

The Ties that Bind: Associations and the State

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1. INTRODUCTION

Americans' trust in each other and their government has plummeted while partisan divergence has increased. Among other things, the erosion of trust fuels increased political conflicts, less effective government, and strained relationships among members of society, including friends and family. Recent events in the United States including the insurrection at the U.S. Capitol and the inability of political leaders to unify Americans in the face of the COVID-19 pandemic have underscored the fear of some pundits and scholars that the American experiment in democracy may not endure. Greater trust alone won't solve all the problems, but it's clear that without greater trust, the kind of cooperation needed for addressing the pressing problems of the 21st century—such as climate change, increasing social and economic inequality, and the threat of future pandemics—is unlikely to emerge.¹

In *Trust in a Polarized Age* (2021), Kevin Vallier takes up the serious issue of falling social and political trust in liberal democratic societies, most acute in the U.S. He aims to show that we can overcome our current predicament and realize a moral peace, and he argues that “the ordinary tools of liberal democratic law and policy are the best hope we have for arresting the decline” (2021, p. 10). Beyond its timeliness, the book is ambitious. Indeed, it is the sequel to *Must Politics Be War?* (2019) where Vallier tackled the philosophical question of whether it is rational to think that liberal democratic states give persons reason for social and political trust, both of which are necessary for stability and moral peace. In *Trust in a Polarized Age*, Vallier focuses on the practical problem of establishing a moral peace, and he argues that “certain key liberal rights create *real trust* for the *right reasons*” (2021, p. 16). To show this, he makes two types of arguments for certain liberal rights. First, he argues that empirical evidence suggests that some liberal rights practices help produce trust among fellow members of society and/or increases trust in government. Second, he argues that these rights are publicly justified. Together these arguments, if successful, would establish that there is real trust for the right reasons (2021, p. 16).

Vallier's arguments are thoughtful and carefully constructed. His work on these issues will frame discussions on social and political trust and their connection to liberal rights practices for years to come. Yet, there are serious grounds for concern about some of his arguments. In this article, we consider Vallier's arguments regarding freedom of association. He claims that moral associations, both civic and commercial, are trust building and trust enhanc-

ing. Central to his argument is that moral associations increase and cement social and political trust by exposing persons to diverse others. Further, he thinks that when persons observe others respecting the boundaries of certain rights, their trustworthiness is demonstrated. He also argues that an extensive right to freedom of association is publicly justified within the framework of a convergence approach to public justification. Here we challenge some of the arguments that Vallier makes in connection with the public justification of freedom of association. Along the way, we raise some concerns about the causal mechanism he posits between moral associations and social and political trust, too.

2. AN INITIAL QUERY

Before we examine Vallier's case that freedom of association contributes to social and political trust and is publicly justified, we raise an initial concern about Vallier's project. In short, we are worried that Vallier's arguments, even if successful, would do little to help us address falling trust in American society. Vallier defends the *distrust-divergence* hypothesis, that is, the view that "social and political distrust and partisan divergence are mutually reinforcing" (2021, p. 9). Fair enough. Again, his goal is to provide some evidence that some liberal rights practices help produce trust among fellow members of society and help increase trust in government and to show that that these rights are publicly justified. However, he also stresses in the introduction to the book that a primary cause of our present distrust is "not due to rational disagreement but to affect formation." He says, for example, that "[f]or the most part, we are emotionally rather than intellectually at odds" (2021, p. 4). One of his critical claims from *Must Politics Be War* is that observing others "comply with the directives of liberal institutions" manifests a kind of trustworthiness and "gives others reason to trust them" (2021, p. 15). However, as Vallier would admit, having a reason to trust does not mean that people will be trusting. As part of the practical problem of "distrust and divergence," what we wanted to know more about in this book is the social mechanism that might tie some liberal rights practices (in certain conditions, presumably) to trust-favorable *affect* formation. That is, what is the connecting mechanism between certain liberal rights practices and the needed affect formation? Or, perhaps, we should ask: to what extent are the arguments of the book meant to address the fact that, as he puts it, we are emotionally at odds? We are not sure if the arguments are meant to do this, and we don't think they do. In the end, Vallier's hope for a moral peace seems to rest on a rather optimistic assessment of our conditions, of persons' being responsive to reasons, and of persons' ability for affective change. Perhaps, some of Vallier's optimism is warranted; in fact, we hope so. Yet, in the face of so much animosity, mistrust, hatred and scapegoating of minorities, there is a lot of room for doubt.

