THE IDEA OF A PLURALIST POLITICS:
PLURALISM AND CONSENSUS IN JOHN RAWLS’ S POLITICAL LIBERALISM

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Abstract

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This work offers a close examination and critique of the notions of pluralism and consensus as these concepts are developed in the work of John Rawls. Focusing in particular on Rawls’s *Political Liberalism* and later writings, the dissertation argues that although Rawls does seek to take account of the diversity of beliefs and worldviews present in society, his model assumes a particular perspective on this diversity, stemming from larger and more controversial assumptions concerning the purposes and meaning of public discourse and political life. This assumption is made clear by reviewing Rawls’s theory particularly with regard to the relationship between comprehensive views and political conceptions of justice, Rawls’s arguments concerning human reason, and Rawls’s views concerning public political culture. The implication drawn is that this is only one way we might consider these matters and that by posing the problem differently, we may be able to consider other, more constructive, approaches.
The second stage of the dissertation develops an alternative approach that offers a creative response to the fact of pluralism, one less concerned with the strong consensus that Rawls seeks, rather placing a strong emphasis upon the importance of plurality in public life. What particularly distinguishes this approach is its concern to respect the ability of distinct voices to speak in politics using whatever language they find appropriate, enabling them to make contributions to political discussions while remaining faithful to their own communities, traditions, and religious beliefs. It views the strategy of attempting to locate a moral basis for political cooperation rooted in what citizens have in common—what they might be found to possess in spite of their pluralism—as a failed approach, and one that needs to be abandoned. Rather, if we can recognize that a political order is held together by things other than an ideological or doctrinal consensus concerning the moral nature of that order, the way becomes clear to consider the possibility of a politics of genuine pluralism, one in which civility is promoted even as particularity is preserved.
To

Jesse, Erin, and Annika
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CHAPTER ONE

INTRODUCTION

Liberalism is an ideology that seems to demand company whenever it is put into practice. Throughout its rather erratic history, all manner of philosophies, ideologies, and streams of thought have been found among its allies. Typically, strict adherence to rules of theoretical coherence has been foregone in favour of other goals, enabling liberalism to ally itself, at various times and as convenience required, with rationalism as well as empiricism, with revolution as well as counter-revolution, with enlightenment as well as romanticism, with laissez-faire as well as welfare economics, and with nationalism as well as internationalism.

It is its alliance with democracy, however, that has served liberalism’s purposes most successfully. Although liberalism and democracy certainly differ from each other in important respects, and in fact occasionally can oppose each other, most observers would agree that the two ideologies have at least become mutually reinforcing, to the extent that western political systems are commonly referred to as liberal democracies.¹ Probably their most important point of contact is a shared

concern for the welfare and freedom of the individual. Liberalism’s moral individualism is able to find expression in democracy’s apparent ability to protect, via “the whole force of the community, the person and goods of every associate, and by means of which each, uniting with all, nevertheless obeys only himself, and remains as free as before.” Nevertheless, significant tensions have frequently surfaced between the two, especially concerning the extent to which the concern for freedom is allowed to override other priorities, including those articulated democratically. In fact, one of the great debates in the political theory of the twentieth century arose out of this tension: whether democracy ought to be “based upon a more realistic conception of man’s nature and destiny,” one that can turn “liberal strangers” into “democratic citizens.”

A major focus of this debate has been on the presumptions of liberalism with regard to questions of human identity or selfhood. In her introduction to Charles Taylor’s essay, “The Politics of Recognition,” Amy Gutmann notes that it is hard to find any democratic or democratizing society that is not the site of significant controversy over whether and how unique and particular identities can be recognized, particularly those based on ethnicity, race, gender, or religion. She suggests that this

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debate is endemic to liberal democracies because they are committed in principle to equal representation for all. In a related argument, political theorist Jonathan Chaplin suggests that one of the most important trends in recent political theory has been the recognition of the inadequacy of a fundamental premise, perhaps the fundamental premise, of the liberal tradition, namely, that the central problems confronting political philosophy can be reduced to the relationship between the individual and the state. In particular, Chaplin describes a growing opinion that these questions cannot be considered adequately “so long as the vast terrain of social relationships and communities existing alongside the individual and the state is not taken into account.”

The challenge seems to involve developing a theory of politics that can provide a just and true accounting of the varied communities, associations, worldviews, and identities that frame the larger part of a person’s social life. In this project, I consider one prominent response to this challenge, that of political liberalism, as developed by liberal political philosopher John Rawls. Rawls believes that there are no persuasive alternatives to the foundation he provides for political liberalism, arguing that given our society’s evident pluralism, something like his

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account will always be necessary. After a close review of Rawls’s proposal, I further take up this question of whether alternatives are in fact possible, seeking in particular an approach to politics that also develops a creative response to the challenge of pluralism, rooted not in a tradition of political thought concerned with a moral or foundational consensus and its achievement, but rather in a tradition that places a strong emphasis upon the importance of plurality in public life. I argue that an explicitly pluralist theory has much to offer societies as they struggle to overcome what Taylor suggests is one of the most fundamental ambiguities of modernity: the tension between universality and difference, recognizing what is not shared.

In this introductory chapter, I review briefly how liberalism has dealt with the question of pluralism within political community historically, and in particular how it has responded to situations of religious plurality. Rawls’s own strategy is distinctive, of course, differing from earlier liberal responses in important ways. I suggest in this chapter, however, and I will argue even more strongly in later chapters, that his response is still very much a liberal one, although certainly more nuanced and careful than most, and that it suffers many of the characteristic weaknesses of liberal attempts to provide a grounding for politics. In this chapter, I also introduce briefly several of Rawls’s key concepts, notably overlapping consensus and public reason, although a

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fuller exposition and analysis is developed in later chapters. Finally, I outline several of the more significant arguments levelled against the Rawlsian solution to the problem of pluralism. An important part of this literature review is my suggestion concerning how these criticisms might be organized and related to each other. Their classification is helpful particularly in indicating how the argument of this present work relates to the work of others in the field.

**Liberalism and Consensus**

Typically, liberalism is seen to have its origins in the sixteenth and seventeenth century religious struggles of western Europe. In this view, liberalism and religious toleration grew out of a pragmatic desire to escape the destruction of the wars of religion. Stronger versions of this position emphasize that liberalism was explicitly concerned to secularize politics, and thereby to relegate religion to the private sphere, but the emphasis is upon the primary goal of accommodating conflicting religious views within the nation-state.

This view is not entirely inaccurate, although much depends on how carefully we paint this picture—and on the brush with which we paint. John Hallowell’s chapter on early liberalism in his *Main Currents in Modern Political Thought*, for instance, contains little discussion of religious warfare or of liberal attempts to resolve

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or avoid it. While acknowledging liberalism’s roots in the climate of opinion that emerged in the Renaissance and Reformation, he states things somewhat more strongly, as nothing less than “a political declaration of faith in the autonomy of human reason and the essential goodness of man.” He notes liberalism’s debt to the political, social, religious, and economic aspirations of the rising commercial class, and emphasizes that individual freedom “was its major premise and its goal.”

His discussion thus emphasizes the tremendous philosophic and worldview changes that made liberalism possible: from hierarchy to equality, from privilege to contract, from theism to deism, from submission to freedom. Religious challenge and conflict are present in Hallowell’s analysis, but he gives pride of place to the move away from religion in general, rather than emphasizing liberalism’s pragmatic attempt to achieve peace between religions. He thus focuses upon the attempt by liberals to develop a shared, rationally justified, secular support for politics and for morality in general, now that the old Christian supports had been found wanting.

Alongside these two possibilities, we might in addition point to the significance of the capitalist revolution and the rise of the merchant class as major contributors to the developing liberal ideology, giving pride of place to the significance of the new right to private property. The social changes that accompanied this revolution were tremendous, and included changes to how people...

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10 Hallowell, Main Currents, p. 84.
lived out their religious commitments. And so we have a third account; no doubt there are others.11

Fortunately, however, all these explanations need not be mutually exclusive. We might summarize by emphasizing first the opportunity provided by the appearance of independent “free” men, a new class rising on the powers of urbanization, industrialization, and the market economy, and bearing new ideologies of individualism and autonomy. Meanwhile, the growth of rationalism and enlightenment philosophies, leading to a belief in the power and progress of science and in the autonomy of reason provided the means for its development. And there can be little doubt that for the war-weary, the peace that might be achieved by founding the state on a “non-religious” basis supplied a more-than-sufficient motive. It is especially upon questions of motive that I focus in this section.

Although the details vary, the general strategy is clear enough. Faced with a situation in which, on the one hand, there was little chance that the religious good of salvation could become common to all, and on the other, religious positions that admitted no compromise, early modern liberals sought to establish political rule on whatever else people might hold in common. Their impulse seems sound: from the ancient Greeks onward, a widespread public consensus on matters of religion had long been understood to provide—and, very likely, actually did provide—a stable

11 Voegelin suggests that this diversity of explanations stems from the diversity of the ideology’s meaning:
Liberalism is a political movement in the context of the surrounding Western revolutionary movement; its meaning alters with the phases of the surrounding movement (“Liberalism,” p. 506).
foundation, perhaps the only possible foundation, for peaceful society, for a unified cohesive polity, and for the possibility of civic virtue. Given the current breakdown in this religious consensus and its fearful consequences for politics, the search for a new consensus that might provide an alternative foundation was a natural step.12

Thus, early liberals sought to reconstruct the basis for society under conditions of religious pluralism. The figure of Thomas Hobbes looms large here. Hobbes, one of the earliest liberal political philosophers, argued that to understand human nature, one must look inward, and, because of the “similitude of passions,” all specificity will be reduced to insignificance, at least to the extent that politics is concerned.13 His model of human selfhood therefore suppressed or subordinated every major source of human variation: ethnic identity, social orders and classes, individual temperament, religious faith were all considered by Hobbes to be non-constitutive of human nature and irrelevant to the formation and maintenance of the body politic.14 This fundamental “sameness” that Hobbes saw in the passions of all persons provided for him the foundations upon which to establish the absolute state.

12 Rawls himself seems to agree: “It is more natural to believe…that social unity and concord requires agreement on a general and comprehensive religious, philosophical, or moral doctrine” (Rawls, Political Liberalism, p. xxv). He, however, does not seem to see the early modern liberals (nor indeed, himself, at least until 1985) as continuing to follow this strategy.


Others have posited other forms of essential sameness that might defy human pluralism. If for Hobbes this unity was found in the passions, John Locke located it in our reason, using the powers of reason to adjudicate not only the boundaries between spiritual and secular authority (in *A Letter on Toleration*), but also what we are entitled to know (in *An Essay on Human Understanding*). David Hume, in contrast, located this basis in our capacity to *experience*, an internal sense that nature has made universal. Hume declares in his *Enquiry Concerning Human Understanding* that “mankind are much the same in all times and places” and that in fact, the “diversity of characters, prejudices, and opinions” that we notice only enables us to form “a greater variety of maxims, which still suppose a degree of uniformity and regularity.”

For Hume, differences in practices and beliefs are best explained by differences in the circumstances faced by human beings.

Thus, the early liberals sought to appeal to various shared principles against the tyrannies of tradition, and thus ensure a framework in which widespread assent to the same rationally justified principles would enable those who disagree on so much to live together within the same society. My concern here, however, is not to review or compare the competing sources of unity, but merely to emphasize how the painful experience of the religious wars had given rise to the liberal conviction that under no circumstances were organizational, dogmatic or other differences between groups to achieve such a high political profile in public affairs that society would be split into

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parties of war. Alternative foundations would have to be sought: the only question concerned the nature of that foundation. Thus, the significance of Hobbes’s attempt to tame religious conflict by accommodating it within the framework of the nation-state is not merely that he set forward a new doctrine, but also that he initiated a major philosophical-political response to the challenge of religious pluralism that continued without serious challenge until the eighteenth century, and remains still today a powerful, if not dominant, contender.

It is one of the burdens of this dissertation that Rawls, even in his new revised version, continues to operate within this tradition. Of course, the specific meaning of the political movement that is liberalism has changed “in the context of the surrounding Western revolutionary movement” (to use Voegelin’s terminology), and the details of Rawls’s work are very different. However the broad outlines of the liberal strategy of establishing alternative foundations remain. Consider, for example, the familiar story of “How John Rawls Revived Political Philosophy and Rejuvenated Liberalism.” Prior to the appearance of A Theory of Justice, the twin foundations of liberal notions of justice—theories of natural right and Kantian idealism—had been forced to retreat against the onslaught of logical positivism, which had come to dominate Anglo-American analytic philosophy after the first world war. What Rawls managed to do was provide a justification for American and English constitutional

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and political beliefs and practices without falling victim to the positivist critique.\textsuperscript{18} The details we review below and in chapter two, but particularly significant was Rawls’s pragmatic turn away from strong philosophical claims toward our already existing practices and “considered opinions” as a new foundation. Rawls’s success in this regard constitutes a novel articulation of a “shared principle” upon which we can base our liberal politics.

This pragmatic turn continued even more sharply and explicitly in \textit{Political Liberalism}. Rawls argues here that the religious toleration that emerged from out of the wars of religion was one of liberalism’s finest achievements; this work is incomplete, however, and his political liberalism takes the further step of applying “the principle of toleration to philosophy itself.”\textsuperscript{19} Rawls thus falls in line with the traditional liberal position, held by Hobbes onward, that a healthy public life is one wherein people depend upon the things that they have in common, rather than their differences: the new development for Rawls is that philosophy itself is considered to be one of those differences.

\textbf{Rawls and Public Reason}

What are the details of Rawls’s pragmatic turn? The challenge faced by Rawls involved deriving the principles of justice in such a way that they did not

\textsuperscript{18} Quoting one admirer, “Rawls’s work was so elegant, and so rigorous, that it helped logical positivism crumble under its own weight” (Randall Rothenberg, “Robert Nozick vs. John Rawls” \textit{Esquire} (March 1983), p. 204. Hereinafter referred to as Rothenberg, “Nozick vs. Rawls.”)

\textsuperscript{19} Rawls, \textit{Political Liberalism}, p. 10.
depend on any particular conception of the good. The strength of his contribution stems particularly from his apparent ability, by way of his now famous “original position,” to develop the required framework of political liberties (the “right”), while acknowledging the existence of a great variety of individual ends (the “good”). In *A Theory of Justice*, Rawls claims to accomplish this by virtue of the neutrality of the “original position,” a hypothetical construct in which free, rational persons participate in a situation of total equality. Its design, he claims, is that it does not choose in advance among competing purposes and ends. Furthermore, a “veil of ignorance” is established; none of the participants in the original position know their own status, skills, or individual ends and goals. All therefore, he predicts, will behave in a purely self-interested and rational manner, as all are similarly alienated from their individual identities.

Rawls argues that behind this veil, participants will agree to two main principles of justice:

1. Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.
2. Social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.\(^{21}\)

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\(^{20}\) The participants do know that they require for their advancement certain basic liberties and opportunities, income and wealth, and the bases of self-respect. Rawls believes these “primary goods” to be basic to all individual ends or goals. Thus, the principle of right covers also these primary goods; they make up the list of goods that are considered by the participants in the original position (Rawls, *A Theory of Justice*, p. 181).

Perhaps the most important difference between the original position and reality is that behind the veil, knowledge of one’s particular “good” (whatever that might be) is not permitted. In Rawls’s words, it “does not specify the good independently from the right, or does not interpret the right as maximizing the good.” The obvious advantage of this strategy is that the principles of justice can be derived without presupposing any particular conception of the good and, therefore, cannot be said to be in anyone’s interest. The only concession the good must make is to conform to the requirements of the principles of justice; that is, the right does impose certain restrictions on permissible goods. All goods are thus equally subject to the two principles of justice, and anything is permitted that does not violate either. For this reason, the right can be said to be prior to the good. The failure to recognize this priority, according to Rawls, is the fundamental weakness of “teleological” doctrines:

[F]rom the start they relate the right and the good in the wrong way. We should not attempt to give form to our life by first looking to the good independently defined. It is not our aims that primarily reveal our nature but rather the principles that we would acknowledge to govern the background conditions under which these aims are to be formed and the manner in which they are to be pursued. For the self is prior to the ends which are affirmed by it . . . .

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23 Different things are good for different people, and “each person is free to plan his life as he pleases” (Rawls, *Theory*, p. 447). See, for example, Rawls’s illustration of the grass-counter or the even harder case of religious or sexual practices regarded by society as an “abomination” (*Theory*, pp. 432, 450). Against these, states Rawls, the intense convictions of the majority…have no weight to begin with…. To have a complaint against the conduct and belief of others we must show that their actions injure us, or that the institutions that authorize what they do treat us unjustly. And this means we must appeal to the principles that we would acknowledge in the original position. Against these principles neither the intensity of feeling nor its being shared by the majority counts for anything. (*Theory*, p. 450).
24 *Theory*, p. 560.
We should note Rawls’s explicit separation of the self and the ends that it pursues. These ends, he says, are not how our “nature” as free and equal moral persons is revealed, and accordingly, cannot be seen to be so constitutive of the self that they might be permitted to have a role in the development of the principles of justice. In contrast, the parties in the original position “think of themselves as beings who can and do choose their final ends,” and therefore seek to establish the conditions “for each to fashion his own unity.”

The apparent success of Rawls’s work played a crucial role in the broadening of the historical foundations of liberalism in the twenty-five years after the appearance of *A Theory of Justice*. Common to all members of this “procedural” family of liberalism are these distinctions between the right and the good and between the individual and his or her particular identity. They tend to consider society primarily as an association of free and rational individuals, each of whom has a particular conception of a good life and a corresponding life plan. Because the principle of equality would be breached if society itself espoused one or another of these conceptions, they argue, a liberal society should not be founded on any particular vision of the good life. The ethic central to a liberal society must be an ethic of the right, rather than the good. With this emphasis, liberals claim to be exponents of pluralism *par excellence*, as only a liberal society provides a setting in which each

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26 *Theory*, p. 563.
individual can pursue his or her own freely chosen life, in which each tolerates the other, each view is held in equal respect, where no view is imposed upon another, and where the state is neutral between all competing particular value claims. The primacy of the right over the good, therefore, means that liberalism is concerned most with freedom and how it may be preserved, rather than with what people might be interested in doing with their freedom.

One of the great strengths of Rawls’s theory—labelled by Rawls as justice-as-fairness—is that by abstracting from all the empirical contingencies that typically make comparing and judging political orders difficult, his theory enables the theorist to judge and even improve on those orders. Rawls contends in A Theory of Justice that his theory, not produced by specific historical circumstance, nor intended to defend any existing order, gave the theorist a “perspective from eternity,” and thus restored the legitimacy to political-philosophical judgement. Quoting from the last paragraph of the book:

[T]o see our place in society from the perspective of this position is to see it *sub specie aeternitatis:* it is to regard the human situation not only from all social but also from all temporal points of view. . . . Purity of heart, if one could attain it, would be to see clearly and to act with grace and self-command from this point of view.28

The criticisms of Rawls’s position were not long in coming. In response to the particularly important charge that his argument actually favored a single


28 p. 587.
conception of the good (of a Kantian, secular, liberal variety), Rawls substantially reworked his theory, emphasizing that it appeals not to contentious views about God, morality or the person, but rather less contestable values of reciprocity, fairness, and respect. In apparent agreement with those critics of modernity who argue that not only can we say little with confidence with respect to matters of faith, but also that given our pluralism, we must be similarly skeptical of claims to a “rational” (i.e., non-religious) science of morality, or to a single “essential” human nature, Rawls sought in *Political Liberalism* to “apply the principle of toleration to philosophy itself.”

“The essential point is this,” says Rawls, “as a practical political matter no general moral conception can provide a publicly recognized basis for a conception of justice in a modern democratic state.”

“To this end,” he says in *Political Liberalism*, “it is normally desirable that the comprehensive philosophical and moral views we are wont to use in debating fundamental political issues should give way in public life.”

Rawls himself provides a good summary of his strategy:

> [G]iven the fact of reasonable pluralism, citizens cannot agree on any moral authority, whether a sacred text, or institution. Nor do they agree about the order of moral values, or the dictates of what some regard as natural law. We adopt, then, a constructivist view to specify the fair terms of social cooperation as given by the principles of justice agreed to by the representatives of free and equal citizens when fairly situated. The bases of this view lie in fundamental ideas of the public political culture as well as in citizens’ shared principles and conceptions of practical reason. Thus, if the procedure can be correctly formulated, citizens should be able to accept its

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29 *Political Liberalism*, p. 10


31 p. 10.
principles and conceptions along with their reasonable comprehensive doctrine. The political conception of justice can then serve as the focus of an underlying consensus.\textsuperscript{32}

The central focus of the project thus shifts as Rawls seeks to detach his political liberalism from any particular moral philosophy. New questions become basic to his investigation, the most prominent of which Rawls calls “the problem of political liberalism”: how is it possible that there may exist over time “a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?”\textsuperscript{33} Rawls’s solution is to make an appeal to other, apparently less controversial, values: reciprocity, fairness, mutual respect, and “civic friendship.” And for these, Rawls provides a new justification: their basis is to be “political and not metaphysical.”\textsuperscript{34} His suggestion is that these values are “elaborated”\textsuperscript{35} or “unfolded”\textsuperscript{36} from the “public political culture” of society:

We start, then, by looking to the public culture itself as the shared fund of implicitly recognized basic ideas and principles. We hope to formulate these ideas and principles clearly enough to be combined into a political conception of justice congenial to our most firmly held convictions.\textsuperscript{37}

\begin{itemize}
\item \textsuperscript{32} *Political Liberalism*, p. 97.
\item \textsuperscript{33} *Political Liberalism*, p. xviii.
\item \textsuperscript{34} *Political Liberalism*, p. 10.
\item \textsuperscript{35} *Political Liberalism*, p. 15.
\item \textsuperscript{36} *Political Liberalism*, p. 27.
\item \textsuperscript{37} Rawls, *Political Liberalism*, p. 8.
\end{itemize}
The resulting “political conception” is to be independent of the opposing and conflicting philosophical and religious doctrines that citizens affirm: the unfolding of the values and the later construction of the principles of justice occurs only by theoretical reflection on what might be found in the public political culture.\(^{38}\) The various comprehensive doctrines enter the picture only afterward, by providing the conception its needed support. In fact, for society to endure, the political conception of justice requires the support of an “overlapping consensus,” including all the reasonable philosophical and religious doctrines present in the society.\(^{39}\) Rawls thus can claim to depend on society, first, in terms of the political values developed out of the shared public political culture of society, and second (and secondarily), in terms of the support the resulting conception receives from an overlapping consensus that contains all the reasonable comprehensive doctrines that circulate within that same society. Along both routes, he would maintain, the theory is concerned with agreement, not truth, because, as he declared already in 1985, when he first began to publish these revisions, truth is “too important” to be resolved politically.\(^{40}\)

Rawls’s move here was highly significant. Rawls argues that with his revisions and new emphases, the arguments he offers in favour of his own justice-as-fairness are “political, not metaphysical.” The original position, for instance, must be seen as merely a device of representation, one that considers individuals to be “free”


\(^{39}\) Rawls, *Political Liberalism*, p. 15.

\(^{40}\) “Justice as Fairness,” p. 230.
in only a political, not a metaphysical, sense. People need accept Rawls’s conception of themselves as citizens only when discussing questions of political justice; they need not be committed in other parts of their lives to liberal moral ideals such as autonomy and individuality, or to liberal understandings of these ideals. These, Rawls acknowledges, are indeed conceptions of a good, articulated by figures such as Kant or Mill, about which there is likely to be disagreement. In fact, they are extended too far when presented as the only appropriate foundation for a constitutional regime. His own justice-as-fairness, in contrast to the liberalism as a comprehensive moral doctrine that he had earlier assumed, is simply rooted in the basic ideas found in the public culture of a constitutional democracy, ideas that are likely to be affirmed by each of the opposing moral doctrines.

Rawls in this way moves away from the justification he had earlier espoused, one which sought an absolutely neutral “Archimedean point” in the liberal individual for the justification or critique of political institutions, practices, and policies. Rawls’s later efforts emphasize that the principles of justice, together with their conception of the human person, can win the endorsement of underlying conceptions—or range of conceptions—of the good. No longer, for example, does he claim any form of independent metaphysical truth concerning the self, but only a conception that does not violate people’s own considered judgements of what persons are. In this way, Rawls claims to have found a justification for his principles of justice and his conception of the human self that does not privilege certain conceptions of the good, but yet remains favoured by them to the greatest extent possible.
Note, however, that despite his dependence on the various comprehensive doctrines in this way, Rawls continues to emphasize the independent basis for his “freestanding” political conception.\textsuperscript{41} Despite their stabilizing role in the overlapping consensus, the various comprehensive doctrines that make up the consensus themselves have no input into the content of the values and principles that are to serve as the basis of political society, for the principles are not derived from any comprehensive doctrine in particular nor from the overlapping consensus of comprehensive doctrines. This is because an appeal to values and principles not accessible to all citizens on the basis of their “common human reason” could not support the pursuit of basic public justice, nor could doing so help realize the important political goods of civic friendship and mutual respect that Rawls associates with the “ideal of democratic citizenship.”\textsuperscript{42} Such political offerings, says Rawls, invite unresolvable conflict and impose particular comprehensive doctrines, either secular or religious, on citizens who do not hold to them. Thus, says Rawls, we distinguish between what we may believe to be the good and what we may reasonably offer as a foundation for society’s basic structure.

Here we can begin to discern the parameters of what Rawls calls “public reason,” by which he means “guidelines of inquiry that specify ways of reasoning and criteria for the kinds of information relevant for political questions.”\textsuperscript{43} To offer

\textsuperscript{41} Political Liberalism, p. 12.

\textsuperscript{42} Political Liberalism, p. 216.

\textsuperscript{43} Political Liberalism, p. 223.
arguments in public discourse that depend on reasons with which one cannot reasonably expect others to agree is inconsistent with society’s understanding of its adult members as free and equal.44 Hence, Rawls’s duty of civility: the duty “to be able to explain to one another on . . . fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason.”45 So Rawls’s political liberalism requires each person to have at hand an explanation that he or she can reasonably expect other citizens to endorse or at least to understand as reasonable, both in terms of the actual argument, and in terms of the reasons for which that argument might be held. Rawls summarizes this in the criterion of reciprocity: “our exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as justification of those actions.”46 The partner to this criterion is the liberal principle of legitimacy: “our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in light of principles and ideals acceptable to them as reasonable and rational.”47

44 Rawls, *Political Liberalism*, p. 217. Rawls qualifies the restriction somewhat when he limits its application only to matters concerning what he calls “constitutional essentials and matters of basic justice.” I return to the matter of this qualification in chapter two.


Thus, although the details are complex, Rawls’s general strategy is clear enough. Faced with a situation of a societal pluralism of religious and philosophic views, Rawls seeks to establish political debate and decision-making on whatever else people might hold in common. His impulse seems sound: from the earliest days of American liberalism, a widespread consensus on how politics ought to be conducted had been understood to provide—and very likely, actually did provide—a stable foundation for American politics and society, for a unified cohesive state, and for America’s unique brand of civic virtue. Given the current breakdown in this philosophic consensus and its worrisome consequences for politics, the search for a new consensus that might provide an alternative foundation was a natural step.

Thus, Rawls seeks to reconstruct the basis for politics under conditions of deep diversity, a basis “rooted in what citizens have in common,” that is, their “common human reason.” Rawls, like his liberal forebears, sees a common moral language, or at least the exercise of a common public reason, as a prerequisite for a peaceful and (more strongly) a virtuous politics. Rawls’s central contribution then, at least with respect to this investigation, is less his theory of justice as fairness in particular than his setting out of the conditions or framework within which the principles of justice might be identified and articulated. Rawls in Political Liberalism, and even more so in his subsequent essays, emphasizes that a plurality of

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49 Rawls, Political Liberalism, p. 137.
political conceptions of justice is possible, each of which respects the constraints of public reason as he has conceived of it. He describes this plurality as a “range” or “family” of conceptions and notes that his own justice as fairness is one member of that family.50

Thus, according to Rawls in *Political Liberalism*, citizens should not principally rely on their comprehensive doctrines, whether religious or secular; normally, these should “give way in public life” to a public reason guided by the political conception of justice such that it satisfies the principle of reciprocity and the duty of civility. Especially with respect to constitutional essentials and matters of basic justice, citizens should not base their public political discourse or their political decisions—including political campaigning and voting51—on their own particular comprehensive views, nor on any such views that they should happen to share, but rather on something independent of these or any other particular convictions to be found in society. The ideal, he says, is that “as far as possible, the knowledge and ways of reasoning that ground our affirming the principles of justice and their application to constitutional essentials and basic justice are to rest on the plain truths now widely accepted, or available, to citizens generally.”52 The restrictions that this


52 *Political Liberalism*, p. 225.
ideal places upon public political discourse are one the central concerns of this dissertation.

Since 1993, when *Political Liberalism* was published, Rawls has made a number of modifications to his theory of public reason that have had the effect of “widening” the scope of public discourse. Most significant of these is his assertion that “reasonable comprehensive doctrines, religious or nonreligious, may be introduced in public political discussion at any time, provided that in due course proper political reasons—and not reasons given solely by comprehensive doctrines—are presented that are sufficient to support whatever the comprehensive doctrines are said to support.” Rawls does not work out all the details explicitly, but it seems that this modification would enable more participants to speak using any language they choose, provided that they are able to demonstrate that their position—and indeed, their comprehensive doctrine—is a reasonable one, demonstrated by the offering of public reasons in addition to and alongside the reasons offered from their comprehensive doctrine. Rawls refers to this modification as his “wide view” of public reason or occasionally, its “proviso.”

There can be little doubt that this is an important innovation, one designed to expand the circumstances under which certain types of religious or secular “non-public” arguments will be deemed permissible in the public sphere. Rawls is now giving the widest possible latitude to pluralism while remaining within his framework of political liberalism. He has been pushed to his liberal limits and can go no further,

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short of abandoning his project altogether. That said, there can be little doubt that these liberal limits still have force. While the proviso may indeed “widen” the scope of public reason, it cannot be interpreted as an essential departure from Rawls’s earlier strategy, especially since independent “public reasons” are required in either case. It is important to note that despite this innovation, Rawls continues to emphasize that his account of public reason remains relatively “closed,” stating explicitly that a more “open” view in which we “always present what we think are true or grounding reasons for our views,” violates the liberal norm of reciprocity and is therefore unacceptable.54 His concern, as always, remains the furthering of public reason, as well as assuring all citizens that the society’s political values are shared by all. Thus, even in the wider view, “[w]hat’s important is that people give the kinds of reasons that can be understood and appraised apart from their particular comprehensive doctrines.”55

54 “Public Reason Revisited,” p. 799.

55 Rawls, quoted in Prusak, “Politics,” p. 14. It is possible to interpret Political Liberalism as having implied the wider view all along. This is a suggestion of Paul Weithman who notes that Rawls in 1993 only required that citizens be ready and able to show how their views can be supported by public reason (“Introduction,” pp. 12-13). Weithman may well be correct: Rawls may have intended something like the wider view. However, Rawls’ discussion in Political Liberalism of several special cases where citizens could present values from their comprehensive doctrine in order to support public reason (the “inclusive view”) suggests that this was probably not the case (pp. 247-251). Indeed, Rawls seems to have introduced the wider view in part to resolve problems with these special cases (“Introduction,” p. liii), and he explicitly recognizes the proviso as “more permissive” than the inclusive view (“Introduction,” p. liii, note 25). Moreover, whatever Rawls may have intended, Political Liberalism was generally not interpreted as implying the wider view.

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Rawls and his Critics

The literature responding to and commenting on Rawls’s work is vast.\(^{56}\) In fact, even the literature examining the consequences of Rawls’s theories for religion is very large. I cannot hope to review much more than a very small fraction of it here. In this section, I delineate several “categories” of criticism and include representative arguments from each category. Of course, any such typology is in some ways arbitrary, and other reviewers might no doubt organize them differently. Indeed, I note below how the same criticism may be seen as belonging to more than one category, or having implications for arguments in other categories. And, of course, individual critics develop different arguments and criticisms in each of the categories—I do so myself. But my goal here is to review arguments, not critics.

