

Structuring the Political Sphere:
An Ontological Account of Republican Citizenship

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“Accounts of human nature we put aside and rely on a political conception of persons as citizens instead.”

—John Rawls, “The Idea of Public Reason Revisited”

Whenever we discuss political topics we implicitly bring in ontological commitments. What I mean by this is that we have some idea of what a political society is, what political actors are, and what it means for entities to be politically related. We have a notion of what it means to *be political*, which is distinguished from other modes of being that may be the objects of other forms of study. A political ontology regulates the realm of the politically possible, forming the structural contours of political society. This is the starting point of the philosophical persuasion that has come to be known as political liberalism, which is first fully exemplified in the works of John Rawls. Although he never explicitly made use of the term “political ontology,” Rawls’ work is pervaded with ontological arguments, which were attempts to deflate the metaphysical debates over human nature and narrow political justifications to ones that are *purely* political. Rawls therefore provides a useful point of departure for this kind of political analysis, as his aim to create a *political* kind of liberalism, one not dependent upon a comprehensive view of the human good, helps to isolate and magnify the ontological commitments of liberal theory in general. By highlighting these commitments we may gain greater clarity of the stakes involved in the debate around political liberalism and gesture toward a new way forward.

A conception of the citizen is a political account of the self, and not necessarily what it means to be a human being generally. Therefore the rights, privileges, duties and character of citizens may be different from an account of human beings and the attending human good.¹ Rawls provides political reasons for distinguishing between the citizen—or

¹ This distinction between the character of human beings and that of citizens is found in the works of various political thinkers. Thomas Hobbes is another philosopher who can be read

political self—and the self *qua* self. The fact of pluralism creates a state of affairs in which it would be impossible to sustain a comprehensive view of human nature in the public square without depending on oppressive violence.² Rawls is doubtful that any large society can maintain a unified view of the nature of human beings and the human good given the natural differences that will arise in experiences, reasoning, and values. It may be the case that some philosophical perspective has discovered the true human good, but the fact of pluralism prevents it from being politically realizable in a society where people are free to disagree on the basis of their own reasoning. If a society is to remain free it must find another foundation upon which to engage in public deliberation.

through this lens: The movement from the natural forces and collisions of atomic units in the state of nature to a scientifically directed and ordered machine composed of those units in the political state is a move from metaphysical anthropology to political ontology. The former is a description of human nature while the latter is a description of political subjects; hence Hobbes' distinction between natural liberty and the liberty of subjects. It is only by way of a shift from metaphysical anthropology to political ontology that Hobbes is able to achieve a "real unity" between the subjects, as covenanted through the sovereign, which is ontologically distinguished from the disconnected aggregate found in the state of nature. And while Hobbes' political ontology is strongly connected to his metaphysical anthropology, one could conceivably maintain the former without all the trappings of the latter.

² While Rawls makes use of the fact of pluralism to argue for the need of a political conception of the self, other political theorists with substantially different points of view also make important distinctions between non-political and political forms of reasoning and justification. To take two examples: In "Truth and Politics" Hannah Arendt distinguishes philosophical reasoning from political reasoning, with the former being maintained through rational truth and the latter through factual truth and opinion. The diversity of political life comes from the various opinions of the citizens, and any attempt to impose the wisdom gained through philosophical reasoning—true as it may be—will inevitably result in political tyranny. The rule by philosophers would deprive the political sphere of the diversity that gives it life. Leo Strauss, another thinker whose view is vastly different from Rawls, also makes a distinction between the wisdom of the philosophers and the opinions of citizens. While the former is intimately concerned with the nature of the human good, it must be radical and disruptive, lacking shame or concern for tradition. In contrast, political life is maintained by particular and unquestioned social attachments. And while citizens can and do question social traditions, they must always reorient themselves along previously established platforms of belief. Progress is itself premised on the maintenance of tradition; in order to progress, we must first determine that certain political questions—such as slavery or the political equality of women—are foreclosed. A society of philosophers, which radically questions all existing assumptions, will naturally devolve into anarchy, once again losing the capacity for political life. Along with Rawls, these two thinkers highlight some of the unique qualities of politics, which are often in tension: a commitment to diversity and a need for unity. The danger of imposing philosophy directly upon political life is that the political society will tend too much toward one or the other, ultimately losing its distinguishing nature.

In this paper I will offer a critique of Rawls' political ontology and in doing so articulate an account of republican citizenship. Unlike Rawls, I will argue that political discourse can be constituted by arguments about the human good and involve appeals to comprehensive doctrine and identity. While citizenship is framed by an ontological account, within that political structure citizens can and must debate notions of the good in order to sustain political life. Rawls's "method of avoidance" overly homogenizes our public presentations as citizens, increasing the likelihood of the moral conflict he is worried will endanger democratic politics. I will begin by reviewing the debate over Rawls's account of the political self. Following this I will clarify the scope of the debate, and argue that many of Rawls's critics (and defenders) fail to fully recognize the function his conception of the political self plays in his broader theory. I will then critique his political ontology and provide an alternative account, one that articulates a republican conception of the political self. This will lead me to a criticism of Rawls' use of public reason, and the political implications of this critique will be made clear in a discussion of how political discourse operates when involving morally contested issues in a democratic society.

On Political Ontology

I. Identifying Political Principles

In *A Theory of Justice* Rawls proposed situating the self in what he called "the original position," which is a hypothetical point of view citizens may place themselves in so as to select fair principles of justice. In the original position the self is placed behind the veil of ignorance, which strips participants of any knowledge of their particular social positions, comprehensive doctrines, identities, abilities, habits, and unique preferences. From this position Rawls argued that citizens would be able to agree upon fair political principles of justice, as they would not have the knowledge required to propose principles that would unfairly privilege their own position or perspective within society. In order to maximize their minimum social position, protect whatever conception of the good they may have

outside the veil of ignorance, and secure primary goods,³ Rawls argues that selves in the original position would agree upon two political principles of political justice: 1) Each person has an equal claim to an identical scheme of basic liberties, and 2) Social and economic inequalities are to be allowed if a) all offices and positions are fairly accessible to all, and b) the effects of inequality are to the greatest benefit of the least-advantaged members of society.⁴ When discussing the procedure of the agreement Rawls writes, “we can view the choice in the original position from the standpoint of one person selected at random. If anyone after due reflection prefers a conception of justice to another, then they all do, and a unanimous agreement can be reached.”⁵ It does not matter who or how many persons are placed in the original position, as all are “similarly situated.” The indistinctiveness of selves in this hypothetical state means that we would all choose the same political principles when rendered independent of our encumbrances, and those principles would therefore be ‘neutral’ with respect to our real world ideas of the good, personal interests, tastes, etc.⁶

The most significant encumbrances identified by Rawls and his critics are our comprehensive doctrines and identities. A comprehensive doctrine is a systematic view of the human good, and takes the form of interrelated religious, moral, aesthetic, and/or philosophical beliefs. While much focus has been placed on the elimination of religious justifications in political discourse, this restriction also prevents the use of secular moral systems that are not reasonably accessible by all members of society. Broadly defined, an identity is some characteristic or set of integrated characteristics of a person that

³ Primary goods are basic goods any rational person would desire in order to pursue whatever his idea of the good might wind up being. These include, among others, rights, liberties, opportunities, income, and wealth (Rawls, *A Theory of Justice*, pp. 78-81).

⁴ John Rawls, *A Theory of Justice*, pp. 10-15.

⁵ John Rawls, *Ibid.*, p. 139.

⁶ Michael Sandel criticizes this move by Rawls, noting that under such a formulation there could be no “bargaining” in the original position. No agreement is made, as no discussion can be had between identically abstracted selves. Therefore political liberalism should not be thought of as a contractual political theory. See Sandel's *Liberalism and the Limits of Justice*, pages 122-132. Rawls's position on this matter might also bring into question whether the plurality and distinction between persons is being recognized in his political theory, particularly in light of his criticism of utilitarianism. For Rawls's criticism of utilitarianism, see *A Theory of Justice*, pages 19-24.

distinguishes them as a member of some group. An identity can be self-generated and/or be imposed by others, and the interpretation of that identity may be altered or understood differently in a variety of situations and by various individuals and groups in society.

A comprehensive doctrine or identity acts as a relatively coherent system of interrelated experiences and beliefs that frame our self-understandings. They structure our evaluative capacities and work as a cognitive web that excludes or includes different values given their perceived coherence within that web. This cognitive web is incorporated by “ends,” or beliefs, activities, and preferences at which we aim given our understanding of the good. However, because comprehensive doctrines and identities are not reasonably accessible by all members of a society, Rawls argues that reasons that depend upon them cannot be used to justify political action. Public justifications are to be made according to the shared political values identified in the original position and behind the veil of ignorance, such as the free and equal status of citizens and the difference principle.⁷

II. The Modular Self and the Constitutive Self

Although Rawls proposed the original position and veil of ignorance as mechanisms in a thought experiment, the character of the self in this hypothetical scenario served as the basis of his account of political relations. Various critics who came to be known as “communitarians”⁸ strongly critiqued Rawls’s conception of the political self as overly abstracted and disengaged from the empirical world. Critics have referred to Rawls’s conception of the self as the ‘unencumbered subject’,⁹ the ‘disengaged self’,¹⁰ the ‘selective

⁷ While Rawls insists that his critics have often misunderstood the place of public reason, and that it does not apply to all (or possibly even most) political discourse, I will argue later in this paper that the ontological structure of Rawls’s theory necessitates this conclusion.