3. MORAL ASSOCIATIONS, FREEDOM OF ASSOCIATION, AND TRUST

That Vallier argues freedom of association is a constitutional right—a basic, primary right—that enjoys public justification is not surprising. Any defender of liberalism will endorse this claim. Vallier's view, though, is distinct in a number of respects, and even sympathetic liberals will question some of his conclusions and his support for them. Some questions will have to do with worries about the scope of the associational rights practice he defends or the justification he offers. Other questions will concern the contributions that he takes associations to make to the social order and his firm belief that the practice of the right in actual associations enhances social and political trust. We mainly discuss our concerns in the following sections, as, in this section, our primary aim is to outline Vallier's central claims about associations.

Consider, first, Vallier's idea of moral associations and the right to freedom of association that he defends. Vallier defines moral associations by two fundamental characteristics. The first is that moral associations have moral rules that "are organized to promote a common end, a *commitment* shared by its members" (2021, p. 95). The second is that moral associations have a legal principle that concerns the association's rules of operation (2021, pp. 95-96). Vallier distinguishes two types of moral associations: civic and commercial. Civic associations, roughly, are non-governmental associations whose common end is not profit-making;

representative civic associations are religious associations, charities, service groups, and most colleges and universities (2021, p. 97). Commercial associations, by contrast, are fundamentally concerned to generate profits for their members; examples include firms, unions, professional bodies, and the like.

In the exercise of their primary right of freedom of association, Vallier claims that persons should enjoy extensive protection from interference from others, including the government, and that they should not even be subjected to moral criticism by those outside of their associations for following or not following their associations' rules (2021, pp. 94-95). Only fellow members of an association have standing to criticize or try to modify the rules or ends of an association. Non-members lack such standing, and, so, the internal workings of an association (its rules and or its procedures) do not need to be justified for non-members. Non-members should "mind their business" when it comes to association matters (2021, p. 94). Vallier does concede that in cases in which non-members are excluded from membership (based on racism, sexism, or homophobia, say), non-members *may* have standing to protest their exclusion and even take legal action (2021, p. 95). Such standing to protest discrimination, though, seems to be tied to whether the goods available or the important social functions provided through the association are otherwise sufficiently available. On this point, Vallier says, "if many associations exclude oppressed racial minorities from membership, then the members of the racial minority may have good reason [to] reject the rule excluding them from interfering with those organizations, in which case they have standing to criticize their exclusion and perhaps to seek legal or political remedy" (Ibid.). Here Vallier's view resonates with those who argue that groups that deny services to gays and lesbians should not be compelled to offer their services when there are a sufficient number of similar service providers available who do not discriminate. Still, Vallier makes an important break from some liberal views. As he seems to be defending the idea that whether an association is private (e.g., a religious association or club) or offers services to the public (e.g., a commercial firm), the permissibility of exclusion, segregated service, or the denial of goods (or access to an important social function) for non-association members is a matter of non-members' sufficient access to similar goods or social functions.² This means that, in some circumstances, Vallier's view permits associations open to the public (e.g., commercial firms) to discriminate on the basis of factors (e.g., race, gender, sexuality) currently protected by civil rights law. It also makes protection from discrimination in the public sphere dependent upon the particular beliefs, values, and practices of other members of society. Thus, the protection of some important civil rights comes down to a contingent fact: the extent to which discriminatory association practices block some persons' access to goods or some important social function.

In any case, Vallier is optimistic that the actual rights practice of freedom of association is trust enhancing—both for social and political trust. He says, "The hope is that freedom of association makes it possible for societies to have a robust, flourishing civic life" (2021, p. 89). However, sufficient data regarding commercial associations and social and political trust is not available. Some data does suggest a connection between civic associations and social and political trust, albeit the data is mixed. To the extent the data suggests that associations produce social and political trust, intergroup contact—contact between members of the association and other members of the public—is key (2021, pp. 90-91). But, at the same time, such contact may produce prejudice and distrust. It depends on the conditions. In presenting the empirical evidence, Vallier draws on a literature review by Thomas Pettigrew and Linda Tropp showing that, in fact, intergroup prejudice can be reduced under certain conditions, including, notably, equal power and status among the group members when they interact. Note that this meta-analysis doesn't claim that intergroup contact increases trust, only that it *can* reduce prejudice under highly constrained conditions. Given that Vallier is concerned with real-world trust, there is good reason to doubt that the prejudice reducing conditions in the study obtain in many contexts in the U.S. Vallier thinks that "association membership in toto seems to increase trust because it increases contact with the public" (2021, p. 91). Again, we are skeptical. It seems like it all depends on the conditions and that makes it not simply a matter of freedom of association. Further, in a society with the sort of rules that Vallier thinks would be publicly justified (given his commitment to convergence liberalism and the views of moderately idealized counterparts of real-world people), we also question whether the prejudice reducing and trust building conditions needed would obtain. As we