First, however, to place the more recent criticisms in context, we should review generally some of the patterns of criticism over the years before moving to focus on Rawls’s more recent work in *Political Liberalism*. If the measure of a work’s greatness lies not only in the agreement it elicits, but also in the quality of its opposition, than *A Theory of Justice* is a very great work indeed. Following Michael J. Sandel’s classification, I distinguish three stages of criticism.\(^ {57}\) First, Rawls sparked a debate about utilitarianism. *A Theory of Justice* was aimed particularly at discrediting utilitarianism by suggesting that an empirical principle such as utility

\(^{56}\) On a conservative estimate, there are about 5000 books and articles that discuss some aspects of Rawls’s work (Ben Rogers, “Portrait: John Rawls,” *Prospect* (June 1999), p. 50).
cannot be a foundation for morality. On the contrary, said Rawls, certain individual rights, founded in justice, are so fundamental that they cannot be overridden even in the name of the common good. Theoretically at least, Rawls’s rights-based deontological approach has been successful in discrediting utilitarianism, especially because of Rawls’s contribution. Indeed, the degree to which rights-language prevails today over attempts to organize society around a particular good or goods is testimony to the success of his argument.

A second argument, of the late 1970s and early 1980s, was occasioned by the publication of Robert Nozick’s *Anarchy, State, and Utopia* in 1974, three years after *A Theory of Justice*. This was a debate within rights-oriented liberalism and was concerned with the question as to which rights in particular were so important that they could trump even the concerns of the general welfare. It pitted Rawls’s “egalitarian” version of liberalism against the right-wing “libertarian” versions of which Nozick was the most powerful exponent. In contrast to Rawls’s concern that equality and liberty be brought together in such a way that the needs of the “least advantaged” not be forgotten, Nozick sought to establish a theory of justice based on “entitlement,” where everyone possessed exactly what they were entitled to receive,

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without reference to needs or inequalities. Between the two Harvard theorists a considerable debate developed, on occasion even spilling into the popular press.\textsuperscript{58}

The third and most enduring of the debates inspired by Rawls’s work has been between liberals and “communitarians,” a diverse group of critics whose members include Michael J. Sandel, Charles Taylor, Michael Walzer and others. Here, the critics take issue with a liberal position that goes all the way back to Hobbes, Locke, and Hume that, whatever the principle is to be upon which a just society is to be founded, most important is that that principle be \textit{neutral} among the competing conceptions of the good. In the case of Rawls in particular, the critics argue that his conception of the self is too individualist and “unencumbered,” that it takes insufficient account of human goods and ends such as community, faith, virtue, and character, and that as a result, the politics that Rawls envisages is empty of real content, sacrificing any possibility that we might achieve “a good in common that we cannot know alone.”\textsuperscript{59} In writing \textit{Political Liberalism}, Rawls conceded some ground in this debate, but remained faithful to the larger liberal position—he recognized that the argument of \textit{A Theory of Justice} appealed to a single conception of the good, but, as we have seen, he was not at all persuaded to abandon the goal of seeking the neutral justification for what he came to call political liberalism.\textsuperscript{60}

\begin{itemize}
\item \textsuperscript{58} Rothenberg, “Nozick vs. Rawls,” pp. 201-09. Rothenberg offers a helpful, although casual, introduction to the debate between Rawls and Nozick.
\item \textsuperscript{60} For a thoughtful introduction to the liberal-communitarian debate, see Patrick Neal and David Paris, “Liberalism and the Communitarian Critique: A Guide for the Perplexed.” \textit{Canadian}
\end{itemize}
The criticisms of Rawls’s more recent work that I review here owe a great deal to this third set of arguments. Three categories of criticism can be distinguished among those presented. First, I review two examples of the more important criticisms that have been made “within” Rawls’s framework, arguments that suggest that Rawls’s theory cannot work the way he believes it should. An important question in this category, for example, is whether the overlapping consensus will be robust enough for it to accomplish what Rawls needs it to accomplish. These criticisms suggest that Rawls’s theory is unrealizable and therefore unacceptable.

A second group is made of critics who are concerned with the actual or potential consequences of Rawls’s proposals. For example, one argument is that Rawls is so concerned with maintaining the bounds of public reason that his political conception of justice risks becomes too static, that the possibility for change in the conception is too severely limited. These criticisms suggest that the theory, even if workable, has unacceptable consequences, and must be rejected.

Finally, in a third group are critics who challenge Rawls’s position on a more basic level. These critics focus on core values and assumptions in Rawls’s theorizing, suggesting that he makes fatal errors of some sort or another, often concerning issues of human selfhood, society, culture, or religion. One recurring theme among these

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critics, for instance, is that Rawls’s neutrality among comprehensive doctrines is not at all near what he claims it to be. The charge of these critics is that even if workable, Rawls’s theory is unacceptable “in itself.”

1. Unrealizable, therefore unacceptable

Recall that in the reworking of his theory, Rawls sought to detach his political liberalism from any particular moral philosophy. The political conception of justice was to be derived from the “shared fund” of ideals and principles present within the public political culture, rather than from any comprehensive doctrine, whether secular or religious, or even from a consensus of these doctrines. Rather, the various reasonable comprehensive doctrines provide the conception the support it requires for it to endure.

This account of the overlapping consensus and its formation has occasioned much comment. A number of critics argue that it is simply unrealistic to expect such a consensus to appear. Prominent among these is Michael Perry who suggests that Rawls’s hope that “there is on our horizon a fullblown conception of justice that, when it arrives, will enjoy the support of an overlapping consensus seems rather wistful.” Given our pluralism, for the time being, suggests Perry, “our pluralistic politics may well have to proceed without benefit of such a conception.” Samuel Scheffler makes a similar claim, arguing, first, that the range of doctrines is simply

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much broader than what Rawls seems to believe, rendering widespread support for the consensus unlikely.\textsuperscript{62} Second, he argues that Rawls’s requirements as to what participation in the overlapping consensus involves is too stringent: adherents of particular comprehensive doctrines need to understand the political conception \textit{as a political conception}—as “freestanding,” and not simply deriving from their comprehensive doctrine.\textsuperscript{63} This requirement makes the possibility of achieving an overlapping consensus even more unlikely, he claims.\textsuperscript{64}

Rawls himself recognizes this possibility of failure in this way, of course, and is aware that such a failure would have serious consequences. He noted in 1987 that “[w]e do not assume, of course, that an overlapping consensus is always possible,


given the doctrines currently existing in any democratic society. It is often obvious that it is not, not at least until firmly held beliefs change in fundamental ways.  

Similarly in *Political Liberalism:* “An overlapping consensus of reasonable doctrines may not be possible under many historical conditions, as the efforts to achieve it may be overwhelmed by unreasonable and even irrational (and sometimes mad) comprehensive doctrines.”  

In such a situation, he says, where the conception cannot gain the support of reasonable doctrines, “the case for stability fails . . . [j]ustice as fairness as we have stated it is then in difficulty.” We then must consider whether making acceptable changes in the principles of justice might achieve the requisite stability, or “indeed whether stability could obtain for any democratic conception.”  

Rawls himself does not pursue this question of possibility, however: throughout the investigation he assumes, “on the basis of a number of plausible considerations” that the conception does in fact achieve the stable consensus it requires.  

A second major set of criticisms suggests that the overlapping consensus is not sufficiently determinative and therefore unlikely to be able to do the work that Rawls requires of it. Kent Greenawalt has made this argument especially forcefully, arguing that, at best, Rawls’s procedure may help us eliminate some of the choices before us

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66 p. 126.


68 *Political Liberalism*, p. 66.
but that more frequently, it will be too indeterminate to permit a choice from among the remaining alternatives. Greenawalt is thus concerned with Rawls’s expectations: it is simply unrealistic to expect that the overlapping consensus and the strictures of public reason will furnish the resources necessary to resolve important questions regarding constitutional essentials and matters of basic justice. In such situations where public reason does not indicate a path, says Greenawalt, it will become very difficult to defend “any position that citizens should self-consciously try to limit their political justifications to public reasons.” On the contrary, citizens are likely to find it necessary and appropriate to introduce their comprehensive doctrines in order to be able to make necessary decisions. He notes that this is particularly likely to be a problem in cases where people rely on comprehensive views to color their understanding of constitutional essentials and publicly shared principles (and that will include most of us and most cases). Here again, people may reasonably arrive at different outcomes than what public reason “taken alone” might conclude. Indeed, taking Greenawalt’s line of argument a little further, we may wonder what public reason “taken alone” could mean. In all cases, participants in the overlapping consensus will arrive with significantly different understandings of what precisely


71 Greenawalt, “On Public Reason,” p. 683. Note that Rawls is quite willing for our evaluations of public reason to be “colored” by our comprehensive doctrine: the notion that citizens might be required to “pluck out their religious convictions” does not represent his view, says Rawls (Political Liberalism, p. 244, note 22). Rawls’s concern rather is when people go against the balance of public reasons as they see them (Greenawalt, “On Public Reason,” p. 686, note 44).
they are affirming by so participating. In most cases, deciding among several alternatives not ruled out by public reason will require convictions derived from elsewhere.\textsuperscript{72}

Rawls has replied also to this criticism; indeed, he clearly anticipated some aspects of it. In \textit{Political Liberalism}, Rawls acknowledges that public reason often allows more than one reasonable answer to any particular question,\textsuperscript{73} and he also discusses Greenawalt’s argument that in these situations, citizens may legitimately invoke principles appealing to nonpolitical values to resolve the matter.\textsuperscript{74} Rawls reacts strongly against the temptation to resort to nonpublic reasons, however: debate is still possible using public values, he claims, and we can vote on these questions as on any other.

Close agreement is rarely achieved and abandoning public reason whenever disagreement occurs in balancing values is in effect to abandon it altogether….

We should sincerely think that our view of the matter is based on political


\textsuperscript{73} p. 240.

\textsuperscript{74} p. 240, note 30.
values everyone can reasonably be expected to endorse. For an electorate thus to conduct itself is a high ideal the following of which realizes fundamental democratic values are not to be abandoned simply because full agreement does not obtain. A vote can be held on a fundamental question as on any other; and if the question is debated by appeal to political values and citizens vote their sincere opinion, the ideal is sustained.\textsuperscript{75}

Rawls returns to the question again in his 1996 introduction to \textit{Political Liberalism} and in his 1997 “The Idea of Public Reason Revisited.” His responses here are similar, suggesting that in the case where there is a “stand-off” among reasonable views, citizens “should simply vote for the ordering of political values they sincerely think the most reasonable,” rather than “invoke the grounding reasons of their comprehensive views.”\textsuperscript{76} In fact, Rawls sees this underdetermination as the normal case: “unanimity of views is not to be expected. Reasonable political conceptions of justice do not always lead to the same conclusion, nor do citizens holding the same conception always agree on particular issues.”\textsuperscript{77} In a 1998 interview with \textit{Commonweal} magazine, Rawls used the example of the legal brief he and five other liberal philosophers submitted to the United States Supreme Court in 1997 concerning physician-assisted suicide\textsuperscript{78} and Cass Sunstein’s opposing view on the issue, published several months later.\textsuperscript{79} Despite clear differences between the two, both

\textsuperscript{75} \textit{Political Liberalism}, p. 241.

\textsuperscript{76} “Introduction,” p. lv; “Public Reason Revisited,” p. 797.


were political arguments, points out Rawls, in that both depended on public reasons and refrained from invoking comprehensive doctrines.\textsuperscript{80}

Of course this does not end the dispute. Greenawalt \textit{et al} might well ask about the basis citizens are to use for voting between two or more equally reasonable policy options: if all are publicly reasonable, on what basis other than nonpublic reason can we reject any? Moreover, in addition to cases where public reason provides more than one answer, there may also be cases where public reason provides \textit{less} than one; in these situations, public reason appears irrelevant—it has nothing to say. What are citizens to do in such a case?\textsuperscript{81} And of course, there remains the difficult question of the reasonableness of an expectation that when such cases occur, citizens will refrain from deciding how to vote in terms of their comprehensive doctrines (whether consciously or not) rather than in the terms of public reason. I return to this question below.

2. \textbf{Unacceptable in its consequences}

A second major strand of criticism of Rawls’s work focuses on the consequences that would or could ensue were his suggestions to be fully adopted. One of the most important of these is the argument that a too-restrictive doctrine of


\textsuperscript{81} Rawls himself acknowledges that this might happen, but maintains that such an occurrence is rare (“Introduction,” p. liii). The contrary argument is made by Wolterstorff (“Role of Religion,” pp. 102-03) and by Cavender (“Appropriate Place,” p. 151). One of Cavender’s central arguments is the claim that where public reason is silent, ambiguous, or otherwise underdetermining, the continuing requirement to use political values is not only disabling in terms of the problem at hand, but also risks undermining the political conception itself.
public reason could result in limited possibilities for change or development in the political conception of justice. Amy Cavender makes this the central argument of her dissertation, for example. She notes that Rawls’s conception permits growth in the political conception only if it is derived from or justified in terms of principles already present in the political conception. It does not allow, however, for the possibility that principles not derived from or justified in terms of already present principles may over time be come to be understood as principles that all reasonable persons can be expected to accept.  

Drawing parallels between Thomas Kuhn’s well-known “paradigm shifts” and change in political conceptions of justice, Cavender argues that just as a scientific field may encounter anomalies for which its governing paradigm cannot sufficiently account, so a political conception of justice may encounter situations with which it is unprepared to deal. Given situations of sufficient number or import, suggests Cavender, the crisis that results may precipitate a “paradigm shift” from one political conception of justice to another. Her concern is that the restrictions in public reason may stand in the way of such a necessary shift.

82 Cavender, “Appropriate Place,” p. 30. This remains a problem even in Rawls’s wide view of public reason, maintains Cavender: “Though Rawls would now allow political discourse based on comprehensive doctrines in more instances than he would have previously, he would still restrict citizens to arguing for those positions that they can also support from principles already contained within the political conception. He explicitly argues against the open view of public discourse” (p. 110).

83 “Appropriate Place,” p. 129.

84 Cavender proceeds to provide a theoretical model of how this kind of shift might come about in the political realm. As an example of just this type of development in the political conception, Cavender examines in detail the change in political attitudes concerning race between 1946 and 1964: the move from “separate but equal” to integration. This move, she claims, required the introduction of so-called non-public reasons into political debate (“Appropriate Place,” p. 191).
Jeremy Waldron has made very nearly the same argument, suggesting that Rawls is too cautious in his concern that justificatory moves must always connect with a previous consensus. It is possible, he maintains, to engage in public political discourse without sharing a major premise and some mode of reasoning from it. Our justificatory offerings do not need to connect with an existent consensus, and demands that they do so connect can actually have harmful consequences:

What this conception seems to rule out is the novel or disconcerting move in political argumentation: the premise that no one has ever thought of before, but which, once stated, sounds plausible or interesting. Rawls’ conception seems to assume an inherent limit in the human capacity for imagination and creativity in politics, implying as it does that something counts as a legitimate move in public reasoning only to the extent that it latches onto existing premises that everybody already shares.\(^\text{85}\)

Waldron finds the prospect of losing the novel, the disconcerting, the erring to be “frightening—terrifying, even” if we are to discover it replaced by “bland appeals to harmless nostrums that are accepted without question on all sides.”\(^\text{86}\)

Rawls explicitly speaks against this view, emphasizing the flexibility and relative openness of public reason. Political liberalism does not seek to establish once and for all the content of public reason, says Rawls.\(^\text{87}\) Justice as fairness will not be the only political conception of justice acceptable to public reason; indeed he expects


\(^{86}\) “Religious Contributions,” p. 842. Arguments similar to that of Cavender and Waldron are offered by Quinn, “Political Liberalisms,” p. 158, and E. A. Goerner (“The pragmatic bent of Rawlsian political philosophy…abandons all of the questioning, wondering, and thus subversive potential that has remained part of the tradition since it got Socrates killed” (“Rawls Apolitical Political Turn,” Review of Politics 53 (1993), p. 718), hereinafter referred to as Goerner, “Rawls’s Turn.”

\(^{87}\) “Public Reason Revisited,” p. 774.
new variations to appear from time to time while others may decline. In fact, says Rawls, it is “important that this be so; otherwise the claims of groups or interests arising from social change might be repressed and fail to gain their appropriate political voice.”88 “Jeremy Waldron’s criticism of political liberalism as not allowing new and changing conceptions of political justice is incorrect.”89

Alongside the “novelty objection” there is a related, although conceptually distinct, set of arguments also concerned with the possible consequences of Rawls’s proposed solutions to the problem of pluralism. This is the fear that Rawls’s strategy of excluding from political discussion all of “religion and philosophy’s profoundest controversies”90 may deprive politics of the very resources it most requires. To the extent that the political conception of justice is developed (only) from the “fundamental principles we seem to share through the public political culture,”91 the concern is that Rawls may be placing politics in peril by excluding from the public political culture the very doctrines that may have given birth—and continue to sustain—these “fundamental principles.” For example, one argument for admitting

88 “Public Reason Revisited,” p. 775.

89 “Public Reason Revisited,” p. 775, note 30. In his thorough defense of public reason, cited by Rawls (“Public Reason Revisited,” p. 775, note 30), against what he refers to as Waldron’s “novelty objection,” Lawrence B. Solum argues that Waldron’s portrait of Rawlsian public reason is incorrect in several respects: a) Waldron does not sufficiently distinguish between widely accepted and widely available premises, as Rawls does; b) he ignores the role played by the method of reflective equilibrium in reaching conclusions; c) he tends to read an exclusive view of public reason, rather than the inclusive view; and d) he ignores the extent to which novel reasons, once introduced into the background culture, may then be introduced in public political debate (“Novel Public Reasons,” Loyola of Los Angeles Law Review 29 (June 1996), p. 1485).

90 Rawls, Political Liberalism, p. 152.

91 Rawls, Political Liberalism, p. 150.
religious voices to public political discourse might be that religious people and religious institutions have long played in the American polity a significant role in articulating and pursuing the public good. According to this argument, we have reason to be concerned when such views are absent, or even if they are made secondary to other “public” reasons. Indeed, we might note that every past attempt that we might name to establish such a public good without drawing upon religious resources has failed to achieve its goal and has engaged in intolerable oppression in the process of doing so.92 Jeremy Waldron summarizes the argument well:

[T]he idea that we can afford simply to ignore the contents of all religious conceptions of the person, the idea that we should abandon any hope of deriving clues or intimations from those traditions as to how to construct a secular conception and how to relate it to other ideas about virtue, value, and duty—and that we should do so because those sources of clues are controversial and, indeed, implicated in the very controversy (about abortion) we are addressing—all this strikes me as the opposite of wisdom.93

Rawls to some degree has anticipated and further responded to this concern as well. Indeed the two “exceptions” to the exclusive view of public reason that he describes in Political Liberalism94 can be seen as an attempt by Rawls to ensure that resources within religious and doctrinal traditions can yet be made available to the


93 “Religious Contributions,” p. 843.

94 pp. 247-252.
public political sphere. And, in response to criticism that he has not gone far enough in this respect, Rawls’s “wide view” of public reason is designed to provide even greater access to these resources. Indeed, Rawls seems to be very concerned about his theory’s vulnerability to this objection. The question, of course, is how well his revisions meet the concerns. For now, I leave that question open, returning to it in later chapters.

A third set of “consequentialist” arguments is concerned with the dangers that may follow from an approach to pluralism that methodologically excludes certain voices and certain views from public debate. The suggestion is that the very fact of exclusion may weaken the appeal of liberal democracy and encourage a resentful minority to move toward illiberal politics. It is not hard to see how delegitimizing participation on the basis of the grounds of arguments might discourage a civil politics. Sandel is one of Rawls’s strongest critics on this point:

A politics that brackets morality and religion too thoroughly soon generates disenchantment. Where political discourse lacks moral resonance, the yearning for a public life of larger meanings finds undesirable expressions. Groups like the “moral majority” and the Christian right seek to clothe the naked public square with narrow, intolerant moralisms. Fundamentalists rush in where liberals fear to tread.95

The disenchantment can also assume more secular forms. If the moral dimensions of public questions cannot be explored as they should be, what rushes in to fill the void are not “noble discussions about principles of justice,” but rather considerations of

self-interest, of privatism, and of nationalism. 96 Discussion of political issues is profoundly debased, as public attention shifts to the private vices of public personalities, diverted by the sensational, the scandalous, and the shocking. The solution to this incivility proposed by the critics is to seek to include, rather than exclude, to allow and encourage people to speak about what is most important to them. 97

Rawls argues, of course, that within public reason, citizens will not feel resentful about being coerced if the rationales presented are reasonable and not based on controversial comprehensive views. And he could emphasize his agreement with his critics that a lively and robust discussion about things political and religious is important and valuable—though he would add the important proviso that such discussion should take place in the “background culture.” The questions this raises, of course, are whether or not the construct of political liberalism is itself controversial, and also whether or not such a lively discussion can be expected to thrive if it is confined to the background culture. I return to these questions below and in later chapters.

96 Wolterstorff, “Why We Should Reject,” p. 177.

3. Unacceptable, even if realizable

Under a third heading can be found a great many critics that focus on certain basic doctrines or assumptions in Rawls’s theory. These opponents suggest that Rawls makes fatal theoretical errors of some sort or another, often concerning such basic concepts as human selfhood, society, culture, or religion. The focus is thus less on whether Rawls’s theory can actually accomplish what Rawls says it can accomplish, or on perceived or actual undesirable consequences of Rawls’s theory were it to be put into practice, but rather on incorrect or undesirable elements of the theory itself. This category of criticism therefore contains the most basic or foundational criticisms, and perhaps for that reason the most significant criticisms. Of course, also for the same reason, they are perhaps the most difficult to resolve, because as foundational concerns, they reflect differences corresponding to differing visions about human beings and political values. Of the many criticisms that could be reviewed here, I offer three, selected because of their significance to Rawls’s project, but also because of their relevance to the criticism and alternate proposals I will be developing in later chapters.

The first criticism focuses on the method used by Rawls to justify or develop political conceptions of justice within public reason. Recall that as Rawls sought to detach his political liberalism from any particular moral philosophy, he appealed to values such as reciprocity, fairness, and mutual respect that could have grounding in what was “political, not metaphysical.” Rawls’s suggestion was to derive these values “from the public political culture” of society. The resulting political conception would then be independent of any and all of the various comprehensive
doctrines circulating within society. Agreement on the conception is achieved not by persuading reasonable citizens of its truth, but more simply by demonstrating how its principles are already implicitly agreed to, by virtue of their presence in the shared public political culture.

Sharp criticisms have been made of Rawls’s strategy here. One of the most frequent concerns Rawls’s willingness to set aside the question of truth. Put plainly, consensual agreements, while satisfying politically, are not warranted arguments philosophically. Rawls faces a crisis of justification in that however accurately a political conception may correspond to the most careful interpretation of ideas implicit in our public political culture, we may still wonder why we should accept this justification, for neither Rawls—nor anyone else—can claim that a particular doctrine of justice is actually true. In fact, such a claim to truth, or, more properly, the claim that a doctrine’s truth is the reason why it should be accepted, would violate the very purpose of the Rawlsian project.98 Something is lost, so the argument goes, if besides arriving at an understanding of how justice actually is understood in a society, we cannot develop further arguments for what justice ought to be. At the very least, says William Galston, a leading critic of Rawls in this regard, we have reason to doubt whether such an exercise can be referred to as “political philosophy”:

The reason is straightforward. If someone argues that we ought to do something because it corresponds to the best interpretation of the shared understandings that constitute our culture, it is always open to me to ask why I should consider myself bound by those understandings . . . . To set aside in

advance the quest for truth, to insist as Rawls does that the principle of religious toleration must for political purposes be extended to philosophy itself, is to demand something that no self-respecting individual or public culture can reasonably grant.\textsuperscript{99}

Other critics warn of the danger that may be contained in this strategy: our commitment to political theories bound to and by our public political culture may overwhelm our ability to develop real criticisms of them. And Rawls’s procedure will make things especially difficult for those who seek to reform the public political culture out of which the theory has been constructed—these people may be particularly unlikely to find public reasons for their views.\textsuperscript{100}

A related set of criticisms is also concerned with Rawls’s willingness to set aside the matter of truth. These critics question whether citizens in the Rawlsian regime will have a sufficient motive to accept a particular political conception of justice and to operate within the restraints on political argument that Rawls proposes. It is not clear, these critics say, why citizens should agree to appeal only to a public conception of justice rather than to their wider views, beliefs and moral commitments. The question then concerns how Rawls’s moral “duty of civility” is justified.

Nicholas Wolterstorff has made this argument, for instance, as part of his larger critique of Rawls’s “consensus populi” method of justification. If we assume,


says Wolterstorff, that a political conception of justice can in fact be developed out of
the beliefs we have come to hold in the public political culture of our society, and that
it can in fact gain the support of an overlapping consensus, it remains to ask why we
should accept such a conception. We can note, of course, that it so happens that we
all share in the public political culture, and that we share in the beliefs out of which
the conception has been developed. But when we ask further what reason we have
for these beliefs, we have no response. If, for whatever reason, we—or one of us—
would begin to question this belief, the reply “we so happen to believe thus” is
unlikely to persuade either ourselves or another.101 And in the absence of
comprehensive doctrines of the good, if we cannot be so persuaded, what motive have
we to do what justice requires?102

Rawls has on occasion referred to this difficulty, which in its general form goes
back at least to the time of the Sophists. He has acknowledged, for example, that in
his political liberalism stability cannot be guaranteed, for “political good, no matter
how important, can never in general outweigh the transcendent values—certain


102 Besides Wolterstorff, authors who develop variants of this argument include Christopher
Beem, Pluralism and Consensus: Conceptions of the Good in the American Polity (Chicago: Center
for the Scientific Study of Religion, 1998), pp. 17-36; Cavender, “Appropriate Place,” p. 214; Galston,
1921, 1926-1932; Sandel, “A Response,” pp. 196-202; Jeffrey Stout, The Flight from Authority:
Religion, Morality, and the Quest for Morality (Notre Dame, Ind.: University of Notre Dame Press,
Reason,” Natural Law and Public Reason, ed. Robert P. George and Christopher Wolfe (Washington,
“Modern Liberalism.”
But he additionally would be likely to reply with two arguments from *Political Liberalism* to a charge such as Wolterstorff’s. First, he would note that we must recognize that fair social cooperation is itself a great good—and the achievement and maintainance of this cooperation may be a sufficient motive in itself. Second, if we require a further motive, we need look no further than to our reasonable comprehensive doctrine, which by virtue of its support for the overlapping consensus, should provide sufficient motivation for our participation.

Are these replies sufficient? Simply to cite the good of social cooperation begs the question; it merely assumes what needs to be established. The assertion that political values are “very great values and hence not easily overridden” is unlikely to persuade many that they should make the necessary sacrifices. Second, recall that for Rawls, individual citizens support the conception of justice to the degree that it is “derived from, or congruent with, or at least not in conflict with, their other values.” But it is not clear, say some critics, how this relation necessarily implies endorsement. After all, merely because a thin theory is congruent with Christianity (for example) does not make it any less thin. Inasmuch as support for the overlapping consensus


consensus will involve for many a moderation of certain claims, and for some may represent a substantial departure from the ideal, even to the extent that they must set aside in politics the truth as they see it, motivation will remain a problem. It remains unclear to the critics, therefore, why citizens who hold to the various doctrines should feel motivated to respect the principles of justice and the restrictions on public discourse—and particularly so when they have had no input into their content.107

A final set of criticisms is concerned with the neutrality of Rawls’s theories. Recall that the strength and success of political liberalism stems from its apparent independence from any particular moral philosophy, whether religious or secular. Especially in *Political Liberalism*, Rawls emphasizes that political liberalism does not favour any comprehensive doctrines or its associated conceptions of the good. Rather, it appeals to less controversial values, such as reciprocity and mutual respect, that are found in our shared public political culture. Accordingly, Rawls describes his theory as concerned with agreement, not truth; anything other than this neutrality

107 The argument here is complex; it will be explored in greater detail in later chapters. Suffice it to say that this difficulty stems from a related difficulty that Rawls inherits from *A Theory of Justice*. By far one of the most important changes Rawls introduces in *Political Liberalism* is to give a far greater recognition to the role played by our “good” in who we are and what we do. One of the challenges Rawls set before us in *A Theory of Justice* was to place the right prior to the good, to ensure that whatever we might be led to do in the name of the good first past muster before the bar of right. The challenge lay, of course, in the fact that this rule of right is not how most people typically act. Why should we be just? Why should we respect the right? Out of principle? Out of contract? Occasionally perhaps, but most often out of concern for the good. The changes Rawls introduced in *Political Liberalism* thus not only were an attempt toward a more neutral, non-metaphysical, political liberalism, but also a move toward a more accurate recognition of the role that our individual goods play in our motivation to do the “right.” Continued tensions in this respect continue to plague political liberalism, however, as we see here and will see to a much greater degree in chapter three. For a discussion of this problem with respect to *A Theory of Justice*, see Allan Bloom, “Justice: John Rawls vs. The Tradition of Political Philosophy,” *American Political Science Review* 69 (1975), pp. 652-53.
would invite unresolvable conflict and impose particular comprehensive views on citizens who do not hold them.  

Many critics have suggested, however, that even in *Political Liberalism*, Rawls’s claim here is spurious, and that despite his attempt to construct a political theory devoid of metaphysical commitments, Rawls smuggles in presuppositions about the truth of particular comprehensive conceptions. Some of these I have already reviewed above; others include Bryan T. McGraw, who argues that Rawls’s assumption of the desirability of a political conception in which citizens cooperate on the basis of their “common human reason” is in fact quite controversial. He suggests that Rawls’s arguments assume a particular epistemology, one that views reason and rationality in a particular way, and one that sees fully or exclusively rational considerations to be elevated above any competitors.  

Miriam Galston takes a different angle. She argues that Rawls’s assumptions are more metaphysical than he admits because they exclude significant views about the relationship between a person’s political life and his personal psychological, moral or religious life. Rawls assumes that a particular relation exists between the political principles agreed to or accepted by an individual and that individual’s comprehensive view, and this

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108 Rawls in *Political Liberalism* makes an important distinction between neutrality of procedure and neutrality of aim. He describes his own work as neutral only in the second sense (pp. 192-93).

assumption is problematic in several important ways.\textsuperscript{110} As a result, Rawls must relegate too many people and too many doctrines to the realm of the “unreasonable,” risking the very stability that he is seeking.\textsuperscript{111}

**Conclusion**

The widespread concern among the critics with Rawls’s claims to neutrality reflects the importance that the claim to “neutrality” in Rawls’s theory plays with respect to the project as a whole. Much depends on understanding precisely what form of neutrality Rawls is concerned to profess—and, as important, the forms of neutrality he does not claim for his theory. Given the importance of neutrality to Rawls’s theory, and to liberalism more generally, it is not surprising how hotly the matter is debated. Nor is it surprising that this is a matter to which I will return again and again in later chapters. Indeed, one of the central claims that I make in this dissertation is that Rawls’s proposed strategy for responding to the challenges of a plural society is very much a liberal one, and as such suffers from many of the characteristic weaknesses of liberal attempts to develop a secure foundation for politics. Accordingly, the argument of this dissertation is best seen as a member of the third “unacceptable ‘in itself’” category of criticism, although I certainly share certain of the reservations expressed by the other two groupings of critics.


\textsuperscript{111} Galston, “Rawlsian Dualism,” p. 1844.
My own entrance to the debate bears a similarity to the “lack of neutrality” criticisms, but also moves away from these in important respects. What many of the difficulties pointed to by the critics suggest, I argue, is that while Rawls certainly does offer a model of public discourse that takes account of the diversity of beliefs and worldviews circulating within society, his model assumes a particular view of the problem of pluralism, and more generally, a particular view of the meaning and purpose of public life. It is these assumptions, handed down to Rawls from the early modern liberals, that encourage him to give the values of legitimacy and reciprocity the meanings he does, for example, or that suggest to him the strategy of establishing a sure grounding for politics by applying “the principle of toleration to philosophy itself.” The implication I will draw is that this is only one way we might consider these matters, and that by posing the problem differently we might be able to consider other solutions. In particular, I seek to pry open the door for approaches to politics rooted in traditions of political thought less concerned with consensus and its achievement, but rather in traditions that place a strong emphasis upon the importance of plurality in public life. And I will suggest that the weaknesses to which the critics point are precisely where a pluralist theory may be able to make a significant contribution.