⁸ While I do not find the label “communitarian” to be particularly fitting, given the vast differences among these critics and the differing aims of their critiques, I will use it here given its heuristic simplicity. It should also be noted that a number of scholars who would not be considered “communitarians”—such as Iris Marion Young—leveled very similar criticisms. See her work *Justice and the Politics of Difference* as an example.

⁹ Michael Sandel, *Liberalism and the Limits of Justice*, pp. 20–22, 120–121, 152.

¹⁰ Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, p. 21.

self,¹¹ the ‘teflon subject’,¹² and everything from the ‘emotive self’¹³ to the ‘democratized self’¹⁴ and the ‘ghostly self’.¹⁵ They argue that the kind of self found in the original position and behind the veil of ignorance is an empty existential entity, which is constituted merely by its power to choose (and to unchoose¹⁶). For the purposes of this paper I will limit myself to referring to the political self identified in Rawls’s political ontology simply as *the modular self* in order to avoid confusion.¹⁷ By “modular” I mean to indicate that it is a self that is at its core identical to any other, and which is distinguished from other selves only by contingently related ends. Ends act as distinct interchangeable modules for the self, elemental parts that can be disconnected, attached, and recombined, with the underlying undistinguished self maintaining the entity’s stability. This term is also preferable to the other terms since these characteristics—whether it is unencumbered, disengaged, emotive, or even ghostly—are all potential descriptors predicated on this ontological structure.

The modular self is conceived as a self that is prior to and independent of any of its particular ends. By “independent” I mean that it can be analytically disconnected from its ends. Critics argue that this is the only way Rawls’s hypothetical method can operate—if the self is incapable of being distinguished from its ends while maintaining its coherence then the veil of ignorance is based on a faulty premise. When describing the intuition that is behind Rawls’s methodology, Michael Sandel writes, “The subject is the something ‘back there’, antecedent to any particular experience, that unifies our diverse perceptions and

¹¹ Kenneth Schmitz, “Is Liberalism Good Enough?” in *Liberalism and the Good*, p. 95.

¹² Stephen White, *Sustaining Affirmation: The Strengths of Weak Ontology in Political Theory*, p.

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¹³ Alasdair MacIntyre, *After Virtue*, pp. 31–32.

¹⁴ *Ibid.*, p. 32.

¹⁵ *Ibid.*, p. 33.

¹⁶ Kenneth Schmitz, “Is Liberalism Good Enough?” in *Liberalism and the Good*, pp. 90–91.

¹⁷ Of course not all descriptions of this self—from liberalism’s defenders and detractors—are identical. I will be painting in broad strokes in order to provide a brief framing of the debate, focusing on some of the most common and repeated criticisms and defenses. There may of course be other possible ways to think about the modular self, as liberal political ontology is by no means homogenous. It could also be that this ontological dispute is one between different strands of a broader liberal tradition, rather than between liberalism and another worldview, which is why I have avoided calling the modular self simply “the liberal self.”

holds them together in a single consciousness.”¹⁸ Elsewhere Sandel writes, “to identify any characteristics as *my* aims, ambitions, desires, and so on, is always to imply some subject ‘me’ standing behind them, at a certain distance.”¹⁹ For choices to be made about ends there must be a chooser behind the choices, and that chooser is what is being referred to when we talk about a ‘self’. While in the empirical world we never encounter a self that is so radically autonomous from its ends, on an analytic level we are able to make a distinction between the self and its ends. Those ends we choose are *held by the self apart from it*, rather than *constituting the self as a part of it*.

Critics of the modular self have presented an alternative view, which has been called the ‘situated subject’,²⁰ the ‘constitutive individual’,²¹ a ‘stickier’ subject,²² and the ‘narrative self’,²³ but for simplicity’s sake I will refer to it as *the constitutive self*.²⁴ This is a conception of a self that has at least certain ends that are constitutive with its being. Those ends are not ‘possessed’ as separate properties, but are a part of the self. Under this view there is no distinction between the self and its ends; the ends compose the ontological structure of the self. As Alasdair MacIntyre puts it,

I am a brother, cousin and grandson, member of this household, that village, this tribe. These are not characteristics that belong to human beings accidentally, to be stripped away, in order to discover ‘the real me’. They are part of my substance, defining partially at least and sometimes wholly my obligations and my duties.²⁵

¹⁸ Michael Sandel, *Liberalism and the Limits of Justice*, p. 8.

¹⁹ Michael Sandel, “The Procedural Republic and the Unencumbered Self,” p. 86.

²⁰ Michael Sandel, *Liberalism and the Limits of Justice*, pp. 20-22.

²¹ Kenneth Schmitz, “Is Liberalism Good Enough?” in *Liberalism and the Good*, pp. 94-96.

²² Stephen White, *Sustaining Affirmation: The Strengths of Weak Ontology in Political Theory*, pp. 5-6.

²³ Alasdair MacIntyre, *After Virtue*, pp. 216-218, 221.

²⁴ As with the modular self there are many variations of this kind of self. And given that ontological critics of liberalism hail from—among others—conservative, republican, communitarian, feminist, and postmodern traditions, it should not surprise us that the formulation of this kind of self takes on a wide variety of shapes. But there are a few key elements they share in common which I will review, although how those elements are theorized and which are emphasized may differ substantially.

²⁵ Alasdair MacIntyre, *After Virtue*, p. 33.

Along this telling, there are ends that are analytically coeval with my self's ontological status. Who I am cannot be disconnected from my social encumberments, and those encumberments come with unchosen particularist obligations and duties. Without these unchosen attachments, moral bonds and choices would be impossible. This set of encumbered "projects" forms our character, which provides us with the moral framing needed to give meaning and direction to our lives.²⁶ My constitutive ends make me a certain kind of person, they make me *me*, and to lose them would be to lose my self.

The differences of characters will result in different moral obligations among selves: As a son in *this* family I have unique familial obligations, as a citizen of *this* country I have unique civic obligations, as a member of *this* identity group I relate to a member of *that* identity group in a historically situated way. While Rawls would readily accept that in the empirical world we have a variety of particularist duties and relations, defenders of the constitutive self take it a step further—they argue that Rawls makes a conceptual mistake when he disconnects these ends from the self to identify a fair set of political principles. To do so is to fabricate an abstracted self so removed from its encumbered ends that it is incapable of making choices, and therefore cannot be considered to be a self in the first place. Stripping selves of their encumberments in the original position does not give us a method to identify fair political principles, but constructs a mythical entity without the capacity to make moral or political choices.

It is on this point that the critics of the modular self have leveled their strongest critique. Liberals argue that there must be a 'chooser' behind the choices, but they have presupposed the chooser's capacity to choose. Without cultural and social encumbrances, selves lack any meaningful criteria to evaluate between different options. The modular self is "unbounded in advance...awash with possible purposes and ends, all impinging indiscriminately on its identity, threatening always to engulf it."²⁷ At best it is left as

²⁶ Bernard Williams, "Persons, Character and Morality" in *The Identities of Persons*, p. 201.

²⁷ Michael Sandel, *Liberalism and the Limits of Justice*, p. 152.

preference-aggregating automaton, no different than a computer programed to select the highest imputed number. The supposed freedom of the modular self is contentless and mechanistically determined, as it lacks any capacity for critical judgment. Without the density that comes from a situated identity the self loses any hope of meaningful agency. There can be no self without a web of constitutive ends that give it standards of judgment, no reflective cognition without a cultural framework. Only an encumbered conception of the self would be capable of reflective judgment, and when pushing this point MacIntyre proclaims, “Man without culture is a myth.”²⁸

III. Debating the Self

When defending Rawls’s modular self, Will Kymlicka restates the fundamental point liberals wish to make about the self: “What is central to the liberal view is not that we can *perceive* a self prior to its ends, but that we understand our selves to be prior to our ends, *in the sense that no end or goal is exempt from possible re-examination.*”²⁹ The priority of the self means that a person can always imagine themselves without their present ends, even if at any time there must be some given ends that structure a background for judgment. Kymlicka acknowledges that when a self deliberates it is always encumbered, “but it doesn’t follow that any *particular* ends must always be taken as given with the self.”³⁰ Demonstrating that certain ends are constitutive of the self requires that critics of the modular self make what Kymlicka calls “the embedded-self argument,” which makes the stronger point that we could not imagine ourselves without certain specific ends.³¹

Kymlicka provides as an example a Christian housewife who wishes to reevaluate her constitutive role of being a Christian, or a housewife. He writes that according to his understanding of the constitutive self, “I can interpret the meaning of the social roles and

²⁸ Alasdair MacIntyre, *After Virtue*, p. 161.

²⁹ Will Kymlicka, *Liberalism, Community, and Culture*, p. 52. Italics in original.

³⁰ *Ibid.*, pp. 52-53. Italics in original.