explain below, given diversity, convergence theorists claim that it is to be expected that fewer rather than more rules are publicly or subpublicly justified. This, of course, would include rules or policies that aim to ensure conditions for social equality in various contexts.

This brings us to Vallier's case for the public justification of freedom of association. His argument begins from the claim that, while the internal rules and procedures of an association need not be publicly justified for all members of society, the rules of an association must be subpublicly justified for its members. For example, if a religious institution only allows men to have positions of power and authority in the association, that only needs to be justified for members of the association (and not for all members of society). On his view of public justification, "a moral rule is publicly justified only if each member of the public has sufficient intelligible reason to comply with and internalize the rule" (2021, p. 35). And, so, for associations, a moral rule is subpublicly justified only if each member of the association has sufficient intelligible reason to comply with and internalize the rule. Any associational rule for which any member of the association has a defeater fails to be subpublicly justified.

Insofar as a society with only moral rules "will be uncertain, ineffective, and static" (2021, p. 36), Vallier thinks that laws are needed. However, Vallier claims that "laws are publicly justified when they help us follow moral rules that are justified for us or amplify the existing legal order in a similar fashion" (2021, p. 37, note omitted). Primary rights, which are understood as constitutional rules, are among the laws needed. These rights are the kind of right "that all would want regardless of their rational plan of life or conception of justice and that persons are willing to extend to others on reciprocal terms" (2021, p. 102). Freedom of association, as indicated above, is this kind of right. He claims that its importance stems from the facts that almost any conception of the good involves persons being able to engage with each other in associations and that associations of various sorts are needed for projects related to many persons' sense of justice. Further, Vallier emphasizes that persons have publicly justified rights of agency and that freedom of association allows persons to "develop, protect, and expand their agency" (Ibid.).

To determine the primary rights that are justified, Vallier claims we need to consider what would be justified for the moderately idealized counterparts of real-world persons given a thin veil of ignorance that only conceals the power and status of persons (2021, p. 40). Those facts are blocked so considerations of political hegemony (theirs or others) don't affect the selection of rules. All else is known. Vallier imagines that the thin veil of ignorance makes persons "somewhat risk-averse" in the sense of "keener on seeking protections for their rights than on seeking hegemony over others" (2021, p. 102). Again, freedom of association supports rights of agency and pursuing a view of the good and of justice, and, so, moderately idealized members of the public "would choose equal extensive rights of association" (2021, pp. 102-103).

As a result, Vallier claims that the state's power to legitimately interfere with moral associations is quite limited. Recall that he holds that legal rules are only needed because a society with mere moral rules will be "uncertain, ineffective, and static" in various ways. Where publicly or subpublicly justified moral rules, including the moral rules of associations, are either "adequate" (2021, p. 98) or more effective than the state (2021, p. 103), the state should not interfere. In such cases, Vallier says that the state "lacks any priority over the liberty of associations" (Ibid.). Legitimate state interference with respect to freedom of association includes enactment of just the law and policy needed "to protect freedom of association, render it determinate, and resolve disputes about its extent" (2021, p. 102). The state may also interfere if "the organization imposes some harm or restriction on nonmembers based on an unjustified/defeated rule" (2021, p. 98). So, for example, as noted above, Vallier thinks that if enough moral associations had exclusionary race-based membership rules, it may be permissible for the state to intervene. In this case, justified interference is based on justified rules that the state is better suited to enforce.

From his argument for the public justification of freedom of association as a primary right, Vallier claims it follows that "activities that involve the codification, protection, appropriate reform, and expansion of primary associational rights should serve as touchstones of trustworthiness" (p. 103). As "all can see" that such rights are publicly justified, actions that respect and protect such rights should count as "evidence of the trustworthiness" of those undertaking such actions. In short, such actors are signaling they not only do

not wish to dominate others by undermining their right to association but, also, that they wish to secure their rights to associations on an equal basis.

