

Public Reasons or Public Justification:
Conceptualizing “can” and the Elimination of Exclusion in Politics

by

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Supervisory Committee

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Abstract

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In this essay, I aim to elucidate a concept of public justification. I outline several challenges faced by political philosophers, including a desire to secure stability and treat people respectfully against a background of reasonable pluralism. I suggest that John Rawls' account of public reason provides a helpful starting point for accomplishing these goals. But critics have been both persistent and persuasive in their objections to public reason's central element of *reasons all can accept*.

I explicate three dominant criticisms: incomprehensibility, attenuation and exclusion. First, some critics have argued that the very idea of reasons all can accept cannot be plausibly articulated. Second, critics maintain that the set of reasons all can accept is insufficiently robust to solve constitutional essentials and matters of basic justice. Third, critics note that if public justification is constrained by reasons all can accept, then many informative and effective arguments must be excluded from the public sphere.

In response to these criticisms, I argue for an interpretation of reasons all can accept which is sensitive to critics' reasonable demand for an explicit account of each element of the doctrine. My interpretation demonstrates the superfluity of what I call the sharability constraint—the thesis that only reasons acceptable to all can function as justifications in the public sphere. Once the sharability constraint is rejected, I argue that the problem of exclusion dissipates, but that substantive restrictions on acceptable reasons are still possible. I am optimistic that this approach is less attenuating than one constrained by sharability and that, at least under favourable empirical conditions, more problems can be

resolved by this approach than by standard Rawlsian theory. I draw on actual convergence in the international realm to bolster this optimism. Finally, I relate this approach to the widespread influence of deliberative democracy. I argue that procedural apparatuses are insufficient for political legitimacy, but that deliberation may be an invaluable tool for uncovering reasons required by substantive justification.

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Introduction

Citizens of contemporary democracies face a difficult challenge: against a background of significant diversity they must create and enforce laws, policies and institutions that are, in some sense, *acceptable* to all citizens. Political communities are comprised of reasonable persons who often hold different and sometimes conflicting worldviews. Liberal theorists have argued that a state may legitimately employ coercion to secure adherence to its laws. However, they have also insisted the state's coercive power must be justified to those it affects. Many proposals have been advanced about how this justificatory demand can be met. Each claims to offer the procedures, constraints or other mechanisms which legitimize coercive state action. In recent years, a great deal of scholarship has explored the prospects of using the broadly Rawlsian idea of public reason as a way of meeting the challenge. In the following essay I survey the public reason literature on several of these justificatory proposals, paying particular attention to the core idea that the justificatory challenge can be met by developing an account of "reasons all can accept (RACAs)."¹ I note several problems with the "traditional account" of public reason and offer my own revised interpretation of RACAs and public justification.

In CHAPTER 1, I explain why public reason liberals suggest that providing reasons all can accept is the critical justificatory key to permitting some set of state actions. I begin by drawing on Rawls' account of modern democracy to frame the context

¹ This acronym is taken from "Liberalism, Deliberative Democracy, and 'Reasons that All Can Accept'" by James Bohman and Henry Richardson. An individual *reason* can be a "RACA" while the plural mnemonic, *reasons*, is signified by "RACAs."

in which political justification takes place: the fact of reasonable pluralism. I then turn to the work of Ronald Dworkin to develop an account of what it means to respect the citizens of a democratic community as persons. I discuss Rawls' emphasis on establishing peace and stability in something more enduring than mere balance of power. I reiterate and affirm what he sees as one of public reason's central goals: the peaceful progression of society from one generation to the next. After outlining these foundational themes of respect, pluralism and stability, I then provide an overview of what I shall call 'the promise of public reason.' This involves characterizing RACAs, and indicating how they are motivated by reasonable pluralism in conjunction with a commitment to respecting persons. I also provide an account of Rawls' views (and some others), which tie these ideas to political legitimacy. I explain Rawls' optimism that there is a set of public reasons that all reasonable citizens can accept and that this set is sufficiently robust to solve what Rawls calls 'constitutional essentials and matters of basic justice.'

In CHAPTER 2, I examine three major criticisms of the public reason strategy. Each takes aim at some aspect of the idea of RACAs. The three concerns I discuss can be labeled: **incomprehensibility**, **attenuation**, and **exclusion**. First, starting with **incomprehensibility**, I identify theorists who complain about the obfuscating terminology employed in public reason literature in an attempt to make sense of RACAs. These theorists distinguish various ways of interpreting the component elements of RACAs, and they offer criticisms of each. I summarize these criticisms, and supplement them where possible. I agree with these critics that it is challenging to make sense of RACAs in the traditional public reason framework. I maintain, however, that the critics' interpretive accounts of RACAs do not exhaust all plausible possibilities, and suggest

that, when slightly reimagined, RACAs may still provide a useful mechanism for public justification.

Second, critics argue that, if we can make sense of RACAs at all, they will nevertheless be insufficiently robust to solve at least some, if not all, important political issues. That is, the set of justificatory reasons is **attenuated** by the “shareability,” or “public,” constraint that public reason theorists insist upon. On this view, matters of basic justice and constitutional essentials simply cannot be resolved by public reason. I suggest this objection need not deal a fatal blow to RACAs and that the doctrine can and should be reformulated in a less attenuated form. The reformulated account broadens the scope of RACAs and may, at least under favourable empirical conditions, be sufficiently robust to resolve some significant political issues. I argue that this account can, at the very least, circumvent unnecessary restrictions on public reason and thereby allow enriching sectarian contributions into political dialogue.

Third, many critics have pointed out the unfortunate consequences of public reason doctrine for religious citizens: public reason is inappropriately **exclusive**. That is, if only RACAs can be used in processes of public political justification, then for the relevant issues religious citizens must practice compartmentalization and suppress the ideas and justifications which are most important to them, and which they find most persuasive. This point can be generalized to all persons who adhere deeply to some set of “sectarian” reasons. This criticism is best illuminated as a two pronged condemnation. On one prong, critics claim citizens are disrespected by a moral demand that religious or sectarian reasons be excluded from public reason. On the other prong, critics note the valuable role religious reasons can and do play in public political discourse (e.g. by

motivating citizens to act for the common good) and they argue that exclusion of some religious and sectarian reasons would be a great normative loss for democracy.

In CHAPTER 3, I offer my own account of public justification by articulating a revised notion of RACAs. I argue that more must be said about how the concept of RACAs should be understood, what sort of situations and actions give rise to a moral demand for RACAs, and the moral framework which stresses the importance of providing acceptable reasons. Once these details have been unpacked, a theory of public reason emerges which, in at least those three respects under consideration—incomprehensibility, attenuation, and exclusion—is preferable to the account offered by Rawls and other traditional public reason liberals.

I begin by taking up the incomprehensibility challenge posed in Chapter 2, and offer an interpretation of what it means to provide acceptable reasons. This interpretation draws on Bernard Williams' analysis of what it means to have a reason for action. In Chapter 2 I argue that a plausible account of RACAs must balance normative constraints with empirical sensitivity. I contend that an interpretation of RACAs, substantiated by Williams' practical reason framework, can be normatively constraining and yet, when empirically grounded in individuals' psychologies, sufficiently sensitive to the actual views of citizens. I argue that, so understood, RACAs must be given in the context of state coercion because the nature of personhood demands justification acceptable to the coerced. In defense of this claim I draw on the idea of inherent dignity as outlined by Ronald Dworkin. A good, dignified life requires choosing for oneself among a selection of reasonable options. Coercive state action restricts the sort of lives which are possible

to lead. Since coercion is a restriction on the choices available to citizens, RACAs are therefore required as “coercion justifiers.”

I develop the moral demands of personhood to uncover duties at the state level. Political legitimacy involves evaluation of citizen treatment, and so encompasses a state commitment to respecting the moral demands of personhood. Any law, policy or institution which fails to respect the most fundamental demands of personhood is illegitimate, and so a state which makes no good faith effort at avoiding and abolishing such laws must also be seen as illegitimate. Since a policy or law cannot be legitimate if it fails to respect the dignity of persons, and respect for dignity entails giving acceptable reasons, a policy or law must not be coercive unless justified by acceptable reasons.

Rawls and others have claimed that a commitment to constitutional democracy entails a commitment to respecting persons. These commitments entail a powerful justificatory burden: only RACAs can justify constitutional essentials and matters of basic justice. Traditional public reason theorists go on to argue that offering non-public reasons in defense of a position on these matters is unacceptable. They give an account of “public” in terms of sharability. A public reason is a RACA, and it is therefore sharable. What makes it sharable is that all other reasonable citizens can accept *that reason*. If other reasonable citizens could not accept the reason, then whoever is offering it, public reason theorists argue, would be championing the coercive imposition of their own comprehensive worldview on others. This, Rawls notes, constitutes unreasonableness, and is manifestly immoral. This way of interpreting RACAs can be called the “sharability constraint.” I argue that the sharability constraint is logically disconnected from what is supposed to be its grounding principle: respect for persons. Contrary to traditional public

reason theorists, convergence on outcomes, not consensus, not sharability, is required to provide justification for coercion.

I submit that my interpretation of RACAs has several advantages. It is comprehensible insofar as it gives an explicit account of what “can accept” amounts to. It is crucial to recognize that in discarding the sharability *constraint*, public reason theory certainly need not reject sharable reasons as unacceptable. Since reasons which are shared can be used as justifications for each reasonable individual, these reasons are clearly permitted by a convergence view. But no categorical *exclusion* solely on the basis of a reason’s sectarian nature is permitted. Moreover, my interpretation expands the justificatory pool, and thereby casts public reason in a less attenuated form. Since sharable reasons are permitted, and so are sectarian reasons, more reasons can be drawn upon for the purpose of public justification. Given the expansion of the justificatory pool which is possible on a less attenuated interpretation of RACAs, and given the success of convergence approaches on the international level, we have some reason to be optimistic about the possibility of solving some central political issues by appeal to RACAs.

Despite any optimism that some issues can be solved with appeal to RACAs, it does seem plausible that some issues (I note the example of abortion) are irresolvable. I suggest that Rawls and others may be overly optimistic in thinking RACAs can resolve all constitutional essentials and matters of basic justice. I maintain, however, that offering RACAs is nevertheless a standard of achievement, a moral demand, which is imposed by legitimacy. Perhaps in certain cases, maybe cases of political necessity, this standard is regrettably unachievable.

If solutions justified with RACAs become available, they will not be products of power imbalance or imperialism. As noted in Chapter 1, Rawls' project was partly motivated by a desire for political stability. In the face of a *modus vivendi*, long term stability is not possible. But provision of RACAs in complicated cases of public justification still avoids a *modus vivendi*; even in cases requiring diverse justifications, each citizen has available to him or herself acceptable reasons.

Finally, I discuss the issue of deliberative democracy. Certainly public reason theorists are often deliberative democrats. But there is, on my view, no necessary connection between RACAs and deliberation. While I reject even ideal deliberation as a process which imbues legitimacy on its outcome, I do suggest that deliberation may offer a means of reason identification. Therefore, the emergence of trends towards dialogue in democratic decision making may offer substantial benefit to those seeking to justify policies to all reasonable persons using only reasons they can accept.

In the final analysis, the project of public reason theorists may be unsuccessful. Public reason theorists seek justifications which somehow resonate with actual citizens, not ideal reasoners. Such justifications may in many cases simply not exist. But this should not change our view of what legitimacy demands. Instead, we should maintain that there is no legitimate way to coerce reasonable persons into actions with justifications they cannot accept. Since disagreement over reasons, policies, laws and institutions is ubiquitous, this might suggest the frightening prospect of systematic illegitimacy. This is an unwelcome conclusion. But the other possibility, that we *can* justly coerce reasonable persons with reasons they cannot accept, seems equally unsettling.

My project is not to vindicate public reason more generally, although I find its motivations compelling. Instead, I want to suggest that, insofar as we employ public reason terminology and concepts, we ought to appreciate the comparative significance of a more inclusive view such as the one I outline in this essay.² We should ask, for any given *policy, law or institution* whether *it is supported by* RACAs. This is quite different from asking, for any given *reason*, whether *it is* a RACA. Perhaps my interpretation of RACAs is not strictly speaking an account of public reason, since it does not identify particular public reasons, as was Rawls' vision. But no matter the case, asking the "RACAs" question in the right way avoids many of the problems encountered by public reason liberals, and offers several considerable advantages.

² Even if we want to reject the public reason approach, as Colin Bird notes, (2) "proponents, critics, and agnostics share an interest in putting the doctrine in its most plausible light." "Coercion and Public Justification."

Chapter 1: The Promise of Public Reason

I. Reasonable Pluralism

It is uncontroversial that modern democratic societies feature a wide range of comprehensive worldviews. A comprehensive worldview is a perspective on the world, where that idea is understood as broadly as reasonably possible. John Rawls defined it as any doctrine which “covers the major religious, philosophical, and moral aspects of human life in a more or less consistent and coherent manner.”³ It includes fundamental existential and normative postulates. It reflects deeply held beliefs about the “definition of the moral worth of persons;”⁴ what exists and why; what matters or is valuable; what, if anything, is the purpose of human life, and so on. Rawls claimed a “comprehensive account of the good is essential”⁵ to discussing critical normative questions.

