study offers a more systematic and comprehensive examination of the issue, one drawn from real world case studies and organized typologically to form a sort of "case law" concerning hypocrisy. This approach allows for a more direct engagement with political hypocrisy as it is encountered by citizens on a day-to-day basis while also allowing for a more direct comparison between cases and types. The goal is to develop a framework for assessing political hypocrisy that is more nuanced, specific, and applicable to daily encounters with hypocrisy than past works.

The most basic type of hypocrisy found in politics is a violation of principle, which occurs when someone acts in a way that is inconsistent with their own beliefs or principles concerning the right or proper way to act. In this way, the hypocrite is accused of wrong-doing according to the hypocrite's own standards. This is a powerful condemnation in liberal democratic societies where it is often difficult to resolve moral debates between rival autonomous moral visions. Someone who violates a held principle potentially damages their credibility as a moral actor and the trust they have built with others as a moral agent. An accusation of hypocrisy can be used in such circumstances to reassert the notion that politics ought to be guided and restrained by principle rather than merely serve the ambitions of the power-hungry or the whims of the powerful. (See "The Torture Report.")

Most instances of political hypocrisy, however, do not involve the violation of a single isolated principle. Instead, most accusations of political hypocrisy actually pivot on a conflict between principles, with the would-be hypocrite essentially accused of giving a principle of lesser moral significance priority over a principle of greater moral significance. It is not always easy to ascertain which principle ought to take priority over another, though, as some situations present conflicts between equally significant political principles. To head off the accusation of hypocrisy in these cases, public figures need to determine not which principle must be rejected but rather which principle in a particular situation should take priority over the other. That typically requires public figures to turn to other standards and principles for guidance. These guiding standards and principles should be applied consistently across cases. Consequently, any analysis of an alleged

hypocrisy also requires a careful analysis of the alleged hypocrite's decision-making process. (See "Supreme Rationale.")

It is unsurprising, then, that evaluations of accusations of hypocrisy inevitably involve a review of the rationale behind the accusation as well as the rationale used by the accused to defend themselves against the accusation. This leads some critics of hypocrisy to trade accusations of moral inconsistency for accusations of logical inconsistency. In these situations, the accuser implies the hypocrisy at hand is not the result of a deliberately immoral decision (even if it produces a result the accuser would consider immoral) but of faulty reasoning. Framing an allegation of hypocrisy as a logical inconsistency is appealing for a number of reasons, most notably as a way to suggest that someone's beliefs and actions are not consistent with what a rational assessment of the public good should lead them to believe. Still, people should be careful about conflating the two concepts, since there does seem to be a big difference between an act of "hypocrisy," which is a *moral* error, and a "logical inconsistency," which, if taken at face value (rather than as a contrived attempt to justify a position) is best understood as a *mental* error. In such cases, it may be more accurate to describe the offender as "mistaken" rather than a "hypocrite," with judgment centering on their mental acuity instead of their moral fiber. Furthermore, it is important to remember that people's reasoning will often lead them to different conclusions concerning their moral obligations, the terms that condition their moral obligations, which moral obligations take priority over others, and whether or not a particular action qualifies as hypocrisy. Regardless, the discovery of a logical inconsistency may be a sign that the person making the illogical claim is behaving hypocritically. (See "The Consistent Life Ethic.")

Most instances of political hypocrisy involve some sort of double standard. A double standard occurs when public actors excuse themselves or their political allies from following a principle or standard they expect other similarly situated people to follow. Double standards resemble basic violations of principle, but in the case of double standards, the violator still expects or has expected others—typically their political opponents—to follow the violated principle. Hence the “double” standard: One for themselves and their allies, and one for everybody else.

More than any other form of hypocrisy, double standards reveal how people’s aversion to hypocrisy is connected to people’s instinctive aversion to unfairness. Someone accused of deploying a double standard is accused of playing favorites when there is an expectation for impartiality or equal treatment. Consequently, when it comes to evaluating double standards in relation to hypocrisy and politics, the first question that ought to be asked is what expectation for fairness accompanies the double standard under scrutiny, with the general rule being the greater the expectation for fairness, the greater the demand to avoid the improper inconsistency attendant to hypocrisy. Interestingly, however, the greater the expectation for fairness, the more likely the incident in question won’t be described as an act of “hypocrisy” but in stronger terms like “injustice,” “discrimination,” “prejudice,” or “bias.”

