"REIDING RAWLS": A CRITICAL ASSESSMENT OF THOMAS

REID'S COMMON SENSE PHILOSOPHY AS A RESPONSE

TO JOHN RAWLS'S DOCTRINE OF PUBLIC REASON

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by

Bryan Edward Baise

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APPROVAL SHEET

"REIDING RAWLS": A CRITICAL ASSESSMENT OF THOMAS

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To my wife, Danielle, you are my grace in the flesh and advocate during those days when I did not imagine I would survive this project. Thank you for believing in me when I could not muster the ability to believe in myself. To our children, Madelyn, Collin, and Olivia, your ebullient thirst for life has been a source of joy for me during this project. Thank you for your daily reminder that, more than anything else, you just want Daddy around. I pray you will come to love your Heavenly Father soon.

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PREFACE

I did not come to this dissertation topic from my beginnings as a Ph.D. student. I vacillated among various ideas, always imagining I was on the cusp of finding my topic only to discover that it had been written or that I was not that interested in it after all. For as long as I have wanted to study a philosophy Ph.D., a dissertation on a topic that I was passionate about was of utmost importance. From the time I was nine years old, I have been passionate about politics, society, and the effects of the former on the latter. My father encouraged this curiosity in me with books, CD-ROMs of presidential speeches, and stories of political history. I had friends who, while not themselves interested in this arena, encouraged me when I was serious about pursuing a career in politics and law. In addition, professors and mentors in college encouraged me to consider politics and philosophy as an avenue for my career. My seminary professors encouraged me to consider teaching and writing as my calling. In essence, this dissertation is no doubt created by me, but it has been the encouragement from dozens of other people that has brought me to this place.

My supervisor, Ted Cabal, has been a consistent source of encouragement, as both his student and his Garrett Fellow. He challenged me to wrestle with concepts, not because they provided some sort of utility to me, but for the intrinsic good of thinking hard and writing critically. He did not allow me to settle for what I thought was best, but pressed me—even at moments when I thought I was incapable of providing what he asked—to go the extra mile. That prodding has proved dividends not merely in my writing, but in my personal life as well.

To Larry Willis, my high school English teacher, you were balm to my soul as I struggled to figure out the meaning of life, my own existence, and everything in

between. You answered my questions and anticipated my objections. You *never* allowed the easy answer. Even when my questions were met with a simple but humble "I don't know," you demonstrated a sincere humility and grace that I have never forgotten. You instilled in me a love for books and literature. While I served as your assistant my senior year, you provided a safe space where I could think, doubt, and even cry. I owe a debt to you that I can never repay. This is my small token of appreciation.

My parents have been unswervingly supportive during this project. Their sacrificial love toward one another and their children has been a model to my young family and me. Their ability to consider others before themselves is a fruit of the Spirit. They demonstrate love, not merely with words, but with their actions. They will celebrate forty years married this August. The tender love my father shows my mom, and the unceasing confidence and trust she shows him are among the greatest examples of marital bonding I have ever seen.

Words cannot express how indebted I am to my wife. In 2013, I was on the brink of quitting the Ph.D. program. I was tired, distressed, and unable to see with clarity what the Lord was doing. Danielle, your strength in those moments along with words of assurance that you knew I needed to finish my Ph.D. gave me resolve. We did not know at the time that you would need to repeat those same words hundreds of times over the next three years. Yet, you did, each time, without a modicum of frustration or fear. You trusted the Lord when I could not. You are a testament of faith, resolve, and hope. You are my grace in the flesh.

This project does not survive without the grace and mercy of the Lord Jesus Christ. He rescued me from myself when I was seventeen years old, and this dissertation is a testament to the unswerving and radical mercy that He pours upon His children through His Son. When I did not believe his mercy would sustain me, he continued to

release fresh mercy to demonstrate that He will not leave me. He withholds no good thing from us.

<div align="right">Bryan Edward Baise</div>

Louisville, Kentucky

December 2016

CHAPTER 1

INTRODUCTION

In 2006, a young rising Senator stood before a group gathered at the Call to

Renewal's Building a Covenant for a New America Conference in Washington, DC. He

was the keynote speaker for the evening, and by most accounts, able to draw a large

crowd that evening. Just two years prior, he spoke at one of the party's national

conventions and presented himself to the national stage with eloquence, charisma, and

hope. In this prepared address, the Senator spoke convincingly about the necessity of

faith in politics, which those whom seek public office—especially those of the more

liberal variety—should not shy away from their faith. Indeed, they should be proud of

their faith, and speak of it as often as they would like. Then, the Senator transitioned. He

posed a question: How can those of religious belief, and those that are not, come together

in solidarity to resolve the problems around us? It will not be, he posits, with religious

citizens leaving their faith at the door. Rather, it will require something different. Here

are the Senator's words:

> Democracy demands that the religiously motivated translate their concerns into
> universal, rather than religion-specific, values. It requires that their proposals be
> subject to argument, and amenable to reason. . . . In a pluralistic democracy, we
> have no choice. Politics depends on our ability to persuade each other of common
> aims based on a common reality. It involves the compromise, the art of what's
> possible. At some fundamental level, religion does not allow for compromise. It's
> the art of the impossible. If God has spoken, then followers are expected to live up
> to God's edicts, regardless of the consequences. To base one's life on such

uncompromising commitments may be sublime, but to base our policy making on such commitments would be a dangerous thing.[1]

The Senator went on to show how this truth is crucial for policy discussion. If Americans are going to progress, they must see that religiously-based beliefs must be limited in some way. The Senator's solution was to see them as important but as something that must be translated before they are made public. The speech was well-received and became a "classic" in modern discussion about the intersection of faith and politics. The young, budding Senator would go on to become the 44th President of the United States. While it is unclear whether President Obama was intentionally channeling an influential liberal political philosopher, it is unquestionably true that his words clearly echo John Rawls's writings, especially as they relate to his concept of public reason.

Indeed, John Rawls has had immense influence on the current framework of public policy discussions, and his intellectual weight can be felt. One of the most enduring aspects of this legacy is a concept called public reason. Originally conceived as a way to delimit policy discussion, public reason became the dominant way Western pluralistic societies discuss policy proposals. As Michael Sullivan writes, those currently "engaged in the project of developing a proposal for cross-cultural discourse in public life are obliged to consider Rawls's proposal along with its merits and shortcomings."[2] Emphasizing deliberation from mutually shared conviction instead of private beliefs, public reason introduces concerns for religious citizens who deliberate politically from principled and private beliefs. Indeed, this objection gets to the heart of why many

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[1]"Obama's 2006 Speech on Faith and Politics," *New York Times*, accessed July 7, 2016, http://www.nytimes.com/2006/06/28/us/politics/2006obamaspeech.html.

[2]Michael Sullivan, "An Assessment of John Rawls's Theory of Public Reason," *Philosophia*

religious citizens—especially Christians—object to the limitations imposed by public reason.

Christian and non-Christian scholars alike have considered the harms that public reason places on policy debates in pluralistic society. Public reason's emphasis on negating the influence of "comprehensive doctrines" offers potential for religious citizens to be unable to fully participate in policy deliberation. To circumvent such a situation, responses to public reason must demonstrate that a religiously-based system can provide valuable input to public policy discussions.[3] If this is successful, deliberative restrictions will be shown as harmful instead of helpful. This dissertation will contend that Thomas Reid's common sense philosophy can provide such an example.

Thesis

This dissertation will show that John Rawls's concept of public reason harmfully delimits comprehensive doctrines such as religiously-based reasoning in public policy debates. Contra Rawls, Thomas Reid illustrates that beneficial contributions to such debates can be grounded even on religiously-based comprehensive doctrines. The thesis will analyze the structure of public reason, showing that it is also dependent upon comprehensive doctrines. Further, the problem of excluding comprehensive doctrines

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Christi 7, no. 1 (2005): 61-86

[3]Rawlsian scholars may point out that a *proviso* or *stipulation* allows religiously-based reasoning in policy deliberation. Part of this dissertation will be demonstrating that such a proviso is false.

will be explored. An outline of common sense philosophy as one example of a religiously-based comprehensive doctrine will be provided.

Background

Personal Interest

The topic of this dissertation is born from a lifelong interest in the intersection of politics and faith. At a very young age, I would watch the State of the Union with my father. I did not understand what was being stated but I recall being mesmerized by what was unfolding on the television screen. The process was enthralling. I became a Christian at 17 and have consistently endeavored to investigate how my faith and love for politics intersect.

My interest in philosophy started in college and further kindled during my doctoral seminars at Southern Seminary. I stumbled upon Rawls when reading about liberal conceptions of civic engagement for a potential Ph.D. seminar paper. I noticed that Rawls's concept of public reason has enjoyed an immense staying power, and it seemed like an idea that was worthy of further engagement.

My interest in Thomas Reid came in the doctoral program. The simplicity of Reid's theory was appealing to me, and I found his writing to be accessible. After reading more about common sense philosophy, I began to realize that a careful study of Reid's philosophical system could uncover a valuable but underdeveloped voice to public policy debates. Further, I began to consider how common sense might be unduly excluded under the constraints of public reason.

History of Research

Broadly, the Rawlsian literature[4] can be broken down into summarizing and condensing his theory[5] and works analyzing his theory.[6] Given the scope of this dissertation, the research summarized below will focus on Rawls's concept of public reason, the literature emphasizing the harm of public reason, and the implicit dependence of Rawls on Kantian moral philosophy. The literature for Thomas Reid often provides a summary and analysis of his philosophical framework of common sense. Yet, a growing body of literature suggests Reid's potential contribution to practical ethics as well.[7]

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[4]The literature described in this section is works that have sought to analyze Rawls's two primary works, *A Theory of Justice* and *Political Liberalism.* While Rawls wrote beyond these two texts, the majority of the works listed focused on those two works.

[5]Samuel Freeman, ed., *The Cambridge Companion to John Rawls* (Cambridge: Cambridge University Press, 2002); Sebastian Maffetone, *Rawls*; Thomas Pogge and Danielle Kosch, *John Rawls: His Life and Theory of Justice* (Oxford: Oxford University Press, 2007); Robert Wolff, ed., *Reflections on Rawls: An Assessment of His Legacy* (Burlington, VT: Ashgate, 2012); Michael Frazer, "John Rawls: Between Two Enlightenments," *Political Theory* 35, no. 6 (December 2007): 756-80.

[6]This area is large, and the following is not meant to be comprehensive. Those analyzing his theory vary from defense to disagreement: Robert Audi, *Religion in the Public Square: The Place of Religious Convictions in Political Debate* (Lanham, MD: Rowman & Littlefield, 1997); Brian Barry, *The Liberal theory of Justice: A Critical Examination of the Principle Doctrines in a Theory of Justice by John Rawls* (Oxford: Oxford University Press, 1973); Harlan Beckley, "A Christian Affirmation of Rawls' Idea of Justice as Fairness: Part I," *Journal of Religious Ethics* (1985): 229-46; idem, "A Christian Affirmation of Rawls' Idea of Justice as Fairness: Part II," *Journal of Religious Ethics* (1986): 229-46; Christopher Beem, *Pluralism and Consensus: Conceptions of the Good in the American Polity* (Chicago: Center for the Scientific Study of Religion, 1998); Ronald Cohen, *Justice: Views from the Social Sciences* (New York: Plenum Press, 1986); Jeffrey Cervantes, "Rawls, Religions, and the Ethics of Citizenship: Toward a Liberal Reconciliation" (Ph.D. diss., University of Tennessee, 2013); Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1978); Richard Fern, "Religious Belief in a Rawlsian Society," *The Journal of Religious Ethics* 15, no. 1 (April 1, 1987): 33-58; James Gordon Finlayson and Fabian Freyenhagen, *Rawls and Habermas: Disputing the Political* (New York: Routledge, 2010); Robert P. George and Gregory Wolfe, *Natural Law and Public Reason* (Washington, DC: Georgetown University Press, 2000); Rachel Patterson, "A Critique of Rawls' Political Liberals and the Idea of Public Reason," *Deakin Law Review* 9, no. 2 (2004); Nicholas Tampio, "Rawls and the Kantian Ethos," *Polity* 39, no. 1 (January 2007): 79-102; Kevin Vallier, *Liberal Politics and Public Faith: Beyond Separation* (New York: Routledge, 2014).

[7]The literature here is not designed to be exhaustive. The following works provide a summary of Thomas Reid and common sense philosophy: Terence Cuneo and Rene Van Woudernberg, eds., *The Cambridge Companion to Thomas Reid* (Cambridge: Cambridge University Press, 2004); David Ferguson,

Rawlsian public reason. Rawls's doctrine of public reason rises out of a concern for what he terms "comprehensive doctrines." These doctrines are essential dogmas, from various perspectives, that a particular system believes must be affirmed.[8] Naturally, a pluralistic society provides fertile ground for these comprehensive doctrines to clash. This conflict creates opportunities for a policy deliberation standoff. Thus, a pluralistic society needs certain guidelines and principles for enquiry. It needs "publicly recognized rules for assessing evidence to govern application."[9] Rawls's proposal to circumvent such a stall is a doctrine of public reason, offered in the hope of providing an "overlapping consensus" where private beliefs must be translated into public reason.[10]

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ed., *Scottish Philosophical Theology, 1700-2000* (Charlottesville, VA: Imprint Academic, 2007); S. A. Grave, *The Scottish Philosophy of Common Sense* (Oxford: Oxford University Press, 1960); John Greco, "Common Sense in Thomas Reid," *Canadian Journal of Philosophy* 41 (2011): 142-55; John Christian Smith, *Companion to the Works of Philosopher Thomas Reid (1710-1796)* (Lewiston, NY: Edwin Mellen, 2000); Nicholas Wolterstorff, *Thomas Reid and the Story of Epistemology* (Cambridge: Cambridge University Press, 2001). The following works interact with Reidian thought: Terence Cuneo, "Intuitionism's Burden: Thomas Reid on the Problem of Moral Motivation," *The Scottish Journal of Philosophy* 6, no. 1 (2008): 21-43; Jeffrey Edwards, "E," *The Scottish Journal of Philosophy* 3, no. 1 (2005): 1-17; Knud Haakonssen and Paul Wood, eds., *Reid on Society and Politics* (State College: Penn State University Press, 2014); Knud Haakonssen, *Thomas Reid on Practical Ethics* (State College: Penn State University Press, 2007); Colin Heydt, "Practical Ethics in 18th Century Scotland," *The Scottish Journal of Philosophy* 10, no. 1 (2012): v-xii; Keith Lehrer, "Thomas Reid on Common Sense and Morals," *The Scottish Journal of Philosophy* 11, no. 2 (2013): 109-30; P. D. Magnus, "Reid's Dilemma and the Uses of Pragmatism," *The Scottish Journal of Philosophy* 2, no. 1 (2004): 69-72; Shinici Nagao, "The Political Economy of Thomas Reid," *The Journal of Scottish Philosophy* 1, no. 1 (2003): 21-33; Michael Pritchard, "Justice and Resentment in Hume, Reid, and Smith," *The Journal of Scottish Philosophy* 6, no. 1 (2008): 59-70; Nicholas Wolterstorff, "Reid on Justice," in *Reid on Ethics*, ed. Sabine Roeser (New York: Palgrave Macmillan, 2010), 187-203; idem, "What Sort of Epistemological Realist was Thomas Reid?" *The Journal of Scottish Philosophy* 4, no. 2 (2006): 111-24.

[8]This is more than *merely* religious belief. Rawls is also concerned with comprehensive doctrines that are not *prima facie* religious. See John Rawls, "The Idea of Public Reason Revisited," *University of Chicago Law Review* 64, no. 3 (Summer 1997): 765-807.

[9]Ibid., 3

[10]Ibid, 772. When Rawls writes about an "overlapping consensus" he intends to relate the idea that those within a pluralistic society will inevitably have different conceptions of "the right and the good." Indeed, for Rawls, one of the most important ends of a democratic society is to present a political conception of justice. This *limited* conception of justice is designed such that even those who hold to

The reasons offered by citizens must be ones that can be understood and deliberated by all. Religious reasoning, on Rawls's account, does not conform to this standard, so citizens must translate their beliefs into public reason. One of the reasons Rawls offers for necessity of this translation is that this mutually shared language is the best way to a consensus in policy deliberation. That is, it is the fairest way for participation in liberal democracy. The religious citizen's explanation must be in light of public reason's ideals, namely fairness. The citizen's political claims must be declared as commensurate with public reason. Public reason, then, becomes the normative guideline for political discourse. Several objections have been offered to this proposal, highlighting the potential harm it could bring to civic democracy.

Public reason as harm. This objection often takes several forms, but most of the literature takes one of two forms: individual harm and societal harm. One of the primary arguments of the former is the integrity objection. In its clearest form, the integrity objection states that public reason is unwarranted by forcing citizens to repress their religious beliefs when entering the public square. It harms the integrity of the religious individual by asking citizens to chasten their belief in God when they argue for public policy. As such, they cannot fully engage in policy discussion because they are implored to privatize their convictions.[11] This requires the citizen to "split" his identity,

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different comprehensive doctrines can assent to this political conception of justice. By this assent, an overlapping consensus is potentially attained. John Rawls, "The Idea of an Overlapping Consensus," *Oxford Journal of Legal Studies* 7, no. 1 (1987): 1-25.

[11]A clear summary and explanation of the integrity objection can be found in Kevin Vallier, *Liberal Politics and Public Faith* (New York: Routledge, 2014), 57-66. See also Kevin Vallier and Christopher Eberle's chapter entitled, "Religion in Public Life," in *The Routledge Companion to Social and Political Philosophy*, ed. Gerald Gaus and Fred D'Agostino (New York: Routledge, 2013), 804-6. For a sympathetic summation of the integrity objection, see Nicolas Wolterstorff, *Understanding Liberal*

and thus harms his integrity as an individual. As such, he cannot participate fully in pluralistic democracy.

On a societal level, scholars note that public reason's removal of religiously-based reasoning is harmful because it blocks potential beneficial contributions.[12] As Zondra Wagoner notes, public reason can become so common that it may foster injustice, and a policy discussion derived from a comprehensive doctrine may provide the justice needed.[13] Rawls's notion that comprehensive doctrines like religiously-based reasoning will necessarily lead to division is false, for his conception of pubic reason is not without implicit commitments to comprehensive doctrines as well.[14] That is to say, the implicit 'comprehensive' commitments of Rawls assist in demonstrating the failure of public reason. Yet, Rawls desires that the deliberative process be unfettered from metaphysical speculation, but he cannot escape it completely as his own ideas are inundated with Kantian moral philosophy.

Rawlsian moral philosophy. In addition to *A Theory of Justice*, Rawls's moral philosophy can be derived from three sources: *Lectures on the History of Moral*

Democracy: Essays in Political Philosophy (Oxford: Oxford University Press, 2012).

[12]Robert P. George and Christopher Eberle, eds., *Natural Law and Public Reason.* (Washington, DC: Georgetown University Press, 200); Eduardo Penalver, "Is Public Reason Counterproductive?" *West Virginia Law Review* 110, no. 515 (2010): 515-42; Zandra Wagoner, "Deliberation, Reason, and Indigestion: Response to Daniel Dombrowski's 'Rawls and Religion: The Case for Political Liberalism,'" *American Journal of Theology and Philosophy* 31, no. 3 (2010): 189-90. These are but a few examples, and the dissertation will analyze this literature more fully in chaps. 2 and 3.

[13]Zandra Wagoner, "Deliberation, Reason, and Indigestion," 189-90.