My focus in the following chapters therefore is to explore the possibility of a politics that is able to proceed without the benefit of an overlapping consensus such as that set forth by Rawls, without the rules that govern public reason, but yet is a

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112 Political Liberalism, p. 10.
politics that is able to remain civil. The difficulties inherent in Rawls’s response to
the fact of pluralism suggest the need for a politics that provides new ways to answer
the question of how (in what ways, using what language) people who hold strongly to
comprehensive doctrines and who believe these doctrines have implications for the
world of politics, should make their views known. Ultimately, this will suggest the
need for another model of public discourse, one that does not search for what is left of
commonness in spite of the fact of pluralism and thus avoids the tendency to limit the
public to that which people still have in common, while anxiously trying to keep
controversial matters outside the political domain. The challenge is to put aside the
assumption that we must look for a politics that is the politics of a community with a
shared perspective. Such an assumption may have made sense or been a logical move
for Hobbes or other early moderns who sought to posit various forms of unity that
might substitute for the once integrative, now shattered, religious consensus on
matters of state. But the great difficulty involved in finding and developing such a
new consensus—Rawls’s theory is perhaps the finest example—and this strategy’s
general lack of success in persuading different communities that they might take part
without becoming liberals themselves—the very point of a political theory that
attempts to deal justly with pluralism—suggests that this assumption must be
abandoned. The attempt to posit a new form of communality at the foundation of
politics will only weaken or threaten the very communities it seeks to recognize and
include. In contrast, we must learn to accept, even rejoice in, our world of multiple
communities.
The structure of this dissertation is as follows. In chapter two, I take a closer look at certain aspects of Rawls’s theory of political liberalism, focusing especially on the development of the overlapping consensus and the justification and development of Rawls’s theory of public reason. I turn in chapter three to the evaluative question: how well does Rawls respond to or respect the “fact of reasonable pluralism”? Picking up on some of the criticisms introduced here, I focus on how successfully Rawls deals with the concerns of persons or communities who hold strongly to various comprehensive doctrines but who are concerned about the requirement to give voice to their views in any language but their own. Chapter four introduces a new possibility: a genuinely pluralist politics, based explicitly upon a variety of consensus that Rawls rejects. The chapter focuses particularly on the obligations of political discourse that inhere in a pluralist politics, and it argues that this possibility may do justice to a wider range of “comprehensive doctrines” than Rawls’s own proposal, thus seeking to preserve particularity even as it promotes civility.
CHAPTER TWO

RAWLS AND A LIBERAL PUBLIC REASON

Introduction: Liberalism and Public Reason

Of liberalism’s many strengths, ideological flexibility surely must be included among its most important. As the leading ideology of the western world, arguably of the entire world, it enjoys such a widespread dominance that it has at times proven willing to revisit traditional orthodoxies if doing so enables the disarming of a critic. Arguments made against one tenet can be deflected by emphasizing another, usually by demonstrating a level of underlying agreement with the critic. And thus we have such curious neologisms as “communitarian liberalism,” or “perfectionist liberalism,” or “humanist liberalism,” or “egalitarian liberalism.” Amazing transformations can take place: what were once dangerous debates among ideological partisans are transformed into mere differences of opinion among basically like-minded liberals. To the critic seeking to develop a sustained argument, liberalism can assume a slippery quality, almost amoeba-like: hungry, perhaps even ferocious, but surprisingly soft and spongy.

One of the most recent of these transformations is under review here. Sometime in the years between 1971—the year A Theory of Justice was published—and 1993—the year of Political Liberalism, Rawls turned his attention to the problem
of pluralism, and he was led to introduce a number of significant revisions to his version of liberalism. This pluralist turn resulted in a strain of his thought that can be described as more “political,”1 “chastened,”2 or, more substantively, as the “liberalism of reasoned respect.”3 The question, of course, is the degree to which this turn represents a real move to develop a new kind of liberalism that is concerned to meet the challenges of its religious, communitarian, and other critics. In what ways might we see this turn manifesting itself? I describe here five ways, although there may be more.4

First, we might take note of the recognition on the part of some liberals that Enlightenment or secular moral doctrines (Kantian liberalism, or utilitarianism, for example) are themselves comprehensive doctrines and not neutral contexts in which other comprehensive doctrines and especially other religious comprehensive doctrines must find their place. The new liberalism thus speaks not of religious doctrines, but of “comprehensive doctrines,” in which category is included not only religions but also comprehensive philosophies. Rawls dispenses with the older tradition of Enlightenment liberalism early in the 1993 work:


4 Langerak reviews some of these in “Self-Restraint,” pp. 4-7. We can, I think, remain purposely vague as to which liberals other than Rawls should be included here. Not all liberals will identify themselves with all five elements, and of those that do, not all will agree to the same extent or in the same way. However, the changes reviewed here do reflect a shared tendency—a type of “overlapping consensus” perhaps—with which different liberals will agree differently.
Sometimes one hears reference made to the so-called Enlightenment project of finding a philosophical secular doctrine, one founded on reason and yet comprehensive. It would then be suitable to the modern world, so it was thought, now that the religious authority and the faith of Christian ages was alleged to be no longer dominant. Whether there is or ever was such an Enlightenment project we need not consider; for in any case political liberalism, as I think of it, and justice as fairness as a form thereof, has no such ambitions.\(^5\)

Rawls quite clearly rejects the Enlightenment idea that reason can yield a true comprehensive liberalism that can bind together a pluralist society. Such secular comprehensive doctrines are in principle “in the same boat” as religious comprehensive doctrines. Says Rawls: “[t]he question the dominant tradition has tried to answer has no answer: no comprehensive doctrine is appropriate as a political conception for a constitutional regime.”\(^6\) Appeal cannot be made to these doctrines as self-evident truths, as any such appeal is bound to be controversial in a pluralist society, as controversial in principle as an appeal to the Koran or the New Testament. This, of course, makes simple appeals to the “non-establishment of religion” as an argument for excluding religious or religious arguments from the public sphere difficult to sustain. More importantly, this also makes the quest for neutrality much more difficult and gives rise to Rawls’s search for a new “Archimedean point” or “independent source” within our common political culture. To the greatest extent possible, Rawls professes a committed agnosticism on matters of ultimate truth, whether they be religious or secular: he is concerned only to achieve such agreement

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\(^6\) *Political Liberalism*, p. 135.
as may be possible, and concerned not with the truth of (secular or religious) doctrinal matters.\(^7\)

A second indicator that we might notice is a greater appreciation for the contributions that religion and religious people can bring to the public square. The new liberalism is characterized by an increased recognition that for many people of faith, it is of utmost importance to be able to express and explain their distinctive moral and religious identities. So when Rawls speaks of citizens regarding themselves as “self-authenticating sources of valid claims,”\(^8\) he is saying that the claims that citizens make to advance their conceptions of the good include also religious claims (as well as assertions, arguments, and reasons), and that these claims are reasonable, and indeed, that they may be valuable. One might also note that the burden of the argument seems also to have been changed. Whereas it was once the case that any form of inclusion had to be justified, it is now religion’s exclusion that requires justification. Religion and religious discourse thus gain a greater freedom and a stronger presence in the political sphere and indeed, at least for some liberals, is able to advance considerably beyond the “background culture” into which it had once been relegated.\(^9\)

\(^7\) See Alasdair MacIntyre’s *After Virtue: A Study in Moral Theory* (Notre Dame, Ind.: University of Notre Dame Press, 1981), especially chapters 4-6, for a thorough discussion of the “Enlightenment Project” and “why it had to fail.” With respect to Rawls in particular, see Wolterstorff’s suggestion that “chastened epistemology” lies behind Rawls’s move (“Role of Religion,” p. 91).

\(^8\) *Political Liberalism*, p. 32.

Third, we might note a shift from arguments based on the fear of the instability that religion might bring to arguments based on “civic virtue.” Historically, in attempts to limit the role of religion in public debate liberals have not been slow to appeal to fears about the alternatives to such limitation, warning of political instability and even religious war (or its late twentieth century manifestation: the culture war). While liberals such as Rawls are not immune to this habit, more often the appeal is made to civic virtues (reciprocity, civility, mutual respect, civic friendship) when arguments are developed. This is what Weithman refers to when he speaks of a “liberalism of reasoned respect”: a liberalism concerned with virtue, rather than with prudence, or with prudence considered alone—in Rawls’s words, a liberalism “for the right reasons.” The debate then can turn on the content and implications of these virtues.

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10 See, for a contemporary example, Richard Rorty, “Religion as Conversation-Stopper,” Common Knowledge 3.1 (1994), pp. 1-6, reprinted in Richard Rorty, Philosophy and Social Hope (London: Penguin, 1999), pp. 170-71: “we shall not be able to keep a democratic political community going unless the religious believers remain willing to trade privatization for a guarantee of religious liberty.” Similar fears also can be found on the U.S. Supreme Court. See Justice Stevens’s dissenting opinion (joined by Justices Souter and Breyer) in the 2002 Cleveland school voucher case: I have been influenced by my understanding of the impact of religious strife on the decisions of our forbears to migrate to this continent, and on the decisions of neighbors in the Balkans, Northern Ireland, and the Middle East to mistrust one another. Whenever we remove a brick from the wall that was designed to separate religion and government, we increase the risk of religious strife and weaken the foundation of our democracy. (Zellman v. Simmons-Harris, 536 U.S. 639, p. 686 (2002).)

11 It comes across strongly in Rawls’s Commonweal interview, for instance, and of course Rawls never varies in his location of the origins of liberalism in the aftermath of the wars of religion (Prusak, “Politics,” p. 15; Political Liberalism, p. xxiv). And he continues to offer a “fear of civil strife”-type argument in “Public Reason Revisited,” p. 803.


13 As we shall see below, Rawls also is concerned to make this move because an argument based on fear of religious war is not likely to possess sufficient strength to move the consensus toward an overlapping consensus from the weaker modus vivendi and constitutional consensus. In other words, if our concern is only to avoid religious warfare, it may be sufficient for us to remain at the weaker agreements. Again, Rawls is concerned with “the right reasons.”
Fourth, we might note a greater recognition among liberals that liberalism itself contains a plurality of views and positions that may share a number of tenets but also may differ on any number of others, or on how strongly they hold to their common doctrines. Thus we see, for example, Rawls’s new emphasis in *Political Liberalism* on there being not only many different reasonable conceptions of the good, but also a plurality of political conceptions of justice. Of course, all along there has never been only one liberalism, but rather many liberalisms; what is of note here is the decline of what Jean Hampton labelled “disowning arguments”: arguments that all forms of so-called liberalism that are at odds with one’s own do not count as “liberal,” properly speaking.\(^{14}\) For present purposes, the important implication of this is that arguments made against certain liberal tenets are not therefore necessarily illiberal, as liberals themselves can disagree on these things. The effect is to give a new legitimacy to liberalism’s critics—one can be strongly critical without falling into authoritarianism or fundamentalism.

Finally, we should note that with respect to discourse in politics, these liberals are careful to specify that they are not advocating or otherwise contemplating legal restrictions on political debate. The restrictions they consider are rather seen to be moral restraints that are self-imposed or, at most, enforced by social disapproval. The matters under discussion are matters of virtue, not law. In Rawls’s words:

> That public reason should be so understood and honored by citizens is not, of course, a matter of law. As an ideal conception of citizenship for a constitutional democratic regime, it presents how things might be, taking people as a just and well-ordered society would encourage them to be. It

describes what is possible and can be, yet may never be, though no less fundamental for that.\footnote{Political Liberalism, p. 213.}

Arguably, the distinction made here is not strictly an innovation; some might suggest that the liberal commitment to freedom of speech precludes any such restriction in principle. Perhaps this is so. But the fact that some liberals are more careful in this respect suggests that they have become increasingly sensitive about the matter.

In each of these five ways, we seem to be witnessing a move from or at least a moderation of several of liberalism’s traditional assertions. In this chapter, we will depend on these five while looking closely at an additional innovation: the doctrine of public reason as outlined by Rawls in \textit{Political Liberalism}. Within liberalism, public reason has had a long history. Rawls, however, believes that his political liberalism provides a better (fairer, more successful) grounding for public reason than do previous attempts, and his work has been responsible for stimulating a great deal of new discussion on the issue. Are Rawls’s efforts in this regard of the same order of significance as the other movements we noted above?

An initial problem we face as we attempt to answer this question is that the term \textit{public reason} has no immediate or obvious definition. At its most general, we might understand it as a mode of reasoning specific to political (or perhaps, to public) questions,\footnote{Ivison, “Secret History,” p. 126.} or to the principles or methods (the “reasons”) by which a society publicly debates problems, justifies positions, and makes important decisions. As we try to specify the contents of public reason more precisely, however, we soon
discover that there is no single public reason, but rather a plurality of competing conceptions. Helpful in this regard is the distinction Rawls makes between the idea of public reason and the various forms of public reason that are specified by what Rawls refers to as a “family” of political conceptions of justice.\(^{17}\) Rawls’s point is that these various forms refer to one or another conception of what public reason should be, the particular norms or standards or principles put forward to govern public reason. We observe, then, that there is no single form of public reason currently dominant in society. Rather, there are any number of forms that compete for support, with varying degrees of success, complicating immensely the matters of political justification and public debate.\(^{18}\)

What unites these various forms of public reason? What elements do they share? One predominant theme that appears in many is a concern for independence: a concern that the principles of public reason not be derived from any private reason or basis, but rather from a source isolated from and independent of any and all of these private bases. This principle of independence helps ensure that a form of neutrality can be achieved. In Rawls’s words, the basis must be “freestanding” of any particular comprehensive doctrine: religious values and principles, for instance, will not be included in this basis. While modern theorists differ from one another as to what this

\(^{17}\) “Public Reason Revisited,” pp. 773-74.

\(^{18}\) Rawls also makes a distinction between the idea of public reason and the ideal of public reason. The ideal of public reason is satisfied, says Rawls, when the political actors governed by the idea actually do follow the idea of public reason in their actions with regard to the fundamental political questions to which the idea applies (“Public Reason Revisited,” pp. 768-69). The ideal of public reason, then, is a goal toward which all those governed by the idea should be striving.
independent source will be, they will affirm that it must be fair to the citizens who are using it: it cannot favour certain nonpublic bases, for instance.

Earlier versions of the idea of public reason did not always make this affirmation. Although the idea of public reason certainly does not originate with Rawls, earlier thinkers have understood the concept in very different ways. Thomas Hobbes, likely the first to make use of the expression, understood public reason to refer to the reason of the sovereign, always the last word and final authority on matters that potentially threaten social peace. Public reason for Hobbes was always tied to the judgment of the sovereign, and of course, the sovereign spoke with one voice. Students of Rawls will note, however, that Hobbes’s larger agenda is familiar: resolving the problem of how people with conflicting beliefs and independent judgment can manage to live together peaceably.19

When we move to consider Locke on public reason, the terrain becomes more recognizable. Whereas for Hobbes, diversity of opinion and judgment required obedience to an authoritarian sovereign who could issue final and binding judgments, Locke left the matter to the people. Lockean individuals do not alienate their power to judge and act politically, but rather entrust it to a representative—be it monarch or

19 In *Leviathan*, Hobbes uses the example of the question of how the veracity of miracles is to be determined as such a matter on which universal public agreement is necessary:

In [this] question we are not every one, to make our own private Reason, or Conscience, but the Publique Reason, that is, the reason of Gods Supreme Lieutenant, Judge; and indeed we have made him Judge already, if wee have given him a Soveraign power, to doe all that is necessary for our peace and defence. A private man has alwaies the liberty, (because thought is free,) to beleewe, or not beleewe in his heart, those acts that have been given out for Miracles, according has he shall see, what benefit can accrew by mens belief, to those that pretend, or countenance them, and thereby conjecture whether they be Miracles, or Lies. But when it comes to confession of that faith, the Private Reason must submit to the Publique; that is to say, to Gods Lieutenant. (Hobbes, *Leviathan*, ch. 38, p. 306)

For a good discussion of Hobbes and public reason, although not discussing this passage in particular, see Ivison, “Secret History,” pp. 130-36.
parliament. Government may be found elsewhere; sovereignty, however, remains permanently vested in the people:

there, and there only, is political society where every one of the members hath quitted his natural power, resigned it up into the hands of the community…. And thus, all private judgment of every particular member being excluded, the community comes to be umpire by settled standing rules, indifferent and the same to all parties….  

Lockean public reason thus refers to the reasons adopted by the people as they debate matters of political society, a definition closer to that introduced above. And of course, the limits that Locke, in contrast to Hobbes, places on political power also have implications for his conception of public reason. The power of government “in the utmost bounds of it, is limited to the public good of society.” According to these limits, government may not intrude upon the conscience, upon the non-public reason, of the individual members, as Locke’s Letter Concerning Toleration makes clear, for individuals have no need—nor ability—to give up sovereignty over conscience in order to overcome the inconveniences of the state of nature.

Or do they? And it is at this point that we encounter in Locke’s conception of public reason a tension that we also may find familiar. For as it turns out, toleration has its limits: opinions, and not only their corresponding activities, that might run contrary to what is required for the “Safety and Security of the Commonwealth” are


21 Locke, Second Treatise, pgh. 135.

not to be tolerated.\textsuperscript{23} Locke attempts to reconcile this tension by means of his epistemology. By “listening to the Voice of Reason,” we can succeed in “getting to things themselves,” moving beyond mere opinion to arrive at a reasonable resolution of a contested matter. Indeed, in such disputes, we are \textit{obliged} to undertake such an inquiry as to the truth of the matter—and indeed, one of the duties of the magistrate might be to remind us of that obligation. Locke’s views on human reason and natural law, so crucial to his political philosophy, commit him to such an epistemology, and it resolves nicely the magistrate’s difficulties concerning the consequences for the public good of certain private judgments. We are entitled to hold—and to bring into civil society—only those judgments that satisfy the requirements of reason.\textsuperscript{24}

Also significant is Immanuel Kant’s use of the term “public reason,” as Rawls himself cites it, although he is also careful to note that Kant’s distinction between public and private reason is different than his own.\textsuperscript{25} Nonetheless, Rawls is frequently seen to be operating within the Kantian tradition. In Kant’s essay, “What is Enlightenment?”, he distinguishes the public use of reason from private uses of reason, as part of a discussion as to the sorts of limitations on freedom that could hinder or promote “enlightenment” in society. Says Kant,

\textit{The public} use of one’s reason must always be free, and it alone can bring about enlightenment among human beings; the \textit{private use} of one’s reason may, however, often be very narrowly restricted without this particularly hindering the progress of enlightenment. But by the public use of one’s own

\textsuperscript{23} Locke, \textit{Toleration}, p. 46.

\textsuperscript{24} For more on Locke’s epistemology and its political consequences, see Wolterstorff, “Role of Religion,” pp. 80-90, as well as Wolterstorff’s \textit{John Locke and the Ethics of Belief} (Cambridge: Cambridge University Press, 1996).

\textsuperscript{25} \textit{Political Liberalism}, p. 213, note 2.
reason I understand that use which someone makes of it as a scholar before the entire public of the world of readers. What I call the private use of reason is that which one may make of it in a certain civil post or office with which he is entrusted. Curiously, Kant’s account of public reason is the opposite to that we might expect. It is the government official who is reduced to adopting private reason as he carries out the duties of his office. The educated private person, on the other hand, successfully uses public reason as part of his efforts to address educated society. It seems, then, that the crucial elements of public reason, according to Kant, are office and audience, at least insofar as enlightenment remains the larger goal. The citizen-scholar in this case, limited neither by restraint of office nor by restraint of audience is able to use public reason to the fullest in his search for enlightenment. The government officer, on the other hand, is restrained by his office to a less-than-public reason as he seeks after the goals of his office, even though he may address an audience of the public. Presumably, a third (and likely more common) case, not cited by Kant here, that of a citizen not limited by office but rather by audience, is also conceivable, and likewise would be unable to make public use of reason.

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27 Kant’s use contrasts with that Rousseau. We encounter the term “public reason” in Rousseau’s *Discourse on Political Economy* (pgh 6), where Rousseau emphasizes the uniquely public quality of the reason of the magistrate, as opposed to mere private reason (*Of the Social Contract & Discourse on Political Economy*, trans. Charles M. Sherover (New York: Harper, 1989), pgh 6. Hereinafter referred to as Rousseau, *Discourse*). Thus, it functions in a way similar to Rousseau’s more famous doctrine of the general will, as opposed to mere private wills. Rawls explicitly notes the affinity to Rousseau in *Political Liberalism*, pp. 219-220. Public reason also has an early American history, appearing first in *The Federalist Papers* no 82 (Alexander Hamilton), but also in Thomas Jefferson’s Second Inaugural Address, who related it to the public reason of a specifically democratic public society. See the appendix to Lawrence B. Solum, “Constructing an Ideal of Public Reason,” *San Diego Law Review* 30 (Fall 1993), pp. 756, 758-59, for further discussion of these references.
This brief review can provide only the barest outlines of how the term public reason was used before Rawls took it up in 1990.\(^{28}\) How does the usage that Rawls proposes differ from his predecessors? In many different ways—indeed a primary concern of this chapter is to count the ways. But one difference is especially profound, and it is this difference that Rawls himself especially credits as providing him the success in uniting society that eluded Hobbes, Locke, and Kant.

With respect to Hobbes, Rawls can agree that the fact of pluralism is also the problem of pluralism, at least politically, in that we cannot anticipate widespread public agreement on important questions, even on those questions that threaten the bonds of civil peace. And in a special sense, he can agree with Hobbes’s assertion that the reason of the sovereign is public reason, provided we recognize, of course, that for Rawls the sovereign is the public body of citizens, rather than the Hobbesian all-powerful, always single-headed, Leviathan. And notably, the Hobbesian sovereign does not make a distinction between his own private and public reason; Rawls possesses a concern for fairness conspicuously absent in Hobbes.

Rawls is also dissatisfied with the mere *modus vivendi* “consensus” that Hobbes seeks to establish. The most Hobbes hopes for is a recognition by each subject that obedience to the sovereign is his best interest. Rawls, in contrast, seeks something a good deal stronger, and in this respect he moves closer to Locke and Rousseau: something greater than a pragmatic balance between interests will have to

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\(^{28}\) Rawls’s “The Idea of Free Public Reason,” the inaugural Abraham Melden Lectures given at the University of California, Irvine, on February 27 and March 1, 1990, contains Rawls’s first reference to public reason that I have been able to discover, although a related notion of “publicity” goes back at least as far as *Theory of Justice*. The 1990 lecture formed the basis for Lecture IV of *Political Liberalism*. 

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be struck. Public reason becomes the reason of the people, rather than the
government, as they reason together as a public community. But Rawls also begins to
move beyond Locke, Rousseau, and Kant as he seeks to develop a version of public
reason more palatable to the modern pluralist condition. In contrast to theirs, Rawls’s
idea of public reason refuses to commit to any shared final ends or general moral
view—it is a view political, not metaphysical. In fact, Rawls explicitly disavows
Kantian and other liberal comprehensive theories. He refuses to make the
commitment to a Lockean epistemology with its controversial role assigned to human
reason as adjudicator of what we are entitled to know. He likewise refuses to commit
to a strong Kantian moral theory with its associated ideal of human autonomy; his
own Kantianism, he claims, goes no further than the political sphere and claims no
special status over any other “-ism.” It is this step in particular that is proclaimed by
Rawls, and noted by critics, as his unique contribution to the concept of public reason
inherited from his liberal forebears.29

But while we do well to note the important step away from the liberal tradition
in Rawls’s nod to contemporary pluralist realities, his movement should not be
overdrawn. While Rawls’s strategic innovation is highly significant, he himself
would emphasize his dependence on earlier formulations. Rawls remains rooted in
the liberal framework, motivated by Kantian concerns. He places limits on Kant,
certainly, never depending on him in a way that could not be supported by an
overlapping consensus of other views in society. But the theory for which Rawls

29 See Political Liberalism, pp. 99-101 for Rawls’s contrast of Kant’s “moral constructivism”
with his own justice as fairness.
seeks support, and the manner by which he does so, the consensus he seeks, even the reasons he puts forward in favour of his approach all suggest the degree to which Rawls remains solidly within the tradition.

Or so at least I shall argue. In the balance of this chapter, I take a close look at a few details of some of Rawls’s proposals in *Political Liberalism*. The goal is to set forward clearly what precisely Rawls is suggesting liberalism ought to do with the problem of pluralism, and to make some introductory suggestions as to what happens to his core liberal values in the process. This chapter also sets the stage for chapter three, where we turn to consider the evaluative question: how well political liberalism, as formulated by Rawls, is able to meet the pluralist challenge.

**Rawls and Public Reason, in Three Parts**

To begin, it may be helpful to remind ourselves why it is that Rawls needs something like public reason as part of his political liberalism. Recall Rawls’s basic question to which *Political Liberalism* is the answer: “How is it possible for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical and moral doctrines?”

There are number of elements in this question to which we should pay close attention. First, we should note that it is the pluralism of modern societies that provides the context, if not the reason, for this investigation. “Political liberalism starts by taking to heart the absolute depth of that irreconcilable latent conflict,” says Rawls, and the

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31 *Political Liberalism*, p. xxvii.
way it does so is by beginning with a recognition, indeed an affirmation, of the fact of pluralism.

In a free society, he says, it is reasonable and should not surprise that there would be a considerable variety among the theories and doctrines and beliefs held by citizens concerning selfhood, the nature of the universe, and the foundations of human community, including political community; furthermore, it is reasonable and should not surprise that some or even most of these are not liberal theories and doctrines and beliefs—though they may yet be reasonable, for all that. Accordingly, no one of these comprehensive doctrines is appropriate by itself as a political conception for a constitutional regime—not a religious belief, not a utilitarian political theory, not even Rawls’s own Kantian version of liberal theory: no reasonable comprehensive doctrine can itself “secure the basis of social unity, nor can it provide the content of public reason on fundamental political questions.”32 Nor would it possible for a doctrine to do so without intolerable oppression. Rawls calls this “the fact of oppression.”33

It is only against the backdrop of this reasonable pluralism that the overriding concern of political liberalism comes into focus. In light of that pluralism, Rawls’s major concern in Political Liberalism cannot be to find and articulate a conception of justice that will animate the just society—that work, in contrast, was the burden of A Theory of Justice;34 besides, our problem is not a shortage of such conceptions.

32 Rawls, Political Liberalism, p. 134.
33 Political Liberalism, p. 37.
34 The task of A Theory of Justice, according to Rawls, was to “present the structural features of ... a theory of justice so as to make it the best approximation to our considered judgments of justice
Rather, he says, we are faced with “the problem of stability”; our challenge is to determine the structure and content of a political conception of justice that can attract the support of as many of the “reasonable religious, philosophical and moral doctrines” as possible, for while we may not choose one comprehensive doctrine upon which to establish our society, stability can yet result from a widespread agreement among these doctrines on the principles of justice that govern the basic political structure of our society. Further complicating the problem, however, is Rawls’s insistence that it be a stability “for the right reasons”: first, that the agreement surround a liberal conception of justice, and second, that the support not be in the form of a grudging modus vivendi, but rather be “wholehearted,” although without asking such reasonable persons to compromise their deepest beliefs. Put in these terms, the problem of stability looms very large indeed: no less than the problem of working out a “political conception of political justice for a (liberal) constitutional democratic regime that a plurality of reasonable doctrines, both religious and nonreligious, liberal and nonliberal, may endorse for the right reasons.”

There is another element from Rawls’s opening question that could benefit from some unpacking at this point, and this is the use of the term “reasonable,” by which Rawls means something very different than his use of “rational” elsewhere in and hence to give the most appropriate moral basis for a democratic society. This is a recognized philosophical question, academic though it may be” (Rawls, “Introduction,” p. xxxix).

35 Rawls, Political Liberalism, p. xvii.


Political Liberalism. Rawls’s political conception of personhood includes the fact that all persons belonging to political society possess powers of reason, that they are rational—it is this power, in fact, that enables a person to “form, revise, and rationally pursue” a conception of the good peculiar to that person. This capacity, says Rawls, is a person’s first of two powers of moral personality, powers by virtue of which he or she is free and equal.

To be reasonable, however, is to go a good deal beyond rationality, and this connects with the second moral power characteristic of persons: the capacity for an effective sense of justice. Rawls distinguishes two important aspects to being reasonable. First, it entails the acceptance of the principle of reciprocity: a readiness 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.” Crucially, Rawls draws the further implication that if all must abide by these terms of cooperation, they must be justifiable to all on the basis of principles all can accept. Second, reasonableness entails a commitment to recognize the “burdens of judgment” and to accept their consequences for public reason. By the burdens of judgment, Rawls

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38 Rawls, Political Liberalism, pp. 19, 30, 93.
39 Politically speaking, that is. Rawls intends this conception of the person to be a device of representation for the purposes of his theory. He explicitly disavows any presupposed metaphysical doctrine of the person (Political Liberalism, pp. 27, 29).
40 Rawls, Political Liberalism, p. 49.
41 It is worth noting at this point that the principle of reciprocity implies that the reasonable will impose limits on the rational; indeed, we might speak of the reasonable as being prior to the rational. The similarity to Rawls’s earlier phraseology in A Theory of Justice, that “the right is prior to the good,” is not a coincidence.
42 Rawls, Political Liberalism, pp. 54-58.
refers to accounts or explanations of why it is that disagreement can occur between reasonable persons (for example, differences in the ways that people assess various kinds of evidence), and, in fact, how it can be that such a phenomenon as “reasonable pluralism” might exist. It is on the basis of these burdens—Rawls lists six, but there may be others—that reasonable persons can recognize that disagreement on these matters is inevitable and normal and, in fact, reasonable, and that reasonable citizens will therefore affirm a variety of “reasonable comprehensive doctrines.” These burdens, says Rawls, “are of first significance for a democratic idea of toleration.”

As we can consider “reasonable persons” and “reasonable pluralism,” so we can consider the “reasonable religious, philosophical and moral doctrines” referred to by Rawls in his opening question, commonly termed “reasonable comprehensive doctrines.” A reasonable comprehensive doctrine is a religious, philosophical or moral view of the world that a reasonable person will support. Although Rawls is not entirely clear on the matter, the reasonableness of such a doctrine does not seem to derive from its content per se, but rather from the fact that reasonable persons can adhere to it and remain reasonable—that is, continue to treat fellow citizens as free and equal, act reciprocally toward them, and accept the burdens of judgment.

43 Political Liberalism, p. 58.

44 Rawls is, I think, purposely vague with respect to his picture of reasonable comprehensive doctrines, largely to avoid excluding any needlessly. His most thorough definition appears in Political Liberalism, p. 59. Somewhat further complicating matters is the fact that Rawls later demonstrated a willingness to distinguish “not unreasonable” doctrines from “reasonable” doctrines, suggesting that Rawls is willing to accept many shades of reasonableness before labelling such doctrines as “unreasonable” (John Rawls, “The Law of Peoples,” Collected Papers, by John Rawls, ed. Samuel Freeman (Cambridge, Mass.: Cambridge U.P., 1999), p. 547, note 28).
So much for the question. How does Rawls propose to go about answering it?
The steps Rawls takes are not simple, as he makes several movements that are simultaneous in theory, but that can be presented only sequentially. In brief, Rawls’s strategy is to make the most of whatever else citizens may have in common despite their many reasonable differences by asking the various reasonable comprehensive doctrines to refrain from seeking input into the values and principles that are to serve as the basis of political society, but rather to join, afterward as it were, in an overlapping consensus of support for them. Not surprisingly, this request has proven rather controversial, to say the least. However, the bitterness of the pill the doctrines are asked to swallow is moderated by the fact that Rawls also limits the scope of the restricted area. It is only on the most important issues (“constitutional essentials and matters of basic justice”) that the doctrines are asked to respect this limitation. Moreover, Rawls reminds us, again and again, that the values and principles in question are not themselves a comprehensive doctrine—were they such, the enterprise would be doomed, for they could not attract the necessary support that makes stability possible: “Emphatically, [political liberalism] does not aim to replace comprehensive doctrines, religious or nonreligious, but intends to be equally distinct from both and, it hopes, acceptable to both.”45 The ideal to which he is aiming, he says, is that “as far as possible, the knowledge and ways of reasoning that ground our affirming the principles of justice and their application to constitutional essentials and basic justice are to rest on the plain truths now widely accepted, or available, to

citizens generally.\textsuperscript{46} This, of course, forms the heart of Rawls’s doctrine of public reason.