4. DIVERSITY WITHIN MORAL ASSOCIATIONS

Having captured the core features of the view, we now focus on some concerns. In this section, we argue that Vallier fails to adequately consider diversity *within* associations and that the fact of diversity within associations may present challenges for the extensive right of freedom of association he defends. In short, we argue that given the principle of public justification that he endorses, many of the rules of moral associations will not be subpublicly justified. Persons may remain in these associations, even though they have freedom of exit and even though they lack the power to change to the rules, because they need or want access to certain goods that flow from the association. Insofar as the protective posture that Vallier takes toward associations depends on the claim that associations provide important social functions or social goods to their members in accordance with rules and practices that are justified for members, then Vallier's protectionist stance may be unwarranted. This is to say that we think the high bar of justification that Vallier adopts for association rules may serve to undermine his argument that we should leave associations alone because they provide goods to members on grounds that are justifiable for them. Associations are and have been run by those with the most privilege and with the power to enforce their preferred rules on others. Appreciation of this is strangely absent from Vallier's discussion. Consider our case.

Again, Vallier's account of the public justification of moral and legal rules is a type of convergence theory.³ Convergence theorists emphasize that their view is distinct in its unwavering opposition to authoritarianism and its respect for real-world diversity. Their commitments result in the view's "classical tilt" when it comes moral and legal rules for society (Gaus 2011, pp. 497-529). The basic idea is that, given the diverse beliefs and values of persons, it is to be expected that, there will be fewer rather than more justified moral and legal rules. Convergence theorists think that, when persons enjoy certain freedoms, a diversity of views held by members of society is inevitable. With Rawls, they recognize the burdens of judgment, which include that theories are always underdetermined by the evidence and that people who make no formal mistakes in reasoning can differ about how to interpret evidence as well as how to weigh and order values (Vallier 2019, p. 20).⁴ Vallier also stresses Hayek's (2019, pp. 20-21) observations about pluralism, including that persons "organize subjective percepts in cognitively unique ways" and that given cognitive limitations individuals can only consider limited aspects of complex social phenomenon.

Vallier doesn't say much about diversity *within* associations, though, in his justification for an extensive right of freedom of association. Such diversity is worth considering. Let's return to the idea of moral associations. A distinguishing feature of associations is that they promote a common end. So, presumably, voluntary members of moral associations have something in common when it comes to their beliefs and values. Indeed, they may have many values and beliefs in common. And, some rules of moral associations may even be justified for some members for the same reasons. Of course, the rules of moral associations may be justified for members of the association for different reasons, too.

Still, despite some commonality, there is good reason to think that there will be diversity in the beliefs and values of members of moral associations. Moral associations are concerned with some end or ends of persons, but, even assuming persons are reasoning well, individuals may think about the ends they share with others in different ways and disagree about what will promote these ends. Moreover, members of associations have other beliefs, values, projects, and commitments, too, and they will have to reconcile their various beliefs, values, and commitments. Moral associations also differ considerably with respect to the scope and specificity of their common end(s). For example, sports clubs have a limited scope and specific ends, but religious institutions tend to have ends with greater scope and generality. Of course, when common ends have a large scope or less specificity, there is likely to be more divergence about what is needed to promote the end. Further, there is likely to be more divergence in the views of members of large associations than smaller ones as the more people there are, the more likely that some may see matters differently

even when they are reasoning well. All this is to emphasize diversity *within* associations and to note that the upshot of diversity within associations is that, generally speaking, we should expect fewer rather than more subpublicly justified rules for members of moral associations.

Sometimes diversity within an association leads to persons leaving an association and, in some cases, forming a new one. But, diversity within associations doesn't always lead to that. As Vallier says, for some, association membership is a central part of their identity (2021, p. 100). These persons may be free to exit, but they may be committed to the common end, even if they understand it differently than some others or disagree about what respecting it requires.

There is no shortage of examples of moral associations that have rules that are not subpublicly justified for all their members given the standard of public justification that convergence theorists employ. As a matter of fact, often the rules of moral associations reflect the interests of those in power. This is true of religious associations, colleges and universities, organizations for women's rights, etc. For example, women of color in the United States have long protested the fact that even when they were permitted membership in associations formed to advance women's rights the rules of the association reflected the interests of the most privileged women, those who were White, middle-class, and straight. It doesn't follow from the fact that persons voluntarily continue to participate in moral associations and comply with their rules that the rules of an association are justified for all members. Sometimes people who are committed to an end will follow rules related to that end that are not justified for them because they lack the power to change them. And, sometimes, people voluntarily participate in moral associations and comply with rules not because they are committed to association's end but because the association provides them with goods or services that are not available or more costly to receive elsewhere.