³¹ *Ibid.*, p. 53.

practices I find myself in, but I can't reject the roles themselves, or the goals internal to them, as worthless."³² By this view, because these ends compose me, and there is no 'me' behind them, I am unable to critically evaluate them. Kymlicka says that it is unclear if any 'communitarians' hold such a view, and posits that in the end many of the arguments surrounding notions of the self may be "merely semantic."³³ Accordingly, there is not much meaningful difference between the political ontology of liberals and their critics, and Kymlicka hopes to move past the "old slogans about 'abstract' or 'atomistic' individualism, slogans which have stood in the way, or taken the place, of serious analysis."³⁴

When responding to Kymlicka's clarification it's important to review what it means for a self to have constitutive ends. For an end to be constitutive it must frame our own self-understandings. The end is not thought of as being posterior to the self, but is coeval with it, and composes its character. This does not mean that we cannot, upon reflection, choose to rebel against those constitutive ends.³⁵ When the Christian housewife determines that she no longer wishes to be a Christian housewife, she is not putting down a system of values that she had *possessed*. She realizes that she does not want to be *a certain kind of person*, namely one who is Christian and/or a housewife. She leverages other ends that compose her self against this particular system of ends that had also constituted and defined her, and in doing so is said to become a different person.³⁶ Our web of beliefs is not transparent to us, nor is it entirely cohesive. Internal contradictions and conflict may arise in response to a unique set of circumstances and be leveraged in different ways, giving us the capacity to rebel against certain values within our constitutive system of ends by making use of others. And after this transformation the self does not merely change its preferences, but the way it interprets,

³² Ibid., p. 57.

³³ Ibid., pp. 57-58.

³⁴ Ibid., p. 70.

³⁵ "Notice that rebellion against my identity is always one possible mode of expressing it" (MacIntyre, *After Virtue*, p. 221).

³⁶ Although we may have transformative experiences over the course of our lives that change who we are these changes are unified into a single self by our self-narrative. See MacIntyre's *After Virtue*, pages 216-221.

understands, and interacts in the world. A constitutive self is capable of reorganizing its ends, but this account also emphasizes that certain ends have unique moral purchase over our lives, even when we did not initially choose to adopt them, and that altering these ends has a transformative impact on the self in question.

IV. Clarifying the Debate

In light of his defense of the modular self, Kymlicka notes with surprise that Rawls altered his approach to the self between *A Theory of Justice* and *Political Liberalism*.³⁷ Rawls positively cites Kymlicka's defense, but ultimately chooses to present a different argument for the modular self. While he notes Kymlicka's reply is "on the whole satisfactory," certain adjustments must be made "to fit it within political liberalism as opposed to liberalism as a comprehensive doctrine."³⁸ I take Rawls's point to be that the debate over the ontology of the political self can very easily elide into a debate over the metaphysics of the self. Kymlicka's defense of the modular self is too distinctive, working out of a comprehensive doctrine of liberalism rather than a political account. The criticisms and debate over the modular and constitutive self that emerged following the publication of *A Theory of Justice* developed into a more general debate about the self *qua* self, but in order to maintain a political account of liberalism Rawls's philosophical investigation of the self is intentionally limited to questions of political ontology. Rawls is not directly concerned with what the metaphysical relationship might be between a self and its ends, but with what the self looks like as a citizen in a democratic political society. From that basis Rawls can produce a purely political account of the political self and its relations and sidestep metaphysical debates. Metaphysical critiques fail to appreciate this aspect of Rawls's argument, and while they correctly identify the general character of Rawls's political self, their critiques operate on a different level than the political point Rawls makes. It is partially for this reason that Rawls

³⁷ Will Kymlicka, *Liberalism, Community, and Culture*, p. 58.

³⁸ John Rawls, *Political Liberalism*, p. 27 fn. 29.

shifts away from the Kantian-inspired justifications for the self found in his earlier work to a more historically rooted argument in his later work, which helps to refocus the debate back to questions of political ontology.

In *Political Liberalism*, Rawls writes that the self presented in the original position was never meant to be an actual account of the self, but was instead an abstracted representation of the citizen, one used to unveil political principles already present within a democratic political culture.³⁹ But there is still the question of how Rawls can justify excluding comprehensive doctrines and identities from being appealed to in public deliberations. If not rooted in a metaphysical argument about the priority of the self over its ends, how can Rawls justify excluding appeals to encumbered ends in the public square?

To avoid metaphysical debates and limit his account to being a purely political one, Rawls locates the source of the self in a description of ideal democratic citizens. He writes that his conception of citizenship is “abstract[ed] from various features of the social world and idealize[d] in certain ways.”⁴⁰ Rawls’s claim is not that selves lack primordial ends. He does not want to make the strong claim that there are no morally significant constitutive ends—they may be the basis of a variety of aims and obligations in the private sphere. But the *political* presentation of the self is that of a democratic citizen, of a person whose status and relations are unaffected by any changes to his comprehensive doctrines or identities. Within other political societies a person’s political status may be dependent upon some comprehensive doctrine or identity, but within a democratic political society citizens are thought of as free and equal, regardless of the status of their private selves. When engaging in public deliberation, “we don’t view persons as socially situated or otherwise rooted...Rather, we think of persons as reasonable and rational, as free and equal citizens.”⁴¹ Our private selves are bracketed in public life. A person might convert religions, come to

³⁹ John Rawls, *Ibid.*, pp. 26-27, 78; “Justice as Fairness: Political Not Metaphysical,” p. 228; *Justice as Fairness*, p. 19.

⁴⁰ John Rawls, *Justice as Fairness*, p. 8.

⁴¹ John Rawls, “The Idea of Public Reason Revisited,” p. 800.

identify with a different sexual orientation, or have a sex change operation, but in every case his status as a citizen would be left unaltered. In a democratic political society all citizens are seen as ontologically identical, in that they are identically constructed and have identical and enduring rights and duties. Rawls admits that when we undergo sudden changes to our private identity “we are likely to say that we are no longer the same person,”⁴² but that “for the purposes of public life, Saul of Tarsus and St. Paul the Apostle are the same person. Conversion is irrelevant to our public, or institutional, identity.”⁴³ This distinction between the self as citizen and the private self justifies Rawls’s continued use of the original position—the socially unencumbered autonomy of the political self “is modeled by the structural aspects of the original position.”⁴⁴

This formulation of the political self engages in deliberation through public reason. Persons may employ nonpublic reason in the private sphere, but because their political and private selves are distinguished from one another in a democratic political society, nonpublic reasons—those that appeal to comprehensive doctrines or identities—are excluded from public consideration. Deliberation is restricted to reasons acceptable to all reasonable comprehensive doctrines through the overlapping consensus, and must be open to revision according to political considerations. This means any public justification must be reasonably accessible to all persons in the public square, with no claims rooted in the particularist belief or experience of a comprehensive doctrine or identity.

While citizens may hold a particular position due to nonpublic reasons, when debating the political merits of their position they must offer justifications that are reasonably accessible from any reasonable perspective. For example, it is not reasonable to assume that non-Catholics will have an understanding of Catholic theology, or that Catholic theology will offer them compelling reasons to adopt a new position on some question of

⁴² John Rawls, *Political Liberalism*, p. 31.

⁴³ *Ibid.*, p. 32 fn. 34.

⁴⁴ *Ibid.*, p. 77. Also see pages 103-104 and “Justice as Fairness: Political Not Metaphysical,” page 240.

public policy. Therefore when debating abortion, although in private life citizens who are Catholic may follow Catholic doctrine and teachings, in public they can only present arguments that are reasonably accessible to non-Catholics. They may appeal to the biological status of the fetus as being human but not to the theological moment of ensoulment. It is Rawls's ontological conception of the political self, derived from an argument about democratic citizenship, that establishes these standards, as public reason is understood to be "a relation of citizens [so conceived] within the basic structure of society."⁴⁵ With our constitutive ends restricted in political discourse, any relation between the political presentations of selves will be rendered 'neutral' with respect to those comprehensive doctrines and identities.

On Republican Citizenship

I. Political Friendship

Rawls's later work refocused ontological questions about the political self, and was meant to sidestep some of the criticisms of *A Theory of Justice*, but the shift also opened him up to a new set of empirical and theoretical critiques. Is it actually the case that citizens in a democratic political society appear the way Rawls envisions? To push the point, should we ideally conceive of citizens as operating in this manner? Many of Rawls's critics have argued that there exists within American history a vibrant tradition of republican citizenship, which presents a very different picture of the political self than the one Rawls formulates.⁴⁶ While at times some seem to indicate that the republican citizen is lost in the modern

⁴⁵ John Rawls, "The Idea of Public Reason Revisited," p. 769.

⁴⁶ Drawing the line between "republicanism" and "liberalism" can be somewhat difficult when not operating on the margins, as republicans share a great deal in common with liberals, including a commitment to the rule of law, the use of rights-based language, and an emphasis on the liberty of citizens. Republicanism is not necessarily opposed to liberalism generally, and may simply offer us a different path within the broader liberal tradition than the one offered by political liberalism.

world and that their work is an act of recovery,⁴⁷ Charles Taylor has emphasized the ways in which republican citizenship is still present in modern American life.⁴⁸ Taylor argues that the American outrage at political scandals like Watergate reflects a deeper identification with and commitment to American political ideals, which cannot be explained merely by appealing to enlightened self-interest.⁴⁹

When we place ourselves in the original position we establish political principles for social cooperation that will maximize our minimum benefits in society. Our relationships with our fellow citizens are instrumental, in that they allow us to maintain a basic level of material and social welfare and to pursue our own ideas of the good without political imposition, so long as we do not violate the rights of others. Rawls's notion of reasonableness does carry with it a tinge of republicanism, but it is ultimately premised on a psychology of enlightened self-interest.⁵⁰ A reasonable person may subordinate his own

⁴⁷ See Michael Sandel's *Democracy's Discontent: America in Search of a Public Philosophy*, as well as "The Procedural Republic and the Unencumbered Self," pages 93-95. For an impassioned critique of the confusion between recovery and reaffirmation, see Stephen Holmes's "The Permanent Structure of Antiliberal Thought" in *Liberalism and the Moral Life*, pages 234-235.