Given widespread disparity in beliefs and commitments, it is unsurprising that well intentioned and reflective people face sharp disagreement over questions of ethics, religion, politics and other areas which depend centrally on answers to the fundamental concerns articulated by comprehensive doctrines. This disagreement is particularly noticeable in deeply multicultural contexts which are the inevitable product of any well functioning democracy. Rawls sees reasonable citizens as committed to religious doctrines such as Roman Catholicism and Islam as well as secular doctrines such as (comprehensive) liberalism and utilitarianism. Crucially, reasonable people *reasonably* disagree about the answers to the fundamental questions addressed by these comprehensive doctrines.

³ John Rawls, *Political Liberalism*, 59.

⁴ John Rawls, *A Theory of Justice*, 349.

⁵ *Ibid.*

That qualification—that the disagreement is itself reasonable—bears further explanation. After all, it might be argued that when two parties disagree one is necessarily being unreasonable. One party is perhaps wilfully ignoring evidence or failing to make correct inferences or subject to some other error constitutive of unreasonableness. But this, Rawls points out, is an implausible account of much disagreement among persons. Instead, persons disagree because they are faced with the “hazards involved in the correct (and conscientious) exercise of our powers of reason and judgment in the ordinary course of political life.”⁶ These hazards are the “burdens of judgment.”⁷ The burdens of judgment are many, but Rawls points out six “obvious sources.”⁸ (1) conflicting and complex empirical and scientific evidence (2) indeterminacy over how evidence should be weighted (3) vague and indeterminate concepts subject to differing interpretation in hard cases (4) the effect of our total experience on weighing evidence and ordering values (5) important normative considerations on both sides of an issue and (6) the necessarily limited range of values promoted by institutions.⁹

These six considerations are a partial list of the “sources of difficulties in arriving at agreement in judgment.”¹⁰ They are also entirely compatible with the reasonableness of those judging. Previously I noted the uncontroversial fact of pluralism: there are many views, and they are often incompatible. The burdens of judgment give us reason to accept the fact of *reasonable* pluralism: there are many *reasonable* views which are nevertheless

⁶ John Rawls, *Political Liberalism*, 56.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*, 56-57.

¹⁰ *Ibid.*, 58.

incompatible. The fact of pluralism is critically important because it is in many ways the backdrop of modern democracy; the recognition of pluralism as reasonable conditions the set of acceptable responses to the phenomenon.

II. Dworkinian Dignity

Public reason liberals begin their theorizing about public justification with a moral concept of the person. Persons are in some way free, equal, autonomous, dignified, and worthy. John Rawls argued that apposite comprehensive worldviews respect freedom and equality. In fact, he maintained that those which do not recognize the freedom and equality of persons are politically unreasonable.¹¹ Views which are, for example, expressly racist or sexist do not respect all citizens as free and equal and are, on this account, unreasonable. Rawls understood free citizens as persons entitled to make claims on society in their own right; citizens are “self-originating source[s] of valid claims.”¹² Free citizens are not slaves or serfs whose political demands and arguments are only heard subject to the willingness of their masters. Giving a precise account of human worth in terms of respecting freedom, equality, autonomy etc. is notoriously challenging. Lack of a precise account means unavoidable hard cases, but some analysis of the demands of dignity can be illuminating.

Ronald Dworkin offers a helpful analysis of what it means to respect human dignity, which he argues is the most fundamental ethical principle (at least, the one with

¹¹ In “The Idea of Public Reason Revisited,” Rawls wrote (806) “[Someone might] assert that the religiously true, or the philosophically true, overrides the politically reasonable. We simply say that such a doctrine is politically unreasonable. Within political liberalism nothing more need be said.” The politically reasonable includes a commitment to the recognition of one’s fellow citizens as free and equal. He also wrote (770) “Citizens are reasonable when, viewing one another as free and equal...”

¹² John Rawls, “Kantian Constructivism in Moral Theory,” 546.

the most resonance and explanatory power). From the principle of dignity flow two requirements. (1) Responsibility: Persons must take the objective importance of their own lives seriously.¹³ (2) Authenticity: Persons must live authentically, accepting a special, personal responsibility for identifying what counts as success and striving to create that chosen life through a coherent narrative.¹⁴ Consistency demands respect for the first requirement extends to all human beings, since there is no reason to see one's own life as being objectively more important than any other.

Dworkin plausibly claims that collective government supplies several of the conditions necessary for creating and living good lives. It allows for the “order and efficiency”¹⁵ that “only coercive government can provide.”¹⁶ But the political situation is paradoxical because coercive government also threatens subordination, which is antithetical to a good life: some persons must wield power over others; they must both threaten and carry out, for example, punishment for disobedience, even when those punished reject the laws which apply to them. Dworkin characterizes the paradoxical state of affairs with two questions:

- (1) How can I, given my special responsibility for my own life, accept the dominion of others?¹⁷
- (2) How can I, given my respect for the objective importance of other people's lives, join in forcing them to do as I wish?¹⁸

¹³ Ronald Dworkin, *Justice for Hedgehogs*, 202-205.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

It is uncontroversial that a legitimate government must not subordinate its citizenry. A solution to the paradox of legitimacy therefore depends on an appropriate answer to these two questions. But an appropriate answer requires a further distinction between coercion and domination. It is clearly no domineering violation of dignity to lock up the serial murderer and thwart his atrocious impulses. But within a certain range of activities, namely those that respect the dignity of persons, questions arise about when and why it is appropriate to force some to bend to the will of others. After all, even the set of dignity respecting actions is large enough to accommodate contradicting actions, laws and policies. Dworkin attempts to achieve a solution to the problem but unfortunately his attempt relies on an implausible notion of the associative relationships of citizens. Public reason theorists take a different tactic; they claim we can accept and support coercion when it is justified by a certain kind of reason: reasons all can accept.

III. Avoiding a Modus Vivendi

Rawls, I think correctly, claimed that public justification is necessary for people to embrace public political decisions rather than merely acquiesce to a *modus vivendi*.¹⁹ That is, if public justification is not addressed to, and accepted by, all (or at least almost all) members of a community, then, as the instable composition of communities shifts and creates new power imbalances, those who were acquiescing previously will be quick to suppress the interests of parties with contrary comprehensive doctrines.²⁰ Christie

¹⁹ Modus (mode) Vivendi (living) i.e. Way of living: two parties agreeing to disagree. A *modus vivendi* is an often temporary political arrangement the survival of which depends wholly on the balance of power. No mutual justification between competing parties is required, and any accommodations are contingent.

²⁰ Some thinkers are unconcerned with this fact and even go so far as to recommend a *modus vivendi*; see, for example, Bulent Senay, "Change and Changeability: Ethics of Disagreement and Public Space in Islamic Thought."

Hartley, quoting Rawls, notes “Reciprocity requires that individuals offer principles for fair cooperation that they reasonably believe others can share as ‘free and equal citizens, and not as dominated or manipulated, or under the pressure of an inferior political or social position.’”²¹ Thus, public justification consists in an acceptance of political decisions as fair and just from the perspective of any reasonable participant in public life.

One way to avoid a *modus vivendi* would be to find principles, policies and laws to which all citizens could assent for the same reasons. Rawls argued such principles were identifiable through his original position mechanism. To illustrate his thinking, we can imagine a society divided between socially conservative Christians and socially liberal utilitarians debating the moral status of abortion. Suppose the Christians demand a law against abortion in all cases. Imagine the utilitarians demand that each woman has the right to abortion in the first trimester. One way to solve this dilemma is a “might makes right” approach whereby whoever is in power, we can assume the utilitarians, simply enforce their view on all other citizens. But such an action would be a clear case of political illegitimacy. Further, if the Christians became more prominent in political decision making, then they would retaliate by subverting the law and enforcing their comprehensive worldview on the utilitarians. As the distribution of power changes, each side will unjustly impose their own view on the other. This leads to instability. This holds true even if, at the current time, there is agreement. That is, both utilitarians and Christians might accept a right to abortion only in cases where the life of the mother is threatened. The Christians’ reason for accepting this (in their view) non-ideal outcome is their inability to exercise full control over the legislative process. The utilitarians accept

²¹ Christie Hartley and Lori Watson, “Feminism, Religion, and Shared Reasons: A Defense of Exclusive Public Reason,” 494.

the outcome for the same reason. But, again, as power shifts, both parties have reason to overthrow the law and change legislation such that it favours their overall view. Rawls' hope was to solve such questions with appeal to reasons all can accept. Instead of Christians arguing on the basis of Christian doctrine, and utilitarians arguing on the basis of utilitarian doctrine, all citizens would argue on the basis of public reason: a set of reasons everyone can share. That way, even in the face of shifting power, every reasonable citizen would have reason to accept policies, laws, and institutions.

IV. Reasons All Can Accept

The fact of reasonable pluralism is perhaps most poignant in the public sphere. Citizens are subject to laws, public policies, and institutions, all of which often backed by the threat of coercive force, and about which reasonable people might reasonably disagree. The threat or actuality of coercion by political institutions requires some form of justification. For Rawls this justification is a *public justification* which “is not simply valid reasoning, but argument addressed to others.”²² One persuasive aspect of this doctrine is its apparent reliance on citizen consultation, and therefore sensitivity to the *demos*. It aims to take the views of citizens seriously, an endeavor which shortly after Rawls' work became the major project of deliberative democrats. This crucial idea that objectively good reasons are *not* sufficient for the justification of coercive action is a central element of public reason. Public reason, reasons all can accept, was Rawls' solution to the problem of public justification. He articulated (1) the *type* of acceptable

²² John Rawls, “The Idea of Public Reason Revisited,” 155.

reasons (2) what sort of actions and states of affairs demand public justification and (3) the moral concepts which ground these demands.

(1) The type of reasons Rawls argued for were reasons all can accept (RACAs). As mentioned, critical to Rawls' approach to public justification was the defense of coercive mechanisms with reasons acceptable to all. This meant that, on his view, any reason for action could be analyzed in terms of its reasonable acceptability to all reasonable citizens. If a reason was deemed sectarian then it could be rejected as an unacceptable justificatory tool. Quoting Biblical scripture, for example, would be offering a reason acceptable to persons who accept the authority of the Bible, but not to all reasonable persons, since some reasonable persons reject the authority of the Bible. Scripture could not, therefore, supply reasons acceptable to all.

Some thinkers have rejected Rawls' strict substantive constraint on acceptable reasons. One way to characterize their disagreement is by distinguishing between substantive constraints and procedural constraints. Procedural constraints arise in the context of deliberation. In their purest form, procedural constraints amount to an ethic of discourse. That is, procedural constraints do not rule out any particular content as unsuitable for justification, but instead control the way the content is presented. Parties to a debate can offer justifications on the basis of self-interest, altruism, special interests and so on. What is important, for example, is a commitment to seriously considering the views of others or refraining from insulting and disrespectful language where possible. Pure proceduralists are concerned with public *reasoning* (or public reason *giving*) instead of public *reasons*.²³ Substantive constraint theorists, such as James Bohman, Henry

²³ See, for example, Simone Chambers, "Secularism minus Exclusion: Developing a Religious Friendly Idea of Public Reason" or Rogers Smith, "Religious Rhetoric and the Ethics of Public Discourse."

Richardson²⁴ and Rawls, sort reasons into two classes: those which are acceptable as justifications and those which are not. For the purposes of Rawlsian public reason theorists, this distinction delineates between reasons that all can accept (justificatory), and reasons that not all can accept (not justificatory). In evaluating theories of public reason, it is important to determine whether some particular set of reasons is unacceptable, and why, or whether all reasons are potentially acceptable, depending on the discursive context. This is the project of determining precisely what a public reason, or public reasoning, really amounts to.

(2) Only certain matters, Rawls argued, demand, “so far as possible,”²⁵ RACAs: constitutional essentials and matters of basic justice. The content that he argued should be fixed for any constitution includes “Liberty of conscience and freedom of association, and the political rights of freedom of speech, voting and running for office [which] are characterized in more or less the same manner in all free regimes.”²⁶ In brief, “Constitutional essentials concern questions about what political rights and liberties, say, may reasonably be included in a written constitution, when assuming the constitution may be interpreted by a supreme court, or some similar body.”²⁷ Rawls noted constitutional essentials, though related, exclude, for example, “tax legislation and laws regulating property; legislation protecting the environment and controlling population; laws establishing national parks and voting funds for museums and the arts.”²⁸ Matters of basic justice refer to fundamental economic and social relationships and distributions;

²⁴ James Bohman and Henry Richardson, “Liberalism, Deliberative Democracy, and ‘Reasons that All Can Accept.’”

²⁵ John Rawls, *Political Liberalism*, 137.

²⁶ *Ibid*, 228.

²⁷ John Rawls, “The Idea of Public Reason Revisited,” 767.

²⁸ John Rawls, *Justice as Fairness: A Restatement*, 91.

they “concern questions of basic economic and social justice and other things not covered by a constitution.”²⁹ While justice as fairness (and one of its constituents, public reason) is compatible with some variance in “the principles governing social and economic inequalities,”³⁰ public reason must supply the principles which address matters of basic justice.

It is plausible to suppose that different levels of analysis require different sorts of justification. It is not obvious that only constitutional essentials and matters of basic justice warrant RACAs. Habermas, for example, avoids this explicit identification of only a certain type of political action requiring RACAs.³¹ There is an interesting question therefore, even among those who urge the provision of RACAs, about how to define the scope of issues which require them. The project of identifying when RACAs are morally demanded is linked to the underlying moral concepts of personhood and legitimacy which motivate their provision. However, in place of trying to offer a principled delineation of issues which necessitate RACAs, we can still consider the way the underlying moral concepts support their demand, at least in those essential and basic cases identified by Rawls.