[14]As chapters 2 and 3 will suggest, Rawls holds to Kantian elements for his political philosophy to work. He invokes Kantian themes of autonomy, rationality, and moral philosophy to establish political liberalism.

Philosophy,[15] the Dewey Lectures entitled "Kantian Constructivism in Moral Theory,"[16] and a paper entitled "The Independence of Moral Theory."[17]

   In *Lectures on the History of Moral Philosophy*, Rawls spells out in detail the Kantian notion of the right over the good, highlighting the deontological notions of a Kantian ethical theory.[18] Rawls defines a deontological theory as not specifying the good distinct from the right, or the right as what ultimately augments the good.[19] The Rawlsian literature notes well that he applies this kind of deontological thinking to his overall theory of justice.[20] While there is considerable debate about how Rawls interprets Kant's theory, Rawls certainly considered his ideas to have Kantian roots.[21] Hence, Rawlsian public reason would appear to fit the label of a Kantian theory. This is not to say that

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[15]John Rawls, *Lectures on the History of Moral Philosophy* (Cambridge: Cambridge University Press, 2000).

[16]John Rawls, "Kantian Constructivism in Moral Theory," *The Journal of Philosophy* 77, no. 9 (1980): 515-72.

[17]John Rawls, "The Independence of Moral Theory," *Journal of the American Philosophical Association* 48 (1974-1975): 5-22.

[18]Rawls, *Lectures on the History of Moral Philosophy*, 156-57, 222-23, and 230-32.

[19]John Rawls, *A Theory of Justice* (Cambridge: Cambridge University Press, 1999), 21-22.

[20]In an article on deontology in the *Encyclopedia of Public Administration and Public Policy,* the author states, "The most notable deontologists are Immanuel Kant in the eighteenth century and John Rawls in the twentieth century" (Jack Rabin, ed., *Encyclopedia of Public Administration and Public Policy: A-J* [New York: Marcel Dekker, 2003], s.v. "Deontology," by James R. Heichelbech).

[21]Will Kymlicka, "Rawls on Deontology and Teleology," *Philosophy and Public Affairs* 17, no. 3 (1988): 173-90. Kymlicka gives steady attention to Michael Sandel's criticism of Rawls, arguing that consequentialism—a primary target of Rawls' theory—is also deontological. Kymlicka notes that Rawls sees consequentialism as too teleological, prioritizing the good absent from the right. Thus, Kymlicka concludes that Rawls overstates his case and that utilitarianism is not as problematic as he may have thought. Samuel Freeman thinks that Kymlicka conflates the connection between the priority of the right and deontological theory and thus misses the crucial concern of Rawls and utilitarianism. See chap. 2 of Samuel Freeman, *Justice and the Social Contract: Essays on Rawlsian Political Philosophy* (Oxford: Oxford University Press, 2007); and Larry Krasnoff, "How Kantian is Constructivism?" *Kant-Studien* 90 (1990): 385-409.

Rawls merely adopts Kant's moral theory at every turn.[22] Yet, the lectures provide a depiction of Rawls's views about Kant's theories and how he incorporates them into his overall theory.[23]

Rawls's *Dewey Lectures* are an attempt to restructure his argument from *A Theory of Justice* so the Kantian foundations can be known with better clarity. Indeed, he goes on to state in the opening paragraph that the lack of a clear Kantian moral theory has "*impeded* the advancement of moral theory."[24] In doing so, Rawls views his project as demonstrating, in addition to a framework for justice, a *moral theory* that grounds his political philosophy.[25] Rawls unveils the goal of a moral philosophy when he states that the two basic "model-conceptions" of his theory of justice are derived from a well-ordered society and the conception of a *moral person*.[26]

The essay, *The Independence of Moral Theory*, is a transition from Rawls's thinking in *A Theory of Justice* to *Political Liberalism.*[27] He begins by distinguishing

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[22]Rawls notes in his Dewey Lectures that his idea of justice as fairness is not "Kant's view, strictly speaking; it departs from his text at many points" (John Rawls, "Kantian Constructivism in Moral Theory," *The Journal of Philosophy* 77, no. 9 [1980]: 517).

[23]Nicholas Tampio, "Rawls and the Kantian Ethos," *Polity* 39, no. 1 (2007): 79-102. To be sure, Rawls diverges at points, but the overall spirit of his theory is Kantian in nature. Yet the amount of time he spends unpacking Kant's theory suggests a preference to Kant over against the rest of the philosophers discussed. This is not to say that Rawls is building an *exclusively* Kantian foundation, but it does seem to imply that his foundational is heavily indebted to Kant.

[24]Ibid., 515, emphasis original.

[25]William Galston mentions that these Dewey Lectures are not three separate lectures in theme, but rather the three-model conceptions of the lectures are "not independent of one another . . . . The first feature merely builds the model-conceptions of the moral person into the well-ordered society" (William Galston, "Moral Personality and the Liberal Theory: John Rawls's 'Dewey Lectures,'" *Political Theory* 10, no. 4 [1982]: 492-519).

[26]Rawls, "Kantian Constructivism in Moral Theory," 521.

[27] See Samuel Freeman's chapter, "Kantian Constructivism and the Transition to Political

between moral theory and moral philosophy. Moral theory is agnostic toward

metaphysical questions about the moral life. Moral philosophy includes moral theory as

one of its principled parts.[28] Thus, moral philosophy is distinct from metaphysics or

epistemology.[29] Moral theory, once distinct from moral philosophy, will begin to show

that it is a subject matter that "requires [investigation] for its own sake."[30] This

independence plays a major role in how he develops not only a theory of justice, but also

his doctrine of public reason. Applied to the political sphere, Rawls believes that political

philosophy shares a similarity. Like moral theory, political philosophy shares an

independence from comprehensive moral, philosophical, and religious views.[31] Public

reason, free from the shackles of a comprehensive doctrine, is derived from a separate

realm. Thus, the conception of public reason needs a developed awareness of the need for

separate realms for comprehensive doctrines and public reason.[32]

        The Rawlsian literature is rich with avenues to explore. Demonstrating how

beliefs that may be excluded under public reason would benefit political deliberation is

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Liberalism in *Rawls* (New York: Routledge, 2007).

     [28]Rawls, "The Independence of Moral Theory," 5-22.

     [29]Freeman, *Rawls*, 60.

     [30]Rawls, "The Independence of Moral Theory," 6.

     [31]Freeman, *Rawls,* 60-61.

     [32]Ibid., 21. Samuel Freeman goes even further by stating that the task of political liberalism is a "further extension of Rawls's idea of the independence of moral reasoning. Political reasoning in a democratic society has, as Rawls will argue, standards reasonableness and correctness that set it apart from other kinds reasoning, including even non-political moral reasoning" (Samuel Freeman, *Rawls* [New York: Routledge, 2007], 315).

key for revealing the problems in Rawls's theory. The next section offers literature on how Thomas Reid's common sense philosophy could provide this kind of example.

Thomas Reid

One of the more prolific contributions to Reidian literature comes from the various works of Knud Haakonssen. He has written several important articles on the Scottish Enlightenment and served as editor for some of Reid's principal works.[33] His seminal work has helped to underscore the acceptance of Reid's political writings. In the introduction to Reid's *Practical Ethics*, Haakonssen states that Reid understood the government to be "a moral institution resting on moral judgment." It is the laws of nature given by God that bind the authority of government.[34] Likewise, Reid states that it is necessary for a state to consider religion in deliberation because "a State neglects one of its most essential interests if it neglects religion and leaves that altogether out of its consideration."[35] Haakonssen research shows Reid's awareness of the application of common sense to the political.

Common sense. The catalyst of this philosophical concept was to provide a refutation of Humean skepticism.[36] "Philosophy has no other root," Reid writes, "but the

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[33]Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996). In addition, Haakonssen and Wood edited Reid's *Practical Ethics*, which serves as an important contribution to Reid's moral philosophy and the implications to civil society. See Haakonssen and Wood, eds., *Thomas Reid on Society and Politics*.

[34]Haakonssen, *Natural Law and Moral Philosophy*, 212. In this context, the "laws of nature" are natural laws seen as "God's command to man, apprehended by human reason" centered in the conscience. Ibid., 202-3.

[35]Thomas Reid, *Practical Ethics*, ed. Knud Haakonssen (Princeton, NJ: Princeton University Press, 1990), 256.

[36]David Fate Norton, *David Hume: Common-sense Moralist, Skeptical Metaphysician*

principles of Common Sense."[37] With this dictum, Reid sets the foundations for a

philosophy of common sense. They are found among those propositions that "believed

immediately, i.e., not on the basis of inference."[38] These values are those that you take for

granted in everyday life. Common sense beliefs are central principles that we hold not for

any particular reason but are assumed rather than rationally deduced; therefore, they are

not selective but universal.[39] Common sense is the foundation of all thought. The beliefs

formed within it are derived from "innate principles of our constitution."[40] These

principles include morality and practical ethics.

  Practical ethics. Reid divides his moral theory into two sections: speculative

and practical. The first is a theory of morals, the second is practical ethics.[41] Morals, for

Reid, must have first principles by which all other moral reasoning is grounded. These

moral truths are objective, general, and immediately recognizable to the moral sense.[42]

The *particular* application of these moral truths is grounded in the identifiable *generality*

(Princeton, NJ: Princeton University Press, 1984), 171-73; Thomas Reid, *Inquiry into the Human Mind on the Principles of Common Sense*" (State College: Penn State University Press, 1997).

  [37]Reid, *Inquiry into the Human Mind on the Principles of Common Sense*, 18.

  [38]Nicolas Wolterstorff, "Reid on Common Sense," in *The Cambridge Companion to Thomas Reid* (Cambridge: Cambridge University Press, 2004), 83.

  [39]Wolterstorff, "Reid on Common Sense," 84-88. Wolterstorff mentions that Reid emphasizes that we do not hold common sense principles *for reasons*. It is not that we are incapable of giving reason, it is that they are not reducible to reason. Wolterstorff, "Reid on Common Sense," 85.

  [40]Keith Lehrer, *Thomas Reid* (New York: Routledge, 1989), 8.

  [41]For Reid's explanation of speculative morals, see Thomas Reid, *The Works of Thomas Reid* (Chestnut Hills, MA: Adamant Media Corporation, 2000), 1:413-88. Practical ethics is especially where one can see the use of natural law.

  [42]Reid, *The Works of Thomas Reid*, 1:475-88. For more, see Robert Stecker, "Thomas Reid on the Moral Sense," *The Monist* 70, no. 4 (October 1987): 453-64.

of moral truths.[43] These general moral truths are first principles and provide the ability to reason specific moral truths. Hence, without first principles of general moral truths, the vindication of particular moral truths is impossible.

Furthermore, Reid writes that one is to carry him or herself in a way that engenders wisdom.[44] Conscience is given by God and grounded in moral laws, and the knowledge of these laws is centered in common sense. He writes that "there are moral laws of nature . . . which God has prescribed to his rational creatures for their conduct."[45] This conduct is what he terms practical ethics. When practical ethics are applied to not merely the individual but the society as well, Reid moves from moral theory to discussions about natural jurisprudence. This next section is devoted to that literature.

Natural jurisprudence. Reid devotes a substantial amount of his work, *Practical Ethics,* on natural jurisprudence.[46] The relationship between natural jurisprudence and common sense can be demonstrated by showing that, along with common sense, the natural law can provide veridical and experiential grounds for moral

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[43]Take the example provided by Terence Cuneo, "wicked deeds ought to be punished." This is a good example of a general moral fact. They contain some moral property. A particular moral fact would be something like "the murder of Jones is wicked." The statement is a possession of a moral property at a particular time and place. Cuneo also describes a second distinction Reid makes, deontic versus evaluative moral facts. A deontic moral fact would be something like "that one ought not murder." An evaluative moral fact is would be "*This* murder was wicked." It is, as Cuneo states, a fact that merits a response rather than a directive like deontic or general moral facts. See Terence Cuneo, "Reid's Moral Philosophy" in *The Cambridge Companion to Thomas Reid* (Cambridge: Cambridge University Press, 2004), 244.

[44]See the introduction to Thomas Reid, *Essay on the Active Powers of Man* (Chestnut Hills, MA: Adamant Media Corporation, 2000). See also *Essays IV and V* in Reid, *The Works of Thomas Reid*.

[45]Reid, *Essay on the Active Powers of Man*, 628.

[46]See chap. 6 of Knud Haakonssen, *Natural Law and Moral Philosophy* (Cambridge: Cambridge University Press, 1996).

philosophy.[47] The natural law helps buttress common sense; they are God's

commandments to men apprehended by reason and conscience.[48] Natural law informs

how Reid views justice, as beginning with the individual and developing toward society.

A society of just *people* should bring about a just *society*.[49] Justice is a concern on an

institutional level as well. Justice is distinguished from the virtues "by being the subject

of the *institutions* of justice, namely adjudication, law, and legislation."[50] Hence, Reid's

moral philosophy is not *merely* a personal one, but a societal and political endeavor as

well. The implications of this are further revealed in how Reid conceives of the nature of

justice.

 Justice. God has given humanity, says Reid, the power to do both good or harm to

our fellow man (i.e., gratitude or resentment). When humanity uses power to promote the

good of others, it is a favor. If employed to hurt, it is an injury. Justice, according to Reid,

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[47]It was quite common in the Scottish Enlightenment to appropriate natural law into one's moral theory. One sees it especially in men like Lord Shaftesbury, Francis Hutcheson's mentor. One sees it in Hutcheson's writings and also in Thomas Reid's. For more on the Scottish Enlightenment and Natural Law, see Knud Haakonssen, "Natural Law and Moral Realism: The Scottish Synthesis," in *Studies in the Philosophy of the Scottish Enlightenment*, ed. M.A. Stewart (Oxford: Oxford University Press, 2000), 61-85.

[48]In addition to natural law, Reid also adopts and adapts Stoicism into his ethical framework. Both natural law and adopting stoicism were incredibly common among the Scottish Enlightenment at the time. See Thomas Ahrent, *The Moral Culture of the Scottish Enlightenment* (New Haven, CT: Yale University Press, 2015), 1-6.

[49]Knud Haakonssen, "Natural Jurisprudence and the Theory of Justice," in *The Cambridge Companion to the Scottish Enlightenment*, ed. Alexander Broadie (Cambridge: Cambridge University Press, 2003), 205-21.

[50]Ibid., 1:206, emphasis original. The distinguishing of justice from virtues is not a metaphysical distinction, but instead a categorical one. That there are various kinds of virtues, Reid imagines, is a given. Justice is a moral virtue distinct from, say, an intellectual virtue. Hume would imply that these virtues are on similar levels, and Reid's distinction suggests they are not. See *Early Responses to Hume's Moral, Literary & Political Writings*, ed. James Fieser (Bristol, UK: Thoemmes Press, 1999), 132-35.

dwells between the two—it does not harm nor does it do any favors.[51] He writes that if

man has an *a priori* conception of favor and resentment, then one has an *a priori*

conception of justice. So, if favor and resentment are natural to mankind, then justice is

as well.[52] Further, this notion of justice carries moral obligation. Justice implies

obligation and this demonstrates that justice comes, for Reid, prior to social utility.[53] If

justice is logically prior to convention, it cannot be grounded in mere sentiment[54] or in

social utility and must be a natural virtue that arises within the constitution of human

nature as a first principle.

      This formation of justice stands in contrast to Rawls. Reid views justice as

intrinsic while Rawls sees its primary function as social utility.[55] Justice is a *moral* first

principle in Thomas Reid's work. These principles of common sense are divided into first

principles of contingent truth and necessary truths. Necessary truths—ideas that are not

contingent—are such that they must be true.[56] Justice resides within moral first principles

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[51]Haakonssen, "Natural Jurisprudence and the Theory of Justice," 2:654.

[52]Ibid., 2:654-55. Michael S. Pritchard argues that both Adams Smith and Thomas Reid follow Joseph Butler lead in the moral significance of resentment. Michael S. Pritchard, "Justice and Resentment in Hume, Reid, and Smith." *Journal of Scottish Philosophy,* 6, no. 1 (2008), 59-70

[53]Ibid., 2:655-56.

[54]This is where Reid's predecessors in Frances Hutcheson ground justice, though in different ways. See Adam Smith, *Theory of Moral Sentiments*, Part VII.

[55]Intrinsic here refers to the natural framework of humanity. See Reid, *Essay on the Active Powers of Men*, 645-57. Rawls's conception of justice is strikingly similar to Hume's, as noted by several scholars. See Andrew Lister, "Hume and Rawls on the Circumstances and Priority of Justice," *History of Political Thought* 26, no. 4 (2005): 664-95; Michael Frazer, "John Rawls: Between Two Enlightenments," *Political Theory* 35, no. 6 (2007): 756-80. See also the entry on David Hume in Jon Mandle and David A. Reidy, eds., *The Cambridge Rawls Lexicon* (Cambridge: Cambridge University Press, 2015).

[56]Reid, *Essay on the Intellectual Powers of Man*, vi. Reid lists six: mathematical, logical, grammatical, matters of taste and morals, and metaphysical. See also Reid, *Essay on the Intellectual Powers of Man*, 1:413-508; 2:551-99, 637-79. This list can also be found in William Hamilton, ed., *The*

that, while not needing an explanation to demonstrate their existence, show their fruits in society.

Methodology

The dissertation is primarily analytic and will be accomplished through two primary tasks. The first task is to demonstrate that the exclusion of comprehensive doctrines such as religiously-based reasoning is harmful to public policy debates. This will be accomplished by carefully analyzing the necessary components of Rawls's conception of public reason and highlighting the problems of excluding comprehensive doctrines by way of public reason.

The second task is to show the benefit of a religiously-based system. This will be accomplished by demonstrating that Thomas Reid's common sense philosophy is an example of beneficial contributions from a comprehensive doctrine. Establishing historical examples of common sense realism as beneficial to public policy debates will also be explored. To that end, John Witherspoon is firmly in a Reidian heritage, applying common sense philosophy to his moral and political writings. Additionally, James Wilson, an early Supreme Court Justice and signatory of the Declaration of Independence, applies common sense to his legal philosophy. Last, the current relevance of common sense philosophy in relation to same-sex marriage and abortion will be explored.

Works of Thomas Reid (Chestnut Hills, MA: Adamant Media Corporation, 2005).

Chapter Summaries

This chapter introduces the project and provides an explanation of the problem and the solution. Specifically, the problem is that Rawlsian public reason harmfully delimits comprehensive doctrines such as religiously-based reasoning from public policy debates. One solution will argue that Thomas Reid's common sense philosophy can provide a beneficial example to policy debates. That is, if Reid can provide a beneficial contribution to policy discussion, then reason exists to delimit deliberation on Rawlsian grounds are weakened. I will also present my methodology for demonstrating this thesis.

Chapter 2 introduces John Rawls and his concept of public reason. After a brief introduction to Rawls, I explore briefly why he has been so influential and present a few possibilities. I define public reason according to Rawls's own conceptualization, and carefully analyze the essential components of this concept. Once analyzed, I show that Rawls is also dependent upon "comprehensive doctrines" that are moral and anthropological in nature. This move is designed to show that the issue is not principally comprehensive doctrines but, rather, what kind of comprehensive doctrines are in play.