⁴⁸ Charles Taylor, "Cross-Purposes: The Liberal-Communitarian Debate" in *Philosophical Arguments*, pp. 195-197. See the entirety of Taylor's essay for an excellent review of the republican conception of citizenship and how it is related to questions of political ontology.

⁴⁹ Charles Taylor makes the important point that this republican disposition is required to maintain a democratic society: "[T]he general point would be that, although the targets might vary from society to society, most democratic electorates are disposed to react to violations of the norms of liberal self-rule, and this is a crucial support for these regimes. Where this disposition has been relatively lacking—for example in a number of Latin American countries, where many people are ready to tolerate "disappearances" perpetrated by semi-clandestine arms of the military, or to welcome army putsches—then one is in danger of ending up with an Argentine junta or a murderous Pinochet regime" ("Cross-Purposes: The Liberal-Communitarian Debate" in *Philosophical Arguments*, pp. 195-196).

⁵⁰ Rawls does demonstrate certain republican tendencies that should not be overlooked. In distinguishing between the political self and the private self, Rawls provides two different accounts of rationality—the latter is primarily concerned with his private good (which may also include the good of those he immediately cares about, as well as natural obligations owed to others), while the former has some notion of the *public* interest. In his lectures on Rousseau in *Lectures on the History of Moral Philosophy*, Rawls states that "from the point of view of the general will, we say that only reasons based on the fundamental interests we share as citizens should count as reasons when we are acting as members of the assembly in enacting constitutional norms or basic laws...note that the idea of a point of view, as used in these remarks, is an idea of deliberative reason...Thus, it is clear from this that Rousseau's view contains an idea of what I have called public reason" (pp. 230-231). Citizenship is an ethical category for Rawls, and when inhabiting that role the citizen is bound to certain

interests for the good of his fellow citizens, but this practice is accepted only when others are similarly reasonable. Citizens act reasonably because it establishes a norm of social reciprocity, cooperation, and political legitimacy, which afford long-term benefits to all participants.⁵¹

According to the republican ideal citizenship is more than an institutional identity conferred to individuals for the mutual protection of rights and interests. It is a bond of friendship, one that is forged in a common history, rooted in a shared fate, and bounded in obligations and duties to public life. The happiness of the member is dependent upon the happiness of the body. This is precisely how James Madison described the bond of citizenship in *Federalist* No. 14, writing that American citizens are “knit together as they are by so many cords of affection,” and that they are “mutual guardians of their mutual happiness” and “members of the same family.”⁵² Continuing with his metaphor of citizenship being a familial relation, Madison writes, “the kindred blood which flows in the veins of American citizens, the mingled blood which they have shed in defense of their sacred rights, consecrate their Union and excite horror at the idea of their becoming aliens, rivals, enemies.”⁵³

In his 1858 speech at Chicago Abraham Lincoln echoes Madison’s description of the basis of American citizenship, stating that while new American immigrants could not trace their ancestry to those of revolutionary times by blood, “when they look through that old Declaration of Independence, they find that those old men say that “We hold these truths

civic duties. The citizen must place the public interest above his own, which may involve self-sacrifice, the development of civic virtues, engaging with fellow citizens reasonably and with civility, and promoting social trust by being forthright and fair. However, Rawls’s instrumentalist psychology and modular political self undercut these moments of republicanism. While Rawls insists that the mutual disinterest of the selves found in the original position may not be true of actually existing persons, he also claims that it is an idealized representation of the democratic citizen, as he understands it. So while he can sidestep any anthropological implications, he implicitly constructs an atomized political ontology.

⁵¹ John Rawls, *Political Liberalism*, p. 50.

⁵² Hamilton, Madison, and Jay, *The Federalist Papers*, pp. 98-99.

⁵³ *Ibid.*, p. 99.

to be self-evident, that all men are created equal;” and then they feel that that moral sentiment taught in that day evidences their relation to those men, that it is the father of all moral principle in them.”⁵⁴ It is by this connection to a common moral project that “they have a right to claim it as though they were blood of the blood, and flesh of the flesh, of the men who wrote that Declaration.”⁵⁵ The attachment to the Declaration of Independence is “the electric cord” that “links the hearts of patriotic and liberty-loving men together.”⁵⁶ In his first inaugural address Lincoln reaffirms this sentiment, stating,

We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union when again touched, as surely they will be, by the better angels of our nature.⁵⁷

In the writings of Madison and Lincoln we see a description of citizenship that finds unity in our constitutive attachments to one another and in our shared national narrative, as opposed to a detached recognition that we must maintain social cooperation in order to procure our privately desired ends. These links penetrate deep into the self, forming a national comprehensive doctrine and identity that gives character to citizens and supports their political relations. Fellow citizens are not strangers with whom we have nothing in common; as fellow citizens we are united by our attachment to our political union, and to the common moral purpose of bettering ourselves through political enterprise.

This union is best understood as a form of friendship. Friendship, Aristotle writes, exists between those who share something in common, and so a citizenry that shares certain values and experiences is more capable of maintaining political friendship than one that does not. While political friendship is a looser form of affection than personal friendship, it

⁵⁴ Abraham Lincoln, *The Collected Works of Abraham Lincoln: Volume II 1848-1858*, p. 499.

⁵⁵ *Ibid.*, pp. 499-500.

⁵⁶ *Ibid.*, p. 500.

⁵⁷ Abraham Lincoln, *The Collected Works of Abraham Lincoln: Volume IV 1860-1861*, p. 271.

still provides a unity among citizens that distinguishes their relations from those in a commercial or military agreement.⁵⁸ This does not mean that we must share *everything* in common; Aristotle rightly emphasizes that diversity and difference are essential to political life.⁵⁹ But citizens in a political society must have *something* in common to unify them; they must have *ὁμόνοια*, or “like-mindedness.”⁶⁰ Aristotle distinguishes like-mindedness from simply sharing opinions, as strangers may happen to hold the same view on some matter. He also specifies that this form of like-mindedness only results in friendship when it concerns certain issues—for example, being like-minded about scientific questions is not enough to unify a people. A political society is united in friendship when it is like-minded “about matters of action,” when “people are of the same judgment concerning what is advantageous, choose the same things, and do what has been resolved in common.”⁶¹ These are issues “of great import,” and which “admits of belonging to both parties or to all involved.”⁶²

This presentation of like-mindedness may initially appear to overly homogenize our differences within a political society. But Aristotle speaks of different parties resolving some decision “in common”—there must first be something that distinguishes the parties from one another, and some reason why the decision must be made in common. That different parties exist indicates that like-mindedness does not eliminate difference; that we must resolve the questions in common indicates that those differences must be discussed and deliberated. For a political society to exist there must be some common judgment about what advantages it will provide—in the American case, one could look to the declaration that government exists to secure “life, liberty, and the pursuit of happiness.” Citizens must have some shared idea of why they are united together, and once they resolve issues in common they must abide by the resolution and not choose to secede from the political

⁵⁸ Aristotle, *Politics*, 1261a22-24, 1280b16-1281a1.

⁵⁹ *Ibid.*, 1261a13-21, 1263b30-37.

⁶⁰ Aristotle, *Nicomachean Ethics*, 1155a24-26, 1167a21.

⁶¹ *Ibid.*, 1167a26-30.

⁶² *Ibid.*, 1167a28-30.

society due to their personal disagreement in some particular case. Like-mindedness allows for the existence of difference, but it also demands that citizens act in common when some decision has been reached, as is required by politics. Any given public policy may of course be altered, but while it operates the civic duty of citizens is to respect the law.

Like-mindedness habituates citizens to judge justly, as it underwrites the standards by which members of society are judged and given public offices. When each citizen only seeks his private advantage and thinks to himself, “I should rule,” they all may have the same thing in mind, but as Aristotle notes, they do not “have it in mind in the same way.”⁶³ Under such circumstances a society will fall into civil war or anarchy. But when they have the same thing in mind according to the same standard, such as “The best should rule,”⁶⁴ then they are committed to subordinating the advantage they might gain from rulership to that idea, and support a man better than they for some office. In these cases citizens are concerned with who is most qualified for rulership, or who will provide the greatest benefit to the whole political society, and therefore have a concern for others rather than their own private advantage. This concern with what is advantageous for the political society as a whole, which is premised on an other-oriented attitude, is the basic condition required for citizens to develop just political judgment.⁶⁵

When we are friends with one another we genuinely seek what is good for the other—unlike Rawls’s reasonableness, political friendship premises social cooperation on intrinsic care for the wellbeing of our fellow citizens. Their happiness is constitutively tied to our own. Without political friendship citizens become like strangers bonded in some non-political form of enterprise. Citizens who are strangers become citizens in name only, increasingly likely to fall into disunion given moral disagreements. As Aristotle notes,

⁶³ Ibid., 1167a33-1167b1.

⁶⁴ Of course what qualifies as “the best” may be up for dispute, but as long as there is some standard beyond personal interest then there is at least a limited form of justice being employed.