People seem to reserve the accusation of hypocrisy instead for political situations in which the pursuit of partisan preference, the expression of favoritism, and strategic political maneuvering are more permissible but in which a certain expectation for fairness and other public-spirited norms remains. Democratic politics is inherently competitive—parties and politicians constantly compete with one another for political power, after

all—and neither the pursuit of political advantage nor the pursuit of political preference is necessarily problematic. Yet politics is not a competitive free-for-all, and there is an expectation—often expressed in unwritten rules, norms, and conventions—that politics should ordinarily be conducted according to principles that prevent politics from devolving from a competition of ideas concerning the best way to manage public affairs to a game of political hardball played only for the sake of acquiring power, marginalizing the opposition, and rewarding oneself and allies with the material fruits of victory.

Partisans often find themselves torn between, on the one hand, bending democratic norms in order to advance a partisan agenda that they believe embodies the public good and, on the other, honoring the norms and standards that informally govern the public sphere but that leave their partisan ambitions vulnerable on the field of political competition. In nearly all circumstances, however, partisans should prioritize the rules and norms that govern a competitive democratic political society over the pursuit of power and their partisan agenda. Accusations of hypocrisy and of double standards are often used in politics to accuse someone of inappropriately prioritizing their personal or partisan ambitions over their civic responsibilities to promote the public good and honor the public-spirited norms and principles that shape and preserve democratic societies.

While politicians do not want to develop a reputation for hypocrisy, engaging in a double standard is sometimes useful in politics when it comes to calling out the bad behavior of other politicians. Because partisans are unlikely to publicly object to the inappropriate behavior or conduct of their fellow partisans, it often falls to opposition politicians to offer the critique even though other opposition politicians are just as likely to commit the same offenses. Without these critiques—which should be offered with

humility since neither party can achieve ethical perfection but should be issued nonetheless given the expectation for ethical behavior and good conduct that accompanies service in public office—inappropriate political behavior could easily go unchecked. (See “The Latte Salute.”)

Some may argue that political hypocrisies and double standards derived from the violation of norms and unwritten rules are largely insignificant since such norms and rules are informal agreements that have no legal authority. In other words, because no one is actually obligated to honor them, violating them is permissible and always within the realm of possibility, thus rendering any accusation of hypocrisy (which depends upon the violation of a held principle) moot. But people are expected to honor unwritten rules and norms in many aspects of life including politics, where they are often used in the absence of more specific formal procedures or to dull the edge of strict legalistic processes. Most importantly, unwritten rules and norms help foster the civic habits and virtues necessary for the operation and maintenance of democratic institutions. Because these rules and norms remain unwritten, though, the parties to these rules and norms are not as beholden to them as they would be to formal rules and law. Faced with an abuse of power, for instance, a party may exercise their discretion and violate an unwritten rule. Under ordinary circumstances, however, such norms and unwritten rules should be honored; if they are violated, an accusation of hypocrisy can be used to reassert the significance of democratic norms within a democratic society. (See “Confirmation Bias.”)

In the event that unwritten rules and norms can no longer effectively regulate political competition and politics devolves to a winner-take-all game of political hardball,

political rivals may establish mediating institutions to oversee their political conflict. Once all sides accept the regulatory authority of these rules and agencies, it is incumbent on politicians to accept their rulings even when they do not rule in their favor. Failing to do so while expecting otherwise of their opponents leaves them seriously exposed to the charge of a double standard. (See “Settling the Score.”)

Another type of double standard often found in politics involves instances of personal failings, or moments when a politician’s private behavior is inconsistent with values they have publicly embraced and that are presumably attached to the politician’s vision of the public good and the good society. The political implications of personal failings, however, are not always clear. A private indiscretion does not necessarily unfairly disadvantage an opponent or alter policy outcomes within the competitive political arena. A personal failing may simply reflect poorly on the character and reputation of the hypocrite. Consequently, it becomes important to determine when a double standard involving a discrepancy between a politician’s private and public life becomes politically significant.

One can make a strong argument that a politician’s private conduct ought to have little bearing on a citizen’s assessment of the politician’s public record. This isn’t simply a matter of saying a politician is entitled to a private life outside the public eye or that a person’s private behavior ought to have no bearing whatsoever on evaluations of a person’s suitability to serve in government. It is instead to argue that what should matter most in peoples’ evaluations of politicians is the politician’s political record. Yet the premises upon which citizens grant a politician the authority to lead—specifically whether a politician is selected to advance a specific policy agenda or entrusted to serve

in public office on account of the quality of their character—can implicate a politician in hypocrisy. A politician who promoted him- or herself as uniquely qualified to serve the public given their personal character and values who in turn becomes a hypocrite by violating those values in their private life would likely lose their credibility as a leader. (See “The Kissing Congressman.”)