Chapter 3 presents the problem of excluding comprehensive doctrines in public deliberation. This chapter demonstrates that Rawls has a faulty criterion for public reason exclusion, which is grounded in a vague criterion of what counts as reasonable and rational. Further, this chapter suggests a troublesome paradox in Rawlsian exclusion whereby comprehensive doctrines are omitted by way of a comprehensive doctrine. Additionally, Rawlsian conceptions of justification and coercion as they relate to governance are examined and shown to be deficient. Further, the negative effects of Rawlsian exclusion can be seen psychologically, pragmatically, and publically. The

chapter ends with an analysis of the naiveté of public reason, which is based on a false conception of public neutrality and statecraft.

Chapter 4 introduces Thomas Reid and his philosophy of common sense. After analyzing and describing the basics of common sense philosophy, this chapter will explore why Reid was so influential. It will also seek to demonstrate the moral and anthropological ground that will stand in contrast to Rawlsian thought. The chapter claims further that common sense in this context can be viewed as arguing for a universal civic participation. In common sense, moral truths can be known, they are objective in nature, and policies can be derived from them. Indeed, in Reid's framework, all are capable of deliberation and, as such, grounds for public reason restriction is weakened.

Chapter 5 will illustrate a Reidian approach for today. This chapter will begin by analyzing two individuals in early American life that appropriated Reidian common sense to their current circumstances. We see in one of these individuals, John Witherspoon, a *political* appropriation of common sense. Additionally, James Wilson provides a *legal* appropriation of common sense. Two contemporary thinkers that have appropriated Reidian common sense in their works will be analyzed. Next, the chapter will apply Reid's common sense philosophy to two test cases: abortion and same-sex marriage. These two cases are chosen for a couple of reasons. First, the contemporary climate surrounding the two issues provides an opportunity to see common sense applied to topics that are likely well-known by the reader. Second, both issues are discussed in moral terms. A key feature of common sense is their commitment to a moral realism that could respond to these issues with clarity. Further, the analysis suggests that Reidian

common sense can be applied to current political trends in ways that are beneficial, furthering the thesis that Rawls harmfully limits such belief systems from policy debates.

The dissertation concludes with chapter 6. Here a short summary of the project will be provided along with possible suggestions for further research.

CHAPTER 2

THE PUBLIC REASON OF JOHN RAWLS

The Life of John Rawls: An Intellectual History

Most individuals can piece together seminal events that shape their thoughts, actions, and dispositions. The reality of life-shaping events is no different for those men and women who go on to various positions of influence. While a detailed depiction of Rawls's life is beyond the scope of this dissertation, a quick intellectual history of John Rawls proves relevant. A reading of Rawls's life pinpoints four major seasons that shaped the man and his ideas: his early life, his WWII service, a fellowship at Princeton University, and a post-doctoral Fulbright scholarship to Oxford.

Early Stage

Born on February 21, 1921, John Rawls was the second of five children.[1] The son of a successful lawyer and politically-active mother, he developed a keen awareness of injustice at a young age. Thomas Pogge writes in his biography of Rawls that the young scholar noticed disparate racial populations in Baltimore. He was also quite aware of how his mother did not take too kindly to befriending a young black boy.[2] More than racial inequality, Rawls was faced with trials inside his own home. John's two younger

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[1]John Pogge, *John Rawls: His Life and Theory of Justice* (Oxford: Oxford University Press, 2007), 4. The lack of biographies on Rawls forces this section to be fairly dependent on Pogge's account.

[2]Ibid., 7.

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brothers died of diseases initially contracted from him. Bobby, twenty-one months younger than John, contracted diphtheria from his brother John. While Rawls recovered from his condition, Bobby died. The tragic event initiated a severe stutter that affected Rawls for the rest of his life.[3] The following winter John came down with pneumonia. John or "Jack," as he became known, recovered while his younger brother Tommy died. Perhaps this is why Rawls was a more reclusive scholar. He rarely gave interviews and remained noticeably uncomfortable as the center of attention throughout his career.[4]

Time in War

After residing in Baltimore all of his young life, Rawls was admitted to Princeton University to study philosophy. The first semester of his freshman year was concurrent with the beginning of World War II, so after graduation he enlisted in the service and placed in the Pacific. He served in this region for two years, and the time spent in the throes of war completely eradicated any belief he had in God. By 1945, he had rejected Christianity completely.[5]

Indeed, Pogge mentions a 1990 essay entitled "On My Religion," where Rawls writes that he started the war believing in "orthodox Episcopalian Christianity, and abandoned it entirely by June of 1945."[6] While never in any real danger, Rawls had many companions die. He points out three key events during the war that led him abandon his Christian upbringing.

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[3]Pogge, *John Rawls*, 5.

[4]Ibid., ix.

[5]Ibid., 13.

[6]Ibid.

The first event occurred around December 1944, when a Lutheran pastor preached a sermon declaring that God was aiming the bullets at Japanese soldiers while protecting the American soldiers from the enemy's weaponry. The message was designed to encourage those soldiers listening, but it only served to anger Rawls.[7] "What reason could he possibly [have] had but his trying to comfort the troops?" Rawls inquired. "Christian doctrine ought not to be used for that, though I knew perfectly well it was."[8] Rawls became convinced, in this case, that Christianity was being used as a political ploy.

The death of a friend, Deacon, served as the second catalyst. A first sergeant arrived at Rawls's base looking for volunteers to give blood to a soldier. A matching donor was needed for the wounded solider, and a friend volunteered. On the road to rescue the soldier, Japanese soldiers spotted the team, and they were killed by a mortar shell. Rawls says he was "disconsolate and couldn't get the incident out of [his] mind."[9]

The third event came from Rawls's increasing awareness as a soldier of the carnage of war. In particular, Rawls had in mind the Holocaust and concentration camps.[10] The reality made Rawls begin to doubt the efficacy of prayer: "How could I pray and ask God to help me, or my family, or my country, or any other cherished thing I

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[7]John Rawls, *A Brief Inquiry into the Meaning of Sin and Faith* (Cambridge, MA: Harvard University Press, 2009), 262.

[8]Ibid.

[9]Rawls, *A Brief Inquiry into the Meaning of Sin and Faith*.

[10]Rawls says in some unpublished remarks on religion that the Holocaust can't be interpreted in the same manner as, for example, Lincoln interpreting the Civil War. While Lincoln saw the war as God's punishment for slavery, the Holocaust is a different manner. Rawls felt that no justification could be argued for allowing the Holocaust. See Samuel Freeman, *Rawls* (New York: Routledge, 2007), 8-10.

cared about, when God would not save millions of Jews from Hitler?"[11] These atrocities

drove Rawls to think even further about the problem of evil, for he sensed that "God's

will must accord with the most basic ideas of justice as we know them. For what else can

the most basic justice be?"[12] Rawls felt that equating justice with God's will was

objectionable, and the subsequent months and years after this understanding led to a

rejection of Christianity. Rawls later writes that his difficulties were moral in nature but

the ideas of "right and justice expressed in Christian doctrines [were] a different

matter."[13]

However, Rawls's subsequent investigations into the history of Christianity's

interaction with political culture make the loss of faith relevant. Here, Rawls states that

the church persecuted those viewed as heretics, while Greek and Roman religions were

designed to instill loyalty to the city and emperor. Civil society, under the canopy of civil

religion, flourished while "the history of the Church includes a story of its long historical

ties to the state and its use of political power to establish its hegemony and to oppress

other religions."[14] Given what will become a hesitation to metaphysical and moral

prescriptions attached to politics, one would see that the season in which Rawls served

during the war helped to shape and fashion his later concepts, especially public reason.

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[11]Freeman, *Rawls*, 263.

[12]Ibid.

[13]Ibid.

[14]Rawls, *A Brief Inquiry into the Meaning of Sin and Faith*, 264.

Fellowship at Princeton

After returning from war, Rawls enrolled in graduate work for philosophy at Princeton in 1946. Having essentially completed his dissertation by 1949, Rawls was awarded a fellowship to stay at Princeton. During this time, he decided to take additional seminars.[15] Courses focused on economics and political thought were offered during this time, one of which was a course taught by Jacob Viner, a famous economist well-versed in the "Chicago-school."[16] Rawls familiarized himself with various economic theories, from Adam Smith to Keynesian theory. Viner, deeply ensconced within Chicago-style economics, was not as optimistic about the ability of the free-market to correct woes, as were other theorists in the field. Serving in Roosevelt and Truman's administration, Viner wrote a 1964 essay stating that the welfare state is "really worth fighting for and dying for compared to any rival system."[17] Almost all of Rawls's work shows an adept awareness of economic theory, and his time spent studying with Viner stimulated Rawls to deliberate further on economics and the nature of justice.[18]

In addition to learning various economic theories, Rawls studied the most important ideas of political justice.[19] During this term he "experimented in developing

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[15]Daniel Little, "Rawls and Economics," in *The Cambridge Companion to Rawls*, ed. John Mandle and David A. Reidy (Malden, MA: Wiley-Blackwell, 2014), 590.

[16]Viner and Frank H. Knight are often said to be the founders of the Chicago School of Economics.

[17]Jacob Viner, *The United States as a Welfare State*, quoted in Lanny Ebenstein, *Chicagonomics: The Evolution of Chicago Free Market Economics* (New York: St. Martin's Press, 2015), 52. See also Daniel Little, *Rawls*, 590-96

[18]In "Justice as Fairness," Rawls develops a distinction between "welfare-state capitalism" and "property-owning democracy." John Rawls, "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs* 14, no. 3 (1985): 223-51.

[19]Pogge, *John Rawls*, 15.

each of them into a systematic conception of justice."[20] This careful study of the essential

political texts of U.S. history led Rawls to find historic conceptions of justice insufficient.

By analyzing each theory, it reinforced for Rawls the need for a new conception of

justice, foreshadowing the impetus for his seminal work, *A Theory of Justice.*

Between the fellowship and Fulbright year in 1952, Rawls taught in the

philosophy department at Princeton. Here he befriended visiting scholar J. O. Urmson

and became further aware of developments in British philosophy.[21] Along with meeting

Urmson, Rawls continued to take seminars in economics. He studied John von Nuemann

and Oskar Mortgensen's *Theory of Games and Economic Behavior.*[22] This seminal work

developed the budding field of game theory. Initially designed as a way to assess

calculated deliberation, game theory analyzes "situations in which two or more

individuals make decisions that will influence one another's welfare."[23] By analyzing the

effects of choices made by rational agents, game theory attempts to set forth the possible

conditions actualized by independent individuals. In a 1958 essay, Rawls uses game

theory to argue against utilitarianism and for a social contract.[24] The influence of this

teaching can be seen in Rawls's thought experiment: "the original position."[25]

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[20]Pogge, *John Rawls*, 15.

[21]Pogge mentions that Urmson introduced Rawls to what was particularly going on at Oxford. Pogge mentions J. L. Austin, Peter Strawson, and R. M. Hare, among others. Given that Rawls was about to go to Oxford for a Fulbright scholarship, the context of philosophy at Oxford seems relevant. Ibid., 16.

[22]John von Neumann and Oskar Morgenstern, *Theory of Games and Economic Behavior* (Princeton, NJ: Princeton University Press, 2007).

[23]Roger B. Myerson, *Game Theory: Analysis of Conflict* (Cambridge, MA: Harvard University Press, 1991), 1.

[24]John Rawls, "Justice as Fairness," *Philosophical Review* 57, no. 1 (1958): 185-87. Rawls also makes a case that game theory can be too utilitarian in its calculus. But, in line with Rawls's prudential temperament, he does not reject the theory outright. Instead, he attempts to co-opt certain elements of the

Fulbright Year at Oxford

After completing his PhD, Rawls applied for a year post-doctoral Fulbright fellowship in 1952. Pogge mentions that this year was the most philosophically important since Rawls began studying philosophy in 1941-42.[26] The time inspired him to develop a procedure that justified pure political principles through a deliberative process. The method would be an attempt to justify principles via a hypothetical situation from solely reasonable and rational grounds. Pogge notes that Rawls's initial conception of this was to have individuals deliberate independently from one another and "forward their proposals for moral principles to an umpire. This process was to continue until agreement was achieved."[27] This formulation was later abandoned for a more mature construction of an original position. Nevertheless, the time at Oxford proved formative for the young scholar in developing themes that play an important role in his later writings.

After his return from Oxford in 1953, Rawls went on to teach at Princeton, Cornell, MIT, and Harvard, where he taught from 1962 until retirement in 1991. He continued to write after retirement until his death in 2002.

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theory. The original position can be seen as the evidence of such actions. See chap. 5 of Anne M. Kornhauser, *Debating the American State: Liberal Anxieties and the New Leviathan, 1930-1970* (Philadelphia: University of Pennsylvania Press, 2015).

[25]The influence of game theory in Rawls is well noted. For one example, see Anthony Laden, "Games, Fairness, and Rawls's Theory of Justice," *Philosophy and Public Affairs* 20, no. 3 (1991): 189-222.

[26]Ibid., 16.

[27]Pogge, *Rawls*, 17.

Context: Why Was Rawls So Influential?

Twentieth century thought, with the likes Bertrand Russell, G. E. Moore, and others, solidified analytic philosophy. Existentialism in Europe and beyond gained momentous traction while continental philosophy arose as an alternative to the perceived dry, arid prose of analytics. In addition to philosophical movements, the twentieth century leading up to Rawls saw two world wars, a holocaust, the rise of Communism, the Great Depression in the United States, and other events that shook the confidence of individuals over the prospects of real-world solutions to real-world political problems. Amid these entanglements came the crisis of political philosophy. It was during this time that logical positivism had detrimental effects on how the discipline sought to understand the world. The focus on linguistic and semantic analysis shifted from concretized investigation to explorations about language. Political philosophy took a hit because of its focus on real-world solutions. Rawls's first work in 1971, *A Theory of Justice*, provided an answer to the crisis in a systematic and analytic manner. In what follows, three potential reasons for Rawls's influence are presented: the decline and resurgence of political philosophy in the twentieth century, the rise of Marxism, and the climate of the post-WWII era.

Prior to Rawls, there was need for political philosophy in the twentieth century. A key reason for the scarcity came from the influence of logical positivism. Indicative of the lament for this growing influence is a declaration by Peter Laslett in 1956 that "for the moment, anyway, political philosophy is dead."[28] For Laslett and others, logical positivism was the poison pill ingested by political philosophy. His

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[28]Peter Laslett, *Philosophy, Politics, and Society* (Oxford: Blackwell, 1956), vii.

statements provide a window into the shrinking influence of political philosophy at the
time:

> The decline of traditional political theory was the effect of the logical positivist on a
> philosopher's understanding of their role in the developing political theory. It was
> Russell and Wittgenstein, Ayer and Ryle who convinced the philosophers that they
> must withdraw unto themselves for a time, and re-examine their logical and
> linguistic apparatus.[29]

The discipline was no longer viewed as a viable arena for answers in large part
because of what logical positivism had wrought in broader philosophical circles. It called
for political philosophy to be a discipline concerning itself with linguistic analysis.[30] The
proper designation of political philosophy, say the logical positivists, was to analyze the
words used in politics.[31] Prescriptive solutions arising from mere socio-political analysis
were thought to be unverifiable. By the mid-1950s and early 60s logical positivism had
run its course, and the issue moving forward was to assess the collateral damage caused
by the discipline. Isaiah Berlin's 1962 essay "Does Political Theory Still Exist?" stated
that the solutions of political philosophy cannot be reduced to linguistic analysis or pure
scientific methodology.[32] Indeed, Berlin states that no "commanding work of political
philosophy has appeared in the twentieth century."[33] This statement, however, is not
enough to merit the death of political philosophy because as long as people seek to reason

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[29]Laslett, *Philosophy, Politics, and Society*, ix.

[30]Thomas Schramme, "On the Relationship between Political Philosophy and Empirical
Sciences," *Analyse & Kritke* 30 (2008): 613-26.

[31]Ibid., 614.

[32]Isaiah Berlin, "Does Political Theory Still Exist?" *Philosophy* 40, no. 152 (1965): 162-64.
See also Schramme's analysis of Berlin. Schramme, "On the Relationship between Political Philosophy and
Empirical Sciences," 615.

[33]Berlin, "Does Political Theory Still Exist?, 162.

about things concerning ultimate reality "political theory will not perish from this earth."[34]

Nevertheless, the battle for a clear political philosophy during this time was evident as the discipline itself struggled to find its place in the canon of intellectual endeavors. While many scholars were unconvinced of logical positivism,[35] the negative effects it placed on the task of political philosophy was one reason that Rawls became so influential. Additionally, Rawls's work compared to some of the earlier political philosophers like Berlin and Laslett. Rawls's work was far more systematic and analytic.[36] Given the effects of two world wars, his ability to argue descriptively and systematically for a just constitutional regime placed him ahead of his predecessors in the twentieth century.

Additionally, one finds in the climate of a post-WWII-era a significant loss of confidence in liberal political theory's overall project of inevitable progress. While this may initially seem counterintuitive given the historical dominance of liberalism in the post-WWII era, the issue at play here is in the *ethos* of liberalism. That is to say, political liberalism dominated the American landscape, but it was no longer identified as the

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[34]Berlin, "Does Political Theory Still Exist," 164.

[35]It is more than just that these scholars were unconvinced, they contributed substantial works of political theory and philosophy during this era. Since they were working outside the mainstream of analytic philosophy, they were likely seen, at the time, as less important. Hannah Arendt, Leo Strauss, Michael Oakeshott, and others could be identified as scholars working in political theory and philosophy unfazed by logical positivism. See Michael Beaney, ed., *The Oxford Handbook of the History of Analytic Philosophy* (Oxford: Oxford University Press, 2003), s.v. "Analytic Political Philosophy," by Jonathan Wolff.

[36]Paul Weitham, "John Rawls and the Task of Political Philosophy," *Review of Politics* 71 (2009): 113-25.

utopian dream that so often characterized liberalism prior to WWII.[37] Take, for example, Harvard historian Arthur Schlesinger's 1949 work, *The Vital Center*. Just a few years removed from the end of the second world war, Schlesinger made the case against the utopianism that characterized the liberalism of previous generations. In its place, Schlesinger advocated for a liberalism that solidified the welfare state while also seeking gradual reform.[38] The replacement of a more utopian perspective in liberal political theory for a steady, pragmatic, and empirical one demonstrates the shift in thinking after WWII. Rawls was able to hold both of these traditions in tension—various aspects of Rawlsian theory are undoubtedly utopian while others are clearly pragmatic and prudential.

Even with this loss of utopian confidence in liberalism, the effects of two world wars demonstrated the potential weaknesses of developing a *just* democracy. Indeed, a *constitutional* democracy was still the best option to prevent the maniacal evil present on the world stage. The conflicts brought forth the question of what a *just* democracy might look like. It is here that Rawls provided a unique answer in a sea of uncertainty. Like his liberal predecessors, he was careful, steady, and provided specific answers instead of sweeping concepts.[39]

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[37]Some have identified this notion as the rejection of "corporate liberalism." See Scott Bowman, *Modern Corporation and American Political Thought: Law, Power, and Ideology* (State College: Penn State University Press, 1996), 8n9.

[38]Arthur Schlesinger, *The Vital Center* (Cambridge, MA: De Cappo Press, 1949). See also chap. 7 of Jeffrey Bloodworth, *Losing the Center: The Decline of American Liberalism: 1968-1992* (Lexington: University of Kentucky Press, 2013).

[39]Indeed, this actually became a major criticism of post-WWII liberalism. That is, instead of pushing for sweeping changes, liberalism settled for gradual, incremental, and timid changes. See for example Timothy Neil Thurber's comments in *The Politics of Equality: Hubert H. Humphrey and the African American Freedom Struggle* (New York: Columbia University Press, 1999), 19-21.