But we may be moving too quickly on this. Rather than attempt to unravel the various strands of Rawls’s proposal simultaneously and risk tying ourselves into knots in the process, I propose to follow three such strands one at a time. Such an effort is slightly artificial because no one strand can be understood in isolation from the other two, but perhaps by keeping that caveat in mind, our understanding of the larger picture need not be compromised. The three strands that I follow in the balance of the chapter are: first, Rawls’s account of a political conception of justice, second, his account of an overlapping consensus, and finally third, his account of public reason.

1. Political conceptions of justice

It is all very well to ask the various reasonable comprehensive doctrines to refrain from seeking to establish their favoured version of the just society and instead offer their support afterward, but that of course does not resolve the difficult question as to what principles and values should instead do the work of founding the regime. Rawls’s proposal has been nothing else if not controversial. He suggests that rather than look to comprehensive doctrines, which are not shared, we should rather look to our “public political culture,” which we do in fact share, and mine this resource for what we can develop into a political conception of justice that can eventually be the

\textsuperscript{46} Political Liberalism, p. 225.
subject of widespread agreement. Such a political conception will be able to provide the content for public reason.

Rawls suggests that a political conception of justice will have three basic features. First, such a conception will be limited in scope. It does not apply to anything like the territory covered by a comprehensive doctrine—indeed, a political conception is deliberately noncomprehensive.47 Rather, it applies only to the basic structure of a constitutional democratic regime: its institutions, matters of constitutional essentials and basic justice.48 That said, however, the conception must be complete: its values, and its values alone, should be able to give a reasonable answer to all, or to nearly all, the questions put to it that concern the basic structure.49 Rawls’s concern here is that the scope of a political conception of justice be distinguished from that of a comprehensive doctrine, but that it still provide a framework for the discussion of fundamental political questions, sufficient so that participants not find it necessary (or convenient) to resort to appeals to their comprehensive doctrines.

Second, a political conception of justice “is presented as a freestanding view.”50 By this, Rawls emphasizes that the conception of justice is to be independent of any and all comprehensive doctrines, reasonable or otherwise. A


48 Rawls, *Political Liberalism*, p. 11. Although Rawls does not discuss the matter, this does represent a movement from *A Theory of Justice*, where Rawls saw the political conception he was offering, justice as fairness, to apply only to perfectly just societies. Departures from the ideal were to be dealt with later, using additional principles.


political conception, says Rawls, “is neither presented as, nor as derived from, such a doctrine applied to the basic structure of society, as if this structure were simply another subject to which that doctrine applied.” As we will see, we might wish for greater clarity on how the relation between a comprehensive doctrine and a political conception proceeds; at most, Rawls will say that such a relation exists, but it is clear that if so, it is a one-sided relationship—the conception itself is little more than a “module” that can fit, as a part, into many different comprehensive doctrines, and Rawls leaves it up to citizens themselves to decide how the political conception fits with their comprehensive views. He does insist, however, that it must be possible to present the conception “without saying, or knowing, or hazarding a conjecture about, what such doctrines it may belong to, or be supported by.”

Third, a political conception of justice will be developed out of “certain fundamental ideas seen as implicit in the public political culture of a democratic society.” Exactly how this will be done also remains somewhat ambiguous, but the point is that he finds the non-controversial, ultimate basis for his liberalism in the culture we all share, rather than in a comprehensive doctrine, or reason per se, or any


52 Although Rawls does not say explicitly that the citizen himself needs to understand it this way. Precisely how Rawls characterizes this relationship between the comprehensive doctrine and the political conception of justice is a particularly vexing, and, by Rawls’s own admission, an “easily misunderstood” question (“Public Reason Revisited,” p. 801), one to which we will be returning. The task Rawls sets for himself here is enormously difficult: he is trying to balance both the independence of the political conception from any comprehensive doctrine, while also ensuring that there remains a strong enough relation that those varied doctrines will rally in its support. How successfully he reconciles these demands forms a large part of the discussion in chapter three.

of the other controversial sources upon which earlier liberal theorists (Hobbes, Locke, Kant) have relied.

This strategy has any number of consequences, but one of the most important is that, according to Rawls, we can expect that the resulting conception of justice will be a liberal conception (at least, this is one of Rawls’s operating assumptions\(^{54}\)). This is due, first of all, simply to the fact that our public political culture is largely a liberal one—indeed we label it a liberal democracy. But this is due as well to the fact that Rawls believes that liberal conceptions of justice are quite simply more likely to satisfy the requirements (especially reasonableness) that a political conception of justice carries.\(^{55}\)

One further point: Rawls recognizes that there are likely to be several different and incompatible liberal conceptions of justice in circulation, all developed, in various ways, out of the public political culture. Such diversity is inevitable, he says; it may even be desirable.\(^{56}\) But in a well-ordered society, only one of these—or at most, a limited range of them\(^{57}\)—will become the subject of an overlapping consensus of the reasonable comprehensive doctrines.\(^{58}\) All the various conceptions of justice are candidates for that consensus, provided they are reasonable—that they

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\(^{54}\) *Political Liberalism*, p. 223.

\(^{55}\) Rawls, *Political Liberalism*, p. 156.

\(^{56}\) *Political Liberalism*, p. 227.


\(^{58}\) Rawls, *Political Liberalism*, p. 35.

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meet the criterion of reciprocity and recognize the burdens of judgment. The range of these candidate conceptions Rawls refers to as a “family”:

Thus, the content of public reason is given by a family of political conceptions of justice, and not by a single one. There are many liberalisms and related views, and therefore many forms of public reason specified by a family of reasonable political conceptions. Of these, justice as fairness, whatever its merits, is but one.  

So justice as fairness, developed by Rawls so carefully in *A Theory of Justice*, is reduced in *Political Liberalism* to one among many—only an “example” of a political conception. Rawls does happen to believe that his justice as fairness is the most reasonable of the various family members, and indeed that it holds a certain “special place” in that family. He concedes, however, that his belief in its superiority “is not basic to the ideas of political liberalism and public reason.”

### 2. The overlapping consensus

One of the features that most distinguishes Rawls’s political liberalism from other liberal theories is that the development of a conception of justice in the way that I have described, although by no means an inconsiderable accomplishment, can only be described as an initial stage in the larger project. To be counted as successful, such a conception must in addition prove able to attract the support of all the various reasonable comprehensive doctrines in society, or at least as many of them as is sufficient to form an overlapping consensus of support. Indeed, it is this additional

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requirement that is part of what makes political liberalism political. Such support is necessary for the conception actually to do the work that it claims to be able to do, and a consensus on some conception is necessary if society is to be at all stable and enduring.

But how could such a consensus form? How could it be possible for all the various reasonable comprehensive doctrines to agree on anything at all, much less on a conception of how the framework of political society is to be structured? Rawls offers a two-fold response. First, he emphasizes the limited scope and the doctrinal independence of the political conception. Because the conception is limited in scope, reasonable doctrines do not need to be concerned about its entrance into all the spheres of life. And because the conception is independent, “presented as a freestanding view,” each doctrine can take comfort in the fact that although it will be required to refrain from establishing its own preferred view, so too will all the other doctrines. The political conception draws upon none of them, but only from the public political culture of society, with its associated political values and principles shared by all.

Second, Rawls emphasizes that the various doctrines will be able to see some connection or relation between the conception of justice and their own views. How this relation is characterized is a matter of some complexity, as we will see, and is likely to vary according the doctrine and the political conception in question. And it is also important that the political conception be justifiable without reference to the comprehensive doctrine. But there is no doubt that doctrines can decide for
themselves, and on their own basis, whether to endorse a particular conception of justice:

[C]itizens themselves, within the exercise of their liberty of thought and conscience, and looking to their comprehensive doctrines, view the political conception as derived from, or congruent with, or at least not in conflict with, their other values.\textsuperscript{63}

Because the successful political conception can be supported by a wide range of comprehensive doctrines without actually depending on any one of them, it is possible that an overlapping consensus may form. Of course, it is also possible, perhaps even likely, for two or more competing political conceptions each to gather the fragments of a consensus; to the degree that such a situation occurs and endures, we will have to conclude that social unity is not achieved and that society not well-ordered. Rawls insists, however, that there will be a general bias toward agreement among the doctrines: stability is possible because reasonable persons desire it; if the reasonable comprehensive doctrines did not have such a concern with seeking stability, they would not be reasonable.

One additional note before we consider more fully the process by which such a consensus might develop: it is not enough to pursue the consensus simply out of the practical concern of realizing (i.e.: not wasting) our work of developing the political conception of justice. If it were, we might have more success by beginning on the other side, with the specific beliefs of the reasonable comprehensive doctrines and determine what kind of political conception they might support. But while this might seem the best way to ensure success, in fact, says Rawls, this approach would be

\textsuperscript{63} Rawls, \textit{Political Liberalism}, p. 11.
“political in the wrong way.”\textsuperscript{64} Rather, Rawls is concerned with stability in another sense: he is concerned with the \textit{kind} of stability the conception receives, “the nature of the forces that secure it.”\textsuperscript{65}

The point, then, is that the problem of stability is not that of bringing others who reject a conception to share it, or to act in accordance with it, by workable sanctions, if necessary, as if the task were to find ways to impose that conception once we are convinced it is sound. Rather, justice as fairness is not reasonable in the first place unless in a suitable way it can win its support by addressing each citizen’s reason, as explained within its own framework.\textsuperscript{66}

This is a significant requirement, for it means that the support for the conception of justice by the doctrines must be of a certain type, in particular, that the support is won by “addressing each citizen’s reason.” The complexity that this requirement introduces when brought together with the other requirements is discussed below.

Anticipating further objections concerning how and whether the overlapping consensus might appear, Rawls offers a threefold typology of the types of political agreement that might occur among comprehensive doctrines. The first, and most basic, level of agreement is a \textit{modus vivendi}—little more than an agreement or treaty among forces that are approximately equal in strength to refrain from fighting and to abide by certain rules to achieve and maintain civil peace. Notably, the participants see these rules or principles not as good in themselves, but good only insofar as they advance their interests. If one party’s calculation of interest determines that by abandoning this compromise it might achieve dominance over its competitors, it

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\textsuperscript{64} \textit{Political Liberalism}, pp. 39, 142.
\textsuperscript{65} Rawls, \textit{Political Liberalism}, p. 142.
\textsuperscript{66} Rawls, \textit{Political Liberalism}, p. 143.
\end{flushright}
should not hesitate to do so. Rawls uses the fragile coexistence between Catholics and Protestants of sixteenth century Europe as an example of such an agreement: the liberal principle of religious tolerance came not out of the doctrines themselves, but rather from the fact that neither party was able to dominate the other.67

It is not impossible, however, that such a consensus might develop into something more hopeful. Over time, says Rawls, the parties may come to realize the disadvantages of remaining with their simple agreement. A greater stability is realized when citizens begin to affirm the relevant principles as good for their own sake, not merely as a compromise reluctantly accepted out of circumstance and exhaustion. Peace brings its own rewards, and the principles that govern this peace might eventually be seen to be as valuable as the possible rewards brought by the success of one’s comprehensive doctrine in the inter-doctrinal struggle. The good that is gained, for instance, from fixing the content of certain political basic rights and liberties is likely to be seen by the parties as a very great good in itself, sufficient perhaps for that rule or principle to gain allegiance to itself by a wide range of parties.68

Of course, this movement may imply also something about the participants’ changing understanding of or commitments to their comprehensive doctrines, and Rawls recognizes this implication: “a certain looseness in our comprehensive views, as well as their not being fully comprehensive, may be particularly significant.”69

67 Political Liberalism, p. 148.
69 Political Liberalism, p. 159.
Rawls here takes advantage of the fact that in everyday life people do not spend a great deal of time considering how the political principles of the constitution relate to their particular comprehensive doctrine. These are complicated questions to begin with, he notes, and for many people, it may not be so important even that they be fully answered:

Most people’s religious, philosophical, and moral doctrines are not seen by them as fully general and comprehensive, and these aspects admit of variations of degree. There is lots of slippage, so to speak, many ways for liberal principles of justice to cohere loosely with those (partially) comprehensive views, and many ways within the limits of political principles of justice to allow for the pursuit of different (partially) comprehensive doctrines.70

What this means is that it may not always be necessary for people that particular principles of justice be clearly derivable from their comprehensive doctrine for them to merit their support. Rather, they might be satisfied only that they are not incompatible with their comprehensive doctrine. In fact, says Rawls, even if an incompatibility later should become apparent, people might even be open to adjusting or revising their comprehensive doctrines rather than reject the political principles.71

As a result of this “slippage,” and also as a result of the growing appreciation of the good that results from consensus itself, it is possible for a modus vivendi to develop into something Rawls labels a “constitutional consensus.” He notes, however, that even though such a consensus is a great improvement upon the modus vivendi, the liberal principles of justice contained in the constitution are accepted “simply as principles,” and not as a political conception of justice, and certainly not...

70 Political Liberalism, p. 160.
71 Political Liberalism, p. 160.
as a shared political conception. And so, concludes Rawls, “the consensus is not deep.” Certain deficiencies within the constitutional consensus are likely to become apparent, moving the parties to a greater consensus. Most significant among these deficiencies is the frustration likely to be felt by the parties due to the lack of shared language or reason or argument. For example, in order to join with others to form a majority on a particular policy, groups and individuals must be able to reason with one another, and that necessitates a language that goes beyond their comprehensive doctrines. This will lead to their developing political conceptions of justice. These conceptions, says Rawls, “provide the common currency of discussion and a deeper basis for explaining the meaning and implications of the principles and policies each group endorses.”

A similar problem faces the parties as they attempt to interpret the constitution in new ways or into new policy areas, or when adjudicators (the courts) seek to render judgment on the basis of the constitution. In all these situations, the need for shared conceptions of society and citizen will become apparent.

Rawls notes one further force leading the parties beyond a constitutional consensus into something greater: the limited scope of a constitutional consensus. The constitutional consensus covers only political matters, yet for participation in political society to be on a free and equal basis, the consensus must also extend to additional areas: education, health, even family, so to ensure that all enter political society at or exceeding a certain minimum level. The consensus, Rawls says, must

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72 Political Liberalism, p. 165.
73 Rawls, Political Liberalism, p. 165.
74 Rawls provides some indication as to what this means in the introduction to the paperback edition of Political Liberalism. It includes such things as public financing of elections, fair equality of
extend to the entire “basic structure” of society. In this way, practical difficulties with the constitutional consensus lead us to the “overlapping consensus,” in which, as noted above, the various comprehensive doctrines, each in its own way, comes to support a particular political conception of justice.

Again, however, we face the difficult question as to what “support” really means. Is there more “slippage” at work here? Rawls remains ambiguous on the issue. He seems clear in his statement that each citizen is to see the conception of justice as “either congruent with, or supportive of, or else not in conflict with” his or her comprehensive doctrine:

All those who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides. The fact that people affirm the same political conception on those grounds does not make their affirming it any less religious, philosophical, or moral, as the case may be, since the grounds sincerely held determine the nature of their affirmation.

Similarly, in his 1997 discussion:

[A] true judgment in a reasonable comprehensive doctrine never conflicts with a reasonable judgment in its related political conception. A reasonable judgment of the political conception must still be confirmed as true, or right, by the comprehensive doctrine.

Clearly, citizens are to support the conception because they see it as in some sense “true,” as considered in terms of their comprehensive doctrine.

opportunity, a decent distribution of wealth, public welfare, and basic health care for all citizens (Rawls, “Introduction,” pp. lviii-lix).

75 Political Liberalism, p. 166.

76 Political Liberalism, p. 140.

77 Rawls, Political Liberalism, pp. 147-48.

78 “Public Reason Revisited,” p. 801.
But on the other hand, Rawls is equally clear that the conception is freestanding. As such, it must be explained “within its own framework”79 and needs to gain its support for its own sake, on its own merits.80 Several senses of “support” present themselves. On the one end of the continuum, we might find a person who “supports” the political conception only in that he sees that it does “not conflict too sharply” with his comprehensive doctrine81: that is, he considers the political conception in question to be quite different from what his doctrine leads him to believe on these matters, but considers it the most reasonable that can be achieved under the circumstances. Another person might consider the political conception to at best parallel her own conclusions—it speaks in a moral language quite different from her own, perhaps, but she can see sufficient similarities that she offers support. A third person can offer support to the conception with relatively little difficulty: he sees that it has its own independent justification in the public political culture, but would have ended up with something similar were he to have reasoned from his own comprehensive doctrine. Finally, a fourth person supports it completely wholeheartedly: indeed, she is unable to see the conception as separable from what her doctrine leads her to believe, and she does not even view the political conception as justifiable in a way independent of her comprehensive doctrine. She is utterly convinced of its “truth.”

Rawls’s argument, it seems to me, should lead him to accept all these variations on “support.” It is not clear that he does. Particularly troublesome here is his requirement that the conception win its support “by addressing each citizen’s reason.” Depending upon what Rawls means by this, the boundary of acceptable support may be extended or tightened. Arguably, the fourth person presents the greatest difficulty: she can give full support, but may violate Rawls’s requirement that support be offered for a conception as “explained within its own framework,” and she almost certainly will have difficulty defending the political conception within public reason, that is, “within the framework of what each regards as a political conception of justice based on values that the others can reasonably be expected to endorse and each is, in good faith, prepared to defend that conception so understood.” The ironic result seems to be that the most whole-hearted support for the political conception is “for the wrong reasons” and must be disqualified, while those others whose support the political conception most requires have less reason to offer such support. We return to this paradox in chapter three.

Finally, we should consider here the claims Rawls makes concerning the likelihood of an overlapping consensus appearing, as this point as been a particular

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82 Political Liberalism, p. 143.

83 I assume here that Rawls is not suggesting that by “addressing each citizen’s reason,” he is referring to an abstract Enlightenment version of reason necessarily divorced from a comprehensive doctrine. By accepting the fact of pluralism as present and “not-unfortunate,” Rawls moves from that older definition toward a conception of reason that does not define religious or other belief as irrational or in principle unreasonable. Making that move, in fact, is what permits him to argue that political conceptions could attract the support of persons one, two, and three.

84 Rawls, Political Liberalism, p. 143.

85 Rawls, Political Liberalism, p. 226.
focus of criticism. In fact, Rawls makes no claim. All he is concerned to establish, he says, is the possibility that an overlapping consensus around a particular conception of justice could appear, and he believes that his outlining the moves from a modus vivendi to a constitutional consensus to an overlapping consensus does indeed demonstrate this possibility. Rawls does argue, however, that failure in this way would have serious consequences.

3. Public reason

Having reviewed how the overlapping consensus of reasonable doctrines might appear, and having considered the structure and function of the political conceptions of justice on which the consensus is focused, we should be able to consider the topic of public reason rather more fully than we have thus far. The very general definition we reviewed above described public reason as the method or mode of reasoning by which members of a society publicly debate problems, justify positions, and make important decisions. Rawls, however, has a good deal more to say on the topic. Early in the lecture on public reason in Political Liberalism, Rawls provides an introductory summary:

Public reason is characteristic of a democratic people: it is the reason of its citizens, of those sharing the status of equal citizenship. The subject of their reason is the good of the public: what the political conception of justice requires of society’s basic structure of institutions, and of the purposes and ends they are to serve. Public reason, then, is public in three ways: as the reason of the citizens as such, it is the reason of the public; its subject is the good of the public and matters of fundamental justice; and its nature and content is public, being given by the ideals and principles expressed by society’s conception of political justice, and conducted open to view on that basis.86

86 p. 213.
There are a number of important themes upon which we might focus in this description. We should note first the relation that Rawls sees between public reason and the political conception of justice—whichever conception or conceptions ultimately proves successful. Note in particular Rawls’s concluding point, that the nature and content of public reason is given by the ideals and principles expressed by society’s conception of political justice. Thus, the content of public reason is dependent on the political conception of justice, and itself demands no positive content in particular, save that it meet the criterion of reciprocity.  

This dependence has some important consequences. First, we should note that the problem Rawls identifies with respect to conceptions of justice is also true for public reason. In a reasonably pluralist society, it is inappropriate for any one comprehensive doctrine to define the nature or the content of public reason, just as it is inappropriate for any one comprehensive doctrine to seek to establish its own view of justice. Indeed such attempts, if successful, could only result in intolerable oppression. Second, public reason, as part of the political conception, likewise requires the support of the overlapping consensus of doctrines. Thus, when a particular comprehensive doctrine joins other doctrines in support of a conception of justice, it is also joining in support of the particular form of public reason expressed by that conception. All reasonable persons should then be able to affirm the ideal of public reason, as defined by that conception. Unfortunately, if the overlapping 

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87 Rawls actually includes within public reason not only the political conception of justice itself, but also the political values and principles out of which it was created (themselves embedded in our common political culture), as well as shared general beliefs and reasoning found in common sense, and the methods and conclusions of science when these are not in dispute (Rawls, Political Liberalism, p. 224).
consensus does not appear, which, as we noted, is a possibility, public reason also is unsupported and will fail along with its associated political conception. But while Rawls recognizes the possibility of failure in this way, he thinks it far more likely that a consensus will form—not around a single conception of justice but rather around a number of related conceptions. Accordingly, the content of public reason will likewise be given by a family of political conceptions of justice, and not by a single conception.\(^\text{88}\) Furthermore, until that consensus appears, and even beyond that point (if we accept Rawls’s argument that political liberalism will not discourage new and changing conceptions of justice to develop), there are likely to be several different (and competing) versions or forms of public reason, each given by the ideals and principles of the many different (and competing) conceptions of justice. These complications make determining the precise content of public reason at any given point a difficult task.\(^\text{89}\)

Rawls’s challenge then is one of describing the role that public reason plays in political liberalism, without specifying the precise content of public reason, for he cannot know with certainty which political conception of justice (or family of conceptions) will be successful in gaining the support of the overlapping consensus:

There are many liberalisms and related views, and therefore many forms of public reason specified by a family of reasonable political conceptions…. Political liberalism, then, does not try to fix public reason once and for all in


\(^\text{89}\) Rawls does insist at one point in *Political Liberalism* that there is “but one public reason” (p. 220). Given what else he has said on the matter, we can surmise that Rawls refers here to the one idea of public reason, to which the many different forms somehow subscribe. Perhaps the controls that Rawls believes prevent non-liberal conceptions of justice from gathering a consensus also ensure that no form of public reason might depart from the idea of public reason put forth in *Political Liberalism*. 
the form of one favored political conception of justice. That would not be a sensible approach.  

However Rawls does make what he seems to consider a reasonable prediction as to the content of public reason—at least, he proceeds in political liberalism to operate with a fairly specific form of public reason in mind. Rawls assumes that the consensus will be around a liberal conception or liberal family of conceptions, and so he is confident that the content of public reason will be likewise broadly liberal in character. While the specific contents may vary, such variation will be within liberal limits.

What political liberalism requires of citizens, then, is that when discussing fundamental political issues (“constitutional essentials and matters of basic justice”) they appeal to one of these political conceptions—its “ideals and principles, standards and values.” rather than to one of “the many nonpublic bases of justification belonging to the many comprehensive doctrines and acceptable only to those who affirm them.” The very “point” of public reason is that citizens “conduct their fundamental discussions within the framework of what each regards as a political conception of justice based on values that the others can reasonably be expected to endorse and each is, in good faith, prepared to defend that conception so understood.” Comprehensive doctrines obviously do not qualify, and therefore are

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93 Rawls, Political Liberalism, p. xix.
94 Rawls, Political Liberalism, p. 226.
set aside as necessary bases for argument, for they were to have entered the picture only in the support they offered for the conception of justice in the overlapping consensus.

Note the phrase “based on values that the others can reasonably be expected to endorse” (emphasis added). Here we come to the heart of the challenge of a pluralist politics. Rawls realizes that it is likely to be as difficult to persuade others to agree with one’s reasons for supporting a particular action or policy as it would be to persuade others to agree with that action or policy itself. Public reason then cannot include only those reasons with which citizens actually agree—that would be too high a standard—but rather, those reasons with which it is reasonable to believe they would agree are reasonable—that is they can see how these reasons are supported by the political conception, and that they do not require a reference to any comprehensive doctrine. Rawls describes this reasonable agreement or reasonable endorsement or reasonable acceptance in the criterion of reciprocity: “our exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as justification of those actions.” Rawls sees reciprocity in the way he describes it to be central to the nature of the political relation of civic friendship. Reasons that reasonable citizens, as civic friends, offer each other must be reasons that they can not only understand, “as Servetus could understand why Calvin wanted to burn him at the stake,” but be

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95 “Introduction,” p. xlvi.
reasons “we might reasonably expect that they, as free and equal citizens, might reasonably also accept.”

And so Rawls requires citizens, even (and especially) when discussing the most fundamental questions, to refrain from appeals to the most important truths, even (and especially) if these truths could make important contributions to the discussion. Rawls admits that this seems paradoxical, but he insists that to offer such arguments, arguments that depend on reasons with which one cannot reasonably expect others to agree, is inconsistent with society’s understanding of its adult members as free and equal. These attempts to exercise political power must be considered unjustifiable, violating the liberal principle of legitimacy: “Our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.” Rawls describes this self-censorship as “the duty of civility”: the duty “to be able to explain to one another on . . . fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason.”

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97 Political Liberalism, p. 216.

98 Political Liberalism, p. 217.

99 Rawls, Political Liberalism, p. 137.

100 Political Liberalism, p. 217.
So for Rawls, public reason is very much related to an ideal of democratic citizenship. Yet he is also careful to emphasize that this is not an ideal to govern the whole of the citizen’s life; were it such, support for the conception would be most unlikely. Rather, public reason regulates only a citizen’s participation in political affairs. And so public reason is limited in several ways, in accordance with the ideal of democratic citizenship.

First, Rawls makes an important distinction between the “background culture” and the “public political culture” (or occasionally, “public political forum”), emphasizing that the limitations of public reason apply only in the latter, and not at all in the former. The background culture Rawls describes as the realm of the social, of civil society, where comprehensive doctrines have an appropriate and important role to play. This is the realm of churches and universities, clubs and associations, with all their associated cultures and doctrines. Discussions in the media, which Rawls describes as part of the “nonpublic political culture” are likewise part of this background culture and so are similarly free from restrictions. It is only in the public political culture, where matters of law are debated and decided, that the rules of public reason come into force. Rawls’s efforts, therefore, are not directed toward the achievement of what is sometimes called a “naked public square,” and he notes that many of his critics mistakenly believe public reason to apply to all discussions, when its application is actually much more limited.

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103 “Public Reason Revisited,” p. 768.
Second, even within the public political culture, Rawls does not argue that the limits of public reason apply to all discussions, but only to those which concern the most fundamental questions, specifically “constitutional essentials and matters of basic justice.” By constitutional essentials, Rawls has in mind both those fundamental principles that specify the general structure of government and political processes as well as the basic rights and liberties of citizenship that legislative majorities are to respect.\(^{104}\) Matters of basic justice, says Rawls, relate to the basic structure of society, especially political and social institutions, and so concern questions of basic economic and social justice and other things not covered by a constitution.\(^{105}\) Public reason applies to these two categories of questions. But on other, non-basic political issues, any argument can be put forward, for any reason, at any time.\(^{106}\)

Before continuing, we should note that the limitation on public reason that this distinction implies is of a rather different sort than the more substantive distinction Rawls makes between the background culture and the public political culture. When considering why the restrictions of public reason should be loosened for those non-basic issues within the public political culture, he says simply that he is considering first “the strongest case where the political questions concern the most fundamental

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\(^{106}\) What precisely Rawls believes to be included in these categories is not entirely apparent. In particular, the distinction between matters of basic and non-basic justice is imprecise. For example, Rawls’s grounds for asserting that “our relation to the natural world” is not a matter of basic justice, and that therefore the limits of public reason do not apply, is very unclear (*Political Liberalism*, p. 246). Kent Greenawalt discusses more of these difficulties in “On Public Reason,” pp. 685-88.
matters.” Once it is determined that the restrictions hold concerning these fundamental matters, “we can then proceed to other cases.” Usually, he says, although perhaps not always, it is “highly desirable” to settle all political questions within the limits of public reason.\textsuperscript{107} Clearly, the limitation to constitutional essentials and matters of basic justice is not fundamental to political liberalism, not derived, for instance, from an argument that nonpublic reasons have important and positive roles to be played here—which is precisely Rawls’s assertion concerning the background culture. Rather, the limits are a result of a strategic decision to deal with the most urgent matters first.

Finally, even with respect to these constitutional essentials and matters of basic justice, Rawls does not believe that only public reasons may be offered, but rather that if non-public reasons are introduced, they require an accompanying public reason “sufficient to support whatever the comprehensive doctrines introduced are said to support.”\textsuperscript{108} This is the so-called “wide view” of public reason, a modification introduced by Rawls subsequent to the publication of \textit{Political Liberalism}. In this revision, nonpublic reasons can be entered into discussion of a constitutional essential or matter of basic justice, provided they are not offered as a solely sufficient argument: they require an accompanying reason that is justifiable independently of the comprehensive doctrine. Rawls is not entirely clear on the details of the wider view: how it might be justified in theory, and how it might work out in practice. His

\textsuperscript{107} \textit{Political Liberalism}, p. 215.

basic point concerning public reason, however, is unchanged: the concern is “to establish a basis of political reasoning that all can share as free and equal citizens.”

Conclusion: Rawls and Liberalism

After reviewing these three “strands” of Rawlsian political liberalism, what are we to make of them? It is the aim of chapter three to find out. But we can make a few initial observations. First, we should note that Rawls certainly makes a clean break with former attempts (by him and by the liberal tradition) to ground political society upon a single comprehensive doctrine of liberalism. He explicitly rejects the Enlightenment idea, for example, that we can find a true comprehensive liberalism that can bind together a pluralist society. And so Rawls does not argue for the widespread acceptance of this or that particular comprehensive doctrine of the good, but only of a political conception of justice, something far more limited than a comprehensive doctrine. This conception is also structurally and functionally independent of any doctrine of the good, ensuring that the basis for politics is “fair.” The conceptions of justice are instead developed out of our public political culture, something we already share, whatever our doctrinal affiliation. This concern for fairness amid widespread societal pluralism is a hallmark of Rawls’s theory.

And yet, Rawls does require a consensus upon that conception—and he further requires that the consensus be of a certain kind. While the political conception of justice is not a comprehensive view—it does not seek to apply to all of life—it does cover all of political life and is particularly concerned with the

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110 Rawls, Political Liberalism, p. xviii.
fundamentals (constitutional essentials and matters of basic justice) of political life. And on those fundamentals, political liberalism requires the achievement of a consensus upon a particular view; indeed, the support of that consensus is what enables public reason to restrict arguments to those that reasonable people can reasonably accept. But, says Rawls, the consensus must meet certain conditions if it is to do what it is required of it, most notably that it be sufficient to support a common form of moral reasoning. This can be most clearly seen when we distinguish the overlapping consensus that forms around a political conception from the other forms of consensus Rawls describes—the modus vivendi and the constitutional consensus—which, Rawls tells us, are “political in the wrong way.” While these would provide society with at least some sort of stability, such stability could only remain fragile, dependent on the changing moods and calculations of the parties. Worse, says Rawls, these could not provide a “reasonable” basis for social unity, for the criterion of reciprocity could or would not play a part in these agreements. This would signify the loss of the very thing he is trying to secure: a common moral consensus supporting a common public reason.

To say the least, this is a distinctive view of the political and a controversial response to the fact of pluralism. Just as Hobbes did over three centuries ago, Rawls requires that there be a common moral basis or language to our politics. In fact, this common moral basis forms the crucial element of Rawls’s response to the main question with which he opens his investigation. Despite his break with previous attempts to establish a liberal comprehensive doctrine on which to ground political society, Rawls is steadfast in his refusal to break with liberalism’s attempt to piece
together a consensus on whatever citizens might hold in common despite their pluralism. Rawls continues the search initiated by Hobbes, a search for a politics of a single, non-pluralist community built on a common, moral (if limited) consensus, with a common, moral (if limited) public reason. Rawls’s great leap forward is to admit a good deal more realism into his proposed public philosophy, rendering it more palatable to pluralist realities. He recognizes the reasonableness of many religious and philosophical doctrines, recognizes also that rational arguments between reasonable doctrines are unlikely to persuade, and he is therefore concerned to extend the principle of toleration from religion to philosophy. This extension allows Rawls to ensure that philosophical differences, like religious differences, not achieve such a high political profile in public affairs that any emerging consensus might be threatened. Rawls’s main concession to pluralism has been to scale back expectations as to what liberalism can achieve in pursuit of its goal; the goal itself, however, remains unchanged.