(3) Public reason, for Rawls, is an important demand of political legitimacy. He wrote, “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

²⁹ *Ibid.*

³⁰ David Estlund, “The Survival of Egalitarian Justice in John Rawls’s Political Liberalism,” 10.

³¹ Jurgen Habermas, “Religion in the Public Sphere,” 10. Other thinkers who modify the Rawlsian scope include Lawrence Solum, “Constructing an Ideal of Public Reason” and Jonathan Quong, “The Scope of Public Reason.”

common human reason ... all questions arising in the legislature that concern or border on constitutional essentials, or basic questions of justice, should also be settled, so far as possible, by principles and ideals that can be similarly endorsed.”³² On this view, the scope of legitimate constitutional essentials and resolutions to matters of basic justice is coextensive with the scope of actions for which there is a justification that *reasonable citizens can reasonably accept*. Providing reasons all can accept is intuitively appealing. After all, forcing a reasonable person to do something against their will and justifying it on the basis of reasons he or she cannot accept seems morally reprehensible.

For example, a politician might defend tax cuts in the highest income bracket. Suppose that, as it happens, she and all her friends occupy the highest income bracket. In making her case to the majority population, those in the lower tax brackets, she could take up two strategies. On the one hand, she might take a trickle-down argumentative strategy, attempting to convince the impoverished and middle class that, ultimately, the tax cuts are good for everyone. On the other hand, she might defend her position on grounds that she and her wealthy friends would be greatly enriched by such a policy, even though it would admittedly and drastically reduce the economic success of the rest of the population. Obviously the latter strategy would be highly ineffectual. But, more than that, there seems to be something wrong with her offering the general population reasons they *cannot* accept. What she offers, they might argue, hardly seem to be *reasons* at all. Offering reasons unacceptable to an opponent in a debate is considered useless brow-beating, and it is far from obvious why offering the same reasons in a political context, and subsequently coercing action, could be justified.

³² John Rawls, *Political Liberalism*, 137.

Some thinkers have rejected the direct connection between legitimacy and RACAs. Instead, some of these theorists claim giving RACAs is required by civility.³³ Perhaps the bare fact of our political relationships is enough to ground demands for public reasons. Still others have argued public reasons are necessary for justified authority, which it is to be distinguished from political legitimacy.³⁴ Thus there is some further dispute over where exactly in the moral terrain RACAs fit in. A full interpretation of RACAs should explicitly ground the idea in plausible moral concepts. This is the project of identifying why RACAs should be provided.

As should be clear, it has proven strikingly difficult to give a precise account of just **what** adherence to the principle of public justification requires, **when** it should be adhered to (if ever), and **why** it matters. The first question must take priority over the second and third, because some thinkers have claimed the idea of RACAs is convoluted,³⁵ or inefficient³⁶ (that is, redundant with some simpler idea). These critics can be understood as offering an **incomprehensibility** critique; that is, they claim we cannot make plausible sense of RACAs in the public reason context. In the following chapter I outline this incomprehensibility critique in more detail, as well as the criticisms of attenuation and exclusion. In Chapter 3, I suggest how an adequate response to the incomprehensibility criticism gives rise to an interpretation of RACAs which is not only comprehensible, but also avoids the problem of exclusion, and widens the attenuated

³³ James Bohman and Henry Richardson, "Liberalism, Deliberative Democracy, and 'Reasons that All Can Accept,'" 253.

³⁴ John Rawls, *Lectures on the History of Political Philosophy*, 129.

³⁵ James Bohman and Henry Richardson, "Liberalism, Deliberative Democracy, and 'Reasons that All Can Accept,'" 261.

³⁶ *Ibid*, 260 and Robert Westmoreland, "The Truth About Public Reason," 285.

scope of acceptable reasons, thereby providing the basis for a larger set of justified political action.

Chapter 2: The Critique of Public Reason

I. RACAs are Incomprehensible

Critics have developed a challenge to the possibility of a plausible interpretation of RACAs. James Bohman and Henry Richardson recently published an article called *Liberalism, Deliberative Democracy and “Reasons that All Can Accept.”* They contend that “no special work is being done by ‘could accept’ that could not be done by ‘do accept,’ ‘will accept,’ or by substantive standards naturally phrased in the indicative.”³⁷ That is, either people **really do accept** the reason in question, in which case the modal element “can” should be eliminated, or they **ought to accept** it, which again suggests removal of the modal element. In 1999, Robert Westmoreland published *The Truth About Public Reason* in which he argues that “the logic of the public reason project carries it toward the sectarian politics it seeks to avoid.”³⁸ In the remainder of this section, I draw on both of their accounts to articulate a powerful criticism against RACAs: RACAs face the dilemma of either doing no substantial work or being reduced to sectarian stipulations.

The comprehensibility criticism turns on an ambiguity central to the public reason project: there are a variety of elucidative interpretations of “can accept” which result in quite different practical implications for determining the legitimacy of a policy, law, or other instrument backed by the threat of coercive force. Many theorists, including Rawls, use phrases such as “can accept,”³⁹ “might accept,”⁴⁰ and others, while never making

³⁷ James Bohman and Henry Richardson, “Liberalism, Deliberative Democracy, and ‘Reasons that All Can Accept,’” 256.

³⁸ Robert Westmoreland, “The Truth About Public Reason,” 271.

³⁹ John Rawls, *Justice as Fairness: A Restatement*, 103.

⁴⁰ John Rawls, “The Idea of Public Reason Revisited,” 771.

explicit precisely what these phrases entail. Drawing on the grouping suggested by the writings of Bohman and Westmoreland, a taxonomical analysis of “can accept” interpretations can be developed. The taxonomy may not be exhaustive, but it provides a general overview of possible argumentative moves public reason theorists might make, and evaluates their prospects at plausibly retaining the modal element of RACAs.

The Objectivity Interpretation

One obvious way to elucidate RACAs might be to understand “acceptable” in a straightforwardly objective sense; that is, reasons that can be accepted are those which are *in fact* good or persuasive reasons.⁴¹ On this account, no appeal is made to the views of actual citizens, but instead the “whole truth,”⁴² the *in fact* correct view, determines which reasons can be accepted. Moreover, certain reasons can be acceptable to all—on this understanding of “acceptable”—even if they are in fact rejected by a majority or even all citizens. It is of course possible that the majority or even all citizens are simply mistaken.

The objectivity interpretation is perhaps the most widely accepted in the history of political philosophy. The project of objectivity involves identifying which political actions are supported by the best reasons, and then carrying out those actions if possible. If most people reject increased taxation, but the best reasons support it, then the dissenters are simply mistaken. An increased tax policy can be justly enforced on citizens who not only reject it, but also reject the reasons which support it. More provocatively, if

⁴¹ James Bohman and Henry Richardson, “Liberalism, Deliberative Democracy, and ‘Reasons that All Can Accept,’” 253.

⁴² John Rawls, *Political Liberalism*, 219.

a political leader determines the best reasons support, for example, removal of the right to freedom of speech from the constitution of her country, then she should remove it. While the citizenry might object, if the best reasons in fact support the removal of freedom of speech, then the leader is fully justified, on this view, in eliminating it from the constitution. The leader could reasonably argue that each citizen could accept the reasons she offers; by hypothesis, they are objectively the best available reasons.

The attraction of the Rawlsian project is in large measure the possibility of responding to reasonable pluralism in a manner “sensitive to the diversity of citizens’ beliefs and commitments.”⁴³ RACAs are offered as a way to “float above the political fray.”⁴⁴ The project would be undermined by an approach to securing the objectively best reasons. Instead, public reason theorists are moved to find reasons which in some way resonate with actual citizens. Appealing to idealized or hypothetical citizens (that is, fully rational citizens in an ideal epistemic state with full information) and ignoring real citizens simply will not do: RACAs are meant to be a tool *against* sectarianism. The “best *in fact* reasons” view tells us which reasons are acceptable to “contractarian wraiths”⁴⁵ but neglects to pay due respect to the actual views of citizens. Thomas Nagel characterizes the disagreement between public reason theorists and objectivity theorists noting that, for public reason theorists, “the political result is thought to be right because it is rationally acceptable to all, rather than being rationally acceptable to all because it is by some independent standard right.”⁴⁶ Public reason liberals argue RACAs are essential

⁴³ James Bohman and Henry Richardson, “Liberalism, Deliberative Democracy, and ‘Reasons that All Can Accept,’” 253.

⁴⁴ Robert Westmoreland, “The Truth About Public Reason,” 271.

⁴⁵ *Ibid.*

⁴⁶ Thomas Nagel, “Moral Conflict and Political Legitimacy,” 219.

to deliberative democracy because legitimate/civil/authoritative outcomes or processes depend on an overlapping consensus instead of the truth of one comprehensive worldview. Moreover, a determination of the quality of reasons in a political context always amounts to a judgment based metric. There is no abstract-reason-evaluation machine which determines the best reasons. In practice therefore, this view could be dangerously employed to justify a Platonic philosopher king who judges the best reasons and then paternalistically employs them in justifying decisions to the public. After all, they might argue, the reasons being offered are the best reasons. Unfortunately, as is well known, most people think their reasons are the best reasons, and many people disagree.⁴⁷

The Pure Possibility Interpretation

Bohman and Richardson suggest “can” might instead be understood purely in terms of the modality of possibility.⁴⁸ That is, if it is true of any given person that it is possible he or she accept reason x, then reason x is acceptable. But a natural understanding of possibility in terms of possible world semantics suggests this interpretation is implausibly unrestrictive. It is at least possible that I could love orchids, to use Bohman’s example, even if I in fact hate them. A brief imaginative exercise verifies there is no logical contradiction with my loving orchids: I can imagine a series of events or a different history leading to my having a different position on the value of orchids.

⁴⁷ In “Is the Public Incompetent? Compared to Whom? About What?,” Gerald Gaus concludes that experts are ineffective at making the kinds of predictions necessary to guide policy in a (291) “multi-variable, complex world.” The problems with the objectivity account are magnified by the large possibility of error.

⁴⁸ James Bohman and Henry Richardson, “Liberalism, Deliberative Democracy, and ‘Reasons that All Can Accept,’” 254.

Joseph Raz offers something akin to a purely modal account: “Regarding any justified principle, people of normal capacities are in principle able to understand that it is justified. The requirement that the principles on which the constitution is based be justified already includes the requirement that every potential subject of the constitution be in principle capable of understanding that they are justified.”⁴⁹ This cannot be understood as the objectivity view without further explication of “justification,” since, on many accounts, justification does not entail objective superiority over all other possibilities.

Legitimacy crucially depends on finding reasons which are somehow acceptable to reasonable citizens *as they are*. Perhaps the Bible is in fact the word of God, and its scriptures provide the ultimate grounds for morality. Biblical reasons are nevertheless acutely unacceptable to an atheist in any sense relevant for justifying coercion. If an atheist reasonably rejects the Bible as a source of valid claims, then it is no argument for a government to provide him or her with the reason “the Bible instructs X” in order to force X. This is true even though for any given person their acceptance of the Bible as valid is logically possible.

Since most people can conceive of themselves, with sufficient imagination, accepting almost any reason, this view inadequately respects the particularity of the actual comprehensive worldviews of individuals. Moreover, a purely modal interpretation makes no substantive commitments. Since nothing but bare contradiction is ruled out by logical possibility, even reasons supporting a Nazi worldview are acceptable on this interpretation. Clearly, however, an appropriate account of which reasons are acceptable

⁴⁹ Joseph Raz, “Disagreement in Politics,” 25.

in the realm of political justification should take some substantive stand and, for example, expressly racist or sexist views ought to be disallowed.

The Pure Populism Interpretation

Giving only RACAs might be understood to entail the actual acceptance of all citizens.⁵⁰ That is, which reasons are acceptable to all is an empirical question answerable by, for example, a Gallup poll. This poll would have to include every person and the rejection of a reason by any individual would be sufficient to reject that reason as a tool of public justification on grounds of it not being acceptable to all. The tyranny of the majority is a well known problematic for purely majoritarian democratic political arrangements. Pure populism suggests a related dynamic: the tyranny of the minority. On this view, even if the vast majority of people and the best arguments supported, for example, equal standing of all persons before the law, this would nevertheless be insufficient to justify the practice.

This is unrealistically populist. Requiring actual acceptance by all citizens gives “veto power to the thoughtless, the unreasonable, and the perverse, and would make state action practically impossible.”⁵¹ Sensitivity to diversity and conflicting commitments cannot entail actual acceptance of all: “respect does not mean veto power for cranks.”⁵² Such a view would grind any actions requiring justification to an immediate halt. The failure of the pure populist approach suggests the importance of limiting the “public”—

⁵⁰ Robert Westmoreland, “The Truth About Public Reason”, 278.

⁵¹ *Ibid.*

⁵² *Ibid.*

those who must find the proffered reasons acceptable—in some way which makes coercive action possible but still avoids unfair sectarianism.

The Qualified Populism Interpretation

A more plausible account is a kind of “qualified populism.”⁵³ Qualified populism adds a qualifier (or multiple qualifiers) to RACAs. A qualified populist might argue for reasons all **reasonable** people can accept. They might demand a further qualification: reasons all reasonable people can **reasonably** accept. Because an acceptable account of RACAs cannot be a mere appeal to actual acceptance (pure populism), and as a project it seeks to avoid sectarianism (objectivity/indicative reasons), only qualified populism remains as a potentially viable position. John Rawls’ account of public reason is a qualified populist account, but it is not the only contender. Moreover, it is unclear how the qualifiers are intended to place limitations on pure populism while avoiding regress into definitional stipulations about “reasonableness.” Where the qualifiers are placed, how they are interpreted, and how the end project of RACAs is employed can all differ quite dramatically from Rawls’ original project, while nevertheless maintaining several of his key insights.