A third and final factor was the rise of Marxism. A dominant force in political philosophy until the mid-1980s,[40] Marxism set forth a philosophy for Western Europe and beyond that coalesced around "common ownership of all means of production and distribution."[41] The rapid growth of Marxism as a philosophy of life suggested to many that political philosophy was merely an ideology instead of a discipline. Because of such conceptions, the prospects of political philosophy delivering veracity to political discussions became less possible. When Marxism began an attempt to adjust ideas from classical conceptions, it only brought forth problems. A distinction is drawn between classical and analytic Marxism. Classical Marxism is delineated into three major conceptions: Marxism is scientific instead of utopian, justice is not a transhistorical conception, but it is confined to various modes of production, and equality is not a central tenet of the system. The rise of *analytic* Marxism led to the antithesis to classical Marxism.[42] A central question for classical Marxism was whether or not there was a Marxist conception of justice. The orthodox position was no, while analytic Marxism said that it "can and will accommodate a notion of justice."[43] In this sense, Rawls's theory of justice mirrors analytic Marxism in searching for a congruence between justice and fairness.[44] Further, analytic Marxists were willing to place socialism in a moral category

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[40]Derek Matravers and Jonathan Pik, eds., *Debates in Contemporary Political Philosophy: An Anthology* (New York: Routledge, 2003), 1.

[41]Robert E. Gooden, Phillip Pettit, and Thomas W. Pogge, eds., *A Companion to Contemporary Political Philosophy* (Malden, MA: Blackwell Publishing 2012), 416.

[42]Erik Olin Wright, "What is Analytic Marxism?" in *Interrogating Inequality: Essays on Class Analysis, Socialism, and Marxism* (New York: Verso, 1994).

[43]Andrew Levine, "Marxist and Socialist Approaches," in *The Oxford Handbook of Political Philosophy*, ed. David Estlund (Oxford: Oxford University Press, 2012), 172-74.

[44]Ibid., 172.

that can be identified with a sense of utopian socialism.[45] By the end of the twentieth

century, Marxism had been mostly absorbed into other political philosophies, including

Rawls.[46]

Certainly, other factors played key roles in the immediate influence Rawls

enjoyed, but the above presents at least three points of contact. Interestingly, the impact

that Rawls had on political philosophy fostered key interactions with his work that drove

him to later modify or adjust his theory. The later modification of his work focuses less

on a *theory* of justice and on more pragmatic and political implications of his ideas. One

of those ideas, public reason, is the focus of the next section.

Essential Features of Public Reason

The central argument of this dissertation is that public reason unfairly delimits

policy discussions. The basis by which this concept excludes is related to Rawls's

structure of public reason and the connection to what he terms "comprehensive

doctrines."[47] Indeed, several essential features are crucial for grasping the idea as a

whole. The rest of this chapter will be divided into three sections. The first deals with the

necessary background components in order for public reason to properly function. The

second is an analysis of public reason, and the final section analyzes the implicit

comprehensive doctrines beneath public reason.

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[45]David Estlund ed., *The Oxford Handbook of Political Philosophy* (New York: Oxford University Press, 2009), s.v. "Marxist and Socialist Perspectives," by Andrew Levine.

[46]For example, the social utopianism found in Marxist and Socialist conceptions of government can also be found in Rawlsian theory. See Richard Miller, "Rawls and Marxism," in *Reading Rawls: Critical Studies in Rawls' A Theory of Justice*, ed. Norman Daniels (Stanford, CA: Stanford University Press, 1989).

[47]Sebastiano Maffetone, *Rawls: An Introduction* (Cambridge: Polity Press, 2010), 220-21.

Background Components

Comprehensive Doctrines

One of the more essential aspects of Rawls's overall theory of justice is his comprehensive doctrines, which play an important role in filling out what Rawls desires in public reason. "How is it possible," he writes, "for those of faith, as well as those of the nonreligious, to endorse a constitutional regime even when their comprehensive doctrines may not prosper under it, and indeed may decline?"[48] What is the process by which individuals from faith—and of no faith—may be able to deliberate together without fear of being excluded? Certainly, a pluralistic society will have various beliefs, conceptions, and ideas about various moral actions. These beliefs, says Rawls, are "comprehensive doctrines."[49] They arise from beliefs that are concerned about more than just political institutions. In effect, comprehensive doctrines attempt to cast a wider net than what Rawls desires with his political theory. These conceptions, says Rawls, have metaphysical assumptions that extend beyond the specific nature of the discussion.[50]

Thus, comprehensive doctrines are those moral, religious, or philosophical commitments intrinsic to a particular worldview structure.[51] Rawls's concern about

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[48]John Rawls, "The Idea of Public Reason Revisited," *University of Chicago Law Review* 64 (1997): 781.

[49]Not every belief is necessarily reducible to a comprehensive doctrine. Rather, they are those moral, philosophical, and religious beliefs that the individual shape's their life around. They are more than mere political values.

[50]Rawls, "The Idea of Public Reason Revisited," 765-66. See also Christopher Eberle, *Religious Convictions in Liberal Politics* (Cambridge: Cambridge University Press, 2002), 144-45.

[51]There is distinction between a worldview structure and comprehensive doctrine. That is, a worldview structure provides the framework for various comprehensive doctrines to express its contours. If a worldview structure contains a number of life-regulating beliefs, for example, comprehensive doctrines express what those beliefs are. One seems structural while the other seems expressive, but both work in tandem.

comprehensive doctrines is how they could hold a detrimental sway on public deliberation. When some of these beliefs conflict, tensions may hamper progression in policy discussions and the end goal of instituting justice. The tension is labeled by Rawls the fact of reasonable pluralism. This fact is viewed as the necessary implication of living in societies where reason can be freely exercised.[52] Yet, there must be some form of resolution to this pluralism. Whatever goods may be brought about through reasonable pluralism, a structure for deliberation about constitutional essentials that honors reasonable pluralism is needed. That is to say, because comprehensive doctrines disagree about the basics concerning what is good and right, an answer that stands outside the borders of comprehensive doctrines is needed.

The solution for Rawls is to develop an understanding of justice that can be agreed upon by everyone from *within* their own comprehensive doctrines.[53] This was designed to affirm a public kind of morality that will, eventually, coincide with a public kind of reasoning. "It is central," says Rawls, "for political liberalism that free and equal citizens affirm both a comprehensive doctrine and a political conception."[54] Thus, Rawls's project of public reason is not principally to *deny* the reality of comprehensive doctrines but rather to limit their influence in policy discussions.[55] He understands that

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[52]Rawls writes the following in *Political Liberalism*: "Pluralism is not seen as a disaster but rather as the natural outcome of the activities of human reason under enduring free institutions." John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), xxiv-xxv.

[53]While this may seem like a problem for this thesis, Rawls's designation of reasonableness that will be discussed later shows this necessary agreement to be a weak argument. Certainly Rawls is search for key points of agreement amongst the various comprehensive doctrines, but the standard he sets for agreement becomes too high.

[54]Rawls, "The Idea of Public Reason Revisited," 800.

[55]Certainly there will be *some* kind of limits on deliberative democracy. However, the options

citizens will privately affirm their beliefs, hold them closely, and build their worldview

frameworks from them. The Rawlsian distress is that those frameworks, if allowed to

dominate public discourse, will stifle pluralistic deliberation. Instead, citizens must be

able to view one another as reasoning in a way that each may regard as reasonable, and

Rawls does not see comprehensive doctrines as conducive to such an idea.

Instead, comprehensive doctrines are differentiated from Rawls's preference,

which he coins a "political conception of justice."[56] Rawls believes this will avoid the

inevitable problems of comprehensive doctrines by assuming a "free-standing" form that

does not ground its conceptions in moral, philosophical, or religious beliefs. Such an

independence will assume neutrality to these questions by "presupposing no wider

doctrine," and he believes that the impending challenges of comprehensive doctrines can

be stifled with this conception.[57] Rawls believes that these political principles can be

applied by reasonable persons from their comprehensive doctrines.[58] In sum, Rawls is

searching for a framework that can be legitimized by each agent, within his or her own

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explored here are not "no limits" versus "Rawlsian limits." Rather, it is suggesting that Rawlsian public reason is the wrong kind of way to limit policy discussions. Limitations will occur, the issue is what *kind of limits*.

[56]This political conception of justice will be further delineated later in the chapter when essential components of public reason are discussed. For now, see John Rawls, *Justice as Fairness: A Restatement,* ed. Erin Kelly (Cambridge, MA: Harvard University Press, 2001), xvii-xviii.

[57]Timothy Beach-Verhey states that the heart of Rawls's efforts is a "concern that diversity and pluralism present genuine and unavoidable challenges for human social life." But it is an assumption of Rawls and not an argument that diversity and pluralism infringes deliberation. Timothy A. Beach-Verhey, *Robust Liberalism: H. Richard Niebuhr and the Ethics of American Public Life* (Waco, TX: Baylor University Press, 2011).

[58]John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press, 2001), 26-27; and idem, *Political Liberalism* (New York: Columbia University Press, 2005), 11-15. Rawls's idea of a "reasonable" person will be analyzed in chap. 3.

comprehensive framework. The concept of legitimization becomes a crucial issue for Rawls's political liberalism.

Principle of Legitimacy

The principle of legitimacy may be viewed as another essential background component that must be in place so public reason can be employed in policy deliberations. The core concept behind Rawls's principle of legitimacy is the citizens' endorsement of the constitutional principles of the state on the basis of their own comprehensive conception of justice.[59] A primary concern of Rawlsian political liberalism is deliberative democracy's ability to justify a proper use of coercive power.[60] This justification of coercive power is necessary in order to implement public reason at all, for any kind of deliberative democracy must first justify its conception of political legitimacy. As Rawls writes, "The principles of legitimacy are only right when made in accordance with a constitution, the essentials of which all citizens as free and equal may reasonably be expected to endorse in light of principles and ideas acceptable to their common human reason."[61]

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[59]Edward Song, "Rawls's Liberal Principle of Legitimacy," *The Philosophical Forum* 43, no. 2 (2012): 153-73.

[60]Rawls, *Justice as Fairness*, 40-41.

[61]John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 137. The question might be raised as to whether a belief like natural law could fit within the principle of legitimacy. If natural law can be used without an understanding of the metaphysical nature of it, then the possibility of such inclusion is true. Yet even natural law theorists that may downplay the metaphysical nature of natural law for an emphasis on practical reason still credit its source as metaphysical. On this see parts I and II of John Finnis, *Natural Law and Natural Rights* (New York: Oxford University Press, 2011).

The principle of legitimacy must be in place in order for public reason to work in any decisive way.[62] Rawls believes that deliberative democracy must have three essential elements: "The idea of public reason, . . . a framework of constitutional democratic institutions that specify the setting for deliberative legislative bodies, [and] the knowledge and desire on the part of citizens generally to follow public reason and to realize its ideal in their political conduct."[63] The third essential element is what the principle of legitimacy is attempting to drive home. Here is how it is spelled out by Rawls in *Political Liberalism*: "Our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions—were we to state them as government officials—are sufficient, and we reasonably think that other citizens might also reasonably accept those reasons."[64] In this paragraph, Rawls spells out the principle of legitimacy. In essence, this is stating that political power is justified when an institution's political actions might reasonably be accepted by fellow citizens. If such actions are indeed reasonably accepted, then some aspect of coercion is justified. The role of the state is to act on decisions that are grounded solely in the principles that all citizens could *reasonably* accept. Rawls stating that *all* citizens must reasonably accept coercion does not mean that all have agreed. Rather, it means that given the conditions necessary for coercion are such that all might *reasonably* agree.[65]

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[62]Fabienne Peter, "Rawls' Idea of Public Reason and Democratic Legitimacy," *International Political Theory* 3 (2007): 129-43. In this article, Peter notes the connection between legitimacy and public reason. See also Rawls, *Political Liberalism*, 217.

[63]Rawls, *Political Liberalism*, 448.

[64]Ibid., 444.

[65]Of course reasonably here signals Rawls's preference for *reasonable* citizens. That is, citizens whose comprehensive doctrines can assent to his political conception of justice. For more on this

Legitimacy is crucial for public reason, for democracies must justify their proper use of coercive power. If such power is viewed as needlessly coercive, then no consensus can develop. The justificatory nature of these decisions is secured by public reason. For, if these decisions are grounded in comprehensive doctrines they cannot unify. Unification assumes consensus or agreement, and the role of comprehensive doctrines in the deliberation process hinders such a goal. Indeed, no comprehensive doctrine is appropriate as a political conception for a pluralistic society.[66] Thus, in political liberalism, public reason serves as the safeguard for an "appropriately constrained deliberative process."[67]

Once legitimacy has been established and public reason is viewed as the proper border of deliberation, coercion's confirmation is in place. For Rawls, political power is always coercive and the primary way government upholds laws.[68] If reasonable pluralism is true and comprehensive doctrines are assumed, then an alternative to achieve any kind of consensus is severely weakened.[69] The only way to move forward in democratic deliberation is with some form of political coercion.[70] This coercive power is legitimized,

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idea, see Kent Greenawalt, *Private Consciences and Public Reason* (New York: Oxford University Press, 1995), 12-15. See also Rawls, *Political Liberalism,* 135-37, 216-17.

[66]Rawls, *Political Liberalism*, 135.

[67]Fabienne, "Rawls' Idea of Public Reason and Democratic Legitimacy," 129-43.

[68]Rawls, *Political Liberalism*, 136.

[69]Ibid., 135.

[70]One of the central problems of political philosophy is the justification of political coercion. For Rawls, some citizens, by merely being a part of society itself are consenting to some kind of indirect coercion. Rather than merely assuming this, Rawls seeks to convince his audience that political liberalism is the least-restrictive form of coercive government. For Rawls, the issue is lack of information, and public reason seeks to provide the populace with essential information. The problem, however, is that once the citizen is informed, the transition is from *coercion* to *consensus*. Thus, liberalism's path of justifying

not at the expense of its citizens, but rather by citizens coming together in a collective body. But the question remains as to who precisely is being coerced? What implications are derived from such coercion? It seems that Rawlsian coercion centers on those whom he regards as *unreasonable*.[71] Those Rawls would regard as unreasonable do not accept the conditions of reasonable pluralism.[72] If considered reasonable by Rawls, that is, an agent who assents from their own comprehensive doctrine to the central tenets of political liberalism, then objections to coercion and legitimacy may be considered. Otherwise, Rawls has little in his theory for unreasonable people—they carry no weight.[73] Indeed, it seems that he has what philosopher Marilyn Friedman calls a "legitimation pool" or those individuals whose assent to Rawls's political liberalism confirms its legitimacy. Consequently, their rejection confirms their illegitimacy.[74]

Reasonable people have assented to an overlapping consensus of reasonable comprehensive doctrines. They may disagree with the political conception of justice purported by Rawls, but he sees them as rational creatures. Yet disregarding individuals on the grounds of unreasonableness seems to contradict the Rawlsian claims for legitimacy. Consider again what he says about it: "Our exercise of political power is

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coercion ends in advocating for consensus. See Nicholas Wolterstorff, *Understanding Liberal Democracy: Essays in Political Philosophy* (Oxford: Oxford University Press, 2012), 278-80.

[71]I will deal extensively with Rawls's criterion of reasonable and unreasonable in chap. 3. For now, I quickly explain what Rawls means by "unreasonable" in relation to public reason.

[72]For example, someone who rejects the idea that comprehensive doctrines are incommensurable or someone who would reject Rawls's conception of political liberalism.

[73]Marilyn Friedman, "John Rawls and the Political Coercion of Unreasonable People," in *The Idea of Political Liberalism*, ed. Victoria Davion and Clark Wolf (Lanham, MD: Rowman & Littlefield, 2000), 16-19.

[74]Ibid., 16.

proper only when we sincerely believe that the reasons we would offer for our political

actions—were we to state them as government officials—are sufficient, and we

reasonably think that other citizens might also reasonably accept those reasons."[75]

Notice the conditions placed here: an agent sincerely believes reasons offered are

sufficient and believes others would accept them. If a belief arises from a comprehensive

doctrine and satisfies these two conditions, there is little reason to assume it

unreasonable. Yet Rawlsian liberalism assumes they are unreasonable because they have

not assented to political liberalism.[76] Thus, they do not have a legitimized voice in

whether or not the state will exert coercion.[77] Rawls even advocates containing the

unreasonable so they do not overrun his framework of political justice.[78] Coercion, then,

is tied to legitimacy in Rawlsian liberalism and both are guarded by public reason.

Still, beneath coercion and legitimacy is a deeper principle: stability. Rawls

suggests that he adopted an earlier type of stability in *A Theory of Justice,* and this model

was built on the possibility of a congruence between the right and the good. The right in

this case coincides with the reasonable, and the good as rational.[79] Provided that the right

and the good are congruent with a theory of justice, then stability will be attained. The

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[75]Rawls, *Political Liberalism*, 444.

[76]This assent is an agreement to political liberalism. That is to say, in order for Rawls to consider the agent reasonable there must be agreement with political liberalism from within their own comprehensive doctrines. Once this consent has been provided, *particular laws* that are in accordance with political liberalism are now considered. Here, public reason is a feature that functions to serve the ends of political liberalism.

[77]Given that this is consistent with the principle of legitimacy applied to *reasonable* citizens, this coercion is still justified on their terms. Yet it seems odd to denote citizens as free and equal under the rule of law and, consequently, discount individuals because they reject the principles of liberalism.

[78]Rawls, *Political Liberalism*, 65.

[79]Rawls, *A Theory of Justice*, 395-452.

earlier assumption that individuals in a well-ordered society would assent to his conception of the individual as a free and rational being proved to be found wanting by Rawls.[80]

In later writings, Rawls understood that such an imposition borders on adopting a comprehensive doctrine himself, and he thus began to move away.[81] He understood that crucial points in *A Theory of Justice* were grounded in at least a partial comprehensive doctrine.[82] A partially comprehensive doctrine can be just as detrimental, thought Rawls, as a comprehensive doctrine. Rawls felt that the reasoning in place for justice as fairness was not clear enough on the distinction between a political conception of justice and a comprehensive philosophical doctrine.[83] The shift seems to be out of a concern for stability, attained when individuals from a well-ordered society assent to a political conception of justice. Barring this assent, stability is instilled and society is left with an incommensurable plurality of ideas with no overlapping consensus. It is here that one sees Rawls's serious concern about what effects comprehensive doctrines —and Rawls usually has in mind *religious* sects—may have on the instability of society.[84] Indeed, this concern is a central force in developing public reason as a concept. As Steven H. Shriffin notes, "What is really driving the doctrine of public reason is fear of

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[80]Samuel Freeman, "Public Reason and Political Justifications," *Fordham Law Review* 72, no. 5 (2004): 2024-71. See also Rawls, *Political Liberalism*, xviii.

[81]Freeman, "Public Reason and Political Justifications," 2024.

[82]Rawls, *Theory of Justice*, 453-576.

[83]Rawls, *Political Liberalism*, xvi.