Vallier, of course, would recognize that many moral associations have some rules that are not subpublicly justified for members, and we think he would be sensitive to certain facts about associations that make the public justification of rules within moral associations difficult. However, we don't think that he appreciates some of the problems or tensions diversity within associations creates for his argument.

Take the Catholic Church as an example of a moral association with a diverse membership. It is a large religious institution with many, many rules. These rules, among other things, forbid women from becoming priests, prohibit priests from marrying, and ban the recognition of same-sex marriage. There are many Catholics who do not endorse these rules and claim they are unjustified. For example, in a recent article in *The New Yorker*, Erin Conway—Catholic and graduate of Jesuit School of Theology in Berkeley—stated: “There’s this theological argument against women—that the priest is *in persona Christi*, and that since Jesus was a man you can’t be a priest if you’re not a man. But I come back to the idea that God is *bigger* than that. It just seems too limiting to say God only wants half of the population to be priests. I want a God who isn’t worried about your anatomy but *is* interested in your call.”⁵ Of course, although persons may have reasons that weigh against a rule, a rule may still be justified for them for other reasons (e.g., respecting Church authority). Yet, convergence theorists think that if *any* member of an association has a defeater for a rule, then the rule is not subpublicly justified. It is implausible to think that among all the members of the Catholic Church, some moderately idealized members don't have defeaters for the prohibition against women clergy. It also implausible that some moderately idealized Catholics don't have defeaters for other “controversial” rules, too (e.g., the prohibition against priests marrying, against the recognition of same-sex marriage, and even against contraceptive use and abortion).⁶ Here our point is not that, given this view, as a matter of fact, it is often the case that “progressive” or “more egalitarian” rules are subpublicly justified for members of moral associations such as the Catholic Church. Rather, our point is that, regarding many issues, there will be no subpublicly justified rules in moral associations. This has implications for Vallier's claims about the relationship between moral associations and the state, which we discuss below.

First, though, we note that Vallier will likely concede the some of the rules that are part of moral associations are not justified for all members. He may say that the real question is whether the state can interfere in associations to address unjustified rules. Still, to be clear, we are skeptical that he actually regards some of the “controversial” rules of moral associations that we have in mind as unjustified. In his discussion of reli-

gious associations that prohibit women from taking certain positions, he says: “religious social norms can permissibly assign leadership positions to men alone if they are subpublicly justified for the women in subordinate positions; in fact, because these norms are subpublicly justified to them, they may even count as an extension of the freedom of these women of faith. However, if the norms are not so justified, and so illicitly restrict the freedom of women, the law may intervene” (2021, p. 112).

But, let us suppose Vallier agrees that, given diversity within associations, many rules of moral associations—especially the “controversial” ones—are unjustified. When would Vallier’s view support state interference to address the unjustified moral rules of moral associations? He claims that the state may only intervene in cases in which “unjustified associational rules can be clearly and predictably improved by legal and political institutions” (2021, p. 95), and he stresses that sometimes state interference is not the best way to address unjustified moral rules (2021, p. 112). Of state interference with religious institutions for the sake of gender equality, he seems to think that because religious institutions would regard such interference as a violation of their integrity and unfair (Ibid.), government interference would be resented even if effective; so, it should not be undertaken for that reason.⁷ But, who, exactly, would he think regards the interference as unfair and a violation of the institution’s integrity? Those most likely to regard the interference as unfair and a violation of the institution’s integrity are those who are in power and with the most to lose if the unjustified rules are removed. Some others may object to interference, too, but uniform objection is unlikely, given diversity. It seems to us that there is a conflict between Vallier’s commitment to opposing the imposition of unjustified rules on persons and Vallier’s deference to and protection of the “integrity” of moral associations that, no doubt, have unjustified rules.⁸ We grant that, sometimes, maybe even most of the time, the state would not be effective in addressing certain matters and that other avenues for change are in order. However, Vallier seems to favor some protection for associations even when the state would be effective at addressing unjustified rules, and he seems to endorse such protection for reasons that are in tension with his own commitment to opposing tyranny and authoritarianism.