Qualified populism presents several questions with respect to how the qualifiers should be interpreted, and where they should be placed. These questions include which considerations count as reasons, which persons or views count as reasonable, and what it means to reasonably accept a view or reason. The layers of normativity packed into the concept of reasonableness must be unpacked if they are to function as more than an *ad*

⁵³ *Ibid.*

hoc response to the implausibility of pure populism while at the same time avoiding sectarianism.

Normative/Logical or Empirical: A Balance

Each of the preceding interpretations of “can accept” can be characterized as normative/logical or empirical. The pure possibility interpretation depends entirely on a logical claim about possibility. The objectivity interpretation, too, is an abstract normative claim about the best reasons. Both views ignore consultation with any actual persons, and they both thereby miss the Rawlsian mark of finding reasons which somehow resonate with citizens *as they are*. Pure populism avoids this problem but in doing so invites an equally damning criticism: it gives far too much power to individual persons without regard for the possession and exercise of their rational capacity.

Qualified populism tries to incorporate the appealing elements of the substantive stand made by the objectivity interpretation but posits restraints at a different level. Instead of abstractly deriving the list of acceptable reasons from the comprehensive worldviews of ideal citizens (as the objectivity view does), qualified populism makes its substantive stand by restricting the scope of views to which reason givers must defer. That is, if a reason is unacceptable to citizens with a certain comprehensive worldview, this may or may not count against its being a RACA. The qualified populist should first ask whether the reason is acceptable to the set of persons holding reasonable views, and thereby determine whether it is a reason all reasonable persons can reasonably accept.

Whether or not the strategy of qualified populists like Rawls is appealing, it seems clear that an account of RACAs must somehow balance empirical considerations (the

views people actually hold) with substantive normative/logical considerations (the views people *should* or *could* (logical possibility) hold). Critics of RACAs argue that no such balance is possible. Either we must interpret RACAs in a straightforwardly normative sense—in which case the “can accept” can be dropped in favour of substantive constraints of reasonableness (that is, RACAs are actually sectarian in the way liberals want to avoid)—or we must interpret them in a straightforwardly empirical sense—in which case, for purposes of clarity, “can accept” should be replaced with “do accept” (that is, they do no work).

Based on something like the above dilemma, critics assert RACAs cannot be usefully maintained. As it stands, the meaning of RACAs is indeed ambiguous: in general, it is not clear which interpretation is intended. Moreover, critics have persuasively argued that each proposed interpretation fails, and have further suggested that no other plausible interpretation is available. Therefore, they hold we ought to reject any appeal to RACAs in political theorizing. Setting the issue of comprehensibility aside for the time being, other critics have also claimed that even if we can make sense of RACAs they should *still* be rejected as tools of public justification.

II. “Public” as Attenuating

Rawls optimistically argued that the set of reasons which could be located in an overlapping consensus was sufficiently robust to solve matters of basic justice and constitutional essentials.⁵⁴ Not everyone shares his confidence⁵⁵; and it has been pointed

⁵⁴ John Rawls, “The Idea of Public Reason Revisited,” 767.

⁵⁵ See Colin Macleod, “Neutrality, Public Reasons and Deliberative Democracy”; David Reidy, “Rawls’s Wide View of Public Reason: Not Wide Enough”; Kyla Ebels-Dugan, “The Beginning of Community: Politics in the Face of Disagreement”; Henrik Friberg-Fernros, “Abortion and the Limits of Public Reason”;

out that the scope of acceptable views is inversely correlated with the scope of agreed upon reasons. That is, if “reasonable persons” is construed in such a way that it includes (at the very least) the majority of persons in contemporary western democracies, then the set of RACAs is insufficiently robust to actually solve problems of, for example, basic justice. This can be resolved by narrowing the scope of acceptable views, but then the set of RACAs becomes insufficiently populist and instead just an assertion of what reasonableness requires—it becomes the Objectivity view.⁵⁶

To illustrate, we can once again imagine our Christian and utilitarian society. However, this time, we can include a group of libertarians, a group of Nazis and a group of Muslims. As Rawls pointed out, fundamental economic distributions are matters of basic justice. In deciding policies of economic (re)distribution, the community might aim at securing a legitimate distributive policy by justifying it with RACAs. The utilitarians might begin by proposing an egalitarian distribution of resources, citing the law of marginal diminishing utility. The Muslims might reject this distribution, suggesting a divinely ordained sufficientarian distribution, perhaps inspired by the Koran. Each group could engage in deliberation by offering reasons only acceptable to members of their own group. However, there might be some reasons of the sort Rawls had in mind: reasons all can accept. One reason they might almost all agree on would be the general importance of human life and welfare. Suppose the Nazi members of society rejected the importance of human life and welfare as a reason. This could cause a problem, since the reason is no longer one that all can accept. But of course only reasonable persons need to accept the

Fred Frohock, “An Alternative Model of Political Reasoning”; Fred Frohock, “The Boundaries of Public Reason.”

⁵⁶ For more on the possibility of rejecting the “public” constraint as fundamental, but seeing it as valuable, see Bruce Bower, “The Limits of Public Reason.”

reason in order for it to be a reason all can accept. Since the Nazis reject some constitutive tenets of reasonableness (perhaps recognition of the freedom and equality of their fellow citizens), their rejection of the reason has no bearing on whether or not it is a RACA. As it turns out, the more views which are excluded as “unreasonable,” the more reasons are discovered which all can accept. But the fact of reasonable pluralism means there are many reasonable views. Since RACAs must be acceptable to all these reasonable views, so the argument goes, it will be very difficult to uncover any RACAs at all. Something basic like concern for human life and welfare is too vague and clearly insufficient to set constitutional essentials and solve matters of basic justice. Libertarians, utilitarians, Christians, and Muslims may find very few reasons which they all accept as justificatory.

Theorists motivated by the conception of the person which underlies the Rawlsian account of public reason must find a way to navigate this difficulty if they want their project to resolve issues of real importance. Since legitimacy requires offering acceptable reasons, in cases where constitutional essentials are hotly debated, locating a single justification acceptable to all citizens may be incredibly unlikely, if not impossible. But, contrary to these critics, Rawls and others are nevertheless optimistic about the possibility of success.

III. Exclusion

On the traditional Rawlsian view, a public reason is a RACA, and it is therefore sharable. What makes it sharable is that all other reasonable citizens can accept *that reason*. If other reasonable citizens could not accept the reason, then whoever is offering

it, public reason theorists argue, would be championing the coercive imposition of their own comprehensive worldview on others. This approach seems to clearly exclude religious reasons, and this exclusion has earned much criticism. The criticism from exclusion has two prongs. On one prong, critics note the invaluable motivating and otherwise effective nature of religious dialogue in the political sphere.⁵⁷ On the other prong, critics claim citizens are being disrespected—treated as unequal—by demanding religious or sectarian justification be rejected from public justification.⁵⁸

One common attack on public reason which illustrates the first prong is grounded in the political rhetoric of influential thinkers such as American clergyman and activist Martin Luther King Junior. King is representative of a ubiquitous tradition which draws on religious teachings in political argument. The teachings, in King's case, were those of Christianity. King "tapped collective acquaintance with the Hebrew and Christian scriptures to persuade the United States to make African-Americans full participants in American Society."⁵⁹ King's efforts during the civil rights movement expanded the vision of American politics to the exclusion of discrimination—most notably on the basis of race. This expansion seems obviously laudable. But since his Christian reasons are not RACAs, critics argue, public reason theorists must be committed to the condemnation of his political activities as lacking any salience for public justification. But without political

⁵⁷ It has also been noted that religious appeals may have the opposite effect. See, for example, Rogers Smith, "Religious Rhetoric and the Ethics of Public Discourse: The Case of George W. Bush."

⁵⁸ Christie Hartley and Lori Watson argue that public reason must, but also should, exclude religious reasons from public justification in "Feminism, Religion, and Shared Reasons: A Defense of Exclusive Public Reason." In "Religion and the Public Sphere," Cristina Lafont also responds to the problem of exclusion, but she objects to its unequal distribution of burdens. Michael DePaul denies any reasonable ground for excluding sectarian reasons (unless persuasion is actually force) from political dialogue in "Liberal Exclusions and Foundationalism." In "The Impossibility of a 'Political Conception,'" Peter Steinberger argues that any proposed "political" conception is metaphysical and draws on sectarian reasons. In "Conceptual Exclusion and Public Reason," Brandon Morgan-Olsen also criticizes the role of exclusion in traditional public reason.

⁵⁹ Paul Weithman, *Religion and the Obligations of Citizenship*, 53.

engagement of this kind, we may miss out on “imagery and stories”⁶⁰ which express aspirations for freedom, equality, beneficence and other civic virtues. Religious reasons are often seen as anathema to RACAs and paradigmatically sectarian. But few are willing to condemn King’s activities as violating the standards of legitimate political activity.

Richard Rorty and others have maintained that the benefit of including religious dialogue, while substantial, is outweighed by the harmful consequences. After performing some kind of utilitarian calculus, Rorty asserts the following: “We [sympathetic pragmatists] grant that ecclesiastical organizations have sometimes been on the right side, but we think that the occasional Gustavo Gutierrez or Martin Luther King does not compensate for the ubiquitous Joseph Ratzingers and Jerry Falwells. History suggests to us that such organizations will always, on balance, do more harm than good.”⁶¹ Rorty denies the first prong involves grasping any serious nettle. In the end, he claims, exclusion is justified because it provides better results overall. But it is always possible to consider religious contributions individually, rather than as a whole, and ask whether a particular contribution is helpful in its own right. Traditional public reason theorists cannot make such a consideration, nor can they perform the utilitarian calculus. Instead, they are committed to the exclusion of religious and other sectarian reasons in principle.⁶²

Cristina Lafont recognizes the motivation which underlies the demand for exclusion and notes that “allowing citizens to provide reasons and justifications on the

⁶⁰ Ibid.

⁶¹ Richard Rorty, “Religion in the Public Square: A Reconsideration,” 142.

⁶² Public justification, however, need not make such an in principle commitment. For more on this see Gerald Gaus and Kevin Vallier in “The Roles of Religious Conviction in a Publicly Justified Polity.” They conclude that (51) “a commitment to public justification provides no grounds for the exclusion of religious reasons from politics.”

basis of cognitive stances that are not shared seems directly incompatible with the democratic obligation of providing generally acceptable reasons to justify coercive policies with which all citizens must comply.”⁶³ But she nevertheless criticizes the project and suggests the exclusion of public reason is not only pragmatically undesirable, but in fact undermines the status of religious citizens. She argues that “...only if [reasonable citizens] provide the arguments and counter-arguments they sincerely believe are right regarding the policies under discussion will they then be able to follow the ‘unforced force of the better argument’, to use Habermas’ term, and reach a conclusion in good faith on the acceptability of those policies.”⁶⁴ That is to say, one criterion of the adequacy of deliberation is that deliberating citizens employ those reasons which seem the most suitable, both in public and in private, whether or not they are sectarian.

Sympathetic thinkers will agree that “it seems at best unfeasible and at worst disingenuous to ask religious citizens who participate in political advocacy to come up with non-religious reasons in support of the policies they favour.”⁶⁵ For Lafont, Habermas’ famous suggestion⁶⁶ that sectarian reasons must be traded for public reasons at the door to the legislature is impractical⁶⁷ and unfair. Others have pushed the point further suggesting religious thinkers simply cannot set aside their metaphysics for political deliberation. Stuart Rosenbaum claims that “It belongs to the *religious convictions* of a good many religious people in our society that *they ought to base their*

⁶³ Cristina Lafont, “Religion and the Public Sphere: What are the Deliberative Obligations of Democratic Citizenship?” 130.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*, 144.

⁶⁶ Jurgen Habermas, “Religion in the Public Sphere,” 10.

⁶⁷ Jeffrey Stout affirms this point in “Rorty on Religion and Politics” claiming (31) “politics... is unlikely to become less entangled with religious concerns anytime soon.”

decisions concerning fundamental issues of justice on their religious convictions. They do not view as an option whether or not to do so.”⁶⁸

The literature on public reason is rich with arguments for why we should or should not include religious reasons in public dialogue or public justification.⁶⁹ But Rawlsian public reason theorists are committed to excluding religious reasons in principle. While this tension between acceptability and religious argument does not in itself damn RACAs or public reason more generally, a better account would explain the common intuition that religious or other sectarian reasons are acceptable, in at least some cases, in political discourse and justification.

In Chapter 3 I take up the comprehensibility challenge posed at the beginning of this chapter, and provide an interpretation of RACAs which makes good on several of Rawls’ objectives. I then show how this account provides insight into the criticisms from exclusion and attenuation.

⁶⁸ Stuart Rosenbaum, “Must Religion be a Conversation-Stopper?” 393.