[84]This is what seems to drive Rawls to abandon his previous ideas in *A Theory of Justice*. See Samuel Freeman, "John Rawls and the Task of Political Philosophy," *The Review of Politics* 71, no. 1 (2009): 113-25.

the instability effects of religion."[85] Stability is the pragmatic—and public—stamp of approval for political liberalism and this focus fits with his overall goal of political philosophy, which is to ensure a "stable social unity."[86] In short, political philosophy must be practical.[87]

The stress on practicality is a strong emphasis in later works, but there is a symmetry between the John Rawls in *A Theory of Justice* and the one in *Political Liberalism*.[88] On both accounts, Rawlsian justice is quite moral in nature. Consider that Rawls concedes the previous distinction between a political and moral conception of justice is dubious. The former is merely the latter played out "for a specific kind of subject, namely for political, social, and economic institutions."[89] Later in *Political Liberalism*, Rawls notes that his moral conception is limited in scope and that it does not include "conceptions of what is of value in human life, as well as ideas of personal virtue and character."[90] But the admission that political conceptions of justice are also moral leads inexorably to the question of why he writes *Political Liberalism*. Recall that the

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[85]Steven H. Striffin, *Religion and Progressive Politics*, 24, quoted in Eduardo Peñaler, "Is Public Reason Counterproductive?" *West Virginia Law Review* 110 (2007): 515-44. See also chap. 8 of Steven H. Shifrin, *The Religious Left and Church-State Relations* (Princeton, NJ: Princeton University Press, 2009), 113.

[86]John Rawls, "The Idea of an Overlapping Consensus," *Oxford Journal of Legal Studies* 7 (1987): 1-25.

[87]John Rawls, "The Domain of the Political and Overlapping Consensus," *New York University Law Review* 64 (1989): 233-55.

[88]Many scholars posit an early Rawls and late Rawls, with the break starting at Rawls's awareness of the implicit comprehensive stance he takes in *A Theory of Justice.* It seems like a distinction without a difference, however, when crucial evidence is examined.

[89]Rawls, *Political Liberalism*, 11.

[90]Ibid., 11.

writings compiled in *Political Liberalism* were designed to counter what was viewed as defects detected in *A Theory of Justice*.[91] That is, the concern was about even partially comprehensive doctrines invading institutional space and deliberation. But moral conceptions are grounded in *something*—they delineate the permissibility of actions on moral grounds. The appeals in both *A Theory of Justice* and *Political Liberalism* are Kantian interpretations of the facts. Eventually, this leads to a convergence of the right and the good by way of Kantian principles.[92] But Rawls felt that only conceptions of the good that are congruent with justice are reasonable.[93] Thus, the permissibility or impermissibility of actions is grounded in a Kantian framework of congruence. While this is ultimately what Rawls saw as problematic in *A Theory of Justice*,[94] it is not incompatible with the criterion for stability laid down in political liberalism. The mechanisms change, but the central assumptions do not.

    A Theory of Justice and the later Rawlsian writings do indeed have the same goal; only the features by which that end can be accomplished have changed. What Rawls ultimately rejects in *A Theory of Justice* is that stability can be acquired by pure means of justice as fairness. It cannot be justified in a philosophical manner because reasonable pluralism allows for a divergence of multiple philosophical and moral views

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[91]Brian Barry, "John Rawls and the Search for Stability," *Ethics* 105 (1995): 874-915.

[92]In *A Theory of Justice*, this idea only becomes clear in chaps. 8 and 9. However, the Kantian ethos pulsates throughout the work. See Samuel Freeman, "Political Liberalism and the Possibility of a Just Democratic Constitution," *Chicago Law Review* 69 (1994): 619-68. See also Nicholas Tampio, "Rawls and the Kantian Ethos," *Polity* 39, no. 1 (2007): 79-102.

[93]Barry, "John Rawls and the Search for Stability," 889.

[94]Rawls states in chap. 8 of *A Theory of Justice* that he felt that Part III, which consisted on chaps. 7-9, was incompatible with the rest of the previous chapters.

in any given society. In the new schema, public reason becomes the central mechanism

by which stability is acquired. In both *A Theory of Justice* and *Political Liberalism* an

exploration is underway, and it is a search for stability. But this stability must come by

the proper conditions, and a central feature of it is public reason.[95] Public reason is

executed in society in order to secure stability because it ensures a social trust within the

confines of a political conception of justice.[96] The duty of civility that Rawls writes about

in *Political Liberalism* is attained when individuals in a well-ordered society assent to a

political conception of justice from within their own comprehensive doctrines. Rawls

identifies this structure as an overlapping consensus.

Overlapping Consensus

The idea of an overlapping consensus is in part justified from Rawls's warrant

of legitimacy. Here consensus begins by an internal assent to a political conception of

justice from within a citizen's comprehensive doctrines. The necessity is due to the

reality of reasonable pluralism. Rawls believes that stability cannot be attained by a

widespread congruence of the good and the right. Rather, it is acquired by examination of

a comprehensive doctrine in order to determine if it can affirm the principles of justice.

The examination is designed to find out whether or not a comprehensive doctrine can

affirm Rawls's principles of justice as consistent with their understanding of various

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[95]Rawls, *A Theory of Justice*, 882-83; and John Thrasher and Kevin Vallier, "The Fragility of Consensus: Public Reason, Diversity, and Stability," *European Journal of Philosophy* 23, no. 4 (2015): 933-54.

[96]Thrasher and Vallier, "The Fragility of Consensus," 934.

virtues.[97] If, as John Mandle writes, a sufficient number of citizens can affirm a common conception of justice and place value on society's public reason, then an overlapping consensus is achieved.[98] For Rawls, the goal within a fractured society bound by pluralism is to affirm a "shared fund of implicitly recognized basic ideas and principles."[99] Yet, when the fact of reasonable pluralism arises, this shared conception runs aground. Comprehensive conceptions are left incommensurable and a guiding principle must be devised in order to ensure stability. The device is justice as fairness, which "presents itself as a conception of justice that may be shared by citizens as a basis of a reasoned, informed, and willing political agreement."[100] In other words, it must be independent from these conflicting comprehensive doctrines.[101]

Since Rawls believes this justice is detached from a particular comprehensive doctrine, it can be attached to any particular worldview. Freestanding status affords an opportunity for consensus amongst various incommensurable comprehensive doctrines. It allows for the various comprehensive doctrines to come to a common agreement. When such an assent is achieved, overlapping consensus has commenced. Consensus provides stronger stability to the social fabric because of its ability to take seriously an individual's

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[97]John Mandle, *Rawls's A Theory of Justice: An Introduction* (Cambridge: Cambridge University Press, 2009), 22-24.

[98]Mandle, *Rawls,* 23.

[99]Rawls, *Political Liberalism*, 8.

[100]Rawls, *Political Liberalism*, 9.

[101]It is fair to state that Rawls is searching for a political concept that can be shared among all comprehensive doctrines. He is to be commended for this pursuit, yet the features of political liberalism he articulates are difficult for all comprehensive doctrines to affirm.

particular sets of beliefs.[102] It allows a convergence of reasonable comprehensive

doctrines in order that a freestanding conception of justice may be established. But this

stability, rather than being mere "*modus vivendi,*" secures and *establishes* justice as

fairness.[103]

Rawls gives an example to show how comprehensive doctrines move toward

an overlapping consensus: when reasonable religious doctrines affirm overlapping

consensus as compatible with the structure of their comprehensive doctrines. Rawls

believes the synthesis can be accomplished because *reasonable* religious doctrines

understand the nature of tolerance and free faith. "As long as [these comprehensive

doctrines] accept," philosopher Catherine Audard writes, "that apostasy is not a crime and

that individuals are free to change their faith, they show that they are reasonable and they

can be included in OC [overlapping consensus]."[104] This distinction sounds similar to

Rawls's separation of reasonable comprehensive doctrines and unreasonable

comprehensive doctrines. Recall that political liberalism is interested in *reasonable*

individuals willing to assent to the conditions set forth by Rawlsian thought. In this sense,

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[102]Rawlsian advocates will state that they search for consensus precisely because they are taking seriously an individual's comprehensive doctrines. If they did not care about them they would not seek consensus. While there is some truth to this assertion, there seems to be a difference between taking a set of beliefs seriously, and taking them seriously because you deem them problematic. It seems that most of Rawlsian political liberalism views comprehensive doctrines as the latter.

[103]Rawls, *Political Liberalism,* 147. While Rawls is perfectly fine with justice as fairness being an arrangement ("*modus vivendi"),* he felt that stability required must go farther. It needs to provide a stronger stability for society. If it is merely an indefinite arrangement that may be changed because of better circumstances, stability becomes conditioned by social procedure. But Rawls sees an overlapping consensus as establishing stability beyond a *modus vivendi,* because the resulting overlapping consensus is "not superficial or prudential, but is of a strictly moral nature." (Sebastian Maffetone, *Rawls: An Introduction* [Malden, MA: Polity Press, 2010], 262). Cf. Brian Barry, 'John Rawls and the Search for Stability" *Ethics* 105 no. 4 (1995), 874-915.

[104]Catherine Audard, *John Rawls* (New York: Routledge, 2007), 198.

the individual becomes limited to a *political* agent.[105] Thus, reasonable comprehensive

doctrines are upheld by reasonable people, and they affirm justice as fairness represented

by an overlapping consensus. These individuals realize their comprehensive doctrines

have both a public and private aspect to them. As such, a political and private conception

of justice can coincide and an overlapping consensus can be achieved.[106]

Rawls's focus with an overlapping consensus is *institutional and societal*. An

essential goal of overlapping consensus is for individuals to realize that Rawls is not

denigrating their private moral structure but delimiting it. There must be a shared moral

consensus in order for a pluralistic democracy to function with stability.[107] Yet, there

must be a mechanism in place to ensure that such *reasonable* comprehensive doctrines

agree to an overlapping consensus. Public reason is the mechanism for achieving this

end. Since the assent is not mere agreement but rather a necessary common ground for

proper deliberation for stability, public reason becomes an essential functional cog. As

Andrew Murphy writes, "The overlapping consensus and public reason play key roles in

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[105]Rawls is not making moral or religious judgments about the reasonableness of the person. Rather, these are primarily political terms. In a political sense, the agent is reasonable or unreasonable.

[106]In this sense, one can say that Rawls understands the necessity of an individual's making crucial distinctions between public and private. Indeed, this necessary distinction plays out in the next section on public reason where Rawls makes a distinction between public and nonpublic reasons. The core of that discussion is made clearer by the categories of private vs. public.

[107]An important understanding of the priority of the right over the good is highlighted here. For Rawls, everyone comes to some sense understanding of what is good and how to apply it to everyday life. However, if the right is prioritized above the good, then consensus can be more clearly built. For Rawls, it is right for all to be able to come to differing conceptions of the good, provided that those differing conceptions are reasonable about the fact of pluralism. However, if the priority of the good outweighs the priority of the right, then a consensus cannot be built. Rightness provides the boundaries by which the good can be explored in society and her institutions. To paraphrase Rawls, rightness shows the limit; goodness shows the point. John Rawls, "The Priority of Right and Ideas of the Good," *Philosophy and Public Affairs* 17, no. 4 (1998): 251-76.

mediating between comprehensive doctrines and day-to-day political arguments."[108]

Citizens must use public reason in order to justify their proposals because they have already agreed to an overlapping consensus among reasonable comprehensive doctrines. Once the common ground of political liberalism has been granted in an overlapping consensus, the best option for deliberation is public reason. Overlapping consensus provides a structural ground for deliberation, and public reason delivers an experiential or pragmatic ground for deliberation in a pluralistic society.[109] The next section examines how this pragmatic ground for deliberation is structured.

Public Reason

To summarize the previous sections, the fact of reasonable pluralism has left society, according to Rawls, with potential instability and Rawls brings forth several problems which society must find a resolution. Comprehensive doctrines are a problem in Rawlsian liberalism. These fundamental religious, philosophical, and metaphysical beliefs extend beyond the political realm and thus have potential to harm civic

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[108]Andrew R. Murphy, *Conscience and Community: Revisiting Toleration and Religious Dissent in Early Modern England and America* (State College: Penn State University Press, 2001), 243.

[109]Rawls does not discuss with sufficient clarity how those that may not affirm an overlapping consensus could participate in a pluralistic society. At worst, one has the implication that they cannot. Take, for example, Rawls's statements about abortion in a footnote in *Political Liberalism*. In the section about potential difficulties with public reason, he writes that the only comprehensive doctrine that "run afoul of public reason are those that cannot support a reasonable balance of political values." Rawls expands on this idea in a footnote by applying it to the topic of abortion. He asks the reader to consider the topic in light of three criteria: respect for human life, ordered reproduction of political society over time, and women as equal citizens. Rawls states that a balanced consideration of these three values will grant women a qualified right to an abortion, but Rawls goes beyond this to state that "any comprehensive doctrine that leads to a balance of political values excluding a duly qualified right [to an abortion] in the first trimester is to that extent unreasonable." In this footnote, Rawls provides a window into the potential participation or lack thereof with individuals who may not assent to his conditions for participation in a politically liberal society. Given the way in which Rawls clarifies *reasonable* comprehensive doctrines throughout *Political Liberalism*, this austere restriction of participation fits well within the Rawlsian scheme. Rawls, *Political Liberalism*, 243n32.

deliberation by their incommensurability. Here, public reason becomes the guardrail by which comprehensive doctrines can be prevented from stifling deliberation. Secondly, Rawls designs a principle for reasonable coercion of citizens. This freestanding conception becomes key for a principle of legitimacy; the mechanism for its activation is public reason. Third, an overlapping consensus from the individual's own comprehensive doctrines is needed in order to bring about stability. By placing a free-standing conception of justice as the goal of civil society, the various reasonable comprehensive doctrines can find a singular principle to rally around. Once this assent has been agreed upon, a public space has been created whereby "citizens can examine before one another whether their political and social institutions are just."[110] Since this space is without comprehensive doctrines and the ground of an overlapping consensus has been agreed upon by all involved, a certain kind of deliberation is needed. That is, a truly public space requires a truly public form of deliberation. This is what Rawls identifies as public reason. Indeed, after the turn toward political liberalism, public reason becomes the central component by which his entire theory turns.

Public Reason may be defined as the idea that civic deliberation must be pursued on the grounds of public values and standards. In other words, citizens must be able to justify their decisions from publically available values and standards. Public reasons get their name in three ways, says Rawls. Since it is the reason of free and equal citizens, it is public reasoning. Second, they are questions of constitutional essentials and matters of basic justice. Third, the nature and content are public because they are

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[110]Rawls, *Political Liberalism*, 9.

expressed by a family of reasonable conceptions of political justice.[111] Thus, public

reason attempts to be neutral to the various reasonable comprehensive doctrines in order

to provide a legitimate mechanism by which deliberation can take place. In this way,

Rawls conceives of public reason as a road toward the stability he sought in *A Theory of*

Justice. In doing so, he develops a method for deliberation in a pluralistic society

consistent with the principles of justice set forth in his writings. Deliberation in a well-

ordered society needs certain guidelines and principles for inquiry. While these rules are

not conceived as a mere formality of process, they are nevertheless "publicly recognized

rules for assessing evidence to govern application, and these may conflict with ideas that

many religious citizens hold dear."[112] When this inevitable conflict occurs, particular

religious concepts or beliefs that one holds will be excluded from use in policy

deliberation.[113] Individuals holding to comprehensive doctrines are provided a way into

the conversation: public reason. Arguments that are grounded in comprehensive doctrines

should be proposed with reasons that all citizens may "reasonably give one another when

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[111]Rawls, *Political Liberalism*, 442.

[112]John Rawls, "The Idea of Overlapping Consensus," *Oxford Journal of Legal Studies* 7, no. 1 (1987): 8. This idea, however, seems overly utopian. Rawls is not merely looking for structural formality, but rather is hoping to also provide a political *ethos* that allows public policy and ethics delineated on *political*, not *metaphysical*, grounds. Further, Rawls employs a form of utilitarianism when he says that his idea of public reason will likely make many religious believers feel a sense of emptiness or existential despair due the cost that may be involved with public reason. But he thinks the benefits outweigh the loss. This is striking given one of the main reasons Rawls originally wrote *A Theory of Justice* was to combat what he saw as a rampant utilitarian epistemology running roughshod over American democracy. That Rawls felt it necessary, or even prudent, to implore such an idea shows how much he wanted public reason to be viable. See John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 2011), 125-27.

[113]Rawls, "The Idea of Overlapping Consensus," 8.

fundamental questions are at stake."[114] If a citizen is unable to explain to his compatriots "how the principles and policies [he advocates and votes for] can be supported by the political values of public reason . . . he must withhold his support from that policy."[115] Thus, those citizens who participate in democracy and hold to comprehensive doctrines must be willing and able to translate their religiously-oriented objections into public reason.

Favorable readings of Rawls's conception of public reason say that he has only those *governmental* officials and legislators in mind, actively involved in the political process.[116] This distinction between citizens and legislators provides clean parameters around the nature of public reason. However, Rawls breaks that framework. He states that though normal citizens may not be legislators, they are to think of themselves "as if they were legislators" and to see themselves as "ideal legislators." They are to see this task as something like an "intrinsically moral duty."[117] So, Rawls desires for regular citizens to conceive of themselves as ideal legislators.

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[114]To be sure, public reason's original function is not a catchall for civic dialogue. Rather, it was initially designed to stay within the guardrails of civic policy discussions. But Rawls violates this in later writings. Rawls, "The Idea of Public Reason Revisited," 766. See the first few opening paragraphs of Brian Walker, "John Rawls, Mikhail Bakhtin, and the Praxis of Toleration," *Political Theory* 23, no. 1 (February 1995): 101-27.

[115]Christopher Eberle, *Religious Convictions in Liberal Politics* (Cambridge: Cambridge University Press, 2002), 144-45. Withholding support here Eberle has in mind *public* support.

[116]Omid Payrow Shabani, "The Role of Religion in Democratic Politics: Tolerance and the Boundary of Reason," *Religious Education* 106, no. 3 (2011): 332-46. See also Hans von Rautenfeld, "Charitable Interpretations: Emerson, Rawls, and Cavell on the Use of Public Reason," *Political Theory* 32, no. 1 (February 1, 2004): 61–84.

[117]Rawls, "The Idea of Public Reason Revisited," 769. Despite Rawls's insistence that his concepts of justice and what follows are "political and not metaphysical," he continues to speak with metaphysical counterpoints like "intrinsic."

The distinction between legislators, policy makers, and citizens has caused some confusion in the literature. For the sake of organization, this discussion will be labeled the "range of public reason." In general, the range of public reason is an attempt to stipulate the borders by which public reason will be properly appropriated, and this range is unspecific. Rawls writes that public reason is only to be used when discussing constitutional essentials and matters of basic justice,[118] but he applies this burden on institutions such as the Supreme Court and to individuals. When the electorate goes to vote, they are to exercise public reason. When the Supreme Court deliberates on arguments placed before them, they are to exercise public reason.[119] Regardless of the issue at hand, the range of public reason is exercised when deliberating on political issues. This particular range allows for a wide view of public reason, one that Rawls prefers. The burdens of the court and the individual are similar, but Rawls's emphasis on the citizen is less restricted. He stipulates that reasoning from comprehensive doctrines is allowed provided that one understands that he or she cannot *only* reason from their own dogma—they must eventually move from their comprehensive doctrines to public reason. This move is what has become known as the Rawlsian *proviso*. It is a conciliatory path: religious reasons may be used so long as public reason is eventually used.[120] Rawls

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[118]These constitutional essentials and matters of basic justice are, on the whole, agreements about the form of government, the rights of citizens, and matters of economic and social justice. Rawls, *Political Liberalism*, 227-30.

[119]Rawls, *Political Liberalism*, 231.