In the next two chapters, this line of investigation continues. Chapter three presents a critique of Rawls’s political version of liberalism, noting its improvement upon earlier versions, but also noting how it shares a number of liberalism’s characteristic flaws and assumptions. It also considers in some detail what is involved in Rawls’s decision to continue the liberal search for a politics of consensus and suggests that other difficulties in Rawls’s work described by his critics, reviewed briefly in chapter one, are implicated in this more basic difficulty. And it suggests that this is only one way we might consider these matters, that by posing the problem differently, we might be able to explore other solutions. The fourth chapter begins to
look at these other solutions, considering ways in which this situation might be remedied, ways that political liberalism might be modified to more accurately, more fairly, and more successfully mount a response to pluralism. The approach this chapter takes is to explore more fully Rawls’s description of a constitutional consensus, considering whether it necessarily suffers from the defects that Rawls levels against it. The suggestion here is that a serious consideration of this possibility might open up ways that the “instability” that Rawls sees flowing from our late-modern situation of pluralism might come to be seen as a virtue of our political system, rather than as something to be overcome.
CHAPTER THREE

THE IDEA OF AN OVERLAPPING CONSENSUS REVISITED

Introduction: Some Ambiguities

The development of a substantial criticism of a project as grand as Rawls’s political liberalism can be a daunting task, not because criticisms to be made are too few, but rather because the theory is so big that deciding how best to proceed and organize such a discussion is no easy matter. The challenge, particularly in the case of Rawls, is also one of developing a line of critique that has not otherwise been anticipated by Rawls, or dealt with by him elsewhere in the theory. But the task is especially complicated by the fact that on a number of crucial points in Political Liberalism, Rawls remains frustratingly elusive, a problem we noted, for example, in chapter two, when we noted at some length Rawls’s ambiguity concerning the important matter of how reasonable comprehensive doctrines come to support the political conception of justice in an overlapping consensus. This discussion is continued more fully in this chapter.

A second ambiguity, one noted only briefly in the second chapter, concerns the “special place” Rawls assigns to his own preferred political conception of justice, justice as fairness, within the range of possible conceptions of justice. While justice as fairness may have much to recommend it in A Theory of Justice, there is nothing in
the larger project of political liberalism *per se* to suggest that his own theory of justice will be more or less successful than other possible conceptions of justice in attracting the endorsement of an overlapping consensus of comprehensive doctrines. Rawls, however, often seems to develop his argument as though justice as fairness will be the inevitable outcome. So occasionally we discover Rawls alternating within the same argument, sometimes even *within the same paragraph*, between speaking of “a political conception” having some feature or requirement and his own justice as fairness as having that same feature or requirement. Consider, for instance, his discussion of the concern for stability.¹ Rawls opens by speaking generally: a political conception of justice will be concerned with the idea of stability in two ways, and in the rest of the paragraph, he outlines the first way. Fine and good. But the next paragraph changes things somewhat: “But, as a liberal conception, justice as fairness is concerned with stability in a different way.” We are left to wonder whether the second way is a concern for any and all political conceptions, or merely his own. Similar examples can be found littered throughout the lectures of *Political Liberalism*, particularly in regard to the subject of the overlapping consensus, which is the central concern of this chapter. (Consider, for example, his occasional ambiguity as to whether the original position or the two principles of justice, developed by Rawls as part of justice as fairness, will themselves evaluate the various political conceptions).² It is a most curious inconsistency, as if Rawls recognizes

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¹ *Political Liberalism*, p. 142.

theoretically the possibility of several or even many different political conceptions of justice (derived for instance from Catholic social thought, or Habermas’s discourse theory), but does not seem to believe that in the end such conceptions will differ from justice as fairness, or that if they do, that they will stand any chance of attracting a consensus of support.

This confusion is frustrating, but what makes it particularly difficult (and important) is that the degree to which the theory of public reason outlined in *Political Liberalism* is tied to his own justice as fairness is also never specified. If the idea of public reason, as Rawls has conceived it, is tied to justice as fairness in particular, which it occasionally seems to be, then whether or not we should use that idea depends upon whether justice as fairness is ever successful at attracting the consensus. On the other hand, if the idea of public reason is simply a feature of political liberalism more generally, then we will have to deal with it in this form regardless of the political conception that eventually becomes the subject of widespread agreement. Again, Rawls generally proceeds as though he expects his own conception of justice to provide the content for public reason, despite his stated position that his opinion as to its superiority “is not basic to the ideas of political liberalism and public reason.”

Ultimately, of course, this difficulty points to the degree to which Rawls is willing to separate his own political conception of justice in particular from political liberalism in general. Clearly, he himself needs to make the separation that he is

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4 “Public Reason Revisited,” p. 774, note 27.
asking everyone else to make. His theory requires him to see *A Theory of Justice* and *Political Liberalism* as very different projects; in practice, however, his strong belief, inherited from *A Theory of Justice*, that justice as fairness is superior to any other formulation keeps leading him to try to run them together. The difficulty also has implications for the first ambiguity, noted above, concerning how Rawls considers the relationship between the conception of justice and comprehensive doctrines. And clearly, both difficulties have implications for the success of Rawls’s argument concerning public reason.5

In this chapter, we focus on this and a number of other ambiguities in political liberalism, especially as they concern political conceptions of justice, the overlapping consensus, and public reason. Of course, much more has been said in criticism of Rawls’s doctrine of public reason, some of which we reviewed in chapter one. Critics have declared it too inclusive,6 too exclusive,7 too stifling,8 indeterminate,9 anti-philosophical,10 anti-political,11 unrealistic,12 complacent,13 or simply foolish.14

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8 Cavender, “Appropriate Place”; Waldron, “Religious Contributions.”


10 Galston, “Pluralism”; Jean Hampton, “Political Philosophy?”

this chapter, however, rather than focus upon the doctrine of public reason directly, I propose instead to focus on problems that concern the *overlapping consensus* that Rawls believes to be necessary to provide the stability required for a political conception of justice, and thus indirectly undermine both the necessity and ability for public reason to do what Rawls believes it must and can do. Chapter four will depend on this analysis as it explores possibilities that may lie in an alternative, weaker form of consensus, similar to something that Rawls rejects: the constitutional consensus. Taken together, the central question of chapters three and four is whether Rawls unduly dismisses a constitutional consensus on his way toward an overlapping consensus, overlooking the potential that may lie in something like a constitutional consensus, while also overlooking a number of serious difficulties with the overlapping consensus and the idea of public reason for which it provides support.

In this chapter, then, we explore further how Rawls sees the overlapping consensus come into being, and we highlight a number of problems with this aspect of political liberalism that create difficulties for the project as a whole. The problems discussed are primarily theoretical in nature—they concern especially some of the assumptions made by Rawls concerning how an overlapping consensus might form. To be sure, the arguments put forward here are related to each other, but they are distinct enough to warrant separate discussions. These are: a) an argument concerning Rawls’s conception of a comprehensive doctrine and its relation to a

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13 E. A. Goerner, “Rawls’s Turn.”
political conception of justice, b) an argument concerning epistemology and our “common human reason,” c) an argument concerning inferences Rawls makes based on our participation in the public political culture of society, and finally d) a summary argument concerning the role played by liberalism in the political conception, the overlapping consensus, and in public reason. Because of these difficulties, I argue that we have good reasons to question whether the stability and social unity that Rawls argues the overlapping consensus can provide are as desirable as Rawls believes. These difficulties have a practical implication: their combined effect is to make the achievement of an overlapping consensus in the way Rawls sees it very unlikely. But, taken together, they also have an important philosophical implication: Rawls sees the problem of pluralism and its necessary solution in a particular way that assumes a particular model of public discourse, and in fact a particular and controversial view on the purpose and meaning of political life. Rawls never presents arguments in favour of this view, I argue in the chapter’s conclusion, perhaps because a pre-theoretical commitment to a particular view on these matters is not something easily argued for. Rawls’s failure to consider his subject at this level, I argue, demonstrates a clear failure to confront the problem of pluralism head-on, and in fact indicates that Rawls may misunderstand just how pluralist we actually are, and what sort of solutions may be necessary, given pluralism’s extent.

Conceptions and Doctrines: How Related?

In chapter two, we considered at some length the troubled relationship between comprehensive doctrines and the political conceptions they are asked to support. The core of the difficulty, we noted, stems from the fact that while the doctrines’ support for the political conception of justice must be “wholehearted,” the conception also must be “freestanding”—it must be possible to present the conception “without saying, or knowing, or hazarding a conjecture about, what such doctrines it may belong to, or be supported by.”

Rawls’s efforts are directed toward balancing two competing concerns here: ensuring the autonomy of the political conception from any comprehensive doctrine while simultaneously ensuring that there remains a strong enough relation that the varied doctrines will rally in its support. Rawls wisely leaves it up to the citizens themselves to work out the details of their comprehensive doctrines’ participation in the overlapping consensus. He also gives considerable latitude as to the type of support:

citizens themselves, within the liberty of their thought and conscience, and looking to their comprehensive doctrines, view the political conception as derived from, or congruent with, or at least not in conflict with, their other values.

This latitude is qualified, however, by Rawls’s further insistence that the support be won “by addressing each citizen’s reason.” To do otherwise, he says, would be

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16 *Political Liberalism*, p. 38.

17 *Political Liberalism*, p. 11.

18 *Political Liberalism*, p. 143.
“political in the wrong way.”

Depending upon what Rawls means by reason, this, of course, introduces a significant complication into citizens’ determinations of support. We discuss this initial restriction below.

My central claim with regard to this relation however is that in his concern that the overlapping consensus surround a conception of justice that itself has no roots or justification in any comprehensive doctrines, Rawls requires comprehensive doctrines to give up too much, and he thus in effect excludes any doctrines unwilling to take that step. Recall that in chapter two, we distinguished four variations on support for the overlapping consensus, and we concluded that so long as they can tolerate some degree of dissonance between their comprehensive doctrine and the political conception, three of the four people may be able to find their way to joining the overlapping consensus.

Here, however, I want to consider a fifth variation. My suggestion is that although there are a number of groups of citizens who may have trouble finding their way to joining the overlapping consensus, there is one group that will have particular difficulty. These are people who wish to be involved politically, who realize the importance of there being political conceptions of justice, who wish to make

19 Political Liberalism, p. 142.

20 This raises an interesting inconsistency in Rawls’s suggestion, a few pages later in Political Liberalism, that “citizens may within their comprehensive doctrines regard the political conception of justice as true, or as reasonable, whatever their view allows” (Political Liberalism, p. 151). In fact, they can regard the conception as true and reasonable, or as simply reasonable, without regard to truth—but not simply true. For this would be to support it “for the wrong reasons.”

21 Or, to look at the matter from the reverse angle, they may be able to join the overlapping consensus so long as there exists some dissonance. Recall that the fourth person, who supported the political conception completely wholeheartedly, was unable to see the conception as separable from
contributions to political discourse, but who are unwilling or unable to extricate a conception of justice from their comprehensive doctrine and cannot see how they could support a political conception of justice that could in any way be autonomous or independent from their comprehensive doctrine. These are people who are unwilling to consider their comprehensive doctrine as a purely private matter, but who are also unwilling in principle to restrict the expression of their political views in ways that disguise their source or foundation.\footnote{22}

We should not be surprised that such people might exist, or even that there would be many such people. Given that political conceptions of justice are not developed from comprehensive doctrines, but rather are “unfolded” from ideas already implicit in the public political culture, people who hold comprehensive views that do not readily identify with some of these ideas, or with the ways that these are typically formulated, or hold to other ideas in addition to these, may have difficulty seeing how they can support such conceptions of justice. And of course, their inability to identify themselves and their values in the public political culture may

what her doctrine led her to believe, and so could not support it “as explained within its own framework” \cite{PolLib}, p. 143). Her support Rawls must reject.

convince them all the more that their arguments need to be heard. In other words, my suggestion is that this is a further qualification or restriction on the type of support citizens may give the political conception. Rawls is non-neutral with respect to people who do not see the relation between a person’s conception of justice and the rest of his or her comprehensive doctrine in the way he does.

Let us be clear as to what Rawls asks of the comprehensive doctrines here. Agreeing to support a particular conception of justice is not only to agree to be bound by the principles of that conception, but also to agree to be bound by the idea that the conception is a freestanding conception whose content “is expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society.” It is this requirement that poses the problem for this fifth group of citizens: they must agree to see the conception as independent of their religious, philosophical and moral beliefs, whereas it is precisely because it is dependent that they are able to support it at all. Although the citizen finds the value of the political conception in its “point of coincidence” with his or her comprehensive doctrine, the same citizen is required to articulate publicly that conception of justice as freestanding—that is, as a conception that does not have this point of coincidence, a


23 Rawls uses “point of coincidence” to describe this relation in “Justice as Fairness: Political not Metaphysical” (“Justice as Fairness,” p. 247).
difference which, for the citizen, will give the conception a completely different character.\textsuperscript{24}

Rawls is assuming something here about comprehensive doctrines, and in particular, something about the relation between a person’s conception of justice and the rest of his or her other values of the comprehensive doctrine. For Rawls, the reasonable citizen must see them as potentially separable.\textsuperscript{25} And this is not a mere analytic dualism, useful perhaps in organizing the various components of a comprehensive view, but a categorical separation, a division of the “overall view” into two parts. But this is a mistake precisely because a person’s view on the unity or duality or plurality of a comprehensive doctrine, as well as the nature of the relation between the various “parts,” is itself an element of that person’s doctrine. And so more limits are placed on how citizens can conceive of the relation between their comprehensive doctrine and the political conception of justice. The effect is to exclude from political liberalism any doctrine that sees its political theory as part of and inseparable from its comprehensive view. Rawls does this because his own (liberal) comprehensive doctrine posits the autonomy of political theory over comprehensive doctrines in a particular way. Rawls is neutral between the various

\textsuperscript{24} See Nicholas Trainor, “Religion and Politics in Modern Democratic Societies: An Assessment of the Rawlsian ‘Political’ Conception of Justice,” \textit{Contemporary Political Studies 1998}, vol. 2 (Nottingham: Political Studies Association of Great Britain, 1998), p. 1027. Hereinafter referred to as Trainor, “Religion and Politics.” Note that this is true whether or not one has in mind the narrower or the wider forms of public reason. Freestanding arguments are required in either case.

\textsuperscript{25} See \textit{Political Liberalism}, p. 140: “It is left to citizens individually—as part of liberty of conscience—to settle how they think the values of the political domain are related to other values in their comprehensive doctrine. For we always assume that citizens have two views, a comprehensive and a political view; and that their overall view can be divided into two parts, suitably related.”
comprehensive doctrines that accept this autonomy—these are declared reasonable—but he is not neutral toward doctrines that reject his own views on the autonomy of theoretical thought. Rawls rejects as unreasonable those conceptions of justice that presuppose a single conception of human good, but he himself presupposes a single conception of the relation between conceptions of justice and comprehensive doctrines. The effect is to make the overlapping consensus a good deal less political and a good deal more metaphysical than we might have expected, given Rawls’s earlier assurances that citizens themselves decide how their comprehensive doctrine relates to the political conception.26

Rawls in *Political Liberalism* is not entirely unaware of this restriction, although he does seem to diminish its significance. He does acknowledge in his lecture on “The Idea of an Overlapping Consensus” that eventually “we” may have to assert at least certain aspects of our own comprehensive doctrines to deny the claims of other doctrines with respect to the relative priority of the political conception, and thus we may be required to “maintain the kind of thing we had hoped to avoid.”27

26 And by doing so, adds Samuel Scheffler, Rawls makes the achievement of an overlapping consensus that much more difficult: “[I]f participation in the consensus requires affirmation not only of a particular set of principles of justice but also of certain metatheses about the status of those principles, then, other things equal, one would expect the consensus to include fewer people” (“The Appeal,” p. 13). Scheffler’s concern here is quite correct; I introduce here the further claim that this difficulty results from an imposition of a particular comprehensive doctrine with a particular view on the relation to political conceptions.

27 *Political Liberalism*, p. 152. Rawls describes the same phenomenon in “Public Reason Revisited”: In a reasonable comprehensive doctrine, in particular a religious one, the ranking of values may not be what we might expect. Thus, suppose we call *transcendent* such values as salvation and eternal life—the *Visio Dei*. This value, let’s say, is higher, or superior to, the reasonable political values of a constitutional democratic society. These are worldly values and therefore on a different, and as it were lower, plane than those transcendent values. It doesn’t follow, however, that these lower yet reasonable values are overridden by the
why does Rawls make this restrictive move? And how can he do so in the name of freedom and equality? Recall from chapter two that Rawls’s central concern is that the conception of justice be held by citizens “for the right reasons,” and not merely for reasons of prudence or battle fatigue. Were it for the “wrong” reasons, citizens would have fewer “internal” motives—that is reasons relating to their religious, philosophical, or moral doctrines—for maintaining their support of the overlapping consensus and could more easily succumb to the temptation of seeking to impose their own view on others. To avoid this danger, Rawls makes it his concern, in effect, to secure a partial but significant uniformity of belief—a deep, widespread agreement on principles sufficient to support the basic structure of society. The challenge I make here is that in his concern that the overlapping consensus be deeply held, Rawls does injustice to comprehensive views by imposing a particular doctrine upon them, in particular, a doctrine that posits a separation between political views and comprehensive views. Rawls, however, can back away from his position only with difficulty because if it should turn out that the political values—“very great values and hence not easily overridden”—are in fact elements or aspects of comprehensive doctrines, then the success of the larger project, achieving “a just and stable society of free and equal citizens who still remain profoundly divided”28 is seriously brought into question.

28 Rawls, Political Liberalism, p. 47.
This central problem is further implicated in Rawls’s difficulties concerning motivation that we noted in chapter one—indeed, it is the main source of those difficulties.\textsuperscript{29} The question here is whether citizens will have sufficient motive to support the overlapping consensus and to restrict their political participation to what is permitted by the political conception of justice and not to the whole truth as they see it. Rawls himself argues that citizens will be motivated by the value of social cooperation itself. The political values, says Rawls, are “very great values and not easily overridden and the ideals they express are not to be lightly abandoned.”\textsuperscript{30} Critics have not been impressed. Paul Weithman, for instance, has noted that the argument is incomplete; while Rawls frames his argument for supporting the overlapping consensus and respecting the bounds of public reason as a moral obligation (i.e., “the duty of civility”), he “remains remarkably elusive about the ground of that requirement.” Continues Weithman, “the fact that values realized by honoring public reason are ‘very great values’ does not entail that citizens in ‘a well-ordered constitutional regime’ are \textit{required} to honor the guidelines. Even if they are, it does not follow that \textit{we} are required to follow them.”\textsuperscript{31}

\textsuperscript{29} We encountered Rawls’s difficulty concerning motivation in chapter one, page 45.  

\textsuperscript{30} \textit{Political Liberalism}, p. 218.  

\textsuperscript{31} Weithman, “Citizenship,” p. 140, emphasis in original. See Jeffrey Stout for a historical explanation for Rawls’s assumption of the priority of the political:  

\textit{We should not find it surprising that modern ethical theorists tend to view morality itself as an institution whose primary function is to resolve something called “the problem of cooperation,” for the intuitions on which such theorists depend were largely put in place by circumstances [the 16\textsuperscript{th} century wars of religion] that made cooperation seem more important than other values for which one could strive (\textit{Flight}, p. 238).  

Stout’s question is whether this historical circumstance remains, four centuries after the fact (\textit{Flight}, p. 241).
It is unclear, then, why most people will be willing to grant priority to the values of the political domain over their other, wider values. Quite simply, the demand to adopt Rawlsian reasonableness is not enough in itself for people to limit their political use of their beliefs, for people may hold to certain “non-political” values more dearly than they do to those values that “make fair social cooperation possible on a footing of mutual respect.” In other words, even if Rawls successfully makes the case that the conceptions of justice can be justified “independently,” that is, by shared ideas of the public political culture, it is not clear why citizens should join in support for these conceptions. Notably, Rawls has closed for himself the solution adopted by most of his liberal forebears, such as Hobbes for instance: a healthy skepticism concerning the truth of those doctrines. This response Rawls is most concerned to avoid—he does not want the priority of the political conception to depend upon claims concerning the truth of the various comprehensive doctrines. But granting the truthfulness of one or more comprehensive doctrines makes political liberalism vulnerable to claims that these truths might outweigh the values of the political conception.

Weithman proposes as a possible solution consideration of “role-specific duties of citizenship” in a constitutional democratic society, rather than Rawls’s “ideal of citizenship,” in order to resolve the problem of deriving moral obligations from moral ideals.\(^{32}\) We return to Weithman’s suggestion in chapter four. Here I note only that the motivational problem is directly related to the fact that because the

\(^{32}\) “Citizenship,” p. 141-42.
conception of justice must be “seen to be independent” of the comprehensive doctrines, those who would support it must do so for reasons that can be “seen to be independent” of their beliefs. Given this independence, that there would be a problem concerning motivation should be of little surprise. Rawls’s weakness with respect to motivation, I suspect, is a holdover from the older comprehensive liberalism upon which Rawls supposedly no longer depends. Once upon a time, when we could assume the existence of a common moral foundation upon which we could all depend, for politics and for everything else, the important question of motivation did not appear—it could be assumed: we were motivated to participate because of the shared moral foundation. Rawls, however, continues to assume motivation, despite its dependence on the existence of a shared moral basis—precisely what the overlapping consensus is designed to create. This, it seems to me, can only be an error: a theory cannot depend on the very conditions that it is seeking to secure; it cannot assume what needs to be established.

**Rawls’s Epistemology: Which Rationality?**

Rawls’s difficulties concerning the relationship between comprehensive doctrines and political conceptions of justice are not unrelated to another set of difficulties; namely, questions concerning reason and the role that a distinctive understanding of reason plays in political liberalism. Here, the charge is that Rawls depends upon a particular view of human reason at a number of crucial points as he develops his theory, and that this dependence has damaging consequences for political liberalism’s overall success. According to Rawls’s liberal principle of legitimacy, we
legitimately exercise political power only when it is in accord with a constitution “the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.”\textsuperscript{33} What is this “common human reason” and how does it accord with the fact of reasonable pluralism?

In previous chapters, we have noted the significance of the fact that the political conceptions of justice are developed out of “certain fundamental ideas seen as implicit in the public political culture of a democratic society.”\textsuperscript{34} But we have also noted that this procedure is not neutral, at least not with respect to reason. In the first stage, as theorists develop the political values out of the shared political culture, and again as they develop the principles of justice from these shared political values, they are to engage in rational reflection on their subject, without reference to their own interests and doctrines.\textsuperscript{35} Indeed, they should be seeking principles in this first stage that they can reasonably expect citizens to be able “to endorse in the light of their common human reason.”\textsuperscript{36} Accordingly, in the second stage, when the conceptions are seeking support, there is a second appeal to reason: when seeking endorsement

\textsuperscript{33} Rawls, \textit{Political Liberalism}, p. 137.

\textsuperscript{34} Rawls, \textit{Political Liberalism}, p. 13.

\textsuperscript{35} Rawls offers the original position as a particularly good way to go about seeking and evaluating political conceptions of justice (\textit{Political Liberalism}, pp. 22-28), although he concedes that other people may find different ways more reasonable (“Public Reason Revisited,” p. 773).

\textsuperscript{36} Rawls, \textit{Political Liberalism}, p. 140.
from citizens in the overlapping consensus, each conception of justice can win its support only “by addressing each citizen’s reason.”

The powers and possibilities of human reason are similarly implicated in Rawls’s views on pluralism more generally. Rawls is quite willing to accept the reality of disagreement among the comprehensive doctrines; such disagreement concerning the good he believes to be quite reasonable, a not-unfortunate condition of human life that results from “the free exercise of human reason under conditions of liberty.” However, as we have seen, any disagreement concerning the right (beyond that which might occur within the family of political conceptions supported by the overlapping consensus) suggests the unreasonableness of at least one party to the disagreement. The result is that, for Rawls, a plurality of incompatible comprehensive doctrines is the result of the “free exercise of free human reason” in the non-political realm or “background culture,” but once in the political world, our “common human reason” enables consensus to be achieved. This, upon a moment’s reflection, is a curious conclusion—the grounds are not at all clear for the assertion that our common human reason does not permit us to tolerate the imposition of comprehensive


38 *Political Liberalism*, p. 144.

39 *Political Liberalism*, p. 144.

40 *Political Liberalism*, p. 137.
doctrines upon us that we do not hold ourselves, while expecting some of us to accept the imposition of conceptions of justice upon us that we do not hold ourselves.

Jean Hampton has offered one possible explanation for the apparent inconsistency. She notes that Rawls differs from certain other Enlightenment liberals in recognizing that the diversity of comprehensive views is reasonable: we expect too much from reason when we ask it to resolve the truth about comprehensive doctrines. But, says Hampton, Rawls makes the recognition of this fact about reason itself a condition of reasonableness—those who disagree with the claim that reason cannot resolve these comprehensive questions and believe rather that reason supports only their own view are found to be unreasonable. Her charge is that Rawls remains in fundamental continuity with an Enlightenment view of reason, almost despite himself, because he asserts that reason can determine for us the truth of the fact of reasonable pluralism. Moreover, maintaining this truth is crucial for the success of Rawls’s project, as it is the notion of the reasonable that does much of the work of making the overlapping consensus possible: it is by knowing what is reasonable (and what is not) that we are able to know how a political structure ought to work, despite our pluralism.41

Taken together, each of these points suggests the degree to which Rawls assumes, and depends upon, what is actually a very controversial epistemological view. At the most basic level, seeking to establish a theory upon what our “common human reason” can support is problematic because it assumes a particular conception

of reason that we hold in common.\textsuperscript{42} Rawls may be unduly optimistic on this point, and certainly, different comprehensive doctrines hold to different views on this question. In particular, Rawls needs to consider more thoroughly the difficult question of the relation between belief and reason. Powerful arguments have been made by Alvin Plantinga, Nicholas Wolterstorff and others that belief precedes reason.\textsuperscript{43} In this view, our reason is as permeated by our comprehensive doctrines as the rest of us, and attempts to distinguish them too sharply result in mischaracterizing both. Faith and reason do not oppose one another in principle; rather, both faith and reason are part of every argument. The implication is that supposedly “objective” or “neutral” knowledge such as the conclusions of science rest also on the sorts of faith claims characteristic of “religious” knowledge. Similarly, “religious” knowledge can be rational as well as reasonable, and can even be evaluated and considered as such—as a specific type of knowledge claim. Says Wolterstorff, in a discussion of Rawls,

\begin{quote}
\textsuperscript{42} For a particularly explicit statement by Rawls in this regard, see \textit{Political Liberalism}: Let’s say that reasonable disagreement is disagreement between reasonable persons: that is, between persons who have realized their two moral powers to a degree sufficient to be free and equal citizens in a constitutional regime, and who have an enduring desire to honor fair terms of cooperation and to be fully cooperating members of society. Given their moral powers, they share a common human reason, similar powers of thought and judgment: they can draw inferences, weigh evidence, and balance competing considerations. (p. 55, emphasis added)
\end{quote}

\begin{quote}
\textsuperscript{43} See, for example, the essays in Alvin Plantinga and Nicholas Wolterstorff, eds., \textit{Faith and Rationality} (Notre Dame, Ind.: University of Notre Dame Press, 1982). This group of theorists offers criticisms of enlightenment rationalism that I find particularly significant and helpful (so-called “Reformed epistemology”), but there are certainly others that could be mentioned. That Rawls considers none of them in \textit{Political Liberalism} is one of the more disappointing features of the book: MacIntyre is nowhere to be found, Sandel merits a single footnote (p. 27, note 29), not to mention other, even more significant, representatives of the counter-enlightenment tradition in Western thought: Marx, Kierkegaard, Nietzsche, Heidegger. Their omission is particularly unfortunate as it is precisely with respect to his assumptions concerning reason that Rawls is vulnerable, both in \textit{Political Liberalism} and in \textit{A Theory of Justice}.
\end{quote}
Our common human reason is always a programmed human reason; what we come to believe by the use of our reason…is a function, in part, of what we already believe. And we differ in our beliefs—differ in particular, now, in our comprehensive perspectives.\textsuperscript{44}

In other words, the suggestion is that when appealing to our “common human reason,” Rawls appeals only to a particular conception of reason, one that carries baggage from the comprehensive doctrine in which it was derived (Enlightenment liberalism). The problem is that this unitary and idealized version of reason is likely to be rejected by many people who hold to different doctrines. And given the pluralism that Rawls acknowledges to be reasonable, this rejection cannot be due to unreasonableness on their part, but only to their not being Enlightenment liberals, to their not holding to an Enlightenment liberal view of reason.

In this respect, we can see that the principle of toleration does in fact stop short in its application to “philosophy itself.” Just as we saw Rawls positing the autonomy of political theory over against comprehensive doctrines with respect to the question of the relation between political conceptions of justice and comprehensive doctrines, here we see Rawls positing the autonomy of one (doctrinally-based) view of reason over against other (doctrinally-based) views of reason with respect to the question of how political conceptions of justice are developed and justified. In both cases, Rawls is making some controversial claims, and whether one agrees or disagrees with these claims, the fact that they are reasonably controversial (people can reasonably disagree) seriously weakens the claims of political liberalism to respond to

\textsuperscript{44} “Role of Religion,” p. 98.
the fact of pluralism fairly. Given the reasonable pluralism on both these matters, it can only be a mistake to depend so strongly on such exclusionary views.

But even apart from the question as to whether human beings have a common reason, there are also difficulties inherent in asking citizens to provide arguments based upon what “common human reason” can support. If the principle of legitimacy demands that we conduct our political decision-making on important issues only in terms of a constitution that other citizens can endorse in the light of principles and ideas acceptable to their common human reason, Rawls says that comprehensive doctrines do not qualify as bases for arguments when offered alone. This, of course, is the idea of public reason. But it is hard to see why someone (for instance, our person #5) would not object to this limitation when she sees it as vitally important to be able to make known her fundamental views on fundamental issues, and is unwilling or unable to support an independently justified conception of justice. It is hard to see why she should not be enabled to do so, especially as ruling out of order people’s fundamental views in discussions of fundamental issues seems to oppose directly the spirit of democracy.

As we will see more thoroughly in chapter four, the failure of reason to meet the challenge that Rawls sets for it is fortunately not fatal; Rawls had set the bar too high in any case as a requirement for social cooperation. We should note, however, that this person’s situation, frustrated by the requirements of public reason, points to one of the most serious consequences of Rawls’s assumptions concerning reason, namely, that it leads him to succumb to a related temptation: moving too quickly from “publicly accessible” to “publicly acceptable.” It suggests that being able to
understand a position or an argument is in some sense to be in agreement with that position or argument. This, it seems to me, is a peculiarly modern suggestion, resulting from the high status accorded to autonomous reason in the enlightenment tradition. But of course, this suggestion is in error: arguments derived from Rawls’s “common human reason,” if it exists at all, are not likely to be acceptable to all. The fact that a person might be able to understand an argument does not make it thereby acceptable to him. This fact, I think, is supported by experience. It would strike us as absurd, for example, to suggest that those of us who reject communism do so because we are unable to understand the Communist Manifesto sufficiently well; rather, we reject it because we think it simply wrong. Repeated readings of the Manifesto, or the reading of other of Marx’s works to improve one’s understanding of communism, do not in principle make one more likely to agree with Marx on the subject—rather, one is just as likely to continue to disagree, but in greater detail.