⁶⁹ For example: Colin Bird, “Coercion and Public Justification”; Cristina Lafont, “Religion in the Public Sphere: Remarks on Habermas’ Conception”; Gerald Gaus, “The Place of Religious Belief in Public Reason Liberalism”; James Sterba, “Reconciling Public Reason and Religious Values”; Jurgen Habermas, “Religion in the Public Sphere”; Nancy Rosenblum, “Religious Parties, Religious Political Identity, and the Cold Shoulder of Liberal Democratic Thought.” Paul Weithman, *Religion and the Obligations of Citizenship*.

Chapter 3: Qualified Optimism Concerning Public Justification

I. Comprehensibility: An Outline

In order to maintain public reason's central idea of reasons all can accept, a response must be offered to the critics who claim it is incomprehensible. It is not enough to simply generate an interpretation of the doctrine which is internally consistent. Interrelated considerations external to the doctrine itself—legitimacy, dignity, justification, inclusion, stability and so on—must also be given their due. That is, a plausible account must pay respect to all these motivating values. Moreover, in order to be clearly preferable to the traditional doctrine, it should also be sensitive to the other criticisms outlined above: attenuation and exclusion.

I believe that such an account is possible, and I am optimistic that it can also secure solutions to at least some constitutional essentials and matters of basic justice. In the following section I will articulate what I see as a coherent interpretation of the RACAs doctrine, and also suggest how this account responds to the problems faced by defenders of the traditional theory. In Chapter 1, I suggested defenders of RACAs must frame their interpretations in a precise manner. This involves giving an explicit account of what it means to provide, or to be, a reason(s) all can accept. I take up this project, suggesting that the correct question to ask is the former. I will argue that the latter question forces an analysis of particular reasons which, although in the tradition of John Rawls, has unnecessary and unhelpful consequences. Instead, I will suggest we should analyze particular outcomes. Defenders should be clear on what it is about persons or citizens that substantiates a demand for RACAs. They must articulate why particular processes or mechanisms are insufficient, and why only substantive constraints will do. I

claim that the account of personhood explicated by Ronald Dworkin and summarized in Chapter 1 can meet this objective. Finally, I also suggested that defenders of public reason theory should explain when RACAs are required. I suggest that an account based on the principle of affected interests could explain why they are necessitated in the most crucial of cases, constitutional essentials and matters of basic justice, and that the logic of affected interests gives room for argumentative manoeuvres in determining whether or not they are called for in other cases. After elaborating my interpretation of RACAs, I proceed to test it against the criticisms levelled against traditional public reason theory, and conclude that it fares better, all the while maintaining fidelity to motivating values and aims which underlie the traditional theory.

II. Dworkinian Dignity and Legitimacy

Ronald Dworkin explained that respecting personhood involves letting people choose their own way of living for themselves, insofar as their choices also respect the dignity of others. Dignity demands that, as persons interacting with other persons, we respect the principles of responsibility and authenticity. Authenticity requires persons make a concerted effort to identify the good life, and then strive to accomplish whatever that entails. We cannot respect the dignity of a person by forcing them to live a particular way, even if we believe ourselves to be objectively correct that it is the best way to live. A constituent requirement of a dignified life is the process of discovery and implementation. Each individual must discover and implement *for themselves* a comprehensive view of what a successful life entails. To coerce any person to live contrary to their considered view is a clear violation of the principle of authenticity,

except in those cases where the actions they pursue are themselves clear violations of the dignity accorded to others.

Dworkin carries this account into the realm of politics, and it seems highly plausible that the moral demands of dignity reach beyond apolitical interpersonal relationships to political institutions themselves. Legitimacy requires political regimes, like individuals, respect the dignity of citizens. A political institution which enforced slavery, for example, would be illegitimate on that very ground. This would be true even if slavery made the majority of society happier, or increased welfare in some other way. It nevertheless treats certain people as having less worth than others, and is unacceptable. If citizens are obligated to treat one another as persons with worth, it is even more true that political institutions are obligated to show citizens equal concern and respect. If political institutions systematically discriminate against women, then they fail to treat them with equal concern and respect. This is illegitimate political action. Disregard for dignity is the basis for illegitimacy; that is, if a government fails to respect the principles of responsibility and authenticity, if it fails to show equal concern in upholding them, then it is to that extent illegitimate. As Dworkin illustrated, this generates a paradoxical situation where we must coerce some people, accept coercion of our own person, and somehow balance this with the demands of treating people as autonomous and dignified beings.

Colin Bird claims that “No one disputes that unjustified coercion is disrespectful; it treats those coerced as mere means to others’ ends, and does not properly reckon with agents’ dignity as autonomous ends-in-themselves.”⁷⁰ Rawls thought we could justify

⁷⁰ Colin Bird, “Coercion and Justification,” 6.

coercion and at the same time escape the Dworkinian paradox by offering public reasons. If the reasons and reasoning are public, then no one is being coerced on the basis of justifications they reject. If people are being coerced with reasons they accept, then they are still being treated with respect. So it seems, Rawls thought, that a commitment to offering public reasons falls out of a commitment to respecting persons.

As has been shown, it is difficult to articulate what it means to offer coerced persons reasons they can accept. But public reasons theorists nevertheless hold that any coerced but reasonable individual must ultimately have available to him or her reasons for the coercion— reasons which he or she can accept. Gerald Gaus captures this idea noting that “public reason liberalism ties respecting persons to justifying coercion *to* those coerced.”⁷¹ This parallels the Kantian idea of self-legislation. Only if a citizen can be somehow seen as the author of a claim can they be freely subjected to its demands. Cristina Lafont develops this idea arguing that one “criterion of democratic legitimacy”⁷² is that “coercive policies can claim legitimacy only to the extent that they can meet with the assent of citizens in an inclusive and unconstrained process of public deliberation.”⁷³ This is because “Only in this way can citizens see themselves not just as subject to the law but as authors of the law, as the democratic ideal requires.”⁷⁴ While she goes beyond some traditional public reason theorists by including a certain kind of deliberative process as an essential component of legitimacy, her central point about authorship resonates with the public reason tradition. My own proposal does not depart from this central theme in

⁷¹ Gerald Gaus, “The Place of Religious Belief in Public Reason Liberalism,” 3.

⁷² Cristina Lafont, “Religion and the Public Sphere: What are the Deliberative Obligations of Democratic Citizenship?” 129.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

public reason literature. I, too, submit that coercive action is acceptable only when it can be justified on the basis of reasons acceptable to the person being coerced. The critical questions, then, are first, what is a reason and second, what does it mean to offer acceptable reasons?

Reasons: an Interpretation

Determining the nature of reasons is itself a difficult and controversial project. For the purposes of offering RACAs, we should take a metaphysically unambitious and common sense approach to interpreting “reasons.” Following Scanlon, reasons should be understood as considerations that count in favour of some belief or attitude.⁷⁵ The judgment that some consideration X counts in favour of an attitude or belief implies that a person who accepts the judgment will “insofar as he or she is rational, give X a certain role in further deliberation...”⁷⁶ In the kind of political cases under consideration, the judgment would be that some consideration counts in favour of an action or outcome (e.g. a law, policy or institution). Reasons are “providers”⁷⁷ of motivational and/or justificatory force required for either an action or a belief. In the case of political action, we are concerned ultimately with practical reasons: reasons in favour of action X (always aimed at achieving a state of affairs).

This sort of interpretation straightforwardly coincides with the public reason project. We can get traction on what it means to offer considerations in favour of an outcome by imagining a public deliberation. A government might, as they sometimes do,

⁷⁵ Thomas Scanlon, *What we Owe to Each Other*, 58.

⁷⁶ *Ibid.*, 61.

⁷⁷ *Ibid.*

propose a tax hike. Citizens might argue for or against it by offering considerations in favour of their preferred outcome. A utilitarian might claim that raised taxes would suitably increase overall utility; the increase of utility, then, is offered as a reason in favour of the proposal to raise the tax. A libertarian might argue the higher tax is robbery from those who have earned their income; the right of earners to income (property rights) is offered as a consideration in favour of rejecting the raised tax. But not all reasons that might be offered are acceptable to all parties, and some utterances might not be comprehensible as reasons at all. For public reason theorists, whether or not some consideration counts in favour of “X” depends on the person to whom it is offered. Public reason theorists’ want to be careful about claiming that certain considerations *just are* overwhelming justification for actions; in particular, they want to avoid making this claim about considerations offered as justifications for policies and laws backed by coercion. To see how this approach can be understood in the context of public justification, we can examine an account by Bernard Williams of what it means to have a reason for action.

III. Offering Acceptable Reasons

Critics have argued that a qualified populist account will ultimately engage in the overly substantive normative commitments it seeks to avoid (objectivity), or it will become implausibly empirical (pure populism). Earlier I claimed that the key to a plausibly qualified populist account involves finding a balance between acceptable substantive normative commitments and an appropriate deference to the empirical reality of people’s actual psychology. In this section, I will start with an analysis of the central

notion of “can accept” and slowly build outwards, adding and justifying qualifications to the RACAs doctrine, until arriving at a formulation of RACAs that makes acceptable normative commitments while still remaining sufficiently sensitive to the empirical reality of diverse but reasonable comprehensive worldviews.

Bernard Williams argues for an account of practical reason (that is, reasons for action) which is ultimately internal. That is, having a reason for action is somehow grounded internal to a person, not an objective feature of the external world. The simplest model of internal reasons might take the form “A has a reason to ϕ if A has some desire the satisfaction of which will be served by his ϕ -ing.”⁷⁸ Williams notes we might prefer the following qualification “...some desire the satisfaction of which A believes will be served by his ϕ -ing.”⁷⁹ The set of *desires* belonging to any individual person, however, is excessively restrictive and cannot provide the foundation for all plausible internal reason claims. That is, there are other elements internal to an individual which plausibly supply reason for action. By definition, an internal reason must “display a relativity of the reason statement to the agent’s *subjective motivational set* [SMS].”⁸⁰ The content restrictions of any SMS must be elaborated, but the condition of falsification for an internal reason statement, therefore, is the absence “of some appropriate element from the [SMS].”⁸¹ In all cases, an SMS includes a robust constellation or cluster of desires, dispositions of evaluation, patterns of emotional reaction, and personal loyalties and commitments.⁸²

⁷⁸ Bernard Williams, *Moral Luck*, 101-113.

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

⁸² *Ibid.*

Not every element of an SMS, whatever it contains, can give rise to an internal reasons claim. Williams notes that an agent might falsely believe petrol is gin. The agent wants a gin and tonic. Do they have a reason to “mix [petrol] with tonic and drink it?”⁸³ It would be “very odd”⁸⁴ to say the agent has a reason to drink it, and “natural” to claim the contrary. Rather, the agent mistakenly *thinks* he or she has a reason to drink it. Thus we can qualify the original model by adding the following: “A member of [SMS], D, will not give A a reason for ϕ -ing if either the existence of D is dependent on false belief, or A’s belief in the relevance of ϕ -ing to the satisfaction of D is false.”⁸⁵ This qualification has two noteworthy epistemic consequences:

- 1) “A may falsely believe an internal reason statement about himself” and
- 2) “A may not know some true internal reason statement about himself.”⁸⁶

The second point is made true by two possibilities. First, A might be ignorant of some fact which, if known, would dispose A to ϕ in virtue of some element of his SMS. Second, A may be ignorant or unaware of the precise contents of his SMS. When considering reasons offered in the context of public justification, we can examine the reasons to determine whether, in fact, they can be grounded in the SMS of those to whom they are provided. Of course, the various elements of an SMS need to be elaborated, and fortunately Williams does flesh out the concept. The central conclusion here is that offering acceptable reasons means somehow grounding those reasons in SMS of the person to whom they are offered.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

Can Accept: an Interpretation

When the elements included in an SMS could reasonably factor into an explanation for action, then they are motivationally salient with respect to that action. To give someone an acceptable reason—a reason they can accept—is to provide a reason for action locatable within, or germane to, that person’s SMS. I propose the most troublesome aspect of unpacking RACAs, the modal element “can,” is best understood in these terms. Understood in this way, “can” retains an element of modality because the scope of RACAs which apply to any given agent is not solely limited to those reasons they do *in fact* accept. On the other hand, the set of acceptable reasons cannot be determined purely abstractly; that is, empirical investigation into the actual views of citizens is still required. Since there are numerous SMSs which are consistent with the demands of dignity (more on this later), we cannot say what the abstract “reasonable person” would accept until we determine what is contained in the SMSs of actual persons. So one aim of legitimacy, then, is to provide reasons all can accept—with “can” understood in this technical sense.

Peter Steinberger contends that “when we say that someone in a moral situation acted in a reasonable manner, we are suggesting that there is, potentially, a line of argumentation involving logical connections between the action itself, a set of reasons, and a moral theory of some kind that claims to be true, connections that could be rationally reconstructed and that have in some way underwritten the action itself.”⁸⁷ This account is similar to Williams’ account but it must be supplemented with an account of which sets of reasons and moral theories are acceptable. Reasonableness does not consist in the *mere* possibility of grounding an action in a theory which is declared to be true.

⁸⁷ Peter Steinberger, *The Impossibility of a Political Conception*, 159.

The set of truth-claiming moral theories which are relevant for rational reconstruction must be constrained in some way to include only those which respect certain fundamental moral tenets. In this way, public reason theorists can still make a substantive normative stand. Like Rawls did, public reason theorists ought to exclude certain worldviews and their derivative theories of morality as unreasonable. This point is elaborated shortly.