[120]Sebastiano Maffettone, *Rawls: An Introduction* (Malden, MA: Polity, 2010), 284. However, Rawls never spells out exactly how this new proviso can be used. Other scholars have called it his *stipulation*. See Rawls, *Justice as Fairness*; Ivan Vallejo, *The Threads of Natural Law: Unraveling a Philosophical Tradition* (New York: Springer, 2013), 227.

delineates between the types of reasoning appropriated by citizens. He states that there are public and non-public reasons

Public Versus Non-Public Reasoning

Non-public reasons are part of the "background culture."[121] It is the arena of society that is not dominated by the political. In this area, the need for public reason is limited. Here—and Rawls mentions churches and universities as examples—the criterion set forth for political liberalism and justice as fairness does not necessarily apply.[122] So, there seems to be a safe space carved out of society for individuals to deliberate about politics and life without the burden of public reason. This indicates that the development of public reason was not out of spite for religion. Rather, Rawls truly believes the best path forward is delimiting comprehensive doctrines from public discourse, arguably for their own good. In an interview for *Commonweal* journal, Rawls notes that a religious citizen is not forced to renounce his or her ideas but, rather, the reality of religious pluralism in America has forced the hand of deliberative democracy to come up with some kind of shared consensus.[123]

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[121]Jeffrey Bercuson, *John Rawls and the History of Political Thought: The Rousseauvian and Hegelian Heritage of Justice as Fairness* (New York: Routledge, 2014), 34.

[122]Rawls, *Political Liberalism*, 443n13.

[123]Bernard G. Prusak, "Politics, Religion and the Public Good," *Commonweal* 125, no. 16 (1998): 15-17. The statement here is not to say that religious pluralism has not caused other nations to deal with the reality of religious pluralism. Rather, it is meant to designate the fact that the present manifestation of religious pluralism in America has caused scholars to consider what kind of shared consensus can be attained by Western democracy in order for deliberation to advance.

Rawls believes that public reason will indeed provide a safe place for religious citizens and that it is the best possible scenario in order for their faith to flourish.[124] Public reason protects the integrity of each comprehensive doctrine by asking them to consider the features of political liberalism *within their own framework.* In this way, favorable readings of Rawls might state that their restrictions are better for faith-based individuals. Further, Rawls states that public reasoning is *not* secular reasoning. He defines secular reasoning as non-religious comprehensive doctrines. Politically liberal principles are guided by political conceptions of justice and are not "secular" because they do not concern themselves with the nature of religious comprehensive doctrines.[125] Rawls goes on to say that these political conceptions of justice have three primary features: its application is to political and social institutions, they are presented independently from comprehensive doctrines of any kind, and they can be deliberated from fundamental ideas implicit in the public political culture.[126] A central mechanism for public reasoning is that it is bracketed within a political conception. It does not delimit discussions outside of a public political forum. They are public reasons because they are derived from a shared political conception and content. But what is the content of public reason?

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[124]Paul Weitham, "Rawlsian Liberalism and the Privatization of Religion: Three Theological Objections Considered," *Journal of Religious Ethics* 22, no. 1 (March 1, 1994): 3-28; John Rawls, *The Law of Peoples: With "The Idea of Public Reason Revisited"* (Cambridge, MA: Harvard University Press, 2001), 126-28.

[125]Rawls, *The Law of Peoples*, 452. See also, David Peddle, "The Construction of the Secular in Rawls and Hegel: Religion, Philosophy, and Public Reason." *Animus* 9 no. 1 (2004), 131-147.

[126]Ibid., 453.

The content of public reason is provided through a political conception of justice. This kind of content is not a singular conception; rather, it is an essential family of liberal political conceptions. They are: (i) a list of rights, liberties, and opportunities; (ii) an assignment of special priority of those listed in (i); and (iii) assurance that citizens are provided the means to make an effective use of these freedoms.[127] These conceptions must be political as they apply to the institutions of society. But this appeal to conceptions of justice is more than appeals to common-ground understandings of an issue based on their own comprehensive doctrines. Rather, deliberation through public reason is on the grounds of a political conception of justice, as individuals translate their comprehensive doctrines into public reason. As Samuel Freeman notes, "The need for political conceptions to give content to public reason arises because, in the absence of a political conception of justice—it is without sufficient content to resolve many of the political questions of justice encountered in democratic political life."[128] The content of public reason, then, is provided by essential features of a political conception of justice. The conception of justice fills out the framework of public reason. Yet, an inquiry arises from this structure as to whether or not the content of public reason is devoid of comprehensive doctrines.

Implicit Comprehensive Doctrines

The structure of public reason argued above reveals an image of a doctrine that is designed to exclude deliberative hindrances to policy discussions. Comprehensive

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[127]Rawls, *Political Liberalism*, 450.

[128]Samuel Freeman, "Public Reason and Political Justifications," *Fordham Law Review* 72, no. 5 (2004): 2021-72.

doctrines are viewed as preventing positive movement forward in deliberative democracy and stifling consensus. And yet, the curious case of Rawlsian liberalism is its dependence upon certain comprehensive commitments while also delimiting the influence of comprehensive doctrines from allegedly souring deliberative democracy. To be sure, this criticism is not to say that Rawls considered his theories any less beholden to implicit commitments or assumptions than anyone else. He is aware that there are certain commitments that must be agreed upon in order for his conceptions to work. The problem, however, is that these commitments are stated as if they are *a priori* true when they are not. Indeed, Rawls seems committed to a certain kind of implicit comprehensive doctrine. As such, a critical examination of these conceptions is the goal of the next section. Rawls's implicit comprehensive doctrines are grounded in Kantian anthropology and moral philosophy. The best way to see that this is the case is to analyze each category.

The Anthropological Ground:
Kantian Anthropological
Constructivism

Rawls sets a Kantian constructivism as his guiding anthropology. One may define this idea as the belief that the substance of morality—and by extension, the person—is constructed from the autonomous, free, and rational choices of agents rather than derived from a metaphysical first principle that relays morality to society in a fixed manner.[129] In other words, morality and pursuits of justice are constructed rather than given; they are

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[129]"With the aim of finding these constitutional and political justice principles upon which all citizens may agree, Rawls suggests assuming a constructivist conception, philosophically skeptical, political, not metaphysical" (Vallejo, *The Threads of Natural Law*, 226). Indeed, Vallejo goes on to say that public reason's foundation is found within a "skeptical and constructivist position." These concepts are Kantian in nature.

not fixed, but acquired via reason. Kant makes a similar distinction.[130] Further, the

implication is that independent of sense experience, one cannot know what something is,

including things like justice.[131] For Rawls, a theory of justice becomes grounded in

constructivism, and this Kantian skepticism dismisses awareness of metaphysical

concepts and knowledge.[132] This distinction runs through nearly all of the Rawlsian

corpus. Undeniably, he is clear about his indebtedness to Kant, particularly for his moral

philosophy,[133] and he brings into political philosophy the Kantian distaste for

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[130]It may be worth noting that several scholars believe that Rawls misconstrues, even outright misinterprets, Kant altogether. While that may be true, there is enough Kantian heritage in Rawls that makes it worth exploring. For a nice summary, see Nicolas Tampio, "Rawls and the Kantian Ethos," *Polity* 39, no. 1 (January 2007): 79-102.

[131]Immanuel Kant, *Critique of Pure Reason*, trans. Werner S. Pluhar (Indianapolis: Hackett, 1999), 709. One may wonder how something like the Categorical Imperative (CI) might fit within this framework. It would seem that the CI is not acquired through reason or sense experience because it is "the moral law within." That is to say, when Kant presents humanity as a rational creature, he is not reducing human beings to being *only* rational. While this is true, it is incomplete. The moral law is not acquired by reason—it resides within each human being—but the CI is only understood by reason. It is unintelligible without the active powers of the mind to conform the world to its categories and draw conclusions. So, while the source of the CI may not be rationality, it seems fair to say that Kant believes one needs rationality in order to understand what the CI requires. One can then conclude that rationality is essential to what it means to be a human being for Kant. To quote Paul Guyer: "Instead, Kant ultimately came to see that the validity of both the laws of the starry skies above as well as the moral law within had to be sought by the legislative powers of human intellect itself." Paul Guyer, "Introduction: The Starry Heavens and the Moral Law," in *The Cambridge Companion to Kant*, ed. Paul Guyer (Cambridge: Cambridge University Press, 1992), 2.

[132]Not everyone agrees. For example, Eric Gregory argues that Rawls, like the neo-Orthodox Reinhold Niebuhr, is a realist at his core. He compares Rawls's original position to Niebuhr's description of sin. See Eric Gregory, "Before the Original Position: The Neo-Orthodoxy of the Young John Rawls," *The Journal of Religious Ethics* 35, no. 2 (2007): 179-81. Some scholars will contend that a nature thought experiment is a clearer parallel. While this objection is correct, Rawls mentions that the point of the state of nature is to imagine agents that are free and equal beings that are both reasonable and rational. This, Rawls believes, is Kantian in nature. See Rawls, *A Theory of Justice Revised Edition* (Cambridge, MA: Harvard University Press, 1999), 226-27; Andrew Reaths, "The Kantian Roots of the Original Position," in *The Original Position*, ed. Timothy Hinton (Cambridge: Cambridge University Press, 2015).

[133]John Rawls and Barbara Herman, *Lectures on the History of Moral Philosophy* (Cambridge, MA: Harvard University Press, 2009). Note the immense amount of time Rawls spends writing and talking and referencing Kant over against the rest of the philosophers and writers. Kant has certain features that are required for "Perpetual Peace," one of which is that participants submit themselves to the criterion of sound common reason. Immanuel Kant, *Perpetual Peace* (New York: FQ Classics,

metaphysical concepts not grounded in the world around us. Indeed, this conception of the person can be seen in Rawls's thought experiment: the veil of ignorance.

Imagine for a moment that, along with the rest of humanity, one could create the perfect society. Imagine that we are all free and equal persons, coming together willfully and committing in solidarity to one another to create this society on principles of justice.[134] Now imagine further that in creating this society, you would have no knowledge of yourself and how you may or may not benefit from the creation of this society. That is to say, you have no prior knowledge of what you will be in terms of gender, race, socio-economic status, education, etc. when this society is created. Furthermore, you do not even have a conception of the good or values or a purpose in life. The only assumption that is explicit is the reality that everyone will share certain primary goods. The individuals coming together as free and equal persons are what Rawls identifies as the Original Position[135] and the ignorance of knowledge is called the Veil of Ignorance. The experimental goal is an attempt to create a just society from the

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2007), 8:381-86. See also Susan Shell, *The Rights of Reason: A Study of Kant's Philosophy and Politics* (Toronto: University of Toronto Press, 1980), 170-73.

[134]Rawls notes that these individuals come together in self-interest. This is in line with other social contract theories like those of Hobbes and Locke, among others. But this self-interest is not at the expense of justice. Rather, it serves justice by including their moral interests and concerns. The self-interest is not an egotistical self-interest. See Freeman, *Rawls*, 12-14. To wit, this social contract of Rawls "is not limited to explaining the origin of ordered society or its subordination to a sovereign. Indeed, these matters are not central to Rawls interest at all" (J. M. Kelly, *A Short History of Western Legal Theory* [Oxford: Oxford University Press, 1992], 415).

[135]This language is used constantly by social contractarians like Locke, Hobbes, Rousseau, and Kant. All of them have a basic idea of what constitutes a person or society before a contractual agreement between people, often called the "state of nature." The outlooks vary from person to person, with some being more affable (Rousseau) than others (Hobbes).

exercise of reason alone.[136] The primacy of reason over other aspects of human nature makes for an unbalanced perspective. In the end, Rawls does not want metaphysical concepts placed into his understanding of a just society,[137] and his goal is to ensure that the autonomous self,[138] separated from metaphysical concepts, drives society.[139] Yet the thought experiment above says little about the nature and benefit of context. Like comprehensive doctrines, contexts seem to be hindrances to justice and deliberative democracy. While this may work for theoretical discussions, when real persons start to engage in the public square it becomes problematic. It is difficult to imagine an agent without context able to pursue civic deliberation.

      Following that line of thought, Rawlsian anthropology is troubled by the idea that context can provide a beneficial contribution. While Rawls clearly understands that

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[136]To be sure, Rawls is not asking the reader to consider these individuals in the original positions as disembodied. This, as critics have rightly pointed out, would be impossible. Rather, it is to think from the point of view of everybody or every "concrete other" who one might turn out to be. Further, "Whereas Rawls's Theory is sometimes viewed excessively rationalistic, individualistic, and abstracted from real human beings, at its center (though frequently obscured by Rawls himself) is a voice of responsibility, care, and concern for others" (Susan Okin, "Reason and Feeling in Thinking about Justice," *Ethics* 99, no. 2 [1989]: 230). Ibid., 245. Hans von Rautenfeld, "Charitable Interpretations: Emerson, Rawls, and Cavell on the Use of Public Reason," *Political Theory* 32, no. 1 (February 1, 2004): 61–84.

[137]"Thus, the arm of justice as fairness as a political conception is practical, and not metaphysical or epistemological. That is, it presents itself not as a conception of justice that is true, but one that can serve as a basis of informed and willing political agreement between citizen view as free and equal persons" (John Rawls and Erin Kelly, *Justice as Fairness: A Restatement*, 2nd ed. [Cambridge, MA: Harvard University Press, 2001], 230).

[126]"While a commitment to individual autonomy is still widely shared among liberal theorists, this commitment is most often understood in Kantian, rationalistic terms: individual autonomy is identified with the individual exercise of reason, so principles of justice must be constructed which are acceptable to all on the basis of reason alone" (Michael L. Franzer, "John Rawls: Between Two Enlightenments," *Political Theory* 35, no. 6 [December 1, 2007]: 758).

[139]This moving of justice as viewed centrally as equality or even utility to fairness is one of the central achievements of Rawlsian thinking. Distributive justice centers on fairness, says Rawls, not utility or even equality. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1999), 276-77.

comprehensive doctrines themselves arise from a time and context in history, the injection of those ideas into deliberation proves harmful. That is to say, Rawls is aware that people are beings of context, but that is the problem. Humanity is situated but the principles by which they deliberate must not be. Reason becomes the common thread that connects each agent's context, but it is a particular kind of reason that Rawls envisions. Recall that reason, detached from comprehensive doctrines, guides human nature toward political liberalism, and thus toward stability and justice. In the original position, Rawls assumes that each individual behind the veil of ignorance is rational on Kantian grounds. Each individual, when detached from context and their predispositions, is constructed on the basis of autonomous reason. But this construction of an agent is an assumption, and Rawls must assume when placing individuals in the original position that they are already rational. It places reason at the center of human nature. Moral prescriptions and judgments are not *prior* to reason; they are *subject* to and primarily *derived from* reason. The primacy of reason in the original position demonstrates the heritage of Kant for this thought experiment.

So, it would seem that Rawls is as beholden to comprehensive doctrines as the ideas he delimits from deliberation. It is not moral values that provide one with the ends of life, but rather political values. These values can be evaluated from, and demonstrated by, reason. Indeed, Rawls's distinction between "reasonable" and "unreasonable" comprehensive doctrines reveals the motive of Rawlsian theory to subsume most of life to reason. Take, for example, Rawls's statement in *Political Liberalism* that political values "govern the basic framework of social life—the very groundwork of our

existence—and specify the fundamental terms of our political and social cooperation."[140]

Notice that political values govern both one's political and social cooperation. The separation of two streams of life is consistent with Rawls's conception of political liberalism. What is curious is his attachment of social values with political values. This attachment cuts across earlier statements on public reason. Rawls makes a crucial distinction between "public" and "non-public" reasons. The former is not enforced for the "background culture" of churches, universities, and the like. Yet, Rawls's statement here says otherwise. It relays the idea that political liberalism is the guiding principle through which all of life is filtered, including nonpublic arenas. If Rawls intended for social cooperation to be designated as part of political deliberation, one would imagine that he would make it clear. Yet a social imaginary[141] that places the primacy of an individual in operational terms instead of essential ones will eventually come to a similar consensus on the whole of life. Individuals must show that they are capable of being included in society that they can contribute. Indeed, Rawls says essentially this in *Political Liberalism*:

> The concept of the person has been understood, in both philosophy and law, as the concept of someone who can take part in, or who can play a role in, social life, and hence exercise and respect its various rights and duties. Thus, we can say that a person is someone who can be a citizen, that is, a normally and fully cooperating member of society over a complete life.[142]

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[140]Rawls, *Political Liberalism*, 139. Rawls notes that "the very groundwork of our existence" is from John Stuart Mill. It is striking to see Rawls quote—favorably—a utilitarian ethicist, given that a driving impetus for *A Theory of Justice* was to combat the predominance of utilitarianism in political philosophy.

[141]Charles Taylor identifies social imaginaries as the awareness of how one's comprehensive sense of the world is comprised. In this context, Rawlsian social imaginary would be the all-encompassing reality of political liberalism. See Charles Taylor, *Modern Social Imaginaries* (Durham, NC: Duke University Press, 2004).

[142]Rawls, *Political Liberalism*, 18.

The implications, when considered, are troublesome. One can imagine various

individuals even within a politically liberal society that cannot fit this requirement. What

of those who may not have the ability—natural or otherwise—to partake in exercising

their various rights and duties? Say, for example, infants or those with disabilities?[143]

While Rawls considered these objections, the answer he provides in *A Theory of Justice*[144]

only speaks to the potentiality of those individuals, not to actual involvement in

deliberation. If the quote taken above is true of political liberalism writ large, then those

individuals incapable or unreasonable cannot execute their duties as citizens.[145] Again,

this idea seems to fit well within the Rawlsian schema of anthropology. For when a

functional conception of the person is laid forth as the principle mechanism by which

humanity is defined, then individuals who lack such qualities are removed from the

equation. They are protected, they are equal under the law, but they cannot take part in

deliberating the nature of those laws.

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[143]The problem Rawls faces is similar to one that Kant encountered. When human nature is ascribed moral status by an ability to use an autonomous will, those who are incapable of such actions may not have a moral status provided to them. Roman Ilea's dissertation on Moral Philosophy and Social Change mentions that there is very little interaction from Kantian scholars about his lack of addressing those agents who may not achieve the moral status he describes. Further, she writes, those who would ascribe to Kantian forms of rationality would likely have to determine those individuals are not persons. See Roman Ilea, "Moral Philosophy and Social Change" (PhD diss., The University of Minnesota, 2006), 74-76. Additionally, Emmanuel Chukwudi Eze writes that few Kantian scholars have written about his theory of race. His analysis fits with Ilea's conclusions concerning Kant's problematic arguments about the moral status of rational agents. See Emmanuel Chukwudi Eze, "The Color of Reason: The Idea of 'Race' in Kant's Anthropology," in *Postcolonial African Philosophy: A Critical Reader*, ed. Emmanuel Chukwudi Eze (Lewisburg, PA: Blackwell Publishers, 1997).

[144]Rawls, *A Theory of Justice*, 506-9.

[145]Recall here that unreasonableness is not a statement about the agent's inability to reason. Reasonableness is understood here in the Rawlsian sense. Thus, the designation of personhood is attached to a political conception. A potential response to such a claim could be that this might be true but irrelevant. In other words, a person is on some level a citizen capable of cooperating in society but they are more than the sum of their participatory parts. Further, one could imagine the designation of personhood on foundations of participation or action removes key evaluative pieces that formulate conceptions of a person.