⁶⁵ Aristotle, *Politics*, 1279a8-21.

friendship is needed in addition to justice.⁶⁶ Some sentimental attachment to our fellow citizens as citizens, and to some common political narrative, must exist if the ferocious passions of moral disagreement are to be channeled through political discourse without inclining participants to go their separate ways. The cool reason of enlightened-self interest cannot combat the sentiment of moral outrage; sentiment must combat sentiment.

It could be said that in their implicit nostalgia for the political life of the ancient *polis* republican political theorists often fail to recognize how different mass society is from the small political communities of ancient Greece.⁶⁷ The relatively small size of the ancient *polis* meant that citizens were likely to know one another and develop personal bonds, developing affections between citizens impossible to sustain in large, modern societies. But as we see in the writings of Madison and Lincoln, in even larger and more diverse societies there exists an idea of political union through friendship in the public mind. What is significant about Madison and Lincoln's statements is that they were both made during times of potential disunion, and were made with the intent to persuade their fellow citizens to come together as a nation. Madison worked to prevent the dissolution of the newly independent colonies into independent countries, while Lincoln attempted to avoid a civil war that would tear the country in two. Rhetoric is at play in both of their statements, but rhetoric is only effective if it inspires beliefs already held by those who hear it. In the case of Madison, the friendship forged through the battle for independence helped to ultimately unify the states, and although Lincoln was unsuccessful in preventing civil war—as political friendship had frayed over the preceding decades due to the dispute over slavery—his refounding of America's moral purpose through rhetorical persuasion left a nation more united after the Civil War than it had been before.

⁶⁶ Aristotle, *Nicomachean Ethics*, 1155a23-24.

⁶⁷ Keith Faulks, *Citizenship*, pp. 14-19.

II. Republican Pluralism

There is often a worry that republican political theories put too much emphasis on a unified public idea of the good, and that unlike in ancient Greece, where notions of the good were often tied to some public activity, modern liberal societies maintain the importance of providing space in private life for individuals to develop their own private code of living, so long as it does not violate the rights of others.⁶⁸ Critics rightly worry that there is a danger in immoderately pursuing a unified idea of the good in political life, particularly in a mass society, as it can easily become a site for oppression and domination. If a republican conception of citizenship is to function in a large, modern society and maintain a commitment to freedom, it must be capable of incorporating pluralism.

The republican view of citizenship is underwritten by a constitutive conception of the political self. If our choices are framed by constitutive attachments that are socially developed, then it is important that persons have the ability to publically maintain those attachments through political participation. Without political participation, citizens are restricted from actively shaping the social world in which they reside, potentially limiting their socially dependent and constitutive ends. In this way, self-rule is a necessary element of freedom, as one must have the ability to reproduce one's own web of constitutive ends for oneself and for future generations. Accounts of political discourse that bracket these ends from the public square limit the freedom of citizens to 'world-build'. Seemingly neutral laws can often retard the maintenance and development of comprehensive doctrines and identities that are core to a person's self-conception, and that are therefore at the basis of their free choices and capacity to follow their own idea of the good.

To take two examples of this process: In Quebec the Quebecois have passed language codes that give primacy to the French language, stipulate French language education among the children of certain residents, and require the use of French in commercial enterprise. There are great economic and demographic incentives for French-

⁶⁸ Philip Manville, *The Origins of Citizenship in Ancient Athens*, pp. 16-17.

speaking Canadians to learn English, and without language laws enshrining the French language in Quebec these incentives may lead to generations using English as their primary language, until the French language—which is vitally important to Quebecois identity—disappears as the *lingua franca* of Quebec. Bilingualism is a false promise when a linguistic minority confronts powerful incentives to learn the language of the majority, and when there is no reason for the majority to learn the language of the minority. Under such conditions most communication between linguistic groups will generally occur using the majority's language, displacing the language of the minority. In cases where a people's language is core to their identity as a historically distinct ethnic group, as is the case with the Quebecois, public action is required to for them to maintain their own cultural development in their traditional region(s).

A second example can be found in the United States, in the Religious Freedom and Restoration Act (RFRA). Under current interpretations of the First Amendment, religious persons cannot abstain from following a religiously objectionable law if that law is facially neutral. If, for example, a law was passed that required all delis to serve pork, conservative Muslim and Orthodox Jewish deli owners would be required to do so as it does not directly target any particular religion, even though its effect would compel them to violate their deeply held religious beliefs. Under RFRA, a strict scrutiny standard is now applied to federal laws that impose a substantial burden on a person's religious beliefs.⁶⁹ Since its passage, RFRA has disproportionately protected minority religious groups—while Jewish, Muslim, and Native American religions only make up about 3% of the population, they make up 18.5% of RFRA cases.⁷⁰ This kind of law carves out a special exemption for those who would otherwise be compelled to violate their religious teachings, providing public

⁶⁹ Since its passage at the federal level, many states have also passed their own RFRA laws, and in states that have not some state courts have interpreted existing laws and state constitutions to provide a strict scrutiny standard to facially neutral laws that violate deeply held religious beliefs.

⁷⁰ James Richardson, *Regulating Religion: Case Studies from Around the Globe*, p. 543.

space in law for those of faith to continue to pursue their constitutive ends, even in cases where the laws are neutral with respect to personal belief.

There may be elements of the Quebec language laws and RFRA that some find objectionable, and their value must be balanced by the individual liberties and group rights of other members of society. For example, under Quebec's language laws non-French speakers can educate their children in non-French language programs, and the law's language restrictions do not apply to indigenous groups living in reservations in Quebec. In the case of RFRA, religious liberties may be overridden if there exists a compelling government interest that is being met by the least restrictive means. Courts have routinely maintained a narrow reading of RFRA, and local, state, and federal governments meet the standards needed to override religious liberties in 59% of cases, higher than any other kind of strict scrutiny case.⁷¹ Additionally, RFRA has never been upheld when challenged as part of a discrimination suit.⁷² Each of these laws help to highlight how policies that are neutral to the comprehensive doctrines and identities of certain groups can actually diminish their capacity to survive, and why extra public protections are needed in order to ensure that members of those groups can continue to practice their constitutive ends, and thereby make use of their freedoms.

These cases point to the possibility of republican pluralism and a way to avoid developing a form of republicanism that places too much emphasis on political unity about the good. The key demand from republican citizenship is a commitment to public life and the common good, but sharing and maintaining one's own constitutive ends can in part characterize a person's participation in that public life. A primary duty of citizenship is the maintenance of the political society, but it is disagreement over comprehensive doctrine and identity that political societies face the greatest danger of dissolution. By participating in public life and sharing their encumbered ends through political discourse, citizens offer

⁷¹ Adam Winkler, "Fatal in Theory and Strict in Fact: An Empirical Analysis of Strict Scrutiny."

⁷² Ibid.

one another a form of political education. Each learns more about those members that compose their shared political society, and in doing so increase their understanding about the basis of their differences and the composition of their politics. And through this process it is their political friendship that maintains a commitment to political unity. Not everything is disputed at once, and often disputes are over varying interpretations of how to apply shared moral principles.⁷³ Political friendship requires that citizens must hold certain core moral commitments in common, and if the difference among citizens forms strong divisions between them it is unlikely that the political society can be maintained. In those cases the differences over comprehensive doctrine and identity may ultimately break down those bonds of political friendship, as Lincoln witnessed during the onset of the Civil War. This conception of citizenship is, like Rawls's, based in an analysis of citizens in an existing democracy, but the benefits are not guaranteed—it is only in the idealized and well ordered democratic society that we find citizens fully incorporating political friendship in political life. The work of politics involves habituating citizens to share, discuss, and listen to one another's differences, so that they are less reactionary when political disagreement over moral questions arises.

III. The Sharing of Difference

As Taylor notes, determining which description of citizenship is appropriate for a particular political society will depend upon the historical conditions and political self-

⁷³ It is for this reason that Lincoln was so concerned with the increasingly hostile view many defenders of slavery held toward the Declaration of Independence. Lincoln recognized the ways in which slavery undermined the uniting moral principles of the American experiment: "I hate [slavery]...because it forces so many really good men amongst ourselves into open war with the very fundamental principles of civil liberty—criticising the declaration of Independence." Without the common moral principles found in the Declaration, American democracy would be founded upon "no right principle of action but *self-interest*" (Speech at Ottawa, 1858). Citizens would no longer seek common moral improvement and freedom, but would only seek their own private advantage, voting against one another in a zero-sum battle and breaking those bonds of political friendship. If they are to remain united citizens must maintain some common moral idea, and it is this idea that will structure the character of their regime.

conception of a people.⁷⁴ But it is unclear that Rawls's account fully describes the notion of citizenship found in American political culture. When discussing the nature of American citizenship, and the form that relationship takes, we saw previously that Madison and Lincoln used language common to republican descriptions of citizenship. We have also seen some examples of existing laws that are premised on a republican view of the liberty of citizens. And while Rawls's description of citizenship holds great intuitive appeal when arguing that a citizen's institutional rights and duties are unaltered by their identities or comprehensive doctrines, as citizens we often feel and act upon political obligations that go beyond our institutional capacity to participate in democratic governance. We can feel a greater political duty in certain situations *because of* our background identities, and see no reason why they should be separated and no possibility of them being bracketed in the public square.