Reasonable Acceptance: an Interpretation

On a typical understanding, that someone *can* accept a reason follows logically (transcendentally, even) from the fact that they *do* accept that reason. That is, the possibility of accepting reason X is a condition necessary for the actuality of accepting reason X. On my view, however, this implication does not follow. The strictly technical application of “can” rules out reasons which, even if accepted by an agent, are not traceable by sound deliberation to elements of that agent’s SMS. In this technical sense of “can,” it is false that an agent can accept a reason in this way. In order to capture this idea, RACAs need their first qualification: reasons all persons can **reasonably** accept. Reasonable acceptance is the strict application of the “can” interpretation outlined above, and given in terms of SMSs. Reasonable acceptance means there is, in fact, a sound deliberative route to the proposed action from the cluster of beliefs, desires etc. in a given SMS.

Reasonable Persons: an Interpretation

Sometimes liberalism is cast as a position devoid (or at least trying to be) of any substantive moral stand.⁸⁸ It is true that many theorists, acutely aware of the fact of pluralism, are cautious when outlining what moral principles the state ought to be allowed to enforce. But central figures in liberal theory—e.g. John Rawls—have no issue taking a moral stand, and nor should they. Rawls asserted that “Justice as fairness is not procedurally neutral. Clearly its principles of justice are substantive and express far more than procedural values, and so do its political conceptions of society and person, which are represented in the original position.”⁸⁹ Even political liberalism is not intended to be morally neutral; it clearly has moral content. But the right goal in laying down fundamental principles should not be to force every individual to live in precisely the same way, or according to precisely the same idea of the good life. Instead, a stand ought to be made on the conditions necessary for choosing a good life at all. Since a successful life involves authentic choice and responsibility, any view which accepts these basic ideas is, to that extent, reasonable. These basic ideas are often gestured at with terms like autonomy, freedom, equality, and of course much more needs to be said in determining exactly what they imply.

On the other hand, certain implications are evidently sound inferences no matter which of many various understandings are ultimately defensible. These are the judgments which, if the interpretation of the moral concept did not explain them, we would reject the interpretation. The exclusion of, for example, a worldview which explicitly and arbitrarily discriminates on the basis of sex, gender or race is an obvious example. The

⁸⁸ Robert Westmoreland, “The Truth About Public Reason,” 278.

⁸⁹ John Rawls, “Political Liberalism,” 192.

comprehensive Nazi worldview, therefore, is not one with which proposed reasons, policies or laws must be found coherent. The set of worldviews consistent with basic moral principles which illuminate the importance of freedom to choose and take responsibility for one's own life is the set of reasonable worldviews. A further qualification must therefore be added to the basic RACA framework: reasons all **reasonable** persons can reasonably accept. Reasonable persons are those who adhere to reasonable comprehensive worldviews.

IV. The Principle of Affected Interests

Must reasons be given to all reasonable persons for each and every state policy or action? The answer to this question must be no. The motivation for RACAs is prevention of domination: RACAs must be given because doing so is a necessary condition of respecting dignity. In cases where actions do not affect a certain set of persons, those actions need not be justified to those persons. If they do not affect them, then they cannot interfere with living an authentic and responsible life. But discerning which actions affect which persons is a complicated manner, and many actions arguably affect all persons. The "in principle" approach to these complexities is simple: whoever is affected by the coercive actions is entitled to RACAs. In political decision making, many institutions and policies will at least indirectly affect the entirety of the population. Therefore, the entailment of this commitment is a moral requirement for RACAs in many cases. I will not attempt to detail just how wide the scope of actions requiring RACAs should be drawn, but instead note that the principle of affected interests might plausibly underwrite

the Rawlsian commitment to publically justifying constitutional essentials and matters of basic justice.

V. Exclusion: Sharability and Constraint

Rawls drew a distinction between public and sectarian reasons. Public reasons are those all can accept, and sectarian reasons are those acceptable only to persons holding certain “metaphysical”⁹⁰ doctrines. He argued certain matters must be justified on the basis of public reasons. Therefore, public reasons, he contended, are fundamentally “shareable”: “...if we argue [for example] that the religious liberty of some citizens is to be denied we must give them reasons they can not only understand—as Servetus could understand why Calvin wanted to burn him a the stake—but reasons we might reasonably expect that they, as free and equal citizens, might reasonably also accept.”⁹¹ This means no matter which comprehensive doctrine one holds, as long as it is reasonable, he or she will accept public reasons. This view gives rise to a consensus or pool view and appears to justify certain kinds of restraints. That is, we can determine the pool of public reasons by excluding all those reasons which are sectarian—that is, restraining their application in political debate or justification—and drawing only on the remaining reasons to which all reasonable persons can assent. This Rawlsian idea is still widely reflected in public reason literature. Below is a representative selection of theorists who accept that public reasons must be sharable, or, as I have called it, the sharability constraint.

⁹⁰ *Ibid*, 29.

⁹¹ John Rawls, *A Theory of Justice* (1999), 579.

- Stephen Macedo argues public justification demands a “duty of civility according to which citizens owe each other reasons that they can **share**.”⁹²
- Habermas asserts, “the consensus brought about through argument must rest on **identical reasons** that are able to convince parties in the same way.”⁹³
- Christina Hartley claims, “reciprocity requires that individuals offer principles for fair cooperation that they reasonably believe others can **share**.”⁹⁴
- Rawls argues, “our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions—were we to state them as government officials— are sufficient, and we reasonably think that other citizens might also reasonably accept **those reasons**.”⁹⁵

The sharability constraint most notoriously excludes religious reasons from political discourse against a background of reasonable pluralism. It is clear, after all, that Biblical authority is unacceptable to at least some reasonable members of a democratic public. Biblical reasons, therefore, are not sharable and not, on the traditional view, public reasons. Different authors have tried to weaken the sting of religious exclusion by employing for example “firewall approaches”⁹⁶ whereby religious reasons are acceptable in political *discussion* just insofar as “public” reasons are forthcoming for the purpose of *justification*. For example, as Rawls’ later work moved away from comprehensive and

⁹² Gerald Gaus, “The Roles of Religious Conviction in a Publicly Justified Polity,” 7, quoting Stephen Macedo, “In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?”

⁹³ James Bohman and Henry Richardson, “Liberalism, Deliberative Democracy, and ‘Reasons that All Can Accept’” 255.

⁹⁴ Christie Hartley and Lori Watson, “Feminism, Religion, and Shared Reasons: A Defense of Exclusive Public Reason,” 494.

⁹⁵ John Rawls, *A Theory of Justice* (1999), 578.

⁹⁶ Jurgen Habermas, “Religion in the Public Sphere: Cognitive Presuppositions for the ‘Public Use of Reason’ by Religious and Secular Citizens.”

into political liberalism, he argued “reasonable comprehensive doctrines, religious or non-religious, 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 introduced are said to support.”⁹⁷ But the religiously inclined have steadfastly and vocally rejected such proposals. They argue their most fundamental beliefs are inseparable from their political lives. It seems disrespectful to encourage a kind of cognitive partitioning between the most fundamental beliefs and values of reasonable citizens and the reasons they are justified in bringing to bear on political issues.

Furthermore, as the earlier Dr. King example suggests, religious discourse has much of value and undeniably brings insight and critical discussion regarding important political issues. Religious symbolism permeates Western culture, and drawing on ideals of charity, benevolence and respect that happen to be prevalent in most major religions is surely a project worth preserving. Religious discourse in the public sphere is therefore valuable for three reasons. It can motivate and inspire, it offers important substantive considerations, and it is held as fundamental to many reasonable members of the public.⁹⁸

Rawls argued that the sharability constraint—the basis for the demand of consensus on reasons by reasonable persons—is derivable from the very concept of a liberal democracy. Rawls is not alone in this claim, and current theorists have affirmed it. Robert Audi, for example, claims the *concept* of a liberal democracy demands citizens provide “an epistemologically adequate and motivationally sufficient basis for their

⁹⁷ John Rawls, *A Theory of Justice* (1999), 591.

⁹⁸ Even setting aside the practical value of religious discourse, we might wonder whether a distinction between religious and secular reasons even makes sense. It is challenging to determine precisely how this distinction would look.

political discussion, decisions and actions that is independent of each and every religion present in society.”⁹⁹ Matthew Festenstein claims that “Political Liberalism tries to find a purchase on each reasonable citizen without appealing to controversial moral, religious or philosophical doctrines...”¹⁰⁰ and he asserts that “only a doctrine with this purchase can justify state coercion.”¹⁰¹

But the idea that religious or other sectarian reasons should be excluded from public discourse has no logical connection to the demands of legitimacy imposed by the dignity and worth of persons, which are themselves the standard by which political organization is evaluated. Richard Rorty argues “Robert Audi is wrong in deducing from ‘the concept of a liberal democracy’ that it is incumbent on the citizens of such a democracy to ‘have an epistemologically adequate and motivationally sufficient basis for their political discussion, decisions and actions that is independent of each and every religion present in society.’”¹⁰² Kyla Ebels-Duggan further adds “Rawls’ claim that commitment to this criterion [that citizens should not appeal to their comprehensive doctrines to support fundamental policy positions] is part of a commitment to constitutional democracy is far from obvious.”¹⁰³ Neither Rorty nor Ebels-Duggan identify precisely why this is the case. I believe Rawls and others suppose the sharability constraint is compulsory because it protects dignified citizens from domination. But it is far from clear that we need sharable reasons in order to find consensus among reasonable persons, and thereby to avoid domination. For example, Jacques Maritain, a

⁹⁹ Richard Rorty, “Religion in the Public Square: A Reconsideration,” 144.

¹⁰⁰ Matthew Festenstein, “A Brief Rejoinder to Critics,” 56.

¹⁰¹ *Ibid.*

¹⁰² Richard Rorty, “Religion in the Public Square: A Reconsideration,” 144.

¹⁰³ Kyla Ebels-Duggan, “The Beginning of Community: Politics in the Face of Disagreement,” 54.

“significant”¹⁰⁴ actor in the development of the Universal Declaration of Human Rights, suggested sharable justifications were extraneous to decision making about the selection of rights included in the Declaration: “Yes, we agree about the rights but on condition that no one ask us why.”¹⁰⁵ This kind of thinking is illustrative of a pragmatic but nevertheless morally sound approach. It suggests a search for convergence on policies and laws (or in this case, rights) rather on the reasons which support them.

In my view, the central problem with the sharability constraint is that it trades on confusion between consensus and convergence, and a convergence view can uphold the moral task of preventing domination completely absent any notion of required sharability. Since the fundamental value of respect for persons can be easily met absent the sharability constraint, we should reject the view that sharability is a logical demand of constitutional democracy. Fred D’Agostino formalizes this idea when he correctly demonstrates how a *consensus* conception can be contrasted with a *convergence* conception of public justification: “If both A and B share a reason R that makes a regime reasonable for them, then the justification of the regime is grounded in their *consensus* with respect to R. If A has a reason Ra that makes the regime reasonable for him, and B has a reason Rb that makes the regime reasonable for her, then the justification of the regime is based on *convergence* on it from separate points of view.”¹⁰⁶ Thomas Nagel also makes the same distinction but using slightly different terms: “Defenses of political legitimacy are of two kinds: those which discover a possible *convergence* of rational support for certain institutions from the separate motivational standpoints of distinct

¹⁰⁴ Cass Sunstein, *The Second Bill of Rights: FDR’s Unfinished Revolution and Why We Need It*, 178.

¹⁰⁵ *Ibid.*

¹⁰⁶ Fred D’Agostino, “Free Public Reason: Making it Up as We Go,” quoted by Gerald Gaus, “The Roles of Religious Conviction in a Publicly Justified Polity,” 58.

individuals; and those which seek a *common standpoint* that everyone can occupy, which guarantees agreement on what is acceptable. There are also political arguments that mix the convergence and common standpoint methods.”¹⁰⁷

The consensus view directly implies the problem of exclusion. After all, we cannot, by definition, find consensus on sectarian reasons. The convergence view, however, neatly avoids any such problem. Religious (or other sectarian) reasons are perfectly acceptable as justificatory and also to be promoted in dialogue. Recall the demand for public justification is a response to something like the following:

- “*The Liberty Principle*: ‘liberty should be the norm, [respect for persons as free and equal requires that] coercion always needs some special justification.’

Unjustified coercion is wrong.”¹⁰⁸

RACAs are owed to citizens as “coercion justifiers.” But it is clearly false that a sharable reason is needed to justify coercing an individual when some available justification comes in the form of a reason groundable in that individual’s subjective motivational set. A Biblical reason, while not acceptable to all, is “coercion justifying” to a citizen who reasonably accepts the Bible as authoritative. Robert Talisse explicates the liberal commitment to non-domination as “the requirement that coercion always be justifiable to citizens by means of reasons that they could not reasonably reject.”¹⁰⁹ But citizens could not reasonably reject reasons grounded in their own comprehensive worldviews, and so the sharability constraint simply does not follow from this plausible analysis of the liberal commitment to non-domination.

¹⁰⁷ Thomas Nagel, “Moral Conflict and Political Legitimacy,” 218.

¹⁰⁸ Gerald Gaus, “The Roles of Religious Conviction in a Publicly Justified Polity,” 53.

¹⁰⁹ Robert Talisse, “Reply to Festenstein,” 45.