The Rawlsian principles of justified coercion, legitimacy, and public reason now come into play. Whatever laws are passed that may limit these individuals, they are justified and legitimate because these individuals are, by definition, unreasonable. Thus, the borders between social and political life are removed, and political liberalism becomes the central cog in the life of a society. When conceived this way, it envelops other areas of life—it becomes total. Left this way, Rawlsian political liberalism looks much like the hegemony of a comprehensive doctrine in the same manner that Christianity or Marxism is a comprehensive doctrine. But any system must set forth moral grounds for their anthropology. Here, Rawls reveals further his dependence on implicit comprehensive doctrines.

The Moral Ground:
Kantian moral philosophy

Rawlsian moral philosophy is inspired by Kantian moral philosophy. Yet, there is an important distinction between a moral philosophy being inspired by Kantian moral philosophy and being a pure depiction of Kantian moral philosophy. The former is undoubtedly Rawlsian. To be sure, Rawls criticizes Kant's moral philosophy in several areas, so it is not a pure adoption.[146] The structure of morality is not derived from holy writ, but from the individual autonomous agent. The determination of moral principles is derived from the fact that that humanity imposes them on themselves.[147] In this way,

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[146]Rawls saw Kant's demands for reasonableness as too weak in places and extending beyond his boundaries. He felt that Kant's conceptions of justice were too contingent on a moral perception instead of poetical conceptions. An excellent discussion on Rawls's critiques of Kant can be found in Jeffrey Bercuson, *John Rawls and the History of Political Thought: The Rousseauvian and Hegelian Heritage of Justice as Fairness* (New York: Routledge), 2014.

[147]Charles Larmore, *The Autonomy of Morality* (Cambridge: Cambridge University Press, 2008), 81. In many ways this is no different than Christians that impose moral principles on themselves

Rawls leans on the Kantian heritage of moral philosophy. "For Kant," writes Charles Larmore, "we determine the rightness or wrongness of an action by reference to moral principles we impose on ourselves."[148] These principles are from pure practical reason, and it "must construct out of itself its own object."[149]

Kant also modified aspects of Kant's moral philosophy. When Rawls lays out the four major difference between Kant's moral constructivism and the political constructivism of justice as fairness, a key feature that connects all of them is the lack of a metaphysical foundation for justice as fairness.[150] Rawls envisioned political liberalism to have a far narrower field of vision than Kantian moral philosophy, but the process by which one acquires justice within political liberalism is still decidedly Kantian. Even our awareness of the moral law is not a byproduct of an *a priori* reality or a moral experience of the principles of justice. Rather, according to Rawls, the moral law is "authenticated by the fact of reason."[151]

So, it would seem, then, that the difference between Kantian moral philosophy and Rawlsian theory is one of degree instead of kind. That is to say, the question is about the *extension* of Kant's ideas. Rawls does not present a totalizing conception of reality,

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through Scripture reading and tradition. The point of the section here is not necessarily to show that the Kantian heritage of Rawls is an altogether *bad* thing. Instead, it's designed to solidify the relationship between the two philosophers and to show that Rawls leans heavily on Kantian categories in key areas.

[148]Ibid., 81.

[149]John Rawls, *Lectures on the History of Moral Philosophy* (Cambridge, MA: Harvard University Press, 2000), 226.

[150]Rawls, *Political Liberalism*, 99-101.

[151]Rawls, *Lectures on the History of Moral Philosophy*, 267.

but rather principles of justice for a particular society.[152] The question remains as to whether that is enough for Rawls to distance himself from a clear Kantian heritage. Some scholars have thought Rawls takes Kantian theory beyond where Kant allowed.[153] Take, for example, Rawls's hesitancy to allow metaphysical conceptions in political theory. He relegates comprehensive doctrines to privatization, whereas Kant would not. One need not go any further than the categorical imperative to see that a kind of universalism not found in Rawls is well established in Kant.[154]

On the other hand, the emphasis on reason as the guiding hand for establishing normative truth is seen in both Kant and Rawls.[155] Their moral and political constructivism is not contingent upon an independent and autonomous law whereby laws are provided by divine fiat. Rather, they are constructed by the agent. The moral law for

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[152]Rawls's audiences are those societies that already share his constitutional democratic premises. "Particular society" is meant to relate that Rawls's schema is applicable to those ends and not designed to be a universally applicable system. Political liberalism may be applied in all *geographic* areas of the world where constitutional democracies are present and pluralism is a social fact. See Daniel Dombroski, *Rawls and Religion: The Case for Political Liberalism* (New York: State University of New York Press, 2001), 69-71.

[153]Larry Krasnoff, "How Kantian is Constructivism?" *Kant-Studien* 90, no. 4 (1999): 401. Krnasoff states in the article that Kantian categorical imperatives are designed for individual application, not abstract entities like Rawls envisions.

[154]See the insightful article by Vadim Chaly, "An Interpretation of Rawls's Kantian Interpretation," *International Journal of Philosophy* 1 (June 2015): 142-55. Further, the first formulation of the categorical imperative aligns with Kant's notion of the right over the good. That is, the universal maxim accords with duty, but this action is grounded in metaphysics. As Kant states, "The doctrine of right needs metaphysical first principles." Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. H. D. Paton (New York: Harper and Row, 1964), 6:365. Other scholars agree that the doctrine of the right can be constructed from the categorical imperative. See Michael Nance, "Kantian Right and the Categorical Imperative: Response to Willaschek," *International Journal of Philosophy* 20, no. 4 (2012), 541-56. In this sense, one might be able to suggest that the categorical imperative is a comprehensive doctrine, shaping the contours of a worldview structure that Kantian philosophy fills out in practical reason.

[155]One can see that Rawls echoes the Kantian hypothetical imperative here. If the imperative is viewed as the agent's use of his or her will to pursue certain ends. What it indicates, says Hill, is that humans decide to take the requisite steps to achieve goals that they already decided to pursue. See Thomas E. Hill, Jr., "The Hypothetical Imperative," *The Philosophical Review* 82, no. 4 (1973), 429-50.

Kant is an "a priori principle that originates in our free reason."[156] Like Kant, Rawls

believes that no reasonable person can disagree with his system once he has had time to

reflect upon the theory.[157] Indeed, Rawls goes as far as designating certain

comprehensive doctrines as reasonable, the distinction being that the reasonable accept

political liberalism as compatible with their worldview framework. In sum, Rawls leans

on Kantian moral philosophy for much of his theoretical underpinning of political

liberalism.[158] To further delineate this claim, an exploration into Kantian practical reason

is warranted.

Both Immanuel Kant and John Rawls make similar distinctions regarding the

nature and extension of reason. In addition, both run into trouble because of their

commitment to rational autonomy as the focus for moral deliberation. Take, for example,

Kant's claim that practical reason must be "free" from one's inclinations. Indeed, Kant

claims that the highest desire of every rational being should be to be free from

inclination.[159] Kant compels the reader to place humanity as an end and never as a means.

The implicit ability for an individual to pursue such an end assumes that there are certain

inclinations that extend beyond reason and rational deliberation. It suggests that

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[156]Rawls, *Lectures on the History of Moral Philosophy*, 147.

[157]Rawls, *Political Liberalism,* 574. See also Nicholas Tampio, "Rawls and the Kantian Ethos," *Polity* 39, no. 1 (2007): 92.

[158]This conclusion can be found throughout Rawlsian literature. See, for example, Nythamar de Oliveira, "Kant, Rawls, and the Moral Foundations of the Political," in *Kant and the Berlin Enlightenment*, ed. Volker Gerhardt, Rolf-Peter Hortsmann, and Ralph Schumacher (Berlin: De Gruyter 2001): 286-95; Robert Taylor, *Reconstructing Rawls: The Kantian Foundations of Justice as Fairness* (State College: Penn State University Press, 2011); Katrin Flikschuh goes so far as to say that Kant's reception of moral philosophy is due almost entirely to Rawls's appropriation of it. See chap. 1 in Katrina Flikschuh, *Kant and Modern Political Philosophy* (Cambridge: Cambridge University Press, 2004).

[159]Immanuel Kant, *Groundwork for the Metaphysics of Morals: A German-English Edition* (Cambridge: Cambridge University Press, 2001), 4:428.

inclinations, rather than being a hindrance to rationality, become a central mechanism by which one is able to instantiate the categorical imperative. Thus, Kant seems stuck between a *desire* that one be free from inclination, and the *design* of anthropology that one is inclined inescapably to pursue ends that are not principally drawn from reason alone.[160]

Likewise, Rawls runs into trouble with his conception of public reason. He sets public reason up to be "free" from comprehensive doctrines. This is another way of stating what Kant desired as well: to be free from one's inclinations. In this context, inclinations are those moral, philosophical, or religious beliefs that extend beyond the bounds of justice as fairness and political liberalism. They speak to arenas of thought that are not principally concerned, according to Rawls, with the stability of political and social institutions. Hence, public reason is designed to be a deliberative mechanism for those who have agreed to the principles of justice and willing to discuss political justice on the grounds of a shared principle of reasoning. Those designated as reasonable by Rawlsian theory have been, to use Kant's terminology, freed from their inclinations. Yet, Rawls faces a problem here. His implicit dependence on Kantian theory makes for a very similar framework as those his theory seeks to limit access to for being unreasonable— the public forum. Rawlsian public reason and the attendant conceptions of justice are not

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[160]Some may say that no problem exists here, that Kant is stating a desire that all be free from inclination, but the reality is that one cannot be and need not be. Even so, that still does not provide a sufficient answer as to how a moral theory derived from practical reason can provide a framework for those parts of humanity that are not primarily derived form reason alone— the moral sense, inclinations, and the like. Others may object and state that Kant is merely deliberating on rational nature, not the whole of human nature. While this may be true, it is still difficult to see how Kant does not fall prey to reducing humanity to a rational being. Even *a priori* conceptions like morality are instantiated by the rational nature. That is to say, rational nature acquires the understanding of the categorical imperative, and in this way frames humanity around rationality. For an example of this idea, see Jess Tinnermann, *Kant's Groundwork of the Metaphysics of Morals: A Commentary* (Cambridge: Cambridge University Press, 2007), 95n93.

merely allowed; they are arbiters of deliberation in political liberalism. In essence, neither practical reason nor public reason frees humanity from inclinations or comprehensive doctrines.

Other similarities between Kant and Rawls can be demonstrated by their structuring of the moral order. That is, Rawls's concern to universalize the process of deliberation within pluralistic society mirrors Kant's concern for a universal application of the categorical imperative. Rawls inserts the categorical imperative into the political process by way of public reason. In doing so, he ensures the imperative is operative in the political order.[161] To rephrase Kant into Rawlsian terms: one is to act only on that political maxim whereby one can, at the same time, will that it should become a universal political law. For Kant, it is pure practical reason that discovers the moral law. The agent is to submit their will to this law and direct their actions from its source. In this way, the imperative becomes "the mental process we engage in when we think about how to be just to other human beings."[162] Further, the restriction placed upon the agent by the imperative removes various motivating factors not primarily grounded in rational autonomy. The importance of this point is that, like Rawls's conception of public reason, the categorical imperative restricts the agent from considering other factors beyond rational autonomy. For a policy proposal to be allowed in public reason the citizen must

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[161]Kant develops two forms of the categorical imperative. The first states that one should act on that maxim through which one can at the same time will that it should become a universal law. In this formulation, the maxim demands obedience from the agent without reference to anything beyond itself. That is, the maxim is not justified by any form of instrumental reasoning. A second formulation notes that one should never treat humanity simply as a means but always as an end. See Roger J. Sullivan, *An Introduction to Kant's Ethics* (Cambridge: Cambridge University Press, 1994), 35-38.

[162]Stefan Bird-Pollan, "Rawls: Construction and Justification," *Public Reason* 2, no. 1 (2009): 12-30, 13.

consider it reasonable. Further, other citizens must judge the proposal as reasonable. In this manner, one could say that Rawls is echoing the second form of the categorical imperative: treating humanity never simply as a means but always at the same time as an end. This public reason requirement prevents an exploitation of the individual and a positive universalizing of actions toward the agent that you would prefer to see being performed by everyone. Just as Kant demands the imperative be a universal moral norm, so Rawls demands a universal norm for pluralistic democracies in Rawlsian theory.[163] Both see application of their law as universalizing crucial moral norms. The imperative for Rawls is instituted by thinking about the individual person in the deliberative process. By this, a condition of reciprocity is enacted.

Indeed, public reason is a Rawlsian political application of Kant's principle of reciprocity. A variant formulation of the categorical imperative, reciprocity relates the principle of interaction among equals. What is assumed by one individual as a burden of interaction for others should be equally applied to his or herself. Put another way, it is assuming the position of another individual and seeing if one's reasoning would be acceptable to them.[164] While Kant's conception of the categorical imperative is a *moral* one, Rawls's adaptation of this idea to public reason is intended to be political. But even this distinction seems a bit dubious. He may desire that public reason be political with the

[163]Certainly the concept of "universalize" looks different in Kant than in Rawls. For the former it is a complete and universal law that is true in all contexts. Rawls's concerns are political in nature and, more specifically, those constitutional democracies fractured by pluralism. So in one sense Rawlsian public reason is not "universal." However, in another sense it is. That is, wherever a constitutional democracy may find itself, the conditionals of public reason are to be followed. While the scope of Rawls is more narrow, the application of his principles is just as universal. The distinction is in the degree of application, rather than in kind.

[164]For more on this concept, see Thomas Pogge, "The Categorical Imperative," in *Kant's Groundwork of the Metaphysics of Morals*, ed. Paul Guyer (Totowam, NJ: Rowman and Littlefield, 1998).

absence of metaphysical speculation, yet its dependence upon implicit comprehensive doctrines places the content and structure of public reason squarely within the Kantian moral tradition. As such, it is much more difficult to discard this heritage. The principle of reciprocity is designed to engender respect and cordiality for another individual's capacity to reason, that is, the capacity of one to acquire by reason the moral law.

When applied to the public-political sphere, the principle of reciprocity centers on offering arguments for policy in ways everyone may find agreeable. In this sense, it is a mutual exchange of Rawlsian reasonableness. Rawls states the principle in this way:

> The criterion of reciprocity requires that when those terms are proposed as the most reasonable terms of fair cooperation, those proposing them must also think it as least reasonable for others to accept them, as free and equal citizens, and not as dominated or manipulated, or under the pressure of an inferior political or social position.[165]

Here, one can see Rawls's emphasis once again on the necessity of the reasonable citizen. The essential virtue of reasonableness is what borders the criterion of reciprocity. For reasonable citizens will see that their "duty of civility" is to argue in ways that "can be supported by the political values of public reason."[166] The motivation behind the principle is grounded in a respect for the moral law instead of in self-interest.[167] Both the explanations and the structure of public reason are paralleled in the principle of reciprocity. In terms of content, reciprocity legitimates public reason.[168]

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[165]Rawls, "The Idea of Public Reason Revisited," 446.

[166]Ibid., 217.

[167]Raider Maliks, *Kant's Politics in Context* (Oxford: Oxford University Press, 2014), 24-26.

[168]Feing-Wei Wu, "Reason and Violence: The Kantian Tradition Reconsidered" (PhD diss., Binghamton University, 2007), 78-80.

It might be suggested from the analysis that this section was intended to imply that Immanuel Kant is the *sole* influence on Rawlsian political theory, but this is not the case.[169] Yet, it does seem that Kant had a formidable influence on how Rawls shaped his political theory, particularly the features of public reason. Like most theories, Rawls did not arrive at this conception from a single origin. Yet highlighting a key interlocutor seems relevant. Rawls spends more time engaging with Kant in his *Lectures on the History of Moral Philosophy* than anyone else.[170] Further, highlighting the weaknesses within this connection does not mean to imply that both Rawls and Kant were wrong about everything discussed here. The categorical imperative is a praiseworthy belief through which one can live, and many religious traditions echo Kant's formulations. Even the deliberative goal that public reason pursues is both noble and right. Indeed, there must be proper conditions set for policy deliberations to meaningfully advance. Some form of deliberative process through which citizens can participate reasonably with one another is essential for democracy and the legislative process, and Rawls is right to pursue such an end. Yet, the problem explored in this suggests that his form of public reason is an improper mechanism to achieve that goal. Directing the reader to see crucial assumptions and features of the theory seems relevant.

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[169]Rawls was also influenced by other philosophers like Hegel and Rousseau. See Rodrigo Soto-Morales, "Hegel's Influence on the Work and Thinking of John Rawls," *Dikaion* 22, no. 2 (2013): 247-71; Jeffery Bercuson, *John Rawls and the History of Political Thought: The Rousseauvian and Hegelian Heritage of Justice as Fairness* (New York: Routledge, 2014).

[170]John Rawls, *Lectures on the History of Moral Philosophy* (Cambridge, MA: Harvard University Press, 2000).

Conclusion

This chapter has sought to analyze one aspect of his thought, Rawlsian public reason. It explored both the necessary components needed for it to arise and the key features of the concept itself. This analysis suggested that Rawlsian public reason has essential background components that must be present in order for the concept to arise. Rawls's political philosophy was in many respects a search for stability and the necessity of this concept in order for public reason to instantiate in the political order.

Additionally, this chapter demonstrated that public reason makes fundamental assumptions, most of which are grounded in a Kantian anthropology and moral philosophy. The presumption of constructivism in order to build political liberalism is derived from the Kantian heritage that Rawls acknowledges. Yet, it seems clear that Rawls's political liberalism becomes a manifestation of Kantian deontology clothed in body politic. While on the face of it this seems innocuous, there are difficulties that lie within this idea that the next chapter will explore in more detail.

Some initial conclusions can be drawn from this analysis. First, biography shapes an individual's perspective on the world just as easily as their moral, philosophical, or religious conceptions. Take for example Rawls's experience while serving in war. His problem later in life with metaphysical conceptions in public deliberations seems influenced by his understanding of the events that unfolded during his time overseas. Further, personal history plays an important role in how an individual's theology is shaped, just as much as their own theological study and inquiries. This is not an altogether bad thing, but this chapter suggests it had an influence on Rawls's work.

Second, Rawls insistence that political liberalism be freed from the entanglements of comprehensive doctrines is at best misleading. It is without question that the goal of political liberalism—of which public reason is a component—is to be political and not metaphysical, but this chapter has sought to demonstrate that this is false. Rawlsian political philosophy is just as beholden to conceptions of the right and good as those comprehensive doctrines he excludes from policy deliberation. To say otherwise is to prejudice moral conceptions in favor of a secularized political philosophy. But this says nothing about the ground of those conceptions. This chapter hoped to uncover those and show them to be just as 'exclusive' as comprehensive doctrines.

The next chapter will probe further into the problem of excluding comprehensive doctrines via public reason for political deliberation. It will seek to demonstrate that this Rawlsian exclusion is not merely a political problem, but that it is *harmful* to those who do not assent to the Rawlsian project. The goal of a flourishing civil democracy is the active participation of all citizen's in the deliberative process, especially those legislators and lawmakers. Rawlsian public reason, as the next chapter will show, brackets off crucial blocs of individuals, forcing them to make decisions about their epistemological chastity. In doing so, it provides harmful consequences to those individuals and those they represent.