If this is true, the position must fail that claims that arguments from comprehensive doctrines should be excluded because they are not accessible. Rather, those advocating that position find themselves unpersuaded by those arguments—they find them unacceptable, not because they cannot understand them, but rather because they believe them to be wrong. But disagreement with a position can hardly be grounds for declaring it illegitimate. Accordingly, a criterion that emphasizes accessibility should not exclude arguments based in comprehensive doctrines when they are offered alone, for disagreeing with such arguments does not thereby make
them inaccessible. At a certain level—at the comprehensive doctrine level—Rawls accepts this: reason cannot be used to overcome the diversity of comprehensive doctrines. Yet at another level—at the conception of justice level—Rawls’s faith in the powers of human reason to bring us to agreement remains as strong as ever. And his theory depends upon that faith: to achieve stability Rawls needs a mechanism to rule certain positions and views out of order; he does not want to declare a position “wrong” simply. Rather, he focuses on the accessibility of the grounds offered for that position—how those grounds satisfy the strictures of public reason.

At most, publicly accessible means publicly intelligible. But what Rawls calls “public reason” arguments may not even be publicly intelligible, much less publicly acceptable. It is not as though a citizen can take an argument from within a comprehensive doctrine, cut out the distinctive terminology, and discover it suddenly transformed into a “public” argument to which that citizen can yet subscribe. How can we know that a requirement that citizens provide at least some arguments based only upon those elements of their comprehensive doctrines that are shared with others not itself violate at least some of those doctrines? At the very least, the suggestion

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45 See Michael W. McConnell, “Five Reasons”: The fundamentalist tradition typically presents arguments based on the Holy Bible, rejecting arguments based on emotion, tradition, or extrabiblical revelation to religious authorities. It is difficult to imagine a more accessible view. To be sure, not everyone agrees with the Bible, just as not everyone believes in Keynesian economics. But the Bible is available to everyone. All you have to do is pick it up and read (p. 653).

46 See also Zuckert, “Modern Liberalism,” dealing with Political Liberalism more specifically: Why should the burdens of judgement not be as serious a problem for a political conception as for a first order comprehensive doctrine? That Rawls labels it differently does not mean that all the uncertainties of the operation of human reason will not have precisely the same effect on second order as on first order doctrines (p. 75).

that the person can still support the argument in the same way seems strange. And note that this is not a problem only for religious comprehensive doctrines; in fact all citizens who participate in democratic discourse face a version of this dilemma. We all must seek to make ourselves understood, but just as Rawls hesitates to use the word “secular” to describe how arguments should look—because he does not want to suggest that “secular” is acceptable to everyone\textsuperscript{48}—we should be similarly uncomfortable with a “public reason” requirement. Public reasons are not necessarily reasons to which all can agree. Rather, by abstracting from certain beliefs that are not shared or do not appeal to our “common human reason,” they are likely to become unacceptable to those who hold to those beliefs.

This leads to questions of public justification more generally. Here too Rawls assumes a number of things that he probably should not. Recall Rawls’s argument from \textit{Political Liberalism}: coercion is to be considered acceptable when we can reasonably expect that those who are being coerced as “free and equal” might reasonably accept those reasons.\textsuperscript{49} Wolterstorff notes that there something a little perplexing here. If it is true that the coerced person accepts the reasons justifying the action, then to what extent can we say that there is coercion occurring at all? Wolterstorff provides the (decidedly unwieldy) label “actualist non-coercivism” for this type of requirement.\textsuperscript{50} Its rather unsettling extension, however, takes account of

\textsuperscript{48} “Public Reason Revisited,” p. 775.

\textsuperscript{49} Rawls, “Introduction,” p. li.

the fact that the situation where the coerced actually accept the reasons offered rarely exists, for they may not accept what they reasonably should. The focus is rather on what they could accept, were they to be reasonable. Wolterstorff labels this extension by Rawls a species of “conditionalized non-coercivism.”51

This is problematic enough considered alone. But the further difficulty stems from Rawls’s apparent assumption that grounds are considered justified only if those who disagree can understand or accept the reasons given (or could understand or accept them were they to be reasonable). This assumption itself is not justified by the theory, nor does it conform to experience. Citizens are often coerced by laws for which they reject the offered justification—yet (surprisingly, it would seem) most remain loyal to the democratic system nonetheless. We can theorize that this is so because in a democracy, most citizens make the most important charges of injustice when they have been prevented from speaking to the issue (e.g.: they have lost the right or ability to participate), or, more generally, when they see that their views have not been articulated, rather than that they do not accept the reasons for the position that won the day. In other words, the assumption is incorrect that says people who acquiesce to coercion when they disagree with the law in question, do so because they believe themselves to share—or in some sense actually would share, were they to be

51 “Religious Reasons,” p. 16. Interestingly, if this is an accurate portrayal of Rawls’s position, his willingness to move to the “wider view” of public reason since PL’s original publication introduces considerable risk into his project. It opens up the possibility that people may be persuaded not by the public reasons offered, but rather by the accompanying nonpublic reasons, and thus it opens up the possibility for abuse. It also underlines the importance that these nonpublic reasons only be accompanying. In Rawls’s own words when discussing the wider view “[w]hat’s important is that people give the kinds of reasons that can be understood and appraised apart from their particular comprehensive doctrines” (Prusak 14). The wider view of public reason is, at best, a prudential concession—it is not clear how it could be required by political liberalism.
reasonable—the grounds for that coercion. Rather, I suggest that they acquiesce because they are aware of the fact of pluralism, and see that (at least on the issue at hand), they are in the minority and can expect that their perspective will prevail only some of the time. Again, publicly accessible does not mean publicly acceptable.52

But does this response too easily avoid the hard cases? How do we respond to the theocrat, for instance, or a rabid nationalist, or the hard-core utilitarian even though their reasons cannot be supported by anything like a liberal conception of justice? Are we left with nothing to say? The challenge, it seems to me, is to avoid ruling as illegitimate the reasons and justifications given by such persons, and focus rather on the actual content of the proposed policy being offered. The theocrat might have us violate the right of religious communities to worship in their own way; the nationalist might lead us to discriminate on the basis of national origin; the utilitarian might see the state sacrificing individuals in the name of other goods. But what makes us object to these demands are the actual conclusions to the reasoning, not the grounds for it. Indeed, to rule against the theocrat, the nationalist, the utilitarian simply because they use controversial reasons from within their comprehensive doctrines is unlikely to help the situation—in fact, the arguments would be just as objectionable were they to be couched in terms of public reason. The grounds themselves are not the primary difficulty, and the demand that grounds be made

52 This acquiescence, I would argue, represents the real “duty of civility.” The implication, of course, is that liberals also must accept this duty. In a plural society, if citizens remain loyal to the political system despite being coerced by laws for which they cannot accept the offered justification, then it would seem that reciprocity demands that liberals act accordingly: admit reasons with which they cannot agree. More on this in chapter four.
within public reason is unlikely to help, and indeed may make the situation worse: not only are we disagreeing with the policy, we are also suggesting that the argument is illegitimate, based on a conception of justice that cannot be supported by our common human reason.  

What are the specific consequences of Rawls’s views on reason with respect to the success of the theory? First, it makes the expectation highly unrealistic that the theorists among us will be able to put aside their comprehensive doctrines while they develop political conceptions of justice out of the public political culture, and instead seek conclusions that our common human reason can endorse. Indeed, if the criticisms presented here are valid, by asking theorists to put aside their comprehensive doctrines, we are asking them to put aside their own views on the nature of reason, and instead take on another as they do their work, one as foreign to them as taking on the perspective of another comprehensive doctrine.  

A similar problem afflicts the theory as the conception of justice seeks support. The conception that the theorists are unfolding must be such that it can win its support from citizens “by appealing to their reason.” Two possibilities present themselves. The former is that the conception must appeal to each citizen’s reason as

53 See Wolterstorff: “…if my fellow citizen’s agreeing or not agreeing with me has something to do with my according him equal political voice, then why is not my conclusion the relevant thing rather than my reason?….After all, it is, in the last resort, the conclusions people come to that lead them to support whatever laws and policies they do support” (“Role of Religion,” p. 106).

54 It is no coincidence that the procedure described by Rawls to develop these principles is similar to the original position, the situation constructed by Rawls in A Theory of Justice in which his favored conception of justice, justice as fairness, was developed. Nor is it a coincidence that a source of frequent complaint by critics against the original position were its assumptions concerning rationality.
he or she understands it—that is, as understood within his or her comprehensive doctrine.\textsuperscript{55} This, it would seem, is the preferred interpretation, as this would make the relation between the conception of justice and the comprehensive doctrine the least problematic. More likely, however, Rawls, ever consistent, intends the second possibility—that the conception must appeal to each citizen’s “common human reason,” which would require citizens, as the theorists were, to put aside their comprehensive doctrines, as well as their associated views of reason, and take up a foreign view of reason. What particularly supports this second interpretation is Rawls’s further requirement that support be forthcoming for the conception “as explained within its own framework.”\textsuperscript{56}

At both of these points, we should not expect that reason will do the work that Rawls is expecting of it. Indeed, given that the fact of pluralism will affect our reason as much as it affects the rest of us, and given the role that reason performs in political liberalism, we should not expect that a consensus will appear in the form that Rawls is seeking, any more than we should expect a larger consensus on comprehensive doctrines to appear.\textsuperscript{57} Rawls requires an agreement among rational people that he really ought not to expect. Similarly, with respect to our public deliberation, making our political offerings based not upon our comprehensive doctrines but rather upon a

\textsuperscript{55} This is the interpretation advanced in chapter two, footnote 83.

\textsuperscript{56} \textit{Political Liberalism}, p. 143. We can speculate that Rawls would accept both interpretations, but insist upon the second, leaving the first optional, just as the wider view of public reason accepts both types of argument (based on a comprehensive doctrine and based on a political conception of justice), but insists upon the second, leaving the first optional. In other words, the “dualism” that Rawls points to in the justification of political liberalism (\textit{Political Liberalism}, p. xxi) is not a balanced dualism.
political conception of justice that we reasonably expect our fellow citizens could believe to be reasonable were they to be rational—because this is what it seems public reason requires—is too strong a demand, given what we know about the plurality of reason. Agreement simply cannot be expected with such requirements in force, essentially because they move the agreement away from the citizens concerned to a hypothetical realm where all are reasonable and rational according to one doctrine’s definition of those terms. In short, the theoretical difficulties concerning reason make the successful development of truly “freestanding” conceptions of justice and arguments based upon them most unlikely.

Unfolding our “Public Political Culture”: The Reinterpretation of Belief?

Perhaps the strongest counter-argument that might be brought forward in defense of Rawls’s proposals emphasizes the grounding of all political conceptions in something we do in fact apparently share: our public political culture. Rawls might reply to the above charges that his project is not as controversial as the arguments above have suggested. After all, it is not an old-style full-fledged political philosophy that he is offering: whatever the conception of justice might be, we can be assured that it has developed out of the public political culture that we already share, and in a sense, have already accepted, insofar as we participate in our liberal democracy. He might say that to ask citizens to support conceptions of justice grown on common

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ground such as this can hardly be considered offensive, but rather can only support the ideal of good citizenship.\footnote{According to Rawls, the public political culture “comprises the political institutions of a constitutional regime and the public traditions of their interpretation (including those of the judiciary), as well as historical texts and documents that are common knowledge” \cite[pp. 13-14]{Rawls}. Further, it includes “a tradition of democratic thought, the content of which is at least familiar and intelligible to the educated common sense of citizens generally” \cite[p. 14]{Rawls}.}

This response is important, and certainly cogent, for, as we noted in chapter two, Rawls’s provocative approach in this respect represents one of the significant innovations of political liberalism. His approach is to find areas deep within the political culture upon which there is general agreement, and then to elaborate these into conceptions of justice that can then do the work of resolving our political controversies without citizens being required to bring forth their controversial comprehensive views. Unfortunately, however, the reply largely fails, and in fact points to the difficulties inherent in trying to develop a system of right while seeking to remain agnostic on the good. Rawls’s strategy in \textit{Political Liberalism} is to avoid at all costs declaring that certain values, and especially his own values, are right, while others are wrong.\footnote{Within a certain range, of course. I do not see how he can avoid this sort of implication with regard to the “unreasonable.”} His suggestion rather is that if we are reasonable participants in democratic society, and if we reflect carefully on what we believe concerning that society, and if we do this carefully enough and reasonably enough, we will discover that the conception of justice is not that foreign to our beliefs after all, or that it is close enough that we can certainly join with other participants in the overlapping consensus. In fact, put more strongly, we may discover that to join in the consensus is
to recognize that the proposed political conception of justice is actually what we already believe concerning justice—we simply had not considered it before as a formal conception in this way.\footnote{Rawls is quite explicit in this regard, noting in “Public Reason Revisited” that occasionally we may need to “reason from conjecture”: “In this case we reason from what we believe, or conjecture, may be other people’s basic doctrines, religious or philosophical, and seek to show them that, despite what they might think, they can still endorse a reasonable political conception of justice.” (p. 783, emphasis added)}

This is a more difficult teaching than Rawls seems to realize. It is one thing to be told that one’s beliefs are wrong (or unreasonable); it is quite another to be told what one’s beliefs actually are! Seen this way, what began as a harmless exercise in “unfolding” elements of our public political culture into a political conception of justice evolves into an exercise in reinterpreting for us what we already believe by virtue of our membership in a liberal democracy.\footnote{Steven D. Smith makes this argument, more baldly, in “Review Essay: Natural Law and Contemporary Moral Thought: A Guide From the Perplexed,” Review of Natural Law, Liberalism, and Morality: Contemporary Essays, ed. Robert P. George The American Journal of Jurisprudence 42 (1997), p. 304.} Michael Zuckert finds a possible source of this difficulty to lie in a confusion on Rawls’s part distinguishing agreement on a political \textit{concept} from agreement on a political \textit{conception}. Within our public political culture, he says, Rawls is quite correct to find broad agreement on concepts such as equality, finding agreement on a statement that all citizens are equal, for example. However, this says little about the possibilities for agreement on conceptions of that concept of equality—in fact, there is widespread \textit{disagreement} within public political culture on such conceptions. Says Zuckert:
Rawls has gone astray…in that he has perceived an agreement at the level of concept, i.e., on such general matters as the freedom and equality of persons, which he has attempted to interpret as an agreement at the level of conception. Or, to put it another way, the agreements and practices to which he points in the culture do not exist at the level of specificity or with the content that is given them when he brings them into his theory…. This shift from concept to conception is simply arbitrary and illegitimate within the terms of Rawls’s own thought.  

Part of the problem is that Rawls says little about how conceptions of justice are developed, a problem Zuckert also notes. But even if Rawls could have been clearer in this regard, the difficulty would remain: how can we move from an agreement that a concept such as equality exists to an agreement on a particular conception of equality? Zuckert does not continue this line of thought at great length, suggesting that Rawls inappropriately relies on leftover assumptions from *A Theory of Justice*. That may or not be, but at the very least, we can know that Rawls is sure that whatever conceptions are developed, they will be distinctly liberal conceptions. He assumes that the agreement on these concepts is a liberal agreement, and therefore feels quite justified in his assurance that whatever variety of political conceptions of justice there are, they will all be liberal. In so doing (to further Zuckert’s critique), Rawls mistakes an agreement on equality, for instance, for an agreement to understand that concept as a liberal conception of equality; in other words, not only

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63 “With regard to this part of his task,” says Zuckert, “Rawls surely does not bark; he barely whimpers” (“Modern Liberalism,” pp. 76-77).

64 “Modern Liberalism,” p. 78.

citizens’ beliefs re-interpreted by virtue of their participation in democratic society, they are re-interpreted as a liberal conception.

How can Rawls make this move? He depends upon two assumptions here. First, Rawls finds our public political culture to be generally liberal in character—indeed, we often refer to it as a liberal democracy. Considering this liberal character, Rawls expects that conceptions of justice developed out of the public political culture will be, broadly speaking, liberal. It is because of this assumption that Rawls can devote so little space to describing how this development takes place: Rawls does not expect a political conception of justice to emerge out of our public political culture that dramatically challenges liberalism.

In fact, this is a risky assumption. It may be true that our public political culture is basically liberal, but there does not seem to be any necessary reason for it to be true. Certainly it is not obviously true. Indeed, the public political culture of the United States seems to be quite conflicted on any number of concepts that political liberalism might claim; ideological uniformity in our public political culture remains distant. Rawls is very likely unduly optimistic in this respect; put simply, there is much in our public political culture that is not liberal. To the extent that this is true, it is hard to see how we can know that liberal conceptions of justice can be formulated out of our public political culture without their formulators engaging in some selection bias (whether conscious or not). In other words, the charge here is that Rawls’s project unjustifiably privileges liberal conceptions of justice over their
nonliberal competitors. It is hard to see how non-liberals are not discriminated against.\textsuperscript{66}

But Rawls depends upon a second assumption here as well. Rawls expects a liberal conception of justice also because he believes that liberal conceptions of justice are, quite simply, more likely to satisfy the requirements that a political conception of justice carries. Rawls is quite explicit on this point. He notes in \textit{Political Liberalism} that “the most reasonable political conception of justice for a democratic regime will be, broadly speaking, liberal.”\textsuperscript{67} Later in the work, we learn that all conceptions of justice “have in common substantive principles of justice that are liberal and an idea of public reason.” All variation within the “range” of conceptions must remain within those limits.\textsuperscript{68} The point is made even more strongly in “Public Reason Revisited.” After noting that there exist many political conceptions that are nonliberal, Rawls notes that although these nonliberal conceptions certainly fall within the category of the political,

[w]e, however, are concerned only with those political conceptions that are reasonable for a constitutional democratic regime, and as the preceding

\textsuperscript{66} This argument is presented by Philip L. Quinn (“Political Liberalisms,” p. 148). There is a certain irony in Rawls’s assumptions concerning our public political culture; he may be risking more than he knows. As we mine our public political culture, it would be difficult not to notice the role of religion in forming and shaping that culture. Of course, liberal political theory itself was born of political theology. But the history of American politics, from the Founding to the Revolution, from the Civil War to Civil Rights and beyond, is thoroughly permeated with religious thought and religious voices. Indeed, even the principles of religious freedom that made their way into the First Amendment were put forward by religious groups, using religious rationales. Michael McConnell reviews briefly some of this history in “Five Reasons” (pp. 644-48).

\textsuperscript{67} \textit{Political Liberalism}, p. 156.

\textsuperscript{68} \textit{Political Liberalism}, p. 226.
paragraphs make clear, these are ideals and principles expressed by reasonable liberal political conceptions.\(^{69}\)

The grounds for his assumptions here are quite unclear. In particular, finding nonliberal conceptions of justice to be unacceptable without any investigation of their merits seems unjustifiable. Rawls comes closest in this regard in “Public Reason Revisited” where he makes a surprising suggestion:

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\text{[P]olitical liberalism also admits Habermas’s discourse conception of legitimacy (sometimes said to be radically democratic rather than liberal), as well as Catholic views of the common good and solidarity when they are expressed in terms of political values.}\(^{70}\)
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It is, of course, the final clause the raises the most questions, together with Rawls’s insistence that the consensus form (only) around liberal conceptions of justice.

The most plausible reading is also the most unfortunate one. Rawls must not only see liberal conceptions as the only possible properly political conceptions, but also see all properly political conceptions as liberal conceptions. So with respect to Habermasian or Catholic conceptions of justice—with respect to the latter Rawls has in mind John Finnis and Jacques Maritain\(^ {71}\)—Rawls seems to suggest that when these are expressed politically, they can be considered \textit{liberal} conceptions of justice.

Why this conclusion is unfortunate is because it fails to recognize nonliberals in society who have considered and careful conceptions of justice that are certainly “political”—but who do not at all see themselves as offering a liberal conception.

\(^{69}\) p. 777.

\(^{70}\) pp. 774-75.

\(^{71}\) “Public Reason Revisited,” p. 775, note 29.
Roman Catholicism provides a good example, because of its long tradition of political engagement and its careful reflection concerning the manner and appropriateness of such engagement. Based on that reflection, it makes sense to speak of a political conception of justice within Roman Catholicism, and even to discern a notion of public reason. However, to suggest that the U.S. Catholic Bishops depend upon a liberal conception of justice as they make their political offerings would be, I think, to misrepresent seriously their position. Yet that is precisely what Rawls seems to suggest. Non-liberal conceptions that Rawls seems to see as sufficiently “political” to make their way into the family of political conceptions he declares also to be liberal. Indeed he suggests in *Political Liberalism* that the fact that they are liberal is precisely what makes us willing to see them outweigh the other (presumably, non-liberal) values that might conflict with them. The fact that the conception is to be liberal is precisely what makes social cooperation possible: only a liberal view “removes from the political agenda the most divisive issues, serious contention about which must undermine the bases of social cooperation.” And so we discover that unless we declare our political conceptions to be liberal, we are undermining the very thing that makes social cooperation possible.

But surely this is an assumption in need of an argument, as it seems strange to suggest that social cooperation cannot occur without a foundation provided by distinctly liberal conceptions of justice. Rather, Rawls must mean that unless our

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72 p. 156.

political conceptions are liberal, we are undermining the very thing that makes possible social cooperation of a certain type—that is liberal social cooperation. But concerning the possibilities for social cooperation upon other grounds, Rawls remains silent: he assumes that the political conception is broadly liberal in character.\footnote{Political Liberalism, p. 223. Indeed, it is not clear whether Rawls considers a non-liberal, properly political conception of justice to be at all possible.}

The result of both these assumptions on Rawls’s part might be described (and has been so described) as a type of liberal tyranny.\footnote{See, for example, the references listed in Heidi M. Hurd, “The Levitation of Liberalism,” Review of Political Liberalism, by John Rawls, Yale Law Journal 105 (December 1995), p. 803, note 44.} In the wider view of public reason, for instance, Rawls allows that religious convictions and beliefs can be admitted as legitimate in public debate so long as they are accompanied by appropriate public arguments sufficient to support whatever the non-public arguments are claiming. But given that the content of public reason is given (only) by liberal conceptions of justice, what we can discern here is that non-liberal conceptions of justice are systematically devalued, declared illegitimate unless accompanied by arguments resting on a properly liberal conception. Nicholas Trainor puts it this way: non-liberal political conceptions “are not legitimate elements of public debate in their own right, nor are they legitimate elements because they express a particular reasonable comprehensive doctrine.” They are granted legitimacy only when it is clear that they present no real threat to the liberal conception. Non-liberal political
conceptions are reduced to the “realization of the liberal political ideal” and non-liberal utterances are reduced “to an alternative form of liberal political rhetoric.”

Indeed, we might conclude that to operate within the wider view, offering accompanying “properly political” reasons, is actually to “witness” to the liberal view—exactly the opposite of what the speaker may be intending. There is a certain irony here: with his strong requirements concerning the bases for political argument, Rawls attempts to secure a foundation for politics that is deeply held by citizens (“for the right reasons”). Political stability demands nothing less, in his view. Yet this foundation is secured only through the implicit or explicit devaluing (sometimes outright exclusion) of non-liberal political conceptions. It is hard to see how this devaluation can square with Rawls’s claims concerning fairness and neutrality.

Indeed, we might well question the sufficiency of a model of political discourse that overcomes the problems of the fact of pluralism only through the attenuation of public debate in this way. Rawls asserts that no persuasive alternatives are possible, that something like his account will always be necessary to provide a stable foundation for consensus. The problem with this response, of course, is that in a democratic environment characterized by plurality, this amounts to privileging one political conception of justice, one response to pluralism, over others, and placing the burden of proof on those others to demonstrate how their arguments can support or otherwise fit in with the overlapping consensus around a liberal conception of justice.

Indeed, given the significance of political conceptions of justice for the overlapping consensus and public reason—the conceptions actually provide their

76 Trainor, “Religion and Politics,” p. 1025
—we may expect that Rawls’s understated but highly significant assumptions concerning their liberal character might result in some troubling implications for these notions as well. It is precisely this assumption—and nothing else—that ensures for Rawls that the overlapping consensus is an overlapping liberal consensus. Indeed, recalling the “stages of consensus” reviewed in chapter two, we might now suspect that Rawls’s quarrel with the constitutional consensus is not so much that it is not stable enough, or not deep enough, or not broad enough, but rather that it is not liberal enough. In an overlapping consensus, Rawls can ensure that the various comprehensive doctrines will support a liberal conception of justice. The principles of justice will be liberal, the institutions of the basic structure of society will be liberal, the constitution will be liberal. And of course, the content of public reason will be liberal. This is true no less in Rawls’s “wider view” of public reason: religious or other “non-public” arguments are limited to supporting the liberal conception; the requirement to supply only parallel public reasons ensures this.

Rawls’s move to embrace an overlapping consensus, despite some of the difficulties it presents, and his move to forsake the constitutional consensus, despite the potential it may represent, are symptoms of the same concern to preserve a typically liberal response to pluralism. Rawls seeks after the overlapping consensus so strongly because not to do so could not result in the moral community he is seeking.

**Conclusion: The Idea of Consensus**

Each of the three main difficulties reviewed here—concerning the relation between political conceptions and comprehensive doctrines, concerning Rawls’s
epistemology, and concerning the liberal character of the political conceptions of justice—raise serious problems for Rawls’s project, for they suggest that his theory is considerably more exclusionary than he believes. The result is likely to be a decidedly underwhelming endorsement by the comprehensive doctrines of justice as fairness, or of any other political conception of justice developed in a similar way.\textsuperscript{77} To provide the political conception of justice the kind of “wholehearted” support it needs is to provide what few comprehensive doctrines can reasonably grant. Thus, the comprehensive doctrines which do not join in the overlapping consensus are likely to be both more numerous and more significant than Rawls expects. Indeed, taken together, these arguments make clear both that we ought not to expect an overlapping consensus to appear in the way Rawls says it will, and that if in some way it were to appear, it would be accompanied by an intolerance little different from the regimes of his “comprehensive liberal” forebears. Of course, given the right historical conditions, the possibility exists for an overlapping consensus to form around a liberal conception of justice. Indeed, Rawls himself demonstrates that possibility in his narrative tracing the steps in consensus from \textit{modus vivendi} to overlapping consensus. But as Rawls himself admits, that narrative says nothing about likelihood, only

\textsuperscript{77} Which is a fairly accurate description of how justice as fairness has fared politically. Quoting the jacket of Rawls’s \textit{Justice as Fairness: A Restatement} (ed. Erin Kelly (Cambridge, Mass.: Harvard U.P., 2001)), “Rawls is well aware that since the publication of \textit{A Theory of Justice} in 1971, American society has moved farther away from the idea of justice as fairness.”
possibility.\textsuperscript{78} And given our discussion, we have no reason to be optimistic in this regard.\textsuperscript{79}

Given the fact of this failure, we need to turn to a consideration of alternatives—this is the subject of chapter four. However, before we move to that consideration, it might be profitable to examine a little more closely why Rawls is so concerned to achieve something like the overlapping consensus—why is it such an overriding goal for him? Why is he so concerned to remain within the tradition of liberalism?

Rawls’s main view seems to be that there is no other option. His general strategy is familiar. Faced with a situation of a societal pluralism of views on matters both religious and secular, Rawls seeks to establish political debate and decision-making on whatever else people might hold in common. From a liberal perspective, the impulse seems sound, indeed mandatory: from the earliest days of American liberalism, a widespread consensus on how politics ought to be conducted has been understood to provide—and very likely, actually did provide—a stable foundation for American politics and society, for a unified cohesive state, and for America’s unique brand of civic virtue. Given the current breakdown in this consensus and its

\textsuperscript{78} Despite the fact that Rawls offers it as a response to the charge that political liberalism is utopian (\textit{Political Liberalism}, pp. 158-168; see also \textit{Political Liberalism}, p. 66 and Rawls, “Introduction,” pp. xlvii-xlvi).

worrisome consequences for politics, the search for a new consensus that might provide an alternative foundation seems a natural step.80

Rawls thus uses the overlapping consensus on a liberal conception of justice as a means to reconstruct the basis for politics under conditions of deep diversity, a basis “rooted in what citizens have in common.”81 Rawls, like his liberal forebears, sees a common moral consensus, a common public reason as a prerequisite for a peaceful and (more strongly) a virtuous politics.82 Ultimately then, the most basic difficulty is that Rawls has not separated himself from the search for a politics of a single, non-pluralist community, despite his protests to the contrary.83 While he has taken certain measures to ensure that such a community might be easier to achieve (notably, by rooting a less-than-comprehensive conception of justice in what he hopes is a non-controversial public political culture), Rawls’s response to the challenge of the plural society remains a liberal response, although more nuanced and careful than most. Rawls continues to fall in line with the traditional liberal position that a healthy

80 Rawls is perhaps most explicit in this regard in his remarks in Political Liberalism on the necessity of political philosophy: “We turn to political philosophy when our shared political understandings . . . break down, and equally when we are torn within ourselves” (p. 44). This, he states a few pages later, “is a way of continuing public discussion when shared understandings of lesser generality have broken down. We should be prepared to find that the deeper the conflict, the higher the level of abstraction to which we must ascend to get a clear and uncluttered view of its roots” (p. 46).


82 See Ivison, “Secret History,” p. 144:
Thus like Hobbes and Locke, Rawls sees a common moral language, or at least the exercise of a common mode of public reason, as a prerequisite for the maintenance of civil society, and similarly proposes politics as an answer to the pluralism and indeterminacy of political argument in conditions of deep diversity. The consensual mode of public justification then takes constructing agreement on basic political principles (constitutional essentials) as a crucial task for politics.

83 Rawls, Political Liberalism, pp. 146, 201.
public life is one in which people depend on the moral principles they hold in common, while attempting to minimize or ignore their differences. The charge then is that Rawls does not realize just how pluralist we are—or if he does so realize, he sees that pluralism as a problem to be overcome, rather than a resource upon which he can depend. And so while Rawls certainly offers a theory of politics that takes account of the diversity of comprehensive doctrines in society, his model assumes a particular view of the problem of pluralism, and more generally, a particular view of the meaning and purpose of political life. And of course, the implication is that this is only one way we might consider these matters, that by posing the problem differently, we might be able to consider other solutions. What we require is a theory of politics that also seeks a creative response to pluralism, but one that more successfully navigates the tension described by Charles Taylor as one of the most fundamental of our modern age: the tension between universality and difference; recognizing what is not shared. In other words, what we require is an explicitly pluralist theory of politics, one in which the recognition of our plurality becomes a vital part of our public consciousness.

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84 In “Justice as Fairness,” Rawls refers to this approach as the “method of avoidance” (p. 231). In this connection, recall that the very raison d’être for political liberalism is to respond to an “empirical” problem—the problem of stability. Rawls believes that his own justice as fairness is sufficient as a suitable conception of justice; all that is left is to deal with the problem of stability resulting from the fact of pluralism. For Rawls, pluralism never ceases being an empirical problem and so does not enter into the heart of the theory.

CHAPTER FOUR

THE IDEA OF A CONSTITUTIONAL CONSENSUS REVISITED

Introduction: Toward a Pluralist Politics

The challenge Rawls sets for himself in Political Liberalism is nearly as old as modern democracy itself. Consider Rousseau’s famous summary of “the fundamental problem to which the social contract gives the solution”:

To find a form of association which defends and protects with the whole force of the community the person and goods of every associate, and by means of which each, uniting with all, nevertheless obeys only himself, and remains as free as before.¹

This challenge, inherited by Rawls, is essentially the challenge of the moral grounding of government. Obedience to civil authority must be seen to rest not on coercion, it is thought, but rather on a freely accepted, rationally grounded, source of moral obligation, a source lying within the individual will. Hence the challenge: if we seek to govern ourselves as a collective, but the source of our obligation must be found within our individual wills, we require a mechanism that can somehow bind our individual wills into one, allowing us to “unite with all,” but nevertheless “obey only oneself,” thus remaining “as free as before.”

¹ Rousseau, Social Contract, bk. 1, ch. 6.
Unfortunately, the conclusions reached in chapter three suggest that the mechanism Rawls proposes to perform this task meets a similar fate to that of Rousseau’s proposal. And not for very different reasons. While there has been no shortage of criticism made against Rousseau’s General Will, perhaps the most significant have focused on the regime’s inability to deal fairly and well with differentiation among citizens. Rousseau’s regime is critically flawed, says Charles Taylor, for the requirements of the General Will include such a tight unity of purpose among citizens that plurality among them is undermined or denied altogether. “This has been the formula for the most terrible forms of homogenizing tyranny,” he says, and even if later theorists have rejected the specific mechanism of the General Will, “the aligning of equal freedom with the absence of differentiation has remained a tempting mode of thought.” As we have seen, the problem in Rawls’s proposals stems from a similar sort of error: although a plurality of comprehensive doctrines is seen to be reasonable and expected, the mechanism designed to unite each will with all ends up undermining or denying pluralism. Rawls makes neutrality an overriding goal throughout Political Liberalism, but he cannot seem to help inserting elements of a particular comprehensive doctrine to cover up the gaps between the radical pluralism he has and the moral community he wants.