Given the actual plurality of doctrines in contemporary democracies, even the convergence view gives rise to a “minimalist proviso.”¹¹⁰ That is, a citizen should not support laws or policies which he or she believes *have only a sectarian rationale*.¹¹¹ It is contingently true (given the fact of reasonable pluralism) that supporting such a doctrine would equate to supporting dominion over one’s fellow citizens. In such cases, the fundamental principle of the equal worth of persons must override the tendency to doctrinally impose dominating laws or policies: “if ‘integrity’ [to one’s sectarian view] requires that one dominate others by imposing publicly unjustified coercive legislation, then integrity must give way to the principle of respect for others.”¹¹² The convergence view changes the analysis in a subtle way. We no longer ask of any reason whether it is a reason acceptable to all. Instead, we ask of some coercive policy or law whether it can be justified by RACAs. This approach solves the problem of excluding relevant discourse. All arguments and reasons emanating from reasonable comprehensive doctrines are welcomed as potential political justifications.

VI. Attenuation: a Crisis of Legitimacy

Given the wide variety of comprehensive doctrines which respect the dignity of persons and are therefore reasonable, it might appear very little convergence is possible. Even if sectarian reasons are allowed into the process of public justification, this is no guarantee that any problems can be solved. Moreover, the convergence view might make it appear that *any reason* is potentially acceptable in political justification. It is important

¹¹⁰ Gerald Gaus, “The Roles of Religious Conviction in a Publicly Justified Polity,” 61.

¹¹¹ Modified from *Ibid*, 61.

¹¹² *Ibid*, 62.

to recognize that the set of reasonable comprehensive worldviews held by actual citizens governs the set of acceptable reasons, and insofar as these views are limited, so too is the set of acceptable reasons. Not every reason is a candidate for justification.

Part of the process of supplying RACAs is therefore coming to some conclusion about which terms and ideas are acceptable in argument and public justification. A Christian who appeals only to laws set out in the Bible in order to coerce an atheistic utilitarian is failing to respect the utilitarian's dignity. In order to avoid unjustified coercion, the Christian must find reasons groundable in the SMS of the utilitarian. It might be the case, however, that there just is no overlap between their respective SMSs. Or, instead, it might be that, given reasonable pluralism, widespread overlapping consensus materializes on so few issues that no legitimate society is possible. Perhaps, as Kyla Ebels-Duggan suggests, "We ... simply lack the common ground we need to settle all important political issues."¹¹³ This kind of criticism suggests the "common ground" requirement—the demand that reasons be public (whether consensus or convergence)—attenuates the set of justifying reasons in such a way that it is ultimately ineffectual.

Although not a perfect analogy, the international sphere with its consent-based practices and numerous competing viewpoints offers a helpful illustration of these problems in a real setting. There are many and varied comprehensive doctrines at play in the international arena, yet nevertheless much agreement has been reached on a wide range of justifications and, for example, individual human rights. Moreover, there has been widespread ratification of several human rights instruments.¹¹⁴

¹¹³ Kyla Ebels-Duggan, "The Beginning of Community: Politics in the Face of Disagreement," 58.

¹¹⁴ See, for example:

The preambles of these widely ratified conventions denote the equal worth of persons through recognition of “inherent dignity and of the equal and inalienable rights of all members of the human family,”¹¹⁵ and “the ideal of free human beings.”¹¹⁶ While agreement on these ideas may be insufficient to create a society in which coercion is never justified with unacceptable reasons, it suggests a cautious optimism¹¹⁷ towards agreement on a wide range of rights as well as the one fundamental principle which is consistent with all reasonable doctrines, that of the equal worth of persons. Rights are just one aspect of a well ordered society, but they nevertheless offer terms in which to frame debates over legislation and policy. In order to understand precisely how the fundamental principle of equality underlies various reasonable comprehensive doctrines we might consider a hypothetical case of deliberation.

We can imagine, for example, a utilitarian, a Kantian, a Christian and a Muslim sitting down to work out a full account of the best way to structure a society in which they all must live. They might begin by debating whose overall view was right. If they could determine the overall correct view, then they could pick fundamental principles of social organization consistent with or flowing from the correct view. The Christian might offer evidence supporting the view that the bible is the word of God, and the Muslim might do the same with the Koran. The utilitarian might dispute God's existence, and point to the texts of John Stuart Mill as the best account of how to live, and so on. It

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- 167 Ratifications of the Convention on Civil and Political Rights: http://www.bayefsky.com/pdf/ccpr_ratif_table.pdf
 - 160 Ratifications of the Convention on Economic, Social and Cultural Rights: http://www.bayefsky.com/pdf/cescr_ratif_table.pdf

¹¹⁵ The Convention on Civil and Political Rights and the Convention on Economic, Social and Cultural Rights are available online: <http://www2.ohchr.org/english/law/>

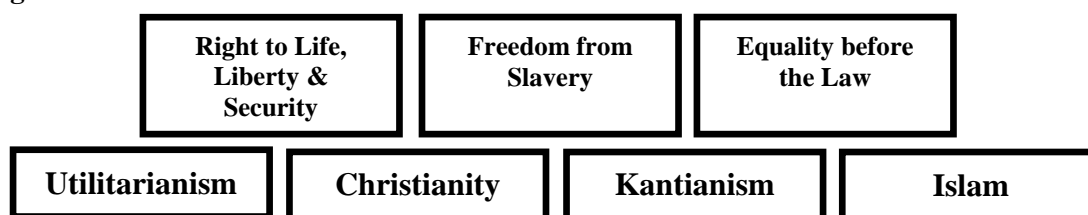
¹¹⁶ Convention on Economic, Social and Cultural Rights: <http://www2.ohchr.org/english/law/cescr.htm>

¹¹⁷ In “Conditions of an Unforced Consensus on Human Rights,” Charles Taylor also notes “Is this kind of consensus [of diverse viewpoints on certain rights] possible? ... I believe that it is.”

seems plausible, as Rawls argued and history confirms, that no agreement would ever be reached on which view is the overall truth.

The participants might nevertheless notice that each of them believes in the "right to life." Suppose the utilitarian believes the right to life maximizes overall well-being, the Kantian thinks it respects dignity, the Christian and the Muslim see life as sacred because created by God and so on. Therefore, they might conclude, no *principles* are shared but nevertheless there is an overlapping consensus on at least a partial account of the necessary elements of a well ordered society. Call this the "multiple foundations" method.

Figure 1



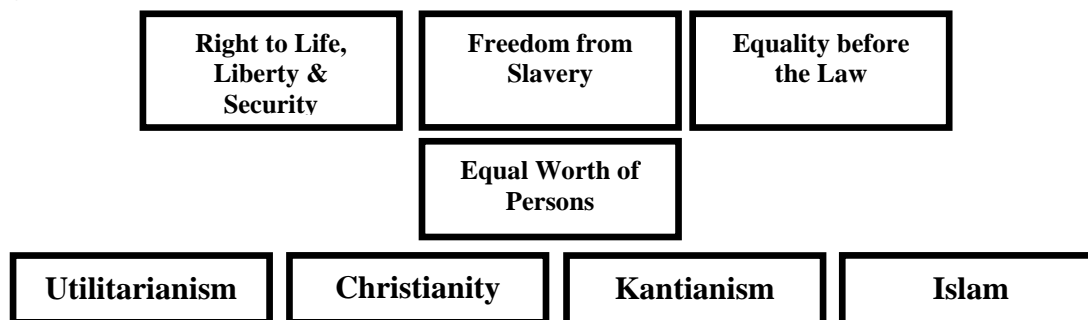
The multiple foundations method appears to dissolve the debate. In the face of disagreement, we move from seeking truth to seeking a practical set of principles or social structures we can all agree on, even if for very different reasons. But there are two problems with this purely convergence based view. First, it fails to identify the one principle, namely the equal worth of persons, that serves as the gatekeeper for all reasonable views, and about which there is an overlapping consensus. Second, not only does it fail to identify the *correct* discriminatory principle, it provides no formal criteria *at all* for excluding certain views from the public convergence. Employing multiple foundations methodology, every view must converge in order for the outcome to be publically justified. A better account would provide criteria for excluding, for example,

expressly racist or sexist views as candidates for public convergence. If the dedicated Nazi refuses to accept the right to life for all persons or the devoted religious fundamentalist rejects the right to be free from slavery, these views should be discounted from the set of views which must converge to provide public justification. Overlap with such unreasonable views is simply not required. We need not abandon the right to be free from slavery simply because it is inconsistent with *just any* comprehensive worldview. But rejecting certain views runs the risk of domination and imperialism: who is to say which views are to be excluded from the set which must converge to achieve public justification?

If we define a “reasonable view” so narrowly that it excludes, for example, all non-“Western” philosophies, then clearly something has gone wrong. But the equal worth thesis, as argued by Dworkin and Kymlicka¹¹⁸, is locatable in all relevant philosophical worldviews. Moreover even those who claim to reject the equal worth of persons nevertheless demand their own views are considered equally. They thereby implicitly pay homage to equality. As a result, respect for the equal worth of all persons must be built into the normative concept of reasonableness. Those views that reject it are precisely the views to be excluded from the demand for convergence and public justification, and unapologetically so. This definitional move also rules out the following relationship:

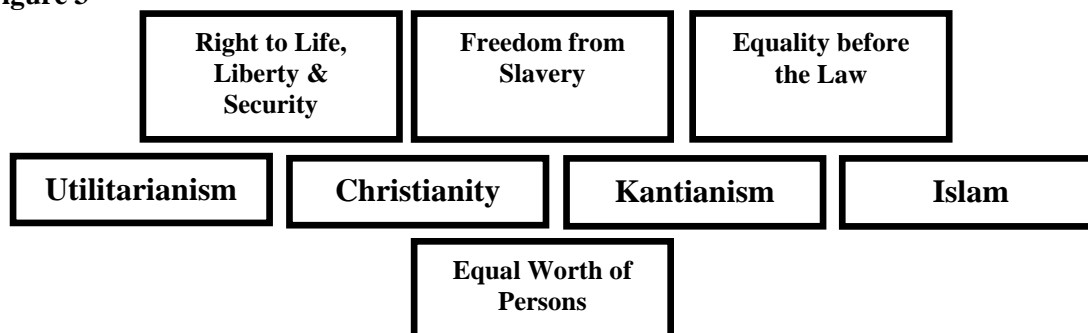
¹¹⁸ Will Kymlicka, *Contemporary Political Philosophy*, 5.

Figure 2



The relationship between the equal worth thesis (that all persons possess dignity and possess it equally) and the illustrative particularistic foundations cannot take this form because it fails to identify which views are to be excluded from the demand for convergence. It suggests that *all views* converge on the equal worth of all persons, and that therefore the appropriate rights can be derived from all views. Even if this is true, which it surely is not, the filtering of reasonable and unreasonable views must take place *before* inferential processes to particular outcomes begin. If we fail to substantiate “reasonable” before asking if all views accept it, then we have no principled reason for excluding certain views. We cannot start by asking on what we *all* agree. Such a methodology is indefensibly populist. Instead, we must take a stand on which views are reasonable, and then determine the propositions to which those views will assent. The relationship must take the following form:

Figure 3



This unifies the diverse set of reasonable comprehensive worldviews, and thus brings to light the fundamental similarities between persons of all reasonable cultures and philosophical standing, rather than obscures these similarities with claims about incommensurable foundations. Instead of seeing disagreements as fundamental and foundations as incorrigible we can gain traction on the allegedly intractable by refocusing the debate on what all reasonable interpretations of equal worth demand. Each reasonable view can offer substantive, diverse, and insightful interpretations in this respect.

Establishing this common ground is essential for public justification. Jeffrey Stout argues that “Theocrats and secularists inspire fear in one another in part because they are trying to establish rules of discursive purity that would take the concerns of the opposite party off the list of things one ought to express. Each side’s proposed purity rules look to the opposite side like tools of domination.”¹¹⁹ In other words, different parties to the debate try and exclude the reasons of their opponents and, not surprisingly, their opponents feel marginalized and even oppressed. However, it seems clear that at least some views *must* be excluded from the process of public justification. As mentioned above, the Nazi worldview should not be included in an attempt to respect the views of all citizens.

The equal worth foundation provides a principled reason to exclude certain views from the justificatory process while remaining acceptable to major theological and secular philosophical traditions. Stout goes on to point out that “Secularism reinforces the idea that modern societies have only two choices: a political order in which everything is ideally to be decided in essentially secular terms and one in which a single religious

¹¹⁹ Jeffrey Stout, “Rorty on Religion and Politics,” 8.

vision dominates. The choice is between secularism and theocracy. Given these options, it is unsurprising that many religious people will opt for the second.”¹²⁰ Moreover, it is unsurprising that many secularists opt for the first. A better characterization of public justification avoids the concerning dichotomy noted by Stout. But, given public reason liberals’ widespread embracing of the sharability constraint, such a characterization is difficult to imagine in “politically liberal” terms. Once the sharability constraint is dropped, it becomes possible to expand the pool of reasons suitable for public justification.

Expanding the Pool

All the reasons in the set of reasons *shared* by all reasonable citizens are allowed into public justification by *both* convergence and consensus theorists. But consensus theorists want to delineate between shareable and unsharable reasons, and exclude the latter as potential sources of public justification. Some thinkers are optimistic that the remaining pool of reasons will be sufficiently robust to solve some set of issues. For Rawls and other traditional public reason theorists, these issues are constitutional essentials and matters of basic justice. But, notwithstanding this optimism, critics have been relentless in pointing out the *prima facie* unlikelihood of achieving a determinate set of outcomes (no matter how restrictive the set of issues is) based on a set of shared reasons. The pool of reasons, they claim, is simply too small or ineffective.