In an institutional sense we may see each other simply as fellow citizens, rather than as members of different groups, but institutions are not the only place in which the political self is manifested. Protests, marches, rallies, public forums, and political discussions are all other important forms of political participation. Citizens often feel as if it is a duty of citizenship to participate in these kinds of acts, and that institutional participation is not enough on its own. Of course Rawls recognizes the existence of these activities, but when developing his notion of citizenship he only includes its institutional component, namely the status of citizens as institutionally undifferentiated and equal selves.⁷⁵ What is significant is that these political activities are always encumbered by identities and comprehensive doctrines. Members of marginalized groups are often drawn to public life

⁷⁴ Charles Taylor, "Cross-Purposes: The Liberal-Communitarian Debate" in *Philosophical Arguments*, pp. 200-202.

⁷⁵ John Rawls, *Political Liberalism*, p. 32 fn. 34. Rawls also recognizes the importance and reality of discursive political engagement along lines of comprehensive doctrine and identity when discussing "the wide view of public political culture," yet does not include these elements in his ontological construction of the citizen (John Rawls, "The Idea of Public Reason Revisited," pp. 783-787). Doing so would seem to require that the citizen be a constitutive political self.

because they wish *to be seen as having* a certain identity, in order to personalize and demystify it. In these cases political arguments are not made according to public reason, but from within the experiences and lives of a particular group. The aim is not to provide reasons accessible to all citizens regardless of their private background, but to introduce other citizens to encumbered experiences that they might not have been aware existed. The justifications are not “public” in the sense that they are not equally or even reasonably accessible to all citizens. Under this view, public deliberation is not only about altering beliefs, but also altering the constitution of the self. As Taylor puts it,

One of the principles of this hermeneutics is that there is no achieving understanding of the other which does not at the same time alter one’s understanding of oneself. This is because what is preventing us from understanding the other initially is precisely the implicit and hence unwitting hold on us of our too narrow horizon, the undisputed terms in which we understand our lives.⁷⁶

In private life we may self-segregate and choose to live among those who are like us, with those who share similar experiences, backgrounds, and beliefs. Our selves will often be structured by the values and identities we become socialized within, homogenizing groups in the private sphere. But in public life we are compelled by the political necessity of self-rule to engage others with whom we disagree, and whom we are not like. As members of one society we are forced to come together and determine what formal standards will apply to us all. By homogenizing our public presentations to that of undifferentiated citizens, we are robbed of the possibility of learning about people and ways of life that we would not have been introduced to otherwise.⁷⁷ Rawls eliminates the educative capacity of political discourse, in which we learn about other values and experiences and debate their place in our common political life. When citizens do not know about those who are unlike them, yet

⁷⁶ Charles Taylor, “Living With Difference” in *Debating Democracy’s Discontent: Essays on American Politics, Law, and Public Philosophy*, p. 215.

⁷⁷ We can of course introduce ourselves to these things in private life, but the public square has the unique ability to compel people to do so, not by some hierarchical command, but by the facts of self-rule.

who are still members of their political society, there will be a greater danger of political dissonance and division. Issues of moral contestation will become more polarized, as each side is increasingly unable to understand the other's encumbered motivations and experiences. It is precisely over those issues of moral disagreement that we see the modular political self and public reason break down.

On Political Discourse

I. Rethinking Public Reason

When clarifying public reason in his essay "The Idea of Public Reason Revisited," Rawls claims that many of his critics have simply misunderstood him—public reason was never meant to be as limiting as some had interpreted it to be. Public reason does not apply to all political discussions, and in many cases comprehensive doctrines and identities can be brought into play even when publically debating morally contentious issues. Public reason in its ideal form was only meant to apply to political discussions in the "public political forum," which involves three cases: 1) Judges and judicial decisions, 2) Government officials, public executives, and legislators, 3) Political candidates, parties, and the political campaign apparatus.⁷⁸ A looser, non-ideal form of public reason applies to citizens engaging in non-public political debate and deliberation, and political conceptions can vary around the basic features of political justice, and can be affirmed from a variety of stances and forms of political liberalism. Citizens are only burdened by the stricter formulation of public reason when voting, when they are making use of coercive force through political action, and in those circumstances "ideally citizens are to think of themselves *as if* they were legislators."⁷⁹

Identifying the reason for having different discursive standards for the public political forum and the non-public political forum becomes clear when we distinguish

⁷⁸ John Rawls, "The Idea of Public Reason Revisited." pp. 767-768.

⁷⁹ Ibid., p. 769. Italics in original.

between two ways of thinking about political relations.⁸⁰ A relation between persons may be called “political” if the discourse operating between them refers to objects that are themselves political. For example, two people may discuss what candidate should fill a public office, or what the law should be regarding some public issue. Both public offices and laws are political things, making the discourse that involves those things political in *reference*. But there is another way in which a relation may be called political: When the relation between persons is not only characterized by discourse about political things, but also by general coercive power, then that relation is political in *form*. The discourse that operates within this kind of political relation is the one that Rawls wishes to limit through public reason. Politics involves general rules of conduct that compel people to act or not act in certain ways, and for the very substance of a relation to be political it must involve a coercive capacity. Coercion on its own that only pertains to some specific case does not cause a relation between persons to take on a political character; a robber is not acting politically when he uses force to steal someone’s possessions. It is only when coercion is generally applied to the lives of persons as rules governing their activity, and when that coercion is coupled with discourse about political things, that a relation becomes formally political.

The question Rawls faces is how to justify the coercive power that comes with formal political relations while maintaining the freedom and equality of citizens. Rawls’s solution is to propose discursive limits on the kinds of reasons we can give, with those reasons being ones that any rational and reasonable person could be expected to accept. This does not mean that all persons will agree—what it means is that the reasons given should be ones accessible from any vantage point, as ones any person would have access to, even if they do not agree with them at a specific point in time. They are reasons persons accept as public justifications from their own position in the overlapping consensus.

⁸⁰ While Rawls never described his distinction in this manner, I believe it helps to illustrate the basis of his argument.

Offering comprehensive reasons, which are rooted in our own particularist comprehensive doctrines and identities, cannot operate in formal political relations because they offer reasons not everyone can reasonably accept. We would not expect a non-Catholic to ever accept an argument premised on Catholic theology. In such cases, the autonomy of the individual would not be respected, as the reasons for the employment of coercive force is not one all persons being coerced could reasonably be held to accept.

This distinction between the kind of relation that operates in the public political forum and the non-public political forum fails to recognize the indirect effect political discourse in supposedly non-public settings can have on coercive law. As Lincoln noted in his 1858 speech at Ottawa,

In this and like communities, public sentiment is everything. With public sentiment, nothing can fail; without it, nothing can succeed. Consequently he who moulds public sentiment goes deeper than he who enacts statutes or pronounces decisions. He makes statues and decisions possible or impossible to be executed.⁸¹

Limiting the ideal form of public reason to executives, legislators, and judges because they make use of coercive force through law ignores the indirect effect on coercion through referential political discourse. The non-public political forum shapes the public mind, and inclines it toward certain positions even if those reasons are not given when acting in public. Prejudices developed in civil society can easily creep in the background of public reason—for example, while it may be possible to provide arguments against the legalization of same-sex marriage that fall under public reason, it is undoubtedly the case that many still oppose same-sex marriage due to prejudicial views towards homosexuality. It is also not entirely clear why political parties, candidates, and the campaign apparatus would fall under the restrictions of ideal public reason—like private citizens, they seek to persuade fellow

⁸¹ Abraham Lincoln, *The Collected Works of Abraham Lincoln: Volume III 1858-1860*, p. 27. Also see David Zarefsky's "Public Sentiment Is Everything": Lincoln's View of Political Persuasion" for an account of how public sentiment functioned in Lincoln's political thought.

members of society on political matters, and their arguments do not directly carry with them the power of coercive force. Political persuasion, while not directly coercive, forms the public sentiments that permit or exclude coercive political proposals. The line between reasons given for a law when it is to be enacted and reasons given to incline people to support the law is more ambiguous than Rawls presents. And as was pointed out previously, facially neutral laws can themselves be sites of discrimination, if they impede upon the freedom of different groups to pursue their ends and maintain their comprehensive doctrines and identities.

There is also something deeply troubling about excluding certain forms of moral expression from the public square by designating it as being unpolitical—as Linda Zerilli points out, citizens who do not fall into the overlapping consensus “risk being rebuffed” by their fellow citizens, and treated “as deeply unreasonable and therefore as having nothing politically to say.”⁸² This has two politically debilitating effects: 1) It causes many good citizens to withdraw from a common life that rejects them and does not recognize them as acceptable participants, and 2) It prevents other citizens from gaining some understanding of their fellow citizen’s perspective. Rawls’s “method of avoidance” reduces the pluralism of public life needed to sustain participation in that life, as well as the political education that can be found through that participation.

Finally, this change in emphasis about the limits of public reason in political deliberation is problematic given Rawls’s underlying ontological justification for political liberalism and public reason itself. According to Rawls, public reason is “a relation of citizens within the basic structure of society.”⁸³ It is a relation that obtains between modular political selves, who are publicly disconnected from their private encumbrances and are institutionally undifferentiated. Rawls cannot allow for comprehensive reasons to enter into political deliberation because to do so would admit that political selves are encumbered.

⁸² Linda Zerilli, “Value Pluralism and the Problem of Judgment: Farewell to Public Reason,” p. 9.

⁸³ John Rawls, “The Idea of Public Reason Revisited,” p. 769.