In this chapter, we depend on the analysis provided by chapter three as we explore possibilities that may lie in an alternative, weaker form of consensus that Rawls rejects: the constitutional consensus. The central question under investigation in the opening sections of the chapter is whether Rawls unduly dismisses the

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2 “Politics,” pp. 50-51.
constitutional consensus on his way toward an overlapping consensus, overlooking not only the problems of the overlapping consensus, but also the potential that may lie within the constitutional consensus. If he has indeed moved too quickly in this way, we may discover reasons to rethink not only how political conceptions of justice gather and retain their support, but also the associated notion of public reason. The final sections of this chapter take the discussion one step further: they offer suggestions as to the general contours of a politics based upon a conception similar to a Rawlsian constitutional consensus, suggesting that this approach may have the potential to deal more fairly and more successfully with the “fact of pluralism” than Rawls’s own offering. If in chapter three the case was made that the project of seeking a moral consensus in which all people share the same basic justification for political community was a project that should not and could not succeed, chapter four begins to develop an alternative approach that does not suffer those same weaknesses. Explicitly seeking to avoid establishing a moral consensus politically on any particular conception of justice, the point of this alternative is to develop a way of doing politics that depends upon pluralism as a resource, rather than as a problem to be overcome.

The Idea of a Constitutional Consensus

One of the conclusions reached in chapter three was that the theoretical difficulties with Rawls’s proposals have a very practical result: they make the appearance of an overlapping consensus unlikely. Of course, Rawls himself recognized this possibility: “[w]e do not assume, of course, that an overlapping consensus is always possible, given the doctrines currently existing in any democratic
society. It is often obvious that it is not, not at least until firmly held beliefs change in fundamental ways.”

Similarly in Political Liberalism: “An overlapping consensus of reasonable doctrines may not be possible under many historical conditions, as the efforts to achieve it may be overwhelmed by unreasonable and even irrational (and sometimes mad) comprehensive doctrines.” Rawls does not pursue the question of likelihood, however. Throughout his investigation, he assumes that a conception of justice does in fact achieve the stable consensus it requires: “PL [Political Liberalism] makes no attempt to prove, or to show, that such a consensus would eventually form….”

We, however, need make no such assumptions; indeed, we should not—if a Rawlsian overlapping consensus is not likely to appear or would be unacceptable were it to appear, we need to be prepared to consider other alternatives. Rawls himself is gloomy as to the prospects in such an eventuality. Says Rawls: “We have a particular problem.”

How many religions are there in the United States? How are they going to get on together? One way, which has been the usual way historically, is to fight it out, as in France in the sixteenth century. That’s a possibility. But how do you avoid that?

See, what I should do is turn around and say, ‘What’s the better suggestion, what’s your solution to it? And I can’t see any other solution.’

Rawls thus sees our choice to be between an overlapping consensus and chaos.

Either we subscribe to liberal democratic values in the way that Rawls suggests or we

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4 p. 126.
6 Prusak, “Politics,” p. 15.
hold to our unreasonable comprehensive doctrines with most unfortunate consequences for the political community we share.

But is the opposition so stark? Are there other possibilities? Can we imagine what might happen if we were to loosen some of the restrictions that Rawls sees as necessary? Suppose, for example, we were to ask Rawls to accept the reasonableness of comprehensive doctrines that believe their views on justice to be inseparable from their comprehensive doctrine, not as a “module” that can be transplanted from doctrine to doctrine, and to accept the fact that some people may hold to the principles of a constitutional democracy for reasons known only to them. My suggestion, in other words, is to back up on the road to an overlapping consensus and consider the possibilities that may lie in the “constitutional consensus” that Rawls rejects. There are other places where we might search for alternatives, and we may yet consider these, but surely this is one of the most logical places to begin. Might there be possibilities that Rawls overlooks?

First, let us review what we said about the constitutional consensus in chapter two. In a three-fold account of the types of political agreement that might occur among comprehensive doctrines, Rawls distinguishes first a simple modus vivendi agreement, little more than a treaty among forces approximately equal in strength to refrain from fighting and to abide by certain rules to achieve and maintain civil peace.

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8 We might have chosen to consider whether there are also viable alternatives to the overlapping consensus within the *modus vivendi* agreement. This is the strategy advocated by Patrick Neal, for instance, in his *Liberalism and Its Discontents* (Washington Square, New York: New York U. P., 1997). Miriam Galston recommends this strategy as well (“Rawlsian Dualism,” p. 1858).

9 Beginning on page 81.
Notably, the participants in such an agreement see these rules or principles not as good in themselves, but good only insofar as they advance their respective doctrinal interests.

However, as a result of the growing appreciation for the good that results from social cooperation, it is possible for a *modus vivendi* to develop into something stronger: an agreement in which the principles are affirmed as good for their own sake, not simply as a compromise accepted out of circumstances and exhaustion. And so we come to a new sort of political agreement—more than a *modus vivendi*, but less than an overlapping consensus. Rawls labels it a constitutional consensus, borrowing the term from Kurt Baier:

> The constitution at the first stage satisfies certain liberal principles of political justice. As a constitutional consensus, these principles are accepted simply as principles and not as grounded in certain ideas of society and person of a political conception, much less in a shared public conception. And so the consensus is not deep.\textsuperscript{10}

In such a consensus, there will likely be agreement upon a constitutional document, including basic political rights and liberties (e.g., the right to vote), agreement as to the ways in which society resolves disputes and makes decisions (e.g., specifying public guidelines and rules; democratic electoral procedures), and also a general willingness to cooperate with others with a sense of fairness and openness.\textsuperscript{11} The elements of the constitution may have as many justifications as there are member doctrines in the consensus—there is likely to be no public or common justification, and not necessarily a shared moral language to talk about these things. Or again,

\textsuperscript{10} Rawls, *Political Liberalism*, p. 158.

there might. Much depends here upon the constituent doctrines and how they see their own justification for the political principles of the constitution. How far the agreement advances beyond a *modus vivendi* will depend entirely on the willingness of those doctrines to do so.\(^\text{12}\)

Rawls believes that despite this conception’s obvious advantages over its predecessor, frustration with the limitations of the constitutional consensus will slowly move the parties to an even greater consensus—that is, closer to an overlapping consensus. Two limitations will especially become apparent. First, because “the consensus is not deep,” the parties are likely to be frustrated by the lack of a shared language or reason or argument as they interact politically with each other.\(^\text{13}\) In order to join with others to form a majority on a particular policy, for example, groups and individuals must be able to reason with one another, which will necessitate a language that goes beyond their comprehensive doctrines. This will lead to their developing political conceptions of justice. The parties will also find the *scope* of the constitutional consensus limiting.\(^\text{14}\) The constitutional consensus, by

\(^\text{12}\) The possibility that a constitutional consensus, rather than an overlapping consensus, might be sufficient to achieve stability, and that American society itself provides the best evidence in support of this claim, was brought to Rawls’s attention in an essay by Kurt Baier, responding to Rawls’s 1987 essay, “The Idea of an Overlapping Consensus.” According to Rawls, it was in response to Baier that he introduced the idea of a constitutional consensus into Lecture IV of *Political Liberalism*, which was based on the 1987 essay (*Political Liberalism*, pp. 148, note 15 and 158, note 24). However, Rawls devotes little space to responding to Baier’s claims concerning American society; his focus is rather on the theoretical weaknesses that he sees in the constitutional consensus. In fact, Rawls’s version of the constitutional consensus is considerably weaker than the version Baier proposes; Rawls tends to view the constitutional consensus as if it were closer to a *modus vivendi* than Baier’s actually is. Perhaps the late entry of the idea of the constitutional consensus into political liberalism helps to explain its theoretical underdevelopment in *Political Liberalism*.

\(^\text{13}\) Rawls, *Political Liberalism*, p. 158.

Rawls’s definition, covers only political and procedural matters. In order that it can be expanded to cover other constitutional essentials and matters of basic justice beyond the political (education, for example), the participants will tend to develop broad political conceptions covering the basic structure as a whole, rather than political principles. In this way, practical difficulties with the constitutional consensus lead to the overlapping consensus in which the various comprehensive doctrines come to support a particular political conception of justice.

At this point, we begin to depart from Rawls’s own analysis. My question here is whether a constitutional consensus necessarily suffers from the defects Rawls sees in it. Is such a consensus in principle less stable? And does a willingness to forego a “deeper” consensus necessarily imply the damage to civic virtues that Rawls expects? In other words, are the disadvantages attached to the constitutional consensus so great that they outweigh the problems we encounter in the overlapping consensus?

First, consider Rawls’s argument concerning *depth*—that frustration with the lack of a common moral language suggests the need for some sort of stronger consensus, one that can provide such a language or mode of arguing, in the form of a public reason. That Rawls finds this characteristic to be a weakness is most curious, because it seems to me that this sort of difficulty is the very stuff of politics—indeed, in democratic societies, we take this type of frustrating, typically wearisome, often haphazard, and exasperatingly non-philosophical method of decision-making and hold it up as a model to the world. Politics is not about beginning with the most basic truths upon which we can agree, and then, reasoning from premise to premise,
reaching the conclusion that resolves all our dilemmas.\textsuperscript{15} Indeed, were it possible for such a strategy to succeed, it would signify something close to the triumph over politics of law. Rather, what we do in our political lives is seek to gather support from others, or to give support to others, in pursuit of what we see as justice, on whatever basis we can find, depending on the commitment of others to a common constitutional framework. Nicholas Wolterstorff gives a helpful word-picture in his unsubtly-titled essay, “Why We Should Reject What Liberalism Tells Us about Speaking and Acting in Public for Religious Reasons”:

The agreement arrived at need not be agreement based on principles rich enough to settle all substantial political issues whatsoever. Sufficient if it be agreement on the matter at hand. It need not be agreement based on principles shared by all alike. Sufficient if all, each on his or her own principles, come to agreement on the matter at hand. It need not be agreement for all time. Sufficient if it be agreement for today and tomorrow. It need not be agreement that one can reasonably expect of all human beings whatsoever. Sufficient if it be agreement among us. It need not even be agreement among each and every one of us. Sufficient if it be the fairly-gained and fairly-executed agreement of the majority of us.\textsuperscript{16}

Of course we would find it most fortuitous if it were to turn out that on each of the points Wolterstorff mentions we discover that we have achieved more than what is sufficient: rich principles, shared by each and every one of us, for all time. However, such a result is most unlikely—and the point is that attempting to achieve it in any other way than through the political process will be accompanied by costs that we cannot accept.

\textsuperscript{15} Fred M. Frohock labels this a species of “computational reasoning”:
[C]omputational thinking is top-down reasoning, meaning that first-order rules and principles are applied to particular cases in step-by-step procedures (“The Boundaries of Public Reason,” American Political Science Review 91.4 (December 1997), p. 841, hereinafter referred to as Frohock, “Boundaries.”)

\textsuperscript{16} p. 181, emphasis in original.
What of Rawls’s other main complaint—that the constitutional consensus is too limited in scope, that parties will seek to expand the consensus beyond the political into other areas of life? Rawls’s argument is persuasive that this tendency may exist; he is also persuasive that that in so doing, groups will soon develop broad(er) political conceptions that can cover the basic structure as a whole (rather than only political and procedural matters) in order that they can better explain their point of view. However, it is a considerable step further to move with Rawls from this development to one of joining an overlapping consensus around a political conception that the group does not develop. What is far more likely is that the constitutional consensus will be extended into other areas, as required, in much the same way as it was developed: haltingly, slowly, but building upon previous successes as trust and civic friendship is assumed.

When considering both Rawls’s concerns, we might also take note of the present state of the American “consensus.” Clearly, American society has moved beyond a modus vivendi agreement, for strong agreements can certainly be found on a number of constitutional principles. Most if not all the dominant interests and doctrines in American society recognize the legitimacy of the political system, and more than that, they have come to see the outlines (if not the details) of that system as a good in itself. On the other hand, it is very doubtful whether American society, let alone other liberal democracies such as Canada or the United Kingdom, can accurately be described as an overlapping consensus. There is no consensus around a

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single conception of justice, such as justice as fairness, or even upon a range of liberal conceptions—the terrain remains highly contested. But despite this fact, is the political system of the United States unstable? It certainly has its difficulties, but the consensus that does exist on constitutional principles, on the system of political rights, on established means of settling disputes and making binding decisions, seems to have been sufficient to result in a stable society. And while we might not describe American politics as an unusually civil politics, it would not be difficult to develop an argument that the American democratic system can foster values such as tolerance and civic friendship. Indeed, we might argue that it is the attempt to establish something more than a constitutional consensus and the associated efforts to cleanse political talk of religious and other unshared doctrines that most contributes to an uncivil politics. Delegitimizing arguments are most unlikely to inculcate habits of civic friendship or tolerance. In fact, I find Rawls’s description of a constitutional consensus to apply well to the present political “agreement” in the United States.\textsuperscript{18}

Of course, any apparent similarity is not really an argument in favor of the constitutional consensus, not at least without embarking on a long discussion of the state of American politics. However, the fact that the United States’s consensus does appear to be similar to the constitutional variety, while nonetheless appearing to remain stable, suggests at least something in its favor.\textsuperscript{19} Given this reality, we should

\textsuperscript{18} I find it to apply equally well to the political “agreement” in Canada, partly because the different groups and doctrines can be distinguished more clearly, and partly because attitudes toward Canada’s 20-year old constitution are still developing. In fact, I can think of no Western democracy that might be described as having achieved an overlapping consensus on any particular conception of justice.

\textsuperscript{19} As an example, consider what Rawls calls “the troubling case of abortion.” In an often remarked-upon footnote to Political Liberalism, Rawls asserts that any reasonable doctrine would give
note that a proposal to move toward an overlapping consensus is a proposal for
change from existing realities, and a significant tightening up of the requirements of
civil discourse, not simply a theoretical outworking of existing practice

The Idea Revisited

We have argued (in chapter three) that the overlapping consensus suffers a
number of difficulties, both theoretical and practical. And we have made a case
(above) that Rawls’s arguments against the constitutional consensus are far from
fatal. It seems, then, that we have at least a few good reasons not to move beyond the
constitutional consensus, reasons that make the overlapping consensus less appealing
than Rawls suggests, and reasons that make the constitutional consensus less
problematic than Rawls suggests. In particular, it appears that the central aim of
Political Liberalism—achieving political stability amid widespread societal
pluralism—can be accomplished without establishing something so strong as an
overlapping consensus. Accordingly, we are now at a point where we can begin to
consider an alternative approach, based on something like what Rawls calls a
constitutional consensus. Our approach shall be to consider first some of the broad
contours of such an alternative, and second, to consider its application to one subject

women the right to an abortion during at least the first trimester of pregnancy, and any comprehensive
doctrine that excluded that right would be unreasonable (p. 243, note 32). As it happens, the argument
fails as an argument, as Rawls himself later conceded (“Public Reason Revisited,” p. 798, note 80).
But what makes this a surprising example for Rawls to have chosen is that the abortion issue, of all
issues, would seem to provide the most difficult case for a constitutional consensus, a case where we
must require something like an overlapping consensus, and yet this has proven not to be so: only a tiny
fraction of committed abortion opponents act in any way that could come close to threatening political
stability. It seems that even for the abortion issue a constitutional consensus may be sufficient. On
this point, see Mitchell, “Trust,” p. 1921.

20 p. xviii.
important to Rawls’s project: the matter of how public discourse ought to be conducted.  

With regard to the first task, we should acknowledge at the outset that this approach does entail a certain risk: there is some chance that the content of the constitutional consensus will not be liberal content. Indeed, the reasons people hold to the principles and procedures of the constitutional consensus may vary as greatly as do their comprehensive doctrines. People will join the constitutional consensus for their own reasons—and there is nothing to ensure that their reasons will be liberal reasons. Of course, if most people in society are liberals, so is likely to be the consensus. But given our society’s reasonable pluralism, there can be no guarantees. In a constitutional consensus, if liberals are mightily concerned to achieve a consensus on a specifically liberal conception of justice, the best route to this goal is likely to be increased activity in what Rawls calls “the background culture.”

This further supports one of our conclusions from chapter three: Rawls’s central quarrel with the constitutional consensus is not that it is not stable enough, or not deep enough, or not broad enough, but rather that it is not liberal enough. Rawls rejects the constitutional consensus because it does not satisfy the criteria that he has established as a guarantor of political social unity—the same criteria that, as we noted in chapter three, had the function of ensuring that any overlapping consensus would surround only a liberal conception of justice. It is only by way of an overlapping

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21 Unfortunately, our discussion here cannot cover an application to all subjects in which we might have interest. I do not pretend to offer here a full-fledged political theory of the constitutional consensus, especially not as a competitor to Rawls’s own proposal, which, after all, Rawls developed over a writing career than spanned nearly fifty years. What I offer here rather is a consideration of the possibilities that may lie in an explicitly pluralist theory of politics, focusing in particular on lessons learned from our Rawlsian experience.
consensus around a liberal conception of justice that the liberal character of the basic structure can be guaranteed; accordingly, a constitutional consensus will fail because it does not offer that guarantee. In the overlapping consensus, the principles of justice will be liberal; the institutions of the basic structure of society will be liberal; the constitution will be liberal. And, of course, public reason will be liberal. The argument with regard to the overlapping consensus and the constitutional consensus is similar: Rawls’s eagerness to embrace an overlapping consensus, despite its weaknesses, and his eagerness to abandon the constitutional consensus, despite its strengths, are symptoms of the same concern to preserve a typically liberal response to the challenge of pluralism.

Interestingly, Rawls might find his concerns about the constitutional consensus to be echoed by nonliberal doctrines: Marxists or Roman Catholics, for example, might claim (and indeed at times have claimed) that an overlapping consensus around a Marxist or Roman Catholic conception of justice is the only way the Marxist or Roman Catholic character of the basic structure can be guaranteed; accordingly, they might find the constitutional consensus to be insufficient. However, if Marxism, Roman Catholicism and liberalism can all recognize that a respect for pluralism demands that Marxism, Roman Catholicism, and liberalism be denied pride of place, then something like a constitutional consensus begins to make sense. Considering these examples also makes clear that not only is the consensus unlikely to reflect a single conception of justice, but further than that, what is at issue here is the shape of a politics that does not even pretend to operate within the confines (as well as the security) of a common moral consensus. In such a politics, there is no
single conception of justice, or even a range of similar conceptions. There also
cannot be widely held rules of public reason attached to such a conception. Again,
we can see that this politics does not come without risk.

Is the risk that this politics represent too great? Perhaps, but only if we
believe that what most fundamentally holds a political order together is an ideological
or doctrinal agreement among individuals concerning the nature of that order. As we
have noted at various points thus far, liberals have a special propensity toward this
belief—and, as we have also noted, if this belief is in fact true, the extent of our
societal pluralism is truly alarming, and our risk is that much greater. On the other
hand, the truth of this belief is not obvious, and it is certainly not necessary. There
may be many more things that sustain a political order, most of which have little to do
with an ideological agreement on political fundamentals. Because it has special
application to our discussion below concerning public discourse, I offer here one
possibility: that a constitutional guarantee of equal opportunity of democratic
participation for citizens is more important than a prior ideological agreement among
them concerning the ideological character of that participation. 22 Indeed, what else is
a polity, we might say, as distinct from other forms of human community, than a
structure which embraces all who reside in a territory, regardless of their
comprehensive doctrines, race, ethnicity, and the various other distinctions that
divide. And if the state embraces all, without regard for doctrinal divisions, then the
concern should be placed upon enabling all to participate, without regard for doctrinal

22 This thesis summarizes the argument made in chapter three (on pages 126-27) critical of
Rawls’s views concerning the reasons people obey laws with which they disagree.
divisions, and not insisting that this participation adopt the form of one particular doctrine, especially as such an insistence will necessarily exclude.

What does this suggest in terms of the alternative approach we are developing? It suggests first that the claims of the “integralists” we encountered in chapter three demand as great a respect as those of other citizens, as attempts to impose a liberal or other common moral framework is to be unnecessarily exclusive. With regard to these integralists, Nancy Rosenblum is more nuanced than most. She argues that integralists are too often simply and crudely described as “religious fundamentalists.” Fundamentalists can certainly be included in this category, she says, but more important, and more numerous, (and more interesting) are people who support democratic principles and human rights and free speech and the rest of it, but for reasons from within their comprehensive doctrines. Further, they demand that their reasons, and other things related to their doctrine, be recognized publicly—that they not be forced underground. Rosenblum links such things as the recent focus on “faith-based initiatives,” the new focus on social capital and civil society, and a renewed legal concern for religious freedom, to the growing success and confidence of integralists in politics and in other areas of public life.

The main thrust of the proposal, then, is that a political world that accepts the claims of integralists as legitimate and reasonable will look something like what

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23 “Introduction,” p. 15.

Rawls calls a constitutional consensus. In this limited sort of agreement—more than a treaty among warring parties, but less than an overlapping consensus—we can reach agreement, at minimum, on some principles of justice and on a constitutional framework that surrounds them, but not upon on the reasons for supporting these principles. Comprehensive views that consider their political beliefs to be an integral part of their comprehensive beliefs, comprehensive views that reject an Enlightenment view of reason, comprehensive views that do not readily identify with the public political culture, all can be seen as reasonable views in a constitutional democracy, and, further, as valued participants in constitutional public discourse.

The Obligations of Public Political Discourse

But how would public discourse proceed in such a view? Are there to be any restrictions on the types of reasons brought forward? Are there to be restrictions on the manner in which they are offered? We proceed with caution here. First, we insist that citizens not be asked to “convert” to another view, or be required to “translate” their arguments into more acceptable language that can accompany or substitute for their own. In a constitutional consensus, we recognize that it is highly unlikely that any one religious or philosophic doctrine will “win out” over the others—pluralism is here to stay, even when we are making our most important political decisions. Second, citizens will not be asked to adopt a foundation for their arguments that is somehow independent of all views and thereby “neutral.” This can be a tempting choice in situations of diversity; indeed, Rawls’s efforts to develop political conceptions of justice out of our public political culture is a variety of this strategy. We might call it “the politics of abstraction,” an attempt to create an abstract
justification that is independent of any and all doctrinal views and that asks participants to confine their deliberations to those terms.\textsuperscript{25}

Both these strategies are rejected because working to overcome doctrinal differences by imposing ideological restrictions on our discourse must be considered inappropriate in a truly pluralist democracy. Because citizenship is not based upon an ideological agreement concerning the foundations of the polity, it cannot include in principle an implied obligation to offer each other premises that we all share as grounds for action. Indeed, citizens must be free to offer any reasons they find persuasive or that they believe others might find persuasive (although they cannot demand that others actually adopt those same reasons). This, therefore, is the central claim we are considering: there should be no restraints at all on the reasons and arguments that people bring to politics. Fortunately, this claim coincides with what I will suggest below is the best route to stable agreement: by respecting the plurality of foundations, we arrive at an agreement based on a firm multi-doctrinal basis where no one perspective is politically privileged.

So this moves us closer to what Rawls has described as an “open” view.\textsuperscript{26} But there are more questions to be considered. A constitutional approach will go further

\textsuperscript{25} Indeed, this second strategy is a defining characteristic of liberalism more generally. Says Wolterstorff,

\textit{And what is the appropriate source of the factual and moral convictions on the basis of which determinations of justice are to be made? That, for the person who embraces the liberal position, is the central question. Definitive of the position is a negation at this point: citizens (and officials) are not to base their decisions and/or debates concerning political issues on their religious convictions. When it comes to such activities, they are to allow their religious convictions to idle. They are to base their political decisions and their political debate in the public space on the principles yielded by some source independent of any and all of the religious perspectives to be found in society (“Role of Religion,” p. 73, emphasis in original). Wolterstorff suggests that differences between various liberal positions concern chiefly the nature of this independent source, rather than the more basic question of whether there should be a restraint at all (“Role of Religion,” pp. 74-75).}
than articulating claims of inclusion; it will entail certain obligations concerning the
nature of that participation: obligations concerning how we receive other views,
obligations concerning how we present our own, obligations concerning the nature of
the political itself. We review some of these obligations below. A further difficult
question in a constitutional consensus will concern the source of these obligations: if
there is no common moral (overlapping) consensus to our politics, how can we speak
of political obligations that all participants share? Accordingly, we also must discuss
ways in which we might speak of the sources of these obligations.

1. Obligations of public political discourse: listeners and speakers

As we consider these obligations, as we consider the ethics of open political
genagement, we need to consider our responsibilities as we perform two different
roles: that of the listener and that of the speaker.27

When we are performing our role of the listener, we must be careful not to
insist upon certain modes of argument or reasoning as a condition for speaking with
us. Our basic attitude must be one of respect. First, it must be counted profoundly
disrespectful to demand that a person borrow a language not his own upon making a
political offering. Doing so would be similar to a requirement that Rawls use
exclusively utilitarian language to describe his theory of justice as fairness. Second,
it cannot be considered inappropriate for a person to consider how her beliefs have


27 I am indebted to Jonathan Chaplin and to David Koyzis for valuable assistance on the
contents of these three pages. Portions of the argument here is similar, although not identical, to an
argument made by Chaplin in “Beyond Liberal Restraint: Defending Religiously-Based Arguments in
referred to as Chaplin, “Beyond Restraint.”
application to the political matter under discussion; that is, it is not sufficient merely to grant permission to a person to provide her grounding or doctrinal reasons, but not to allow her to go further. Doing so would be similar to granting Rawls permission to put forward a Kantian liberal philosophy, but preventing him from explaining justice as fairness. In fact, it would be inappropriate not to invite participants to describe the implications of their beliefs for the political question at hand. Not to encourage them to speak politically would be to exclude them from participation in the political sphere of life, participation that we can agree is good and necessary in a democratic society. Third, in a constitutional consensus, where we can presume that all political offerings, made by anyone, are in some way dependent on or related to a doctrine of the good, even if only a non-comprehensive good, it would be inappropriate to discount any political contribution merely because it is premised on any particular doctrine. So we ought not to discount the political merits that might lie in justice as fairness merely because we disagree with Kantian liberalism. Rather we must recognize the contribution for what it is: a confessional vision (of liberalism) articulated in political terms (of justice as fairness). In summary, in our role as listener, we are under an obligation to welcome reasons and arguments based in religious or philosophical views, and although we are under no obligation to agree with these reasons, neither can we discount their political merits merely because they are premised on different grounds than our own. Moreover, listening with respect would seem to imply listening with the goal of engagement—listening in order to learn from the speaker, to seek points of contact between the speaker’s views and our own, and to discover ways that we might communicate our own views to the speaker.
Perhaps the most difficult situation we may encounter in our role as listener is provided by speakers who, for some reason, do not draw out the political implications of their doctrinal claim and seem immune to all efforts designed to encourage them to draw these out. At times, we may find such a stance imperious, at other times naïve, or even both these things together, especially if we suspect that accommodation between the speaker’s position and our own might be possible. At the very least, we may find such offerings unhelpful. However, even in this case, a requirement that speakers draw out the political implications remains inappropriate. For example, if we are Christians, we might believe and even advocate a certain humility regarding what Christians might call “the Christian perspective” on war in Iraq, health care, welfare reform, or anything else. I do not believe it to be impossible theologically for Christian speakers to exercise a certain degree of “self-restraint” as they seek their political goals—in fact, I believe quite the opposite: not only is such restraint possible in principle, it very likely makes good strategic sense in terms of the political goal being sought. But in our roles as listeners in a pluralist democracy, it is vital that we ensure sufficient room for those who do not exercise that humility—or more importantly, that we seek to ensure sufficient room for those who we do not believe to be exercising humility to a sufficient degree. In other words, just as we in our role as speaker might exercise humility as we seek to apply our doctrinal convictions to public policy decisions—after all, we could be wrong in these applications—so we also exercise humility when in our role as listener we consider

28 We might speculate that they are either unable or unwilling to do this. Indeed, it is possible that they have other doctrinal reasons that prevent them from doing so. Whatever their reason, however, our basic response in our role as listener should be fundamentally the same.
restricting the speech of others—because after all we could be wrong there too. The demands of respect are no less strong if the speaker seems to be “unreasonable” as judged from our perspective.²⁹

So as listeners, we should invite the speaker who makes doctrinal statements, and doctrinal statements alone, to reflect with us on the political matters under consideration, all the while recognizing (and ensuring) that the speaker is not required to leave behind his or her doctrinal assertions while considering those implications. If the speaker does follow this path, well and good; if the speaker does not, we do not see that person as failing his or her duties of civility or otherwise behaving irresponsibly as a citizen; rather, we respect the speaker’s decision to live out his or her citizenship in this way. Of course, such a speaker will eventually discover that such a stance may not be successful if the goal is to influence decision-making on the issue at hand, as listeners have not been given guidance from that doctrine on how to proceed.³⁰ However, for many “witnesses,” this reality may not pose a problem— their object may be something other than the issue at hand.³¹

²⁹ So for example some listeners might find frustrating George W. Bush’s invocation of Christ as his favorite political philosopher at the Republican debate in December 1999. And they might find it particularly hard to accept Bush’s reply to the question of what he meant by this choice: “if they don’t know it’s going to be hard to explain” (“Text from Debate Among Republicans, Part 2,” The New York Times (December 14, 2001) <www.nytimes.com/library/politics/camp/121499wh-gop-debate-text2.html>). However, the suggestion here is that it was not at all inappropriate to introduce a religious authority in response to the first question, and while it may have been unwise to refuse to consider the political implications of his doctrinal assertion—particularly in the context of an election campaign—we should be slow to declare the refusal illegitimate.

³⁰ For this reason, it may be difficult to avoid the implication that we as listeners do not value these contributions as much as those articulated politically, as these contributions are having little impact on decision-making. However, we should note that in their lack of impact these contributions are no different from other contributions that are in fact articulated politically but are unsuccessful in their attempts to persuade. In both cases, there is no need to argue that the contributions were illegitimate or otherwise inappropriate, but only that they were politically unsuccessful. Of course, this does not rule out approaching such speakers and indicating to them how, in our view, we see the
From the perspective of the speaker, once it is clear that ideological diversity is acknowledged, and if we have indicated an intention to speak, a corresponding obligation exists to carry through on that intention, and to include one’s motivating reasons if one chooses. Further to the goal of achieving political agreement, the speaker should normally be willing to demonstrate how these motivating reasons have reference to the issue at hand—normally, moving from doctrinal or confessional statements to political arguments will make strategic sense in any case. Note that this is not an obligation to make a doctrine “secular” or “freestanding” or “reasonable” or “neutral” or “accessible”—rather, we might speak of this as an obligation to specify what we see as the political implications of our philosophic or religious comprehensive doctrine, and in that way in effect to distinguish what we might call a doctrinal sphere from a political sphere. For example, quotations from the New Testament are certainly permissible in the course of discussion—for one thing, this would make clear to all the doctrinal view that lies behind a particular political argument and that may be a good thing. However, contributors will need to take the further step of drawing out the implications of that Scripture for the political issue at hand. And as we noted above, if the contributor does not take that step, they will have to accept the possibility that their contribution is likely to have little political

relation between the doctrinal and political spheres, and otherwise encourage them to clarify their political views.

31 I borrow the term “witness” from Rawls himself, who describes in “Public Reason Revisited” a situation where citizens respect the process used to make a decision but feel their strong opposition to the decision based on a reasonable comprehensive doctrine must be made known, and in so doing “bear witness to their faith” (p. 787, note 57). The situation I describe here is not identical, for Rawls assumes that witnesses support the conception of justice in an overlapping consensus even if they disagree strongly with a conclusion reached by that method. However, the term is equally appropriate (in fact, more appropriate) as a reference to dissenting participants in the constitutional democracy discussed here.
impact on the decision to be made (although, again, this does not mean it might not have other value).