The final type of hypocrisy commonly found in politics is the flip-flop. A flip-flop occurs when someone changes their position on an issue or principle, typically to a position nearly opposite their original position. Compared to double standards, flip-flops tend to be riskier for politicians since those who invoke double standards almost always do so to their allies’ advantage or benefit while disadvantaging their opponents. Flip-flops, on the other hand, sometimes alienate a politician’s supporters, and even when a politician changes a position in order to better align themselves with their supporters, a flip-flop can still raise questions about the politician’s judgment concerning the public good, their devotion to their new position, and their sense of conviction. Many worry that a flip-flopping politician is someone who puts their own political survival ahead of their commitment to the public good.

Yet few would argue it is impermissible for politicians to change their minds. Perhaps the most legitimate reason for flip-flopping involves changed circumstances—i.e., the acquisition of new information, exposure to new perspectives, or revelations about the consequences of political action—that are significant enough to prompt a politician to alter a position or belief as it relates to the public good. Few people would probably want a politician so inflexible or afraid of becoming a hypocrite that they would never alter their positions even in the face of information or perspectives that render their

positions untenable or unwise. In fact, shifts in popular opinion may even excuse some flip-flops since democracies should reflect the will of the people, although politicians shouldn't abandon core principles in the face of popular opposition nor sacrifice key democratic principles to political expediency.

Changed circumstances do not automatically excuse flip-flops, however. It still remains necessary to determine if circumstances really have changed, if what has changed is relevant to the policy or belief under re-evaluation, or if circumstances have changed enough to merit a switch in position. The preeminence and depth of commitment to the original position should also be taken into account. (See "Uncommon Core.")

This study marks the first steps toward the formulation of a sort of case law concerning hypocrisy in politics. Additional case studies that expand on the ideas contained in this study were developed but excluded from this work out of a concern for length. The case studies that were included, however, could be considered foundational, as they represent the different types of hypocrisy commonly found in politics, illuminate aspects key to an understanding of political hypocrisy, and draw attention to the major considerations involved in assessments of political hypocrisy. Taken together, these eight case studies lead to two major conclusions regarding hypocrisy in politics.

First, the accusation of hypocrisy tends to be used in politics in situations in which someone's allegedly improperly inconsistent behavior could reasonably be excused given certain conditions and circumstances. Unlike inconsistencies related to, for example, the unequal (and therefore unjust) application of the law to similarly situated people or instances of racial discrimination—both of which carry a heavy social sanction and are widely regarded as impermissible—the use of the term "hypocrisy" in politics is

more commonly reserved for situations in which someone might plausibly claim their apparently inconsistent behavior is actually permissible. These include (but are not limited to) situations in which the competitive nature of politics allows for partisanship, the expression of favoritism, and the pursuit of partisan advantage; rules are informal rather than legally codified and obeyed as a matter of convention and honor; and public officials have the leeway to act according to their own discretion. This does not mean allegedly hypocritical behavior is always excused in these situations, as there may still be a strong expectation for public actors to treat all political participants fairly and to honor their word; it's just that in such situations, certain circumstances may justify or allow for behavior that may be regarded as inconsistent with a public actor's earlier words and/or deeds. Accusations of hypocrisy are most frequently used in this political context to challenge allegedly inconsistent behavior.

Secondly, and following on from the previous insight, accusations of hypocrisy in politics are often used to reassert the norm of public-spiritedness, which holds that democratic politics ought to be motivated by and seek to preserve values (such as impartiality; fairmindedness; honesty; and principled, reasonable governance) that correspond with the public good. When someone charges another person with political hypocrisy, their allegation frequently amounts to an accusation that the alleged hypocrite has inappropriately prioritized the pursuit of political power and self-, group-, or partisan interests over a broader notion of the public good and the well-being of society at large. Whether the accusation can be described as a violation of principle, a logical inconsistency, a double standard, a personal failing, or a flip-flop, the underlying assertion is often that the alleged hypocrite has (often out of a desire to gain a competitive

political edge or to secure a political reward) attempted to advance a personal or partisan interest at the expense of the public interest in a way contrary to the spirit of selfless, high-minded public service.

The discovery of hypocrisy frequently draws people's attention to the moral character of the alleged hypocrite, who is often vilified by the accuser and a shocked public as (among other things) a rotten, duplicitous, amoral human being. That is a natural if somewhat superficial reaction in the realm of politics, however, as such a visceral response is often exactly what a political opponent desires, as they would like nothing more than to demonize a rival. While an accusation of political hypocrisy is certainly meant to raise questions about the character of the accused, it needs to be remembered such an accusation is made in reference to both a set of civic virtues it is believed the accused ought to possess as a public servant and a set of public-spirited principles it is believed the accused ought to have abided by. In this way, an accusation of hypocrisy in politics is actually a reassertion of a set of virtues and values foundational to life in a democratic political society as well as a healthy reminder to both the accused and the accuser—particularly in a politically polarized society—that some political values matter more than winning.

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