When citizens provide comprehensive reasons, they are bringing their ‘private’ values to bear in the public square. If the relations that obtain between political selves are comprehensive, then the ontological presentation of the political selves must be constitutive, as modular political selves are disconnected from comprehensive reason when holding some political view. The institutional ideal of citizenship that Rawls describes misses important features of the political self’s ontology, namely the non-institutional political actions mentioned in the previous section. Rawls’s institutional definition of citizenship limits his theoretical ability to take into account the full ontological scope of political selves as presented in a democratic political society, as well as the kind of political discourse they can engage in. And it’s in cases of moral disagreement where we most clearly see that citizens as political selves have historically brought their constitutive ends into the public square in order to reach some resolution.

II. Public Reason and Moral Conflict

Rawls writes, “[public reason’s] limits and constraints are useful when a society is divided and contains many hostile religious associations and secular groups, each striving to become the controlling political force,” before noting that critics have argued, “In the political societies of the European democracies and the United States these worries...are idle.”⁸⁴ I would instead make the opposite claim: It is in those severely divided political societies where we most clearly see public reason break down. And even in stable democratic societies—ones that can be seen as relatively ideal cases—public reason is least useful when adjudicating matters of moral disagreement. I will begin by reviewing public reason’s failure in dealing with two moral disagreements in a stable liberal democracy, followed by one in a less liberal democracy on the brink of civil war.

⁸⁴ John Rawls, *Political Liberalism*, pp. 484-485.

i. Abortion

Rawls's brief discussion of abortion is indicative of public reason's failure in relatively ideal cases—although he claims that “any reasonable balance of [the relevant political values] will give a woman a duly qualified right to decide whether or not to end her pregnancy during the first trimester,”⁸⁵ it is not at all clear why this would be the case.⁸⁶ According to Rawls's own principles, children are to be protected and granted a level of respect within political liberalism.⁸⁷ Surely if fetuses have the same moral status as children they would be subject to the same protections to life, complicating political liberalism's balance of values. While some have argued that the issue can be sidestepped due to the uncertainty of the moral status of the fetus, this position does not meet the standards of the overlapping consensus, given that those arguments depend on reasons that lie outside of other reasonable comprehensive doctrines.⁸⁸ It would be reasonable for a comprehensive doctrine to reach pro-life or pro-choice conclusions, even when regulated by political principles. Under such conditions political liberalism cannot establish a right (i.e. the “right to life” or the “right to choose”) prior to political adjudication, although the issue is widely understood to concern fundamental rights that both sides reasonably believe should be protected at the outset in a liberal society.

Solving such a political dispute requires introducing the content of comprehensive doctrines into the public square. Citizens would be expected to discuss the moral status of the fetus and right of the women to her body, among other ethical considerations. In cases

⁸⁵ *Ibid.*, p. 243 fn. 32.

⁸⁶ Some have pointedly noted that the flippant way in which Rawls ‘adjudicates’ the issue violates his own principles of civility. See Timothy Hurley, “John Rawls and Liberal Neutrality” in *John Rawls: Critical Assessments of Leading Political Philosophers*, as well as John Finnis, “Abortion and Cloning: Some New Evasions.”

⁸⁷ John Rawls, *Justice as Fairness*, p. 165.

⁸⁸ For an example of this line of criticism, see Henrik Friberg-Fernros, “Abortion and the Limits of Political Liberalism.” Friberg-Fernros ultimately concludes that legalized abortion is incompatible with political liberalism. It is also worth noting that many political liberals make arguments favoring the legalization of abortion that do not seem to match up with Rawls's brief comment about reaching a “balance of values,” although the brevity of Rawls's statement makes it difficult to understand exactly what procedure he had in mind.

like this, the political self would involve its constitutive ends in public deliberation. On one side, religious and philosophical justifications for the dignity of the fetus would be presented. On the other, the philosophical case for the right of the woman to have an abortion, as well as presentations of the identity-based experiences of women and reproduction. This is also a more plausible description of how citizens in democratic societies actually engage with one another on these kinds of issues than the one envisioned by Rawls. But perhaps more importantly, it also appears to be a more ideal formulation of reflective democratic citizenship. Each side would not only be exposed to the outer political shell of the other's argument, but to the comprehensive reasons why people actually hold such a view, giving them a deeper understanding of the position than they would have had otherwise. Even if neither side convinces the other, each will still have become more aware of the internal logic of the other, and will be forced to review the internal content of their own position in light of the debate.

It is the attempt to impose a particular view of public reason that often leads to increasing polarization on these topics. Given the general structure of Rawls's political theory, it is no wonder that he grants extensive powers to the Supreme Court, going as far as to label it as "the only branch of government that is visibly on its face the creature of [public] reason and [public] reason alone."⁸⁹ The Court is meant to 'settle' issues of moral disagreement according to public reason, but the American public is as divided over abortion today as it was when *Roe v. Wade* was first decided. If anything, the Court's decision has only polarized political discourse and made democratic resolution more intractable.⁹⁰

⁸⁹ John Rawls, *Political Liberalism*, p. 235. For more on Rawls's position on the Court, see pages 231-240. Incredibly, Rawls goes as far as to argue that the Court can repeal a constitutional amendment if it believes the amendment "contradicts the constitutional tradition" of the United States (*Political Liberalism*, p. 239).

⁹⁰ On this subject Justice Ruth Bader Ginsburg writes, "The political process was moving in the early 1970's, not swiftly enough for advocates of quick, complete change, but majoritarian institutions were listening and acting. Heavy-handed judicial intervention was difficult to justify and appears to have provoked, not resolved, conflict" ("Some Thoughts on

ii. Same-Sex Marriage

There are also good reasons to doubt that the Supreme Court can or does function as the “creature of [public] reason and [public] reason alone.” In *Obergefell v. Hodges* the Supreme Court ruled that state bans on same-sex marriage were unconstitutional. It justified its decision on a variety of grounds that would be consistent with public reason, but the Court also made use of comprehensive reasons when pronouncing its verdict. In his majority opinion, Justice Anthony Kennedy spends a great deal of time articulating the intrinsic value marriage serves to human beings who wish to live a good life—he writes that “The lifelong union of a man and a woman has always promised nobility and dignity to all persons,” and that “Marriage is sacred to those who live by their religions and offers unique fulfillment to those who find meaning in the secular realm.” Justice Kennedy went on to write, “Its dynamic allows two people to find a life that could not be found alone, for a marriage becomes greater than just the two persons. Rising from the most basic human needs, marriage is essential to our most profound hopes and aspirations.”⁹¹ And in his conclusion Justice Kennedy emphasizes the intrinsic value of marriage, which is rooted in a constellation of virtues: “No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. In forming a marital union, two people become something greater than once they were.”⁹²

When reviewing the case made against same-sex marriage, Justice Kennedy evaluates the moral purpose of marriage and the effect same-sex unions would have on the institution. Justice Kennedy writes that the respondents claim that legalizing same-sex marriage “would demean a timeless institution,” and that if the petitioners “[intended] to demean the revered idea and reality of marriage,” then “the petitioners’ claims would be of a different

Autonomy and Equality in Relation to *Roe v. Wade*” p. 63). For an excellent discussion about the Court’s inability to adjudicate matters of moral disagreement, see Gerald Rosenberg’s *The Hollow Hope: Can Courts Bring About Social Change?*

⁹¹ *Obergefell v. Hodges, Director, Ohio Department of Health, et al. (U.S. Supreme Court 2015)*, p. 3.

⁹² *Ibid.*, p. 28.

order.”⁹³ It is in the public interest to promote a way of life that many see as necessary to living a good life, and if the petitioners’ intent were to corrupt the institution, rather than meaningfully participate in it, then the bans on same-sex marriage would have more justification. At the heart of the dispute is whether the benefits inherent in marriage that promote a good life are diminished or degraded by opening the institution to same-sex couples. It is also important to point out that not all people view marriage as a fundamental human good, and it would therefore fail to qualify as one of Rawls’s “primary goods,” as identified in the original position.⁹⁴ Public laws establishing marriage as an institution, like Quebec’s language laws and RFRA, give public space for certain groups to practice their idea of the good.

Given these comprehensive reasons for the existence of marriage, a public policy that would be more consistent with public reason would be for marriage to be left to civil society, without public support, so that individuals may pursue their own idea of the good without incentives or public benefit, which may or may not include marriage. However, this broadly libertarian argument for the legalization of same-sex marriage does not involve persuading people that there is nothing morally wrong with homosexuality, only that in a liberal society we should not pass laws that prevent people from engaging in activities—whether moral or immoral—if their actions do not harm others. As the debate over same-sex marriage matured, advocates for same-sex marriage increasingly made the case that participation in the institution of marriage was essential to living well as a couple, and that same-sex couples were excluded from this way of life. The mature argument for the legalization of same-sex marriage required citizens to persuade one another that homosexuality was itself not immoral, and that the participation of same-sex couples in

⁹³ Ibid., p. 4.