Is this a restriction on discourse? Certainly not in the Rawlsian sense; it is not a restraint on the type of reason given, because people are invited to speak about precisely that which Rawls would rather they keep silent. Rather, we might describe it as a *restraint with respect to political object*. We might even retain the terminology of “public reason” with regard to this obligation—although again not in the Rawlsian sense. In a constitutional democracy, there can be no single conception of public reason—citizens can offer any reason that they believe to be persuasive. Rather, we might say that their reasons are public in that their *object* is public: the people’s reasons are offered to the public, and they concern an object of concern to the public.32

2. Sources of obligation, part 1: our constitutional commitments

What is the source of these obligations on the part of the listener and the speaker? Certainly, we cannot speak of these restraints as obligations in the way that

32 I distinguish a restraint with respect to *political object* from a restraint with respect to *political interest*. We might prefer that political contributions be made that are oriented toward the public interest, articulated perhaps in terms of the common good or public justice, rather than merely articulations of self-interest, without consideration of justice for all. This is the position of Wolterstorff, for example, when he argues that even in his open or “consocial” view, there is a restraint on the overall goal of the debates and discussions. The goal, he says, “must be political justice, not the achievement of one’s own interests. Here I side with the liberal position, against the competition-of-interests position” (“Role of Religion,” p. 113). (Robert Audi criticizes Wolterstorff on this point in his response (Robert Audi, “Wolterstorff on Religion, Politics, and the Liberal State,” *Religion in the Public Square: The Place of Religious Convictions in Political Debate*, by Robert Audi and Nicholas Wolterstorff (Lanham, Md.: Rowman and Littlefield, 1998), pp. 139-140, hereinafter referred to Audi, “Wolterstorff on Religion.”)) While I believe that norms concerning the second sort of restraint will emerge in the constitutional consensus as well, at this point I only wish to distinguish the two sorts of restraints. Doctrinal, non-political contributions can be used to argue for self-interest or for the common interest. Similarly, contributions articulated politically can also be made to advance self-interest or the common interest. I am grateful to Stanley Carlson-Thies for conversation on this point.
Rawls speaks of moral obligations. In fact, the burden of the argument thus far has been the reverse: speakers do not have a moral obligation to speak in particular ways to others, apart from any obligation that might be imposed by their own doctrine. Recognizing this, and wishing to respect the terms of the constitutional consensus, listeners respect speakers’ decisions to live out their doctrine in politics in ways consistent with that doctrine. As listeners, we may remind speakers that it would be most helpful or appropriate (at least, from the perspective of our view of the political) if speakers draw out the implications of their doctrines for the political questions at hand, but ultimately it is up to speakers themselves to draw the connections.

Rather, if we want to find the source of our obligations concerning public discourse in a constitutional democracy, we might better consider it in the following way. Up to this point in the discussion, I have emphasized the significance of a recognition by all parties, including liberals, to permit the reaching of agreements without demanding further agreement on the reasons for those agreements. The absence of a demand to “convert” or “translate” one’s views depends upon this recognition, for example. But in fact there is a prior, almost certainly implicit, agreement that is equally significant, namely a commitment to the political activity of decision-making itself. For political discourse to result in a political agreement, there must be present a willingness on the part of the parties to work toward that agreement. There has to be a commitment to “the rules of the game.” At one level, this probably implies little more than agreeing to put aside the recourse to violence, to

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33 Although as we discussed in chapter three, Rawls has his own problem with the source of our moral obligations concerning public discourse.
respect the rule of law, and to demonstrate respect for the other participants in the
debate. We might speak of these as legal restraints on discourse. But beyond these,
and in fact underlying them, is a commitment to the constitutional democratic method
of decision-making—and it is upon this commitment that the recognition rests that
others may support a political agreement or decision for very different reasons than
one’s own.

What might this commitment look like? Kurt Baier provides a sense of it in
the same essay where he introduced the idea of a constitutional consensus:

[A]lthough there seems to be no consensus on a conception of justice, there is
a consensus on something else, namely, on the procedures for making and
interpreting law and, where that agreement is insufficiently deep to end
disagreement, on the selection of persons whose adjudication is accepted as
authoritative. It is not the case that this agreement “is contingent on
circumstances remaining such as not to upset the fortunate convergence of
interests” (p. 11 [Rawls, “Overlapping Consensus,” p. 432]). On the contrary,
such an agreement on the process of adjudication when interests conflict—call
it a “constitutional consensus”—is valued for its own sake and for much the
same reasons as a consensus on a principle of justice would be valued: it
maintains stability over a wide range of distributions of power, and it fosters
the virtues of tolerance, respect, and reciprocity (p. 12 [“Overlapping
Consensus,” p. 433]).

Regardless of how we ground these democratic commitments, their significance is a
willingness to operate by their terms, and a corresponding obligation to live up to
them. And the point often missed by liberals, and even by many of liberalism’s
critics, is this: integralists can be as committed to the rules of a constitutional
democratic game as anyone else. Why Rawls and others often have difficulty
accepting this is that from a certain perspective, any form of integralism that accepts
the requirements of constitutional democracy seems to be no longer integralist; from

34 Baier, “Justice,” p. 775.
this perspective, this formerly integralist view has accepted a compromise position compelled by circumstances, and for that reason, it has become, in some sense, less integralist and more liberal. The fact that an integralist group might itself hold to constitutional democracy, not as a reluctant compromise, not out of new-found discovery of liberal truths, but actually as something supported by their doctrinal views, seems to have largely escaped them. For that reason, the more relevant distinction is not that between integralists and non-integralists, or in Rawls’s terminology between the “reasonable” and the “unreasonable,” but rather, between those people committed to a constitutional democratic process, and those who are not. The implication, again, is that to focus on the sources or grounds of political positions as a criterion for entrance to the political forum—whether or not political positions are rooted in theological convictions, for example—is misguided and cannot help but impose unwarranted restrictions on religious expression. The more important question is whether this or that comprehensive doctrine endorses constitutional democracy, and not whether it does so on liberal or overlapping or any other particular doctrinal grounds.

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35 To be perfectly consistent in our terminology, we might say the crucial distinction is between democratic integralists (of whatever confession, including liberal) and non-democratic integralists. The paradigm case for democratic integralism are the various Christian Democratic parties and movements in Europe and elsewhere, clearly committed to a particular religious comprehensive doctrine (especially historically), but also committed to constitutional democratic principles as the means of pursuing that doctrine. Significantly, most parties saw support for the constitutional democratic system as required by their religious convictions (i.e.: it would be “unChristian” to seek power undemocratically), not as an unfortunate compromise required by their situation in a plural society. See Chaplin, “Liberal Democracy,” for an application of this argument to Rosenblum’s typology of integralisms.

36 See Baier:
Our main problem does not seem to be that as political philosophers we take on unnecessary quarrels with rival comprehensive conceptions that are compatible with our narrowly political (liberal) conception of justice. It is, rather, that there are, and that we must attempt to refute,
The obligations of listener and speaker as we have reviewed them here are thus, in a sense, self-imposed: they are implied by the parties’ commitment to the constitutional democratic process. And, of course, the obligations are supported by strategic considerations as well. Realizing that listeners are not required to be persuaded by our arguments, in our role as speakers we will normally be motivated to devise communications strategies that will be persuasive. To persuade, we will need to consider the political implications of our doctrinal views, and thus learn to express our confession politically. This was the point made above, when we noted that speakers who refuse (for whatever reason) to consider their doctrine’s political implications will have to accept that what they say will have little impact on the eventual decision. Indeed, we should note that as we seek the goal of agreement within the constitutional consensus, we may in fact vary our arguments, according to the context of the debate, the situation at hand, and the listeners we are addressing.37

3. Sources of obligation, part 2: the nature of the political

But depending on our perspective, we need not see our motivations as entirely strategic—or at least we need not see them as necessarily so. In fact, we can go further: we might also say that these obligations are imposed by the nature of the political itself as a sphere of normative discourse. The nature of a constitutional rival comprehensive conceptions that are in conflict not only with our liberal political conceptions of justice but even with the existing constitutional consensus (“Justice,” p. 781).

37 But we should also note that different doctrines may have different opinions on the matter of offering political arguments to listeners that the speaker him- or herself does not hold. For Wolterstorff, this is an “honorable discrepancy” (“Role of Religion,” p. 107); for Audi this “tends toward insincerity” (“Wolterstorff on Religion,” p. 137). Given this plurality of opinion, we should alert our listeners when we are offering arguments that we ourselves do not hold.
democracy—what politics is, intrinsically—will itself make demands upon participants. This is the grain of truth in Rawls’s description of a political conception of justice: it “must be a conception limited to ... ‘the domain of the political’ and its values.” Of course, the fact that Rawls requires that this conception be freestanding is a problem—he is imposing additional obligations as a further condition for inclusion. Rawls’s requirement in this regard stems from a concern to protect the political from comprehensive doctrines by ensuring some sort of ideological consensus in advance—this was the burden of our argument in chapter three. However, the suggestion that there is a domain of the political and that it can be somehow distinguished from other spheres of human life need not be rejected.

The challenge, of course, is determining how the sphere of the political should be distinguished from these other spheres of life. This is a favorite question of political theorists, and a full discussion would lead us far beyond the present project. The point, however, is that different doctrines will have different ideas about the

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39 Note that the distinction, here and elsewhere, between the “doctrinal” and the “political,” as I consider them, is not at all the same as a distinction between “religious” and “secular.” This distinction concerning the domain of the political may help clarify where Rawls went wrong in the crucial turn from *A Theory of Justice* to *Political Liberalism*. Putting Rawls’s journey in the best possible light, we might see Rawls as possessing strong liberal views, concerning politics and many other things, and in *A Theory of Justice*, he did not hesitate to put them forth with respect to the political domain specifically, as “if [it] were simply another subject to which the doctrine applied” (*Political Liberalism*, p. 12). In effect, Rawls in *A Theory of Justice* was a “liberal integralist.” But as we noted in chapter one, the critics argued that “justice-as-fairness” was actually unfair—it inappropriately favored a particular comprehensive doctrine of the good, with the result that Rawls was using the state to improve the situation of his own comprehensive doctrine. To his credit, Rawls acknowledged the criticism. But as he sought in his response to transform the foundations of his proposal from a comprehensive doctrine to a political conception, he argued that his theory of justice could be detached from its substantive doctrinal foundation and be characterized as “freestanding,” and, furthermore, that only arguments rooted in similarly “freestanding” conceptions of justice could be legitimate. The better strategy would have been to acknowledge the criticism, but proclaim his commitment to the democratic method of decision-making in politics, just as other democratic integralists normally do.
relation between that domain of the political and the rest of the doctrine—that was one of the lessons of the previous chapter. Other features may be shared. The view I am presenting here, for instance, shares with that of Rawls a concern to honor the distinction between the doctrinal and the political sphere, although they differ on how to go about this. And both are concerned with achieving fairness among doctrinal conceptions in a pluralist society—neither is seeking to advantage specific positions on the difficult political questions we face in society, although of course the differences between the two proposals will affect how those questions are debated and resolved.

But perhaps I should provide a better sense of my own view. Elsewhere, I have described this task as one of finding room for “middle ground” discourse—discourse that lies somewhere between a “Thus saith the Lord”-type claim and a situation where a religious group is required to translate its views into secular languages. What I am outlining here are ways we might go about supporting this middle ground, that is, a playing field respectful of both secular and religious comprehensive doctrines. The critical element in this view is that while we continue to distinguish a doctrinal sphere of life from a political sphere of life, we do not see a wall of separation between them.

One way we might do this is suggested by David Koyzis, who suggests a distinction between political confessional language and theological confessional

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40 But only briefly. My point here is only to clarify how I see the distinction between the theological and the political proceeding. I present only as much of my own view as is needed to make that point.

language, the former referring to “our foundational religious understanding of the place of political authority…,” the latter referring to theology “in the way it is usually understood, i.e., that having to do with the specific doctrines of a particular faith.”

The point made here is that when citizens begin to advocate for the public policy positions they favor, they are not moving into a “secular” or “freestanding” sphere of discourse. Indeed, merely because they have moved to consider the application of their “theological confessional” views to the issue at hand, we should not expect their arguments to be any less “confessional,” but only cast in a “political confessional” language appropriate to political subjects.

Again, the contrast with Rawls’s view should be clear. Especially after Rawls moved to a “dual justification” model where “non-public” arguments are permitted when accompanied by “properly political” arguments, it may seem that the difference to be relatively minor. After all, Rawls would permit citizens to cite their

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42 Koyzis offers the following illustration:
I believe it would be inappropriate for me as a Christian to come to the floor of parliament and argue that, say, Jesus Christ is present spiritually rather than physically in the eucharist. This may indeed be part of my religious confession, but it deals with an issue not appropriately dealt with in the political realm, viz., the nature of the sacraments. Christians really did quarrel about this issue, not only in courts of Europe but also on the battlefields, during the 16th century! The early liberals properly sought a politics that would move beyond this, but they ended up doing so by unfairly excluding from the public realm any sort of Christian confession, even that concerning politics. Thus even the “political confession” that “the powers that be are ordained by God” (Rom. 13) to punish the wicked and reward the good is supplanted by an alternative confession (and it is indeed a confession!) that the state is a fundamentally voluntary community formed by a social contract (Koyzis, Personal Communication, p. 2).

43 Or we might say that it represents a political articulation of a particular confessional vision. We can expect that there would be similar articulations of confessional visions in other spheres of life, as persons seek to carry out what they see to be their “confessional” responsibilities in the spheres of life in which they find themselves. So we might speak of “educational confessional” articulations and “familial confessional” articulations, for example, alongside our “political confessional” articulations. The concrete manifestations of these articulations can be found in liberal societies, although frequently existing in tension with the prevailing liberal confessional mainstream. Consider debates over academic freedom at Roman Catholic universities, over the proper labeling of same-sex relationships, as well as debates over religious argument in political discourse.
“theological confessional” views, so long as they give a public justification for their political conclusions. But when we recall that for Rawls, “properly political” means arguments justified in terms of a freestanding political conception of justice, that is, without any reference to the person’s comprehensive doctrine, we are reminded of the essential difference.

Not too surprisingly, I believe my own proposal has much to recommend it over the Rawlsian liberal proposal. Specifically, because the view I have been outlining permits arguments from outside what Rawls calls public reason, I believe it to be more inclusive, more democratic, and ultimately more just in its response to pluralism than the Rawlsian proposal. My proposal, I believe, has more room for more types of people than the liberal response, as I have argued that the equal opportunity for genuine participation in politics is more important for a just, stable political order than a prior, pre-political determination of the basis of that participation. On the other hand, because the proposal I offer is (of course) rooted in my comprehensive doctrine, I cannot deny, nor do I wish to deny (though I might not always advertise), that the vision for which I speak is a “Christian pluralism”—for me to deny that fact would be to deny a central tenet of that pluralism, namely, that comprehensive doctrines can be invoked. But I believe that “Christian” pluralism as I propose it is better than “liberal” pluralism as Rawls proposes it, and that it may be

possible to persuade others, including those who do not share my specific theological confession, of its strengths. Indeed, the present work is part of that effort.

Of course, I cannot expect all liberals (or others) to see it this way. The freedom for more types of people that I see in my proposal might be viewed by some liberals as a limitation on individual freedoms. I cannot simply deny this argument, for two reasons. First, because liberal theory, if not liberal practice, has been the privileged (“established”) doctrine, any move which places liberalism on an equal footing with other doctrines in something like a constitutional consensus cannot help but be seen and experienced by liberals as a loss and a limitation. Second, and more fundamentally, the disagreement will occur because the debate is in part over what freedom is actually about—how it is defined, how it is limited. Moreover, this challenge will appear repeatedly concerning other key concepts: equality, fairness, impartiality, justice—even pluralism. In a constitutional consensus, we will expect a diversity of conceptions of these various concepts, and we cannot expect to find Rawls’s *sub specie aeternitatis* on these, as on anything else.45

Nonetheless, just as political agreement can be possible across our doctrinal divides concerning basic political issues, there is also the possibility of persuading others, even liberals, of the merits of my own approach to pluralism—for instance, of the argument that my proposal has more room for more types of people than the standard liberal approach. This is because when speaking politically, I see no reason to expect to find that what I mean by “fairness” (for example) is so completely

45 Frohock describes this challenge as one of “accommodat[ing] the extension of pluralism to governing languages without sliding into political chaos or moral nihilism.” Traditional accounts of liberal public reason are largely unable to meet this task, in Frohock’s view (“Boundaries,” p. 841).
different from what others mean by that term that communication is impossible. I may be wrong in that expectation; I have no guarantee. If so, so much the worse for me and (in my view) for the state of our political community: we are reduced to a modus vivendi agreement, or, worse, the failure to maintain a political community at all.

In addition to the two proposals articulated by Rawls and myself, there are others available, some of which we have already mentioned. Paul Weithman, for instance, has written of “role-specific duties of citizenship” as another way of considering the source of the obligations of civil discourse. He suggests that as citizens assume the role of citizen in a democratic society they must respect the “built-in conversational pragmatics” of the context of a forum in which citizens engage other citizens.\(^{46}\) In this, Weithman’s argument is similar to the “strategic” argument presented above. But Weithman also goes further, suggesting that the obligation to participate responsibly also stems from the fact that the speaker speaks as a decision-maker, advocating positions that will affect those who are listening, and presumably speaking in their turn. This act, says Weithman, “has the relevant features of a commitment,” and that commitment will carry certain obligations concerning responsible participation.\(^{47}\) Further, Weithman uses a universalizability test to demonstrate the obligations of responsible advocacy, suggesting that responsible behavior involves a consideration of the consequences of all participants.

\(^{46}\) *Religion*, p. 107.

\(^{47}\) *Religion*, p. 110.
behaving similarly, and furthermore, the consequences of irresponsible behavior succeeding in persuading others.48

Another suggestion is offered by Christopher Eberle, who focuses on the notion of “respect” and what it requires in democratic discourse. As we have seen, Rawls and other “justificatory liberals” typically argue that a properly understood norm of respect imposes upon citizens a requirement to pursue “public” justification for their advocacy, restraining themselves from supporting any position that does not carry such a justification.49 Eberle splits this argument in two distinct claims—the principle of pursuit and the doctrine of restraint—and argues in favor of the former, but not the latter: respect requires the pursuit of public justifications, but it cannot require restraint if a satisfactory public justification cannot be found.50 Views on the success of Eberle’s project vary,51 but again we can discern a particular view of the relation between the “political” and the “doctrinal” or “confessional” spheres, and a particular view on the obligations that the “political” as a realm of normative discourse may make upon citizens (beyond the merely strategic).52

48 Religion, p. 110. As it happens, although Weithman’s arguments for the duties and obligations of citizenship differ from those I have offered above, and there are differences in how these are formulated, I do not see the obligations themselves to differ dramatically from those I have outlined. See his two claims (5.1) and (5.2) for summary statements of those obligations (Weithman, Religion, p. 93).


50 Eberle, Religious Convictions, pp. 68-70.

51 See the fine review by Gerald Gaus in Notre Dame Philosophical Review (March 8, 2003); also Wolterstorff, “Religious Reasons,” pp. 2-3.

52 There is a very large literature on the notion of what respect requires in public discussion that includes writings of members of both the “justificatory liberal” group and their critics. Weithman provides a helpful review in his “Introduction.” My own argument criticizing the liberal view concerning the requirements of respect is suggested in chapter three, pages 125-28, and is further
Both Weithman’s and Eberle’s arguments are relevant because both are sympathetic to Rawls’s account of the problem, but both depart from his emphasis on achieving a “freestanding” justification, choosing to consider “public” in a non-Rawlsian, perhaps even non-liberal, sense. In addition to these two, there are others we might consider who adopt similar strategies. Because each of these will have different views on the relation between the political and theological, they will also imply different views concerning the sources of the moral obligations associated with political discourse, which is why we began with obligations that stem from a commitment to a democratic process of politics. Other, stronger, obligations will vary according to the doctrine’s view of the domain of the political. All these, in my view, consider our democratic consensus to be fundamentally constitutional, rather than overlapping, to use the Rawlsian language.

What these proposals and their diversity make clear, I believe, is that the ground upon which we meet democratically is not “fixed” once and for all: the “meaning” of the political within a constitutional consensus will depend on the implied in the discussion of the ethics of listener and speaker, above. The central claim made is that citizens are not shown disrespect by being confronted with arguments with which they disagree, so long as they maintain similar opportunities to advocate for laws that they believe justified and to reject those arguments they find unpersuasive. See also Baier:

Under a constitutional consensus, we could offer, for instance, a doctrine of philosophical (rather than political) liberalism, such as that of Kant or Mill…without, surely, infringing these limits [of free public reason]. We would infringe them only if we pushed these doctrines in illegitimate ways, say, by indoctrination and suppression of contrary ways. (“Justice,” p. 780, note 16)

“meaning” that the participants bring to it. Thus, we should expect disagreement not only within the terms of the consensus, but disagreement also concerning the terms and obligations of that consensus. We cannot consider these to be neutral, founded on something like our “common human reason” or otherwise beyond political debate. Rather, they are the product of an agreement that they be basic for our political discussion. We simply see the rules of the constitutional consensus to be good rules to follow, and we certainly may wish to revisit them from time to time.

And of course, even as we revisit them, as we make arguments to change the terms of that consensus, we bring with us our comprehensive doctrines, with our own views as to the domain of the political and the obligations that it may or may not entail.

**Conclusion: The Idea of a Pluralist Politics**

It should by now be clear that what we are describing is a very different approach to political decision-making than most models usually held out for us, particularly in those countries indebted to the English version of liberal democracy. In this version, a common moral consensus is seen to be required for politics to be possible, and the task Rawls assumes for himself in *Political Liberalism*—the task of achieving political stability of a certain sort amid conditions of deep pluralism—is one he inherited: Rawls represents a particularly important recent attempt to complete

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54 See Wolterstorff:

Even at this point of articulating the ethical component of the role of citizen, we cannot leap out of perspectives. And even if we could, there is nothing firm that we could leap on to: no adequate independent source. The ethic of the citizen is itself up for debate in constitutional democracies of a by and large liberal character (“Role of Religion,” p. 113).

55 It will, perhaps, be more familiar in countries not so indebted: various consociational democracies, for example, or more generally, plural or “divided” societies where liberal majoritarian political systems have foundered.
that task. However, the basic form of the answers he develops are inherited as well, and much of this project has been devoted to explicating and critiquing Rawls’s efforts along that line, arguing that Rawls does not sufficiently separate himself from that search for a moral consensus, opting instead to find ways to make it easier to achieve.

For that reason, our focus has been relatively narrow, justified I believe because of Rawls’s singular ability to focus on the key questions well—John Rawls, quite simply, was the best and most important liberal thinker on these questions. But it must be emphasized that the possibilities explored in the concluding sections of this chapter represent a different model. Ultimately, what this offers is a variety of a politics of pluralism—of deep pluralism, a politics that does not demand agreement on the moral foundations of politics despite the plural identities and allegiances of the participants, but rather only an agreement on some principles of coexistence, a constitution if you will, but no agreement—or even a demand for an agreement—on the reasons for supporting constitutional principles. In fact, in this version of politics, there are potentially as many justifications for the principles as there are parties to the agreement. And notably, this plurality need not be viewed as a weakness, but actually as a virtue of the agreement.

Can a politics that affirms pluralism to this extent actually survive over the long run? Could political agreements ever be reached amid such plurality? I have not maintained a focus on the empirical realities of American political sociology and my answer can only be incomplete. However, I do not expect that political discourse would operate in a way tremendously different from how political discourse proceeds
today, at least when it is practiced at its best (that is, without delegitimizing arguments, for example). This is because, as we noted earlier in this chapter, the world of American politics is as far today from an overlapping consensus of the Rawlsian variety as it has ever been. Political agreements remain possible because as we consider the political outworking of our confessional beliefs, we are not positing arbitrary doctrines that others are incapable of grasping from within their own particularities. Indeed, normally we would expect both parties—speaker and listener—to have an interest in communicating across their confessional disagreements so as improve understanding and to achieve political agreement. This might take the form of bringing out one’s confessional viewpoint in a way that rings true to general human experience. Or it might take the form of the parties seeking to “enter imaginatively” into each other’s worldviews in order to discover some grounds for agreement,56 similar perhaps to what Rawls calls “reasoning from conjecture”.57 The point, however, is that this does not require dramatic departures from current practice: as Weithman notes, citizens, whether secular or religious, are frequently found “interpreting [each other’s] discourse in what they take to be a charitable way so as to find a basis for agreement.”58 Moreover, “[t]he possibility that citizens will sympathetically interpret one another casts some doubt on the claims that religious

57 “Public Reason Revisited,” p. 786.
58 “Citizenship,” p. 156.
reasons are inherently inaccessible or that their use in politics inevitably leads to resentment and the erosion of mutual trust.”

But does not politics require some sort of underlying common-ness, some consensus beyond Gad Horowitz’s mere “tenuous willingness to coexist”? For the picture I have presented here seems to depend almost entirely upon the willingness of the participants to respect the rules of a constitutional democracy as they are developed, and not upon any larger integrative vision for politics that all can respect. The problem in this challenge is that it presumes that the vision must be respected “by all” to be present and to be effective. I strongly affirm the importance of these larger visions; indeed, although I do not describe it here at length, I place myself within the context of such a vision, and I am grateful for that inheritance. However, I think we must reject the view that this vision must be widely shared for politics to be possible. Politics can be about the contest of visions of politics, as on anything else. Of course, I will, within my perspective, evaluate the success of the political enterprise according to degree to which my vision is present and effective or (more strongly) becomes commonly held. And, of course, the outcomes or the effects of democratic politics will reflect the political doctrines that “carry the day” within the constitutional consensus, and I may or may not appreciate these outcomes. But if the

59 Weithman, Religion, p. 146. To investigate the empirical question at greater length would take us far afield. However, we can at least point to the work of others investigating this question. Consider William Galston’s espousal of the “Reformation Project,” for instance (rather than the “Enlightenment Project”) (“Two Concepts of Liberalism,” Ethics 105 (April 1995), p. 525). An earlier consideration is by Kenneth McRae, also advocating a reconsideration of the possibilities of Reformation politics (“Plural Society,” pp. 681, 685-86).

opportunity is maintained for all doctrines to be heard, not only on the issue at hand, but also on the constitutional consensus, then while one may not appreciate a particular outcome, one cannot see it as constitutionally unfair.\textsuperscript{61}

Again, this represents risk to our carefully considered political constructions. Robert Nisbet has noted that when compared to the claims of unity, we cannot help but find the claims of diversity and pluralism to be disorderly, perhaps even an invitation to instability.\textsuperscript{62} To some extent, we should expect that a move from a tradition which has long emphasized, even idealized, particular versions of reason and freedom is almost certain to be perceived as risking too much, a surrender to the opposites of these qualities: irrationalism and oppression. And while I have suggested above how a constitutional consensus does not necessarily pose the risk to stability that Rawls fears, it is also true that there cannot be the assurance against instability that Rawls seeks in the overlapping consensus. An overlapping consensus concerns itself with the beliefs of its citizens—their support of the political conception must be “for the right reasons.” In contrast, there are no “right reasons” within a constitutional consensus; stability in a constitutional consensus will depend on what people actually believe concerning politics—and there can be no guarantees, as a pluralist politics to some extent requires that we place some faith in faith. Of course, what we lose in stability, we may gain in loyalty. If it is true that the demands

\textsuperscript{61} And we would naturally expect to find discussion and debate within confessional communities concerning these very matters. See, for example, Jonathan Chaplin, who offers a somewhat different view than what I offer here (“Rejecting Neutrality”), but also Griffieon, “Public Philosophy and Religious Pluralism,” \textit{Political Theory and Christian Vision}, eds. Jonathan Chaplin and Paul Marshall (Lanham, Md.: University Press of America, 1994), pp. 176-178) and Skillen, \textit{Recharging}, pp. 43-46.

that Rawls makes, for example, are greater than he seems to believe, then it is likely
that a constitutional consensus could enjoy much more success in accepting,
supporting, and retaining these doctrines, a success which will provide its own
stability. There is no reason to suppose that agreements supported by many doctrines
are less likely to be stable than those supported by only one.

Moreover, what this risky politics offers beyond stability is no small thing.
Briefly, it promises both a good deal less and a good deal more than does the
Rawlsian liberal proposal. On the one hand, we may find that inclusion results in
inelegant, even “messy” theories of politics. By opening up public discourse, we
gain inclusivity, but at the expense of orderliness and efficiency. Political theorizing
may become more difficult, as our models and assumptions become more
complicated and unpredictable than the politics Rawls’s model suggests. Moreover,
the lack of a common moral consensus will mean that we cannot expect from politics
authoritative statements concerning truth—not even “political, not metaphysical”
truths. Rather, participants must accept that any consensus at which they may arrive
in politics, even concerning the grounds by which they discuss and decide policy
issues, can not in itself be declared normative, for it must always be seen against a
backdrop of dissensus. In that sense, it may be unsatisfying from our doctrinal

63 On liberalism’s attempt to overcome the “messiness” of the politics, see E. A. Goerner,

64 However, they also may be become more “real”—corresponding a little more closely to
how the give-and-take world of practical politics actually works. Frohock offers the analogy of a
collection:
Listen to a good conversation. Narratives and linear modes of reasoning compete and
complement one another in the movement of expressed thoughts. The goal of the
collection is mutual understanding of alternatives and resolutions and, finally, an
acknowledgement of the best or just outcome. The logic is bottom-up in the sense that first-
order rules and principles do not dominate but only guide (“Boundaries,” pp. 841-42).
perspectives; indeed, Jacques Maritain described this sort of agreement as “the last refuge of intellectual agreement among men,” even as he spoke in its favor. But a strong attempt to overcome the pluralism of comprehensive doctrines, even by establishing a moral consensus for the foundation of politics, cannot be among the tasks appropriate to the state. All this some may view as a loss, as a diminishing of the political task—the distance between political theory and the rest of our lives is diminished.

But this politics also promises more than what the Rawlsian model can provide. Politics is not only a matter of reaching agreements and making decisions—it is also about contending for truth, for what truth is. Of course, we act in politics to achieve a certain political goal, to reach agreement on important matters, but also—and even more importantly perhaps—to act on our beliefs, to “witness” to our comprehensive doctrine in a sphere to which we believe that doctrine has some application. A constitutional consensus requires no assumptions on the relationship between a person’s political views and his or her comprehensive doctrine of the good. It makes no presumptions on the nature of rationality, or upon how citizens would behave if they were reasonable. And it says nothing about what we believe by virtue of our participation in political society. Most important, it does not restrict attempts by citizens to articulate what is most important to them, using whatever reasons they find convincing or important. Indeed, it may place special emphasis on enabling people and communities to bring their nonshared, nonoverlapping beliefs and

arguments into the public political sphere. Together, we may reach political agreement in the process, but perhaps more significantly, we would be recognizing not only the value of that person as citizen in our society, and not only the value of that person within his or her community, but also the value of that person as a citizen who is also a member of a distinct community, as someone who holds to a particular comprehensive doctrine, and this recognition is a very great good—both for that person and for us. This underlines how this form of politics is fundamentally democratic: it makes no demands upon citizens that they change or revise their views to meet a particular liberal or other ideal.

This great good suggests that accepting this invitation to risk may be precisely the point: perhaps to recognize plurality, to respect difference, to recognize the non-ultimacy of politics, we need to loosen our control on the terms of the debate. While the decline of old sustaining securities will prove difficult for some of us, their decline is likely to be a liberating experience for others, one that affords new possibilities for different people and communities to express and practice their deepest commitments in their public political lives. Bernard Crick has said of politics that it “is not, then, a grasping for the ideal; but neither is it a freezing of tradition. It is an activity – lively, adaptive, flexible, and conciliatory.” 66 This comes close to describing what this type of politics might be like. It reminds us that we ought not to expect an ultimate political consensus ever, but that if we are to look for a final point

of reference and source of authority, it can only be beyond society. And it reminds us of the importance of resisting the temptation to work toward, or perhaps wait for, absolute certainty. That sort of certainty will never come, least of all in democratic politics; if it were to appear, it would likely crush what most requires nurturing. In a democratic politics, to seek escape from uncertainty is to seek escape from each other, and indeed to seek escape from the very quality that makes politics possible.

BIBLIOGRAPHY