¹²⁰ *Ibid.*, 7.

At the highly abstract level in which this theoretical debate often takes place, there is obvious merit to the critics' claim.¹²¹ Those issues for which there are utilitarian, Kantian, Christian, Islamic, Buddhist, Jewish, Hindu etc. justifications may seem few and far between. Laws against murder and slavery would presumably be widely supported, and perhaps even on the same reasons. But what is the advantage of political theory if all it can tell us is what to do in the easy cases?

In my view, some important issues can be solved through providing justifications all can accept. Certain environmental regulations, for example, would maximize utility, respect persons, and could also be justified in terms acceptable to religious comprehensive worldviews. Often environmental legislation is defended because of the long term effects of destructive industrial projects. It is not implausible to imagine people rejecting this sort of justification because the long term effects of environmental destruction may never touch them. Member of Parliament Fin Donnelly recently defended a ban on "Oil Supertankers" along the West Coast of Canada. He appealed to the "sheer beauty and raw nature of this area,"¹²² and implored citizens to investigate the "incredible area"¹²³ for themselves. Just moments later he argued for the ban on economic grounds, citing a "burgeoning tourism industry."¹²⁴ But can we impose coercive regulations on citizens in the name of beauty, nature and economics, when some reasonable citizens may not be moved in any way by such appeals? Traditional public reason theorists are committed to the identification of some public value which can be

¹²¹ In reality, people's views are far from unitary, wildly inconsistent and based in a variety of beliefs and principles which can be drawn upon to public justification for actions backed by coercion.

¹²² Transcript available online: <http://www.findonnelly.ca/tankerbanspeech>

¹²³ *Ibid.*

¹²⁴ *Ibid.*

invoked as a justification for legislation. It is difficult to imagine what sort of justification would be sharable, since some people value the environment for its economic possibilities, others for its natural beauty, and still others for the benefit of future generations. But if we need not locate a sharable justification, or even sharable values, we can instead identify reasons which appeal to the reasonable comprehensive worldviews present in society. We can search individual value systems for justifications which resonate with actual citizens—justifications grounded in real subjective motivational sets.

We might persuade Christian citizens by appealing to Biblical scripture which they find authoritative: “This is what the Sovereign LORD says: Woe to the shepherds of Israel who only take care of themselves! Should not shepherds take care of the flock? You eat the curds, clothe yourselves with the wool and slaughter the choice animals, but you do not take care of the flock. You have not strengthened the weak or healed the sick or bound up the injured. You have not brought back the strays or searched for the lost. You have ruled them harshly and brutally.”¹²⁵ We might add that Revelation prophecies destruction for those who destroy the Earth.¹²⁶ We might appeal to interpretations of the Koran defended by devout Muslims which have significance for environmental protection: “If any Muslim plants any plant and a human being or an animal eats of it, he will be rewarded as if he had given that much in charity.”¹²⁷ Even Kantians might find a place for the environment within their person-based doctrine. One thinker argues for a Kantian “...duty to save those aspects of the natural environment that constitute the

¹²⁵ Ezekiel 34: 2-4 (NIV)

¹²⁶ Revelation 11:18

¹²⁷ Sahih Al-Bukhari, 8:41

material basis for all human life, for human production, and for human culture.”¹²⁸

Utilitarians, too, could face arguments which suggest “the vast majority of preservationist cases can be explained by a version of utilitarianism.”¹²⁹ Hindu scriptures gesture towards a respect for the environment “Yo Apaam Aayadhanam Vedha-Aayadhanavaan Bhavathi” [the One who possesses the knowledge that water is the most precious wealth in the world is the richest person in the world]. And “Oordhvam Jigaadhu Bhesajam” [Let the green foliage of the trees grow skyward]. These are, of course, just broad examples of the kind of justifications available to sectarian worldviews which are clearly not shareable. But there seems no reason to exclude these as justifications. It is likely that diverse thinkers will agree on outcomes when they are justified in their own terms; however, locating terms on which they can all agree has proven a gruelling challenge. Robust sectarian justifications abound for other important aspects of societal organization such as redistribution of wealth, assisting the impoverished, respecting property and so on.

Some cases, however, are not so susceptible to a pluralistic analysis. Abortion is perhaps the most well known example of a politically divisive issue which seems all but intractable. One way to approach this problem would be to analyze whether any reasonable comprehensive worldview could even in principle reject a right to abortion in at least some cases. Another way to frame this same question is to ask whether a right to abortion in at least some cases is necessarily entailed by the demands imposed by treating

¹²⁸ [http://ecophilosopher.com/documents/CER\(Bustos\).pdf](http://ecophilosopher.com/documents/CER(Bustos).pdf)

¹²⁹ John N. Martin, “The Concept of the Irreplaceable.”

persons as equally worthy. John Rawls has made such a case.¹³⁰ Judith Jarvis Thomson also famously argues the metaphysical status of the fetus is not decisive, and thereby attempts to circumvent the generally accepted sectarian crux of the debate.¹³¹ But these accounts may be insufficient. It may be, as Fred Frohock suggests, that the abortion dispute “can be traced to the fact that [deliberators] have neither a common language nor ontology for negotiating an agreement.”¹³² If Frohock is right, and therefore such non-sectarian attempts fail to provide an acceptable solution, then we must determine whether reasons can be given to all reasonable persons which, all things considered, either support or deny the right.

In some cases, perhaps the case of abortion, it seems plausible that there is no outcome which can be justified to all parties with affected interests, using only reasons they can accept. Unfortunately, this does not change the demands of morality: coercing reasonable citizens with justifications they cannot accept is still illegitimate. In such cases, we must refrain from coercing our fellow citizens or, at the very least, acknowledge that, if we do coerce them, we are doing so illegitimately. In certain cases the very continuance of civil society may require illegitimate actions, but it must be recognized that legitimacy is being traded for efficiency or survival. Legitimacy should be seen as a standard of achievement such that it provides an account of which laws and policies are unacceptable in an ideal situation. The real world is not ideal, and so some

¹³⁰ Some might dispute Rawls has made such a case. In “The Idea of Public Reason Revisited,” 798, he does note that “Some have quite naturally read the footnote in Rawls, *Political Liberalism*, lecture VI, 7.2 at 243-44 (cited in note 1), as an argument for the right to abortion in the first trimester. I do not intend it to be one. (It does express my opinion, but my opinion is not an argument.)” In “Rawls and Religion: the Case for *Political Liberalism*,” Daniel Dombrowski argues Rawls does indeed maintain that reasonableness requires at least an early right to abortion.

¹³¹ Judith Thomson, “A Defense of Abortion.”

¹³² Fred Frohock, “The Boundaries of Public Reason,” 834.

failures should be expected. Perhaps in cases of necessity (e.g. the stability of a political enterprise is threatened) the value of legitimacy would be outweighed by other considerations. Thomas Nagel puts the point concisely: “Given the actual range of values, interests, and motives in a society, and depending on one's standards of justification, there may not be a legitimate solution, and then one will have to choose between illegitimate government and no government.”¹³³

I address the issue of impenetrable debates (like, perhaps, abortion) above because it is a major issue for anyone attempting to find widely satisfactory justifications. For my own purposes, however, I aim mainly to demonstrate the superiority of something similar to my account of RACAs over that provided by Rawls and others. Therefore, it would be sufficient to note that the convergence view of RACAs as I have described it has, as a matter of logic, a less restrictive reasons pool than the consensus view. The convergence view encompasses all justifications based in reasons which are shareable, as well all justifications which are created piecemeal out of numerous comprehensive doctrines. It is, by its very nature, sensitive to a broader range of justifications than the traditional view. As long as we desire more justifications than less, which we certainly do, the view is to that extent preferred.

Piecemeal justifications arising from the convergence view still avoid a *modus vivendi*. If Christians lost political influence, utilitarians would have no reason to overturn a law or policy which was grounded in Christian reasons, just insofar as utilitarian reasons were also available. Utilitarians would have no reason to aggressively lobby for different policies and laws since they would already accept the current ones on the basis

¹³³ Thomas Nagel, “Moral Conflict and Political Legitimacy,” 218.

of public reasons: reasons accepted in no part due to the prominence or power of Christianity. No group need share the justifying reasons of Christians in order to avoid a *modus vivendi*—people simply need a justification which, on its own merits, is acceptable *to them*. Political stability is not threatened by the convergence view.

VII. Deliberative Democracy

In choosing how to live, persons must not only have some idea of which life is best, they must also have the capacity to implement that life plan. Their beliefs and judgments must have an impact on the political processes which result in coercive law, since coercive law dictates which life plans are available to them. In recognition of this fact, and in contrast to traditional economics-based democratic theory, deliberative democrats have advocated public fora through which citizens can voice their arguments to one another and representatives of the government. Deliberative democrats see a causal process, the act of public deliberation, as the source of political legitimacy. Deliberative democrats believe that laws can be legitimate even if they are justified with reasons unacceptable to some citizens, as long as they were created through the appropriate processes which generally involve “considering” or “taking seriously” a wide array of positions and reasons. But the crucial weakness of this account of legitimacy is, parallel to the challenge faced by defenders of RACAs, a difficulty in making concrete precisely what it means to take the views of deliberating participants seriously. Deliberative democrats agree that consensus is unnecessary; legitimacy is maintained just as long as the voice of those who failed to secure their desired outcome was given a

platform: their arguments were listened to, thoughtfully considered, and ultimately rejected.

As I mentioned, it is unclear what it means for those in the public sphere with the power to force political outcomes to “take views seriously.” Further, it is difficult to imagine a method of evaluation; somehow deliberative participants would need to be ensured that their views are considered seriously at the level of actual policy decision. Participants want more than mere lip service paid to their reasons. It is plainly false that *simply listening* to a broad range of arguments lends any legitimacy to a decision. But requiring RACAs might be a way to cash out what it means to take views seriously. Admittedly, this moves the source of legitimacy away from the act of deliberation itself and into substantive commitments. But there may be powerful reasons to retain the deliberative apparatus. We might reimagine its role devoid of the challenges associated with providing the source of legitimacy. Instead, we could understand deliberation as a pragmatic method of reason identification.

On my view, there is no necessary connection between deliberation and RACAs. Contingently, however, deliberation offers an excellent means for ascertaining reasonable comprehensive worldviews, and thereby identifying acceptable reasons. Deliberative democracy can offer no procedural justification, but it should nevertheless be encouraged as a method for “sharing background knowledge about the religious [and other] views appealed to in public debate.”¹³⁴ Some thinkers have also suggested its cohesive value for aligning moral perspectives, which improves the chance of finding a widely justified outcome: “the process of dialogue and deliberation undertaken is essential to align moral

¹³⁴ Paul Weithman, *Religion and the Obligations of Citizenship*, 146.

perspectives. Members can modify their points of view in the course of dialogue, either because they do not have a fixed position or because new elements are unearthed during the deliberations.”¹³⁵ Thomas Nagel makes a similarly encouraging point about the value of dialogue when he notes that “moral argument and insight can reveal and explain the possibility of political motivations which cannot be assumed in advance of moral discussion. In this way, political theory may have an effect on what motives are practically available to ground legitimacy, and therefore stability.”¹³⁶ Since deliberation offers these two advantages—it unifies people and helps discover which reasons they find acceptable—it should be retained, but legitimacy must arise from substantive instead of procedural grounds.

Conclusion

Persons are dignified beings who must be treated with respect. Any view which rejects even a weak interpretation of this claim is unreasonable. In my view, even a weak interpretation includes the right and responsibility of citizens to choose for themselves how to live. This Dworkinian interpretation of what dignity demands suggests state coercion requires a special kind of justification: justification, as Rawls succinctly put, “addressed to others.”¹³⁷ Democracy introduces an interesting dynamic since citizens of democracies are involved in the process of selecting and justifying coercive laws, policies and institutions, and are therefore both authors of and subject to coercive state mechanisms. In the preceding essay I argued for an account of public justification which

¹³⁵ Adela Cortina, “Bioethics and Public Reason: A Report on Ethics and Public Discourse in Spain,” 2.

¹³⁶ Thomas Nagel, “Moral Conflict and Political Legitimacy,” 218.

¹³⁷ John Rawls, “The Idea of Public Reason Revisited,” 155.

is sensitive to the moral demands of citizens on one another. I claimed that legitimate political action is only justified by reasons which can be grounded in the reasonable views of each citizen under threat of coercion. I gave an account of what such grounding would amount to in terms provided by Bernard Williams. I argued that my view is not entirely divergent from traditional public reason theory, and should instead be seen as an alternative interpretation of RACAs which has several advantages. My interpretation allows religious citizens to bring to political justification all the reasons they hold closely, as long as those reasons do not violate fundamental moral constraints. More generally, it allows each member of society to argue on the basis of what they believe is true, again insofar as that is consistent with respecting certain fundamental moral demands. I noted that the demand for RACAs may lead to a crisis of legitimacy, if the set of laws and policies justifiable to all reasonable persons is too weak to serve as the foundation of a well ordered society. However, I also suggested the fundamental principles and rights outlined in international human rights law and agreed upon by a wide variety of views suggest a cautious optimism about the possibility of providing widespread justification using RACAs. The demands of legitimacy are admittedly stringent, and the fact of reasonable pluralism may defy the possibility of a fully legitimate society. But we should nevertheless strive to achieve the standard of providing each threatened or coerced reasonable person with reasons they can reasonably accept, and we should retain hope that such provision is possible.

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