⁹⁴ Many radical feminists have argued in favor of the abolition of marriage, on the grounds that it is inherently oppressive to women and promotes patriarchal domination. For examples, see Kate Millett’s *Sexual Politics*, Shulamith Firestone’s *The Dialectic of Sex: The Case for Feminist Revolution*, Sheila Cronan’s “Marriage,” Andrea Dworkin’s *Pornography: Men Possessing Women*, and Laura Kipnis’s *Against Love: A Polemic*.

marriage was consistent with the goods inherent in the institution. This identifies a key weakness of public reason—unlike comprehensive reason, public reason is unable to penetrate into the self and alter the moral orientation of those it tries to persuade. This issue is made especially apparent in the debate over American slavery.

iii. Slavery

When discussing American slavery, Rawls makes the curious argument that abolitionists who appealed to religious language “would not have been unreasonable in these conjectured beliefs if the political forces they led were necessary historical conditions to establish political justice,”⁹⁵ and that members of those political movements did not go against public reason if “they thought, or on reflection would have thought (as they certainly could have thought), that the comprehensive reasons they appealed to were required to give sufficient strength to the political conception to be subsequently realized.”⁹⁶ But as Sandel rightly points out, there is no reason to think that the often religiously fundamentalist abolitionists would have thought that their work would bring about a more secular society, in which religious appeals were excluded from public deliberation.⁹⁷ There is no reason to engage in historical revisionist speculation where we reinterpret explicitly religious language in order to construct an historical teleology that leads to public reason.

Rawls does caution us not to read his claims too historically, wishing to instead “view the question conceptually.”⁹⁸ Rather than getting bogged down in a historical debate about the intents, beliefs, and effects of abolitionists, Rawls seems to want to make a narrower conceptual point: Appealing to a comprehensive doctrine is justified in cases where it is a

⁹⁵ John Rawls, *Political Liberalism*, pp. 250–251.

⁹⁶ *Ibid.*, p. 251.

⁹⁷ Michael Sandel, *Liberalism and the Limits of Justice*, pp. 213–214. Sandel also makes the point that there is strong evidence to suggest, “that by advancing religious arguments against so conspicuous an injustice as slavery, the evangelicals who inspired the abolitionist movement were hoping to encourage Americans to view other political questions in moral and religious terms as well.”

⁹⁸ John Rawls, *Political Liberalism*, p. 250.

necessary historical precondition to establishing political justice and public reason. Rawls writes, “given the comprehensive doctrines [abolitionists] held and the doctrines current in their day, it was necessary to invoke the comprehensive grounds on which those values were widely seen to rest. Given those historical conditions, it was not unreasonable of them to act as they did for the sake of the ideal of public reason itself.”⁹⁹ However, this position undercuts the force of public reason in cases of moral disagreement, in which one side has a reasonable belief that there is a violation of the fundamental rights necessary for the establishment of political justice. In such cases advocates are left with a reasonable epistemological claim to ignore public reason. To return to the example of abortion: Advocates for and opponents of the legalization of abortion can credibly claim that their political movements are necessary conditions to establishing political justice. Either side could be perceived as violating the fundamental rights of a group within political society—the lives of fetuses or the bodily autonomy of women. So long as the advocates remain within a reasonable comprehensive doctrine—as is possible with each of these positions (although is not always adhered to)—according to Rawls’s argument they would be justified in ignoring the dictates of public reason.

There also remains the question of why introducing comprehensive doctrines into public deliberation was necessary in the first place. While Rawls says that citizens ought to affirm the ideal of public reason, he admits that given the social norms in the 19th century it was necessary for abolitionists to provide comprehensive reasons as opposed to public ones.¹⁰⁰ But it is not as if Americans of the 19th century did not have the moral resources to recognize the political equality of men; Americans of the 18th century took it as self-evident, as Lincoln would often note.¹⁰¹ Lincoln’s worry was not only that slavery was a great moral

⁹⁹ Ibid., p. 251.

¹⁰⁰ Ibid.

¹⁰¹ Of course Americans of the 18th century held slaves and racist views just as Americans of the 19th century did. But there was a shift in Antebellum South over this period in which slavery was no longer viewed as a necessary moral evil to be eventually done away with, but as an important cultural heritage, euphemistically referred to as a “peculiar institution.” For

evil and opposed to the American founding, but also that if the neutralism pushed by Stephen Douglas was adopted as a political principle it would deprive American citizens of their republican character. In his debate against Douglas at Ottawa Lincoln declared, “When [Douglas] says he “cares not whether slavery is voted down or voted up,”—that it is a sacred right of self-government—he is, in my judgment, penetrating the human soul and eradicating the light of reason and the love of liberty in this American people.”¹⁰² A key insight of the constitutive political self is that political discourse does not only alter the positions we hold, but the self that holds the positions. It can penetrate into the self and reorganize its constitutive ends.

Unlike comprehensive reason, public reason does not have the hermeneutical power to change people’s self-perception. As Iris Marion Young observes, Rawls’s political liberalism “implies a static social ontology,” one that “gives primacy to substance over relations,” and that “tends to conceive of individuals as social atoms, logically prior to social relations and institutions.”¹⁰³ Douglas’s position has been described in a similar fashion—J. David Greenstone argues that he presupposed a “static conception of the individual personality,” in which government’s duty is merely to identify and remove any illegitimate obstacles that may prevent an individual from fulfilling his desires.¹⁰⁴ According to neutralist political ontologies—be they expressed as political liberalism or popular sovereignty—there is no change in the ontological character of the political self over the course of political deliberation. All that changes is what values the self publically justifies,

a discussion of this moral shift, and Lincoln’s characterization of it and reaction against it, see Harry Jaffa’s *Crisis of a House Divided: An Interpretation of the Issues of the Lincoln-Douglas Debates*, J. David Greenstone’s *The Lincoln Persuasion: Remaking American Liberalism*, and John Burt’s *Lincoln’s Tragic Pragmatism*.

¹⁰² Abraham Lincoln, *The Collected Works of Abraham Lincoln: Volume III 1858-1860*, pp. 460-461.

¹⁰³ Iris Marion Young, *Justice and the Politics of Difference*, pp. 27-28. For another analysis along these lines, see Sandel’s *Liberalism and the Limits of Justice*, pages 59-65.

¹⁰⁴ J. David Greenstone, *The Lincoln Persuasion: Remaking American Liberalism*, p. 237. Sandel makes a connection between Rawls and Douglas’s positions as well, but along a different point. See Sandel’s discussion on pages 197-202 of *Liberalism and the Limits of Justice* and Rawls’s response in “The Idea of Public Reason Revisited” on page 802.

what beliefs it holds with a critical distance from its being. The modular political self remains static, as a disconnected chooser behind the choices, changing its positions but not itself. To take the previous example of same-sex marriage: The conservative Catholic who accepts the legalization of same-sex marriage as a citizen on the basis of public reason does not change his mind about the morality of the practice—he will still view homosexual acts as sinful, and may act upon that belief in his private life.

In morally divisive cases comprehensive reasons are most evidently necessary because the constitutive ends of political selves must be altered. In such cases citizens' ethical and political conceptions are restructured. Changes in beliefs through comprehensive discourse do not only change what is politically permissible, but also what is socially respected. Public reason does not have the capacity to induce such a change, as it can merely appeal to the surface-level political values already present in a particular political culture among a variety of comprehensive doctrines.¹⁰⁵ Rawls admits that, "prior historical conditions may require that comprehensive reasons be invoked to strengthen [the values of public reason]."¹⁰⁶ But this points to the weakness of public reason, namely to its inability to reconstruct the ontology of political selves on its own. When a society is divided over issues of moral disagreement, comprehensive reasons are needed to penetrate into the self and alter its moral orientation, and to therefore create a political culture oriented toward a more just value structure.

Conclusion

Republican citizenship maintains unity through shared values and experiences while also supporting the public and private diversity of citizens in law. And unlike public reason, by making use of comprehensive reason republican citizens are capable of engaging in moral

¹⁰⁵ It is also important to note that even those who adopt public reason do not do so because of public reason as such, but from within their own reasonable comprehensive doctrines. This explains how neutralist approaches like Douglas's can affect the ontology of the political self even if the political discourse that operates within that structure cannot.

¹⁰⁶ John Rawls, *Political Liberalism*, p. 251 fn. 41.

persuasion and political education through political discourse. Both of these capacities are underwritten by a constitutive ontology of the political self, which is derived from an analysis of actually existing democratic citizens and an idealized conception of how citizens would best relate to one another to sustain a united and free political society. Republican citizenship offers no guarantees for stability and freedom; Lincoln's call for republican unity through political friendship was tragically unable to prevent secession and civil war. A political society can only remain united if political friendship is sustained among the citizens over a long period of time, and once those bonds of affection break disunion becomes increasingly likely. It is therefore the job of statesmen to cultivate political friendship; as Aristotle writes, "It seems too that friendship holds cities together and that lawmakers are more serious about it than about justice."¹⁰⁷ To protect the political life of a democratic political society, citizens and statesmen must cultivate the moderate disposition that allows the sentiment of friendship to effectively combat the sentiment of moral outrage.

There is still much to appreciate in Rawls's approach. It attunes us to the importance of political ontology and takes seriously the stakes of political dissonance. Rawls's motivation, namely his worry about oppression or division in political society along lines of comprehensive doctrine or identity, should not be lost in a critique of his theory. And any account that abandons the public impartiality and neutralism of liberal political theory must be careful when constructing its own. But theoretical constraints on certain kinds of acts and speech, even when actualized in the form of judicial institutions or constitutional protections, cannot replace the work of politics. And when politics has to resolve questions of moral disagreement, the political ontology that justifies those constraints limits the possibility of political persuasion. It is only by thinking of political selves as being constituted by their ends, and therefore open to change given a change in

¹⁰⁷ Aristotle, *Nicomachean Ethics*, 1155a23-24.

those ends, that we can we begin to make sense of social movements and properly conceptualize the place, purpose, and capacity of political discourse.

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