COMMUNITARIANISM AND THE ROBERTS COURT
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Communitarian theory attempts to strike a reasonable balance between individual rights and the collective good. Communitarians believe that even in a rights-conscious society, rights have limits, and involve concomitant responsibilities. While constitutional litigation often involves a contest between individual rights and a sense of the collective good, communitarians bring to the table additional issues reflecting the multi-layered composition of our country: Are there some rights or responsibilities that can be claimed and exercised appropriately by intermediate communities, such as neighborhoods, political groups, corporations, and associations? Must we inevitably be locked into a binary choice between individual rights and government power? Should the law be more conscious of responsibilities owed by individuals, communities, or the state?

In this paper, I will try to explain why our nation and its citizens may be served by employing a communitarian philosophy in constitutional adjudication. In a diverse country formed by people from many cultures who do not subscribe to a single religion, and enriched by multiple layers of communities, we are best served by a fundamental law that establishes and nourishes republican institutions, balances individual rights with the public welfare, and allows a community of communities to flourish.