Further, if we are right that moral associations typically have a lot of unjustified moral rules, then this puts pressure on the claims that Vallier makes about the proper relationship between moral associations and the state. Vallier says:

Given that civic associations can exist in the absence of many forms of law and politics, and have long ordered social life, they play a foundational role in establishing a social order. If civic associations can adequately perform various important social functions in ways that can be justified to their members then on my account of public justification, the state should not interfere unless the organization imposes some harm or restriction on nonmembers based on an unjustified/defeated rule (2021, p. 98).

Sure, moral associations have existed for a long time, they have long ordered social life, and some types existed before the modern state. Nothing follows from any of this. Have associations performed important social functions in ways that are justified to all members given the demands of convergence theory? Perhaps, in some cases, that is true. However, given the burdens of judgment and the way in which moral associations have and still primarily serve the interests of those in power, they often do not. To clarify our point, moral associations may have provided important social functions in the social order, but they have often done so in ways that are not justified for everyone and in ways that have perpetuated and maintained objectionable social hierarchies based on, for example, gender, race, and sexuality. It seems to us that Vallier’s lack of consideration of diversity within associations and his altogether too rosy a picture of moral associations lead him to the view that these associations adequately serve the interests of their members for the most part. And it is because and insofar as he thinks that members interests are adequately served that he thinks we have good reason to think that (many of) the rules of moral associations are justified for members. With these claims in place, he concludes that moral associations should enjoy extensive protection

from state interference through the rights practice of equal extensive freedom of association for persons. There is good reason to question the claims on which his argument rests, even if one agrees that freedom of association is a fundamental liberal rights practice.

5. THE PRIORITY OF THE STATE, BALKANIZATION, AND NONVOLUNTARY PARTICIPANTS

Now we raise questions about some other issues that merit more attention in Vallier's discussion of associations. The first has to do with the relationship between the state and moral associations. Vallier is clearly right that the moral order is much broader than the legal order and that the law neither can nor should address the whole of morality. However, Vallier denies states have *priority* or *sovereignty* over moral associations. Instead, he claims that "democratic states are only licensed to restrict associational freedom, both in civil society, and in some cases, in the market, when the rules of associations are not publicly justified to their members, or the jurisdictional rules restricting standing for others to criticize the organization for exclusion are defeated or reasonably rejected" (2021, p. 106). We think this statement of the relationship between moral associations and the state mischaracterizes his own commitments. He holds that individuals have basic rights that cannot be violated by other individuals or associations, and he thinks that in some cases the state will have to settle "jurisdictional boundaries" for moral associations. This means that the state doesn't merely have a license to restrict associational freedoms when association rules are not justified for members or in some cases when associations exclude nonmembers. On his view, the state must also have the authority to determine when rights violations occur, when jurisdictional issues need to be settled, when rules are not justified for association members, and when nonmembers have standing to criticize associations. If the state has authority to decide these issues and enforce its decisions, the state has a kind of priority or sovereignty over associations. How does it not?

Next consider the worry related to Balkanization, that in a society in which associations are granted extensive protection from state interference, "associations will undermine social trust and political stability by producing inwardly focused citizens" (2021, p. 109). Given the protectionist stance that Vallier takes toward associations, this is an important challenge to his view. However, he thinks that isolated and/or insular groups often lack the power to do any real damage to social and political institutions and that when such groups lack power, they must be "left alone," even if they support hatred and bigotry or spread false information. Further, he argues that, in those cases in which the groups in question have more power and do pose a threat of some kind to social and political institutions, ostracism and criticism can be employed to challenge the practices of associations and, if necessary, the law. But, he claims that "since legal options are on the table, we need not worry about excessive Balkanization" (Ibid.). However, Vallier may be too optimistic.

Consider groups like QAnon and the Proudboys. Among other things, members of these groups have promoted hatred and bigotry, spread lies related to the COVID-19 global pandemic, and promoted violence as a means to challenge the results of free and fair democratic elections. They have damaged social and political institutions and, arguably, social and political trust, as they united and provided a forum for persons with pernicious racial views, as they convinced their followers to reject the recommendations of public health officials with regard to the pandemic (leading to unnecessary suffering and death as well as economic losses), and as they engaged in violent and deadly protests at the U.S. Capitol and elsewhere. Should we really not be too worried about excessive Balkanization, as Vallier says? Vallier's extensive protections for moral associations combined with his commitment to the "least coercive restraints available" may simply not be enough to block groups that try to undermine the democratic order. And, it is not clear what kinds of more restrictive policies could be justified given his commitment to a convergence account of public justification.

Finally, we wish to raise an important issue that is altogether absent from Vallier's discussion of moral associations. That issue has to do with the facts that many participants in moral associations are children,

that their participation is nonvoluntary (certainly before a certain age in any case), and that associations profoundly shape and influence what children come to believe and value. Take religious institutions, where children are often taught institutional norms and traditions from birth and where they are subjected to practices and ceremonies of various sorts. Sometimes children are told that they must accept an institution's beliefs, practices, and authority without question; indeed, they may be told the fate of their soul depends on it. Children participate in moral associations at the discretion of their parents (or other legal guardians) and because of what their parents believe and value. However, even if parents' (or other legal guardians) are viewed as trustees for children's interests, parents have conditional, limited authority over their children, and children are persons distinct from their parents. Children's interests can't simply be determined from their parents' beliefs and values.

As we noted in our earlier discussion, some moral associations adopt or are premised on views about gender, race, and sexuality that many people reject. And, it is likely that some rules of these associations are not subpublicly justified for their members and that regarding some issues no rules are justified for members. In defense of hierarchies within moral associations, Vallier says that refusal to exit or, alternatively, voluntarily joining an association in the first place is a good proxy for the public justification of a hierarchical order. As he puts it, "in many cases, voluntary submission is a good proxy for public justification; a choice provides powerful evidence that the agreed-upon arrangement is public justified for the persons that makes the agreement" (2021, p. 108). We think this claim is problematic when there is significant inequalities between members of social groups, but we will not say more about that here. Rather, now we want to make a point about Vallier's view and children. Given that children, who are nonvoluntary participants in associations, are subjected to practices in accordance with such hierarchies, something should be said to address that. That is, the protectionist view of moral associations that Vallier defends needs to be reviewed in light of the interests of children. It may be that Vallier needs to recognize additional grounds for state interference in moral associations to protect the interests of children, or it may be that protecting the interests of children is best achieved by the provision of certain goods for children (e.g., access to information, opportunities, etc.) to balance the influence of moral associations to which they cannot yet consent. Perhaps both will be needed. What is clear is that the case for an extensive right to freedom of association is incomplete, as Vallier's discussion fails to address important participants in such associations whose interests matter.

In conclusion, we greatly admire Vallier's work and appreciate his foregrounding issues of social and political trust as necessary for stability and a moral peace. As fellow liberals, we are sympathetic to many of his concerns and his conclusions. However, ultimately, we think the foundation on which his view rests cannot deliver what is needed. That is, we do not think the rules needed to create the conditions necessary for sufficient social and political trust can be justified given a convergence account of public justification and the views of (moderately idealized) real-world persons. Unless and until we move large portions of our society towards a more liberal orientation, the hope for a moral peace will remain only that.

NOTES

- 1 Distrust, however, also has democratic value in some circumstances. See Krishnamurthy (2015).
- 2 For an alternative view, see Watson and Hartley (2018).
- 3 On convergence theory, see, for example, Gaus (2011) and Vallier (2014).
- 4 For Rawls's statement of the burdens of judgment, see Rawls 2005, pp. 54-58.
- 5 See, also, <https://www.womenpriests.org/>.
- 6 See, e.g., <https://www.catholicsforchoice.org/>; <https://news.gallup.com/poll/322805/catholics-backed-sex-marriage-2011.aspx>; <https://romancatholicwomenpriests.org>.
- 7 We surmise this from Vallier's discussion of Clare Chambers's proposal for equality tribunals to address discriminatory cultural practices. Vallier says: "the equality tribunal might successfully establish equality within, say, religious organizations, but hierarchical religious organizations would not trust such a body to treat them fairly

and would feel politically embolden to capture the governmental organizations that interfere with them to service their own sectarian ends, at least in part because the tribunal's power cannot be justified to them" (2021, p. 112). For Chambers's discussion of equality tribunals, see her 2008, pp. 117-157.

- 8 While we agree with Vallier that, in most cases, the state should not force religious institutions to ordain women, we think his argument for that claim is problematic given his own views. For our account, see Watson and Hartley (2018, pp. 106-131).
- 9 Our point here is that by his own commitments, Vallier should recognize the priority of the state. However, we do not endorse Vallier's commitments. For a compelling argument for the priority of the state over other institutions, see Laborde (2017).

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