CHAPTER 3

THE PROBLEM OF EXCLUDING COMPREHENSIVE
DOCTRINES IN PUBLIC REASON

As the previous chapter laid out, Rawlsian public reason is part of a larger

picture within a theory of justice that asserts certain essential features. These crucial blocs

further set forth a Rawlsian theory of legitimacy and stability that must be in place for

public reason to function sufficiently within society. The concept of public reason, then,

is designed to frame the borders through which policy discussion happens in pluralistic

societies. Along with the notions of reasonable pluralism and overlapping consensus

discussed in the previous chapter, Rawls discusses two additional factors for the

exclusion of comprehensive doctrines: reasonableness and rationality. The structure of

these features, however, is faulty.

The Faulty Criterion for Exclusion

The Rational Citizen

Rawls makes a clear distinction between the reasonable and the rational,

former the latter delimits what may be considered in the latter. The reasonable and the

rational are two independent ideas and their separation is not a metaphysical statement

but rather an outline of epistemological deliberation. The rational applies to a "single,

unified agent (either an individual or corporate person) with the powers of judgment and

deliberation in seeking ends and interests peculiarly its own."[1] This pursuit is an endeavor

to act in a more corporate nature than mere self-interest can provide.[2] Additionally,

Rawls designates that rational agents are not driven solely by individualism—if that were

the case, they would be psychopathic.[3] Instead, what is lacking in the rational citizen is a

moral sensibility; the individual does not have the vocabulary needed to understand

cooperation and as such, the ends and means are considered completely on their own.[4]

Rawls envisions that a rational agent has the ability to shape life decisions around a

conception of the good.[5] From this, the rational citizen is considered to be an individual

who has assented to the principles of justice and political liberalism.[6] These rational

agents have duly reflected on the essential conditions needed to provide political stability

and concluded that political liberalism is the best avenue to acquire it. The results of mere

rational deliberation cannot provide a sufficient basis for justice because it depends upon

implied premises.[7]

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[1]John Rawls, *Political Liberalism* (New York: Columbia University Press 1996), 50.

[2]One can imagine the example of an individual choosing to leave a large sum of money to a charity that would detrimentally affect the individual's bottom line but benefit others at their expense.

[3]Rawls, *Political Liberalism*, 51.

[4]This conception is indeed a crucial aspect of Rawls's political anthropology. This, however, does not necessarily entail a moral sensibility. Ibid., 225. For further explanation, see Rachel Patterson, "Reviewing Public Reason: A Critique of Rawls' Political Liberalism and the Idea of Public Reason," *Deakin Law Review* 9, no. 2 (2004): 720-22.

[5]Rawls, *Political Liberalism*, 80-88.

[6]Indeed, this rational aspect is included in his famous thought experiment, the veil of ignorance. Once the essential conditions for justice as fairness have been considered rationally behind the veil, then one is presented with the base-level structure for justice.

[7]The implied premises are the assumptions of the good overriding the right. The distinction between rational and reasonable for Rawls highlights the importance of Rawls prioritizing the right over the good. The right develops a sense of justice that comes with it, while the good—at least for Rawls—does

Further, the rational citizen is both aware of and in agreement with the fact of reasonable pluralism. Because of this commitment, they attempt to engage their fellow citizens with "fair terms of social cooperation," and the reciprocal nature of the deliberative exchange is the embodiment of assent to political liberalism.[8]

It is from this condition of rationality that public reason becomes the guardrail for determining reasonableness in policy deliberations. Once conditions are set for rationality, a movement toward reasonableness commences and through a proper sense of rationality, one may consider what is reasonable.[9] Conceptions of the good developed by the rational citizen help to present the opportunity for reasonableness to actualize. Reasonableness, over against rationality, takes a more public form. Public reason delimits the competing conceptions of the good developed by rational citizens. The mere status of rationality attached to a conception of the good cannot publically adjudicate, it must be restrained.[10] Political liberalism is concerned with *political* values and ends being

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not. The same distinction between the right and the good can be found in his distinction between the reasonable and the rational agent. They are complementary terms but one most certainly has priority over the other. Thus, when previously stated that the former delimits what may be considered in the latter, this is what is in mind.

[8]Particular to this context, the rational citizen is cognizant of the burden that instability imposes on deliberative democracy and how it further divides from potential solutions. See Rawls, *Political Liberalism*, xliv, 49-52.

[9]Rawls does not seek within *A Theory of Justice* to derive the reasonable from the rational. In some sense, they are complementary. However, in *Political Liberalism* I am not so sure the break is as clean. The sheer immensity of Rawls's use of "reasonable" in *Political Liberalism* designates a priority to reasonableness instead of rationality. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1999). For more, see Shaun Young, "The (Un)Reasonableness of Rawlsian Rationality," *South African Journal of Philosophy* 24, no. 4 (2005): 308-20.

[10]Chandran Kukathas and Phillip Petit make an interesting parallel between Rawls's reasonable and rational and Hegel's actual and rational. Like Hegel, the distinction between the two categories is hard, but rationality can only manifest itself in the world. Like Rawls, reasonableness is presupposed by rationality. Only when rationality is constrained by reasonableness can it attain what it so desires. Charndran Kukathas and Phillip Petit, *Rawls: A Theory of Justice and Its Critics* (Stanford, CA: Stanford University Press, 1990), 154n5.

attained, and public reason becomes the central domain of the *reasonable*. In this way, the criterion of reasonableness is public while the rational is not because the former allows for the terms of essential political agreement to be set.[11]

These factors, however, rest on a faulty criterion. The next section will explore in further detail both the reasonable and the rational, analyzing how the structure set forth by Rawls is unattainable. The Rawlsian preference for reasonableness instead of rationality will be demonstrated as specious, as it is in effect looking past the question of metaphysics for procedural reasons. Further, it will show that the distinction that Rawls makes between reasonableness and rationality is a weaker than he imagines. An agent's ability to be reasonable leans significantly on rationality, yet Rawls limits what may be considered reasonable. In this sense, it is not merely a priority of reasonableness that Rawls emphasizes, but that it inhibits what might be considered rational. Rationality attempts to conceptualize metaphysical categories of the good in order to shape one's life, while reasonableness is more procedural. By Rawls placing such an emphasis, it signifies his priority.

Reasonable

To be a citizen in Rawls's political conception, one must be reasonable. More than any designation, reasonable is a term most used by Rawls to describe what he hopes the politically liberal citizen will embody. Reasonableness is the "final court of appeal" and the main standard by which all public actions are to be deliberated.[12] Reasonable

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[11]Sebastian Maffetone, *Rawls: An Introduction* (Malden, MA: Polity Press, 2010), 239.

[12]Young, "The (Un)Reasonableness of Rawlsian Rationality," 310.

citizens have considered, rationally, the fact of reasonable pluralism and the need for

honorable reciprocity in policy discussions. As such, they understand the constraints of

political liberalism and justice as fairness and agree to them. Rawls describes reasonable

citizens as those who,

> viewing one another as free and equal in a system of social cooperation over
> generations, they are prepared to offer one another fair terms of social cooperation
> (defined by principles and ideas) and they agree to act on those terms, even at the
> cost of their own interests in particular situations, provided that others also accept
> those terms.[13]

Note here that Rawls defines fair terms of social cooperation by principles that

can be accepted by individuals involved in deliberation. Social contract tradition has

stated that stability within society is dependent upon forms of unwritten assumptions.[14]

This method seems to limit a consideration of moral principles as underwriting legal and

political actions. For, if those principles are derived from comprehensive doctrines they

are incommensurable with other conceptions of the good. Political liberalism's

reasonable citizen is derived *separate* from the rational citizen. That is to say, the citizen

that has deliberated from a comprehensive doctrine about a conception of the good is

considered rational but not *reasonable.* The reasonable citizen will be aware of

distinctions between legal and moral reasoning and assign their deliberation toward the

former without the influence of the later.[15] The test of reasonableness is "how well the

view as a whole articulates our more firm convictions of political justice . . . [a]

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[13]Rawls, *Political Liberalism*, xliv.

[14]One can see this unwritten assumption even in Plato's works like the *Crito*. See B. Jowett, *The Republic and Other Works* (New York: Random House, 1973), 480-82.

[15]In this way, legal and moral reasoning parallel with reasonable and rational. The reasonable citizen will direct their attention to legal reasoning. The rational citizen has considered their conceptions of the good and shaped their life and decisions on that conception. In other words, a comprehensive doctrine.

conception of justice that meets this criterion is the conception that, so far as we can now ascertain, is the most reasonable to use."[16] Here, Rawls uses the structure of a common distinction—legal reasoning and moral reasoning—to displace swiftly moral reasoning from public deliberation. Hence, the formations of deliberation that meet the highest criterion for Rawlsian public reason are those *reasonable* comprehensive doctrines that affirm the political conceptions of justice.[17]

As the previous chapter noted, unreasonable comprehensive doctrines—and by extension, the individuals holding them—are of no concern to Rawls. Yet, the assignment of *reasonable* throughout the Rawlsian corpus relays a faulty distinction. That is, his emphasis on reasonable allows him to skirt an essential metaphysical category: the nature of truth.

True vs. Reasonable

The separation of truth and reasonability allows Rawls to be concerned with *reasonableness* as the force for public reason deliberation. In framing public political deliberation this way, he avoids discussion about whether or not the propositions that ground political liberalism are in fact *true*.[18] Indeed, the conception of true is viewed by Rawls as beyond the borders of political liberalism and public reason. Yet the bracketing

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[16]Rawls, *Political Liberalism*, 28.

[17]Rawls, *Political Liberalism*, 36-37; Young, "The (Un)Reasonableness of Rawlsian Rationality," 312-13.

[18] For example, an important proposition for Rawls would be "political values alone are to settle issues of constitutional essentials and questions of basic justice." (*PL,* 214). Rawls identifies "liberty of conscience" (*PL,* 227) as a question of basic justice. While in agreement with Rawls, one can easily imagine a scenario such a basic right cannot be settle on purely political values alone. Issues of conflict with conscience, for many citizens, arrive *prior* to political unrest. No doubt that are many propositions from political liberalism that are true, but there are many more that seem crucially false.

of considerations about truth places a critical burden on public reason, namely, why should one believe it to be the best option? If public reason is the deliberative guardrail for the collected assent of political liberalism and conceptions of justice, why give credence to what may not yield true propositions? Rawls is silent here. This matters to political deliberations, for something as urgent as proper borders for legislative discussion is crucial for democratic deliberation.

Rawls does not entertain the idea of public reason as being true because that brings to the foreground conceptions of the good that are beyond the bounds of public reason. Herein lies the fruits of the distinction between the reasonable and the rational: reasonableness is not concerned with conceptions of the good, only that they be properly managed and guarded to ensure they do not upset the foundations of stability assigned by political liberalism. Rawls further states that a well-ordered[19] society is one "in which everyone accepts, and knows that everyone else accepts, the very same principles of justice."[20] In effect, one is reasonable *only when* accepting Rawlsian principles.

But surely one can imagine a situation in which this is not true and a reasonable set of comprehensive doctrines can be attained. Let one imagine further, that this agent holding a set of comprehensive doctrines has not assented to political liberalism yet can offer sufficient and clear reason from their comprehensive doctrines that others reasonably understand. While others may disagree, they can affirm the conclusions drawn are not unreasonable. Yet, public reason liberalism would designate this framework unreasonable, for assent to political liberalism is essential for determining

[19]Rawls means *reasonable society* here.

[20]Rawls, *Political Liberalism*, 35.

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reasonableness.[21] The lack of assent to Rawlsian liberalism negates any potential

reasonableness even if it is rationally conceived. In this way, he places a primacy on

reasonableness at the expense of rationality as if they are two separate spheres of interest

and concern.

Additionally, reciprocity preferences reasonableness. Reciprocity asks citizens

to view themselves in relation to their fellow citizen's *reasonableness.* While this posture

is congruent with Rawlsian principles of justice, it highlights the possibility of a

conception being reasonable without those propositions upholding the concept as *true.*

One can certainly imagine a scenario where a conception presented in policy deliberation

is in fact reasonable—it is presented with fair terms of cooperation and in ways that

others may reasonably agree—but foundational propositions are not true. Conceptualized

systems that place a demand upon people like public reason should have the burden of

being both *reasonable and true*, but Rawls places primacy on the first without

entertaining the second. The mere distinction of rationality and reasonableness is not

sufficient to discount considerations of truth.

Moreover, consider the narrow scope of reasonableness. Reasonableness as a

regulatory mechanism renders conditions so limited as to only instantiate a minimal

amount of beliefs. For a person to be considered reasonable he or she must have

previously assented to certain commitments and restraints. Such restrictions are designed

to bring forth the proper conditions for political liberalism to flourish. But the slimmed-

down version of beliefs that an agent must assent to serves only to provide a broad

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[21]Further, the idea of public reason must assume that comprehensive doctrines are by necessity divisive and must be controlled. While this may be a *reasonable* position to hold, it is not *prima facie* true.

framework instead of a fully formed structure. One may naturally conclude that Rawlsian

liberalism would allow the citizen to fill the framework with their various beliefs

provided they agree to the framework. However, the negation of metaphysical beliefs as

viably congruent with Rawlsian public reason judges this potential to be wrong. It does

not sufficiently allow the citizen to draw from his or her comprehensive doctrines in a

way that engenders his or her beliefs with the Rawlsian structure. Despite the proviso,

Rawls still demands citizens to eventually use public reason as the primary medium to

deliberate policy. One is left with general sets of platitudes that are not agreed upon by

all, but must be given assent in order for the citizen to be considered reasonable. Indeed,

Rawls states that in order to find the shared basis for determining such fundamental

questions, one should

> collect such settled convictions as the belief in religious toleration and the rejection
> of slavery and try to organize the basic ideas and principles implicit in these
> convictions . . . . We hope to formulate these ideas and principles clearly enough to
> be combined into a political conception of justice congenial to our most firmly held
> convictions.[22]

Yet, these implicit principles found in religious conviction could be vast, and

the guarantee of a political conception of justice to safeguard such considerations seems

hollow. Consider, as Christopher Eberle suggests, theonomy or Christian

reconstructionism. There is very little room within strict reconstructionism for religious

toleration. Clearly, these are "firmly held convictions" as their principal concern is to

enact the law of God in civil society.[23] Rawls would likely deem reconstructionism as

unreasonable, given the premises of political liberalism. But there is still little discussion

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[22]Rawls, *Political Liberalism*, 8.

[23]Christopher Eberle, *Religious Convictions in Liberal Politics* (Cambridge: Cambridge
University Press, 2002), 212-14.

as to whether or not reconstructionism is true. Delimiting the boundaries by which deliberation is set forth only works if the boundaries are not, in some sense, arbitrary. The Rawlsian consensus drawn from the implications of religious toleration for example are laudable, but hardly specific or explanatory. Further, there is little to suggest that a fully committed and religiously-based comprehensive doctrine could not satisfy the conditions. But eliminating or severely limiting the influence of such beliefs does not allow for a rich set of settled convictions to draw from in order to formulate them into a political conception of justice. What Rawls misses is that the inclusion of comprehensive doctrines in deliberation actually allows for public reason to be *stronger*. As a pure procedural mechanism, it satisfies what most comprehensive and religiously based systems affirm. As a guardrail for a political conception of justice, it harmfully excludes what may serve as a benefit, even to political liberalism. In effect, the paradox of the reasonable criterion is that its demands become so austere that it renders beliefs that some may indeed agree upon, but it does not sufficiently answer potential political problems, further rendering his political liberalism impotent. Gerald Gaus notes that political liberalism is

> driven to this sort of populist consensualism because it deprives itself of the resources on which to ground the claim that liberal principles are justified in the face of sustained dissent by reasonable people. Any reasonable person who does not accept its claims becomes a counter-example, . . . [and, u]ltimately, it loses its character as a liberal doctrine, for little, if anything, is the object of consensus among reasonable people.[24]

Take abortion, for example, a topic that Rawls raises in *Political Liberalism.* The criterion for consensus on this topic is threefold: one must consider the due respect for

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[24]Gerald Gaus, *Justificatory Liberalism: An Essay on Epistemology and Political Theory* (Oxford: Oxford University Press, 1996), 292-93.

human life, ordered reproduction of political society over time, and the equality of women as equal citizens.[25] Rawls states that a reasonable balance to these three issues renders a woman's right to abortion in the first trimester. Any comprehensive doctrine that does not affirm those criteria and by extension a woman's right to an abortion in the first trimester is regarded as unreasonable. But this criterion is problematic and merely confirms what Gaus says above. That is, disagreement with political liberalism becomes tantamount to becoming a mere counterexample or pariah. But once again the criterion here is so broad-sweeping that it seems unlikely that deliberation would provide any real policy measures. What measures it does provide are hardly ones that can stand up to dissent from reasonable people. Rawls states the overriding principle for abortion is the political equality of women. This narrows the scope of potentialities for policy restrictions but it cannot provide sufficient grounds for dismissal of arguments that object to such a principle in the first trimester. Further, no fundamental reason exists why one should assume that political liberalism should preference the equality of the woman instead of, for example, the ordered reproduction of society or due respect for human life. There is no reason to assume that, given Rawls's premises, one will move from common ground assent among reasonable and rational individuals.[26] As Christopher Eberle states, public reason's criterion of reasonableness "begins on contested grounds and never leaves it."[27]

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[25]Rawls, *Political Liberalism,* 243n32.

[26]Eberle, *Religious Convictions in Liberal Politics*, 219.

[27]Ibid.

Thus, reasonableness does not present the citizenry with a sufficient structure in order to build consensus among the electorate. What reasonableness may generate in the general, it cannot provide in the specific. Perhaps this is the Rawlsian design, but it is problematic when one delimits deliberation among a pluralistic society where a collection of ideas and beliefs can be presented. If one's rationale is to be considered legitimate only if each person within that electorate can render that reasoning acceptable, then there will be very little in the way of resolution. If reasonableness rests on faulty criteria, what about Rawls's determination of rationality? The next section will discuss his depiction of rationality and why it ultimately fails.

The Rational

The justification for rationality, according to Rawls, is too simple. Many things may be considered rational that are not *reasonable.* It may be rational, for Rawls, to believe in natural theology's arguments for God's existence, but it is hardly reasonable to contend for policy proposals on the grounds of those arguments. Further, it may be fully rational to hold to natural law and belief in the dignity of all of life, but it is not reasonable to ground one's proposals in natural law. The reason is that rationality's conditions are too broad. "Rationality is in fact a rather permissive discipline," writes Amartya Sen, "which demands the test of reasoning, but allows reasoned self-scrutiny to take quite different forms, without necessarily imposing any great uniformity of criteria."[28] The lack of uniformity and social consensus means rationality is too general and incapable of providing justification for policy. Thus, it cannot provide sufficient

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[28]Amartya Sen, *The Idea of Justice* (Cambridge, MA: Harvard University Press, 2009), 194.

conditions for legislative coercion. The implications are that this type of reasoning will lead to instability and injustice. Rationality, for Rawls, is too weak a category for stable social democracy.

Further, Rawls's issue with rationality is in the fact that it has relational boundaries with the notion of truth. As previously stated, discussions about notions of truth are beyond the borders of political liberalism. Rawls sees rationality as what is pursued based upon our conception of the good. That is, ends that seem good to someone are appropriately pursued.[29] Yet, this instrumental conception of rationality is problematic. The view towards instrumental rationality loses its corresponding ability to provide external veracity to rationality. If rationality is divorced from notions of truth, then one cannot verify whether Rawlsian rationality is, in fact, sound. Actions that are only conceptualized as ends toward a preferred conception of the good cannot be exculpated from its own epistemological solipsism.

In short, conceptions of the good that cohere with their life plan and goals cannot provide their own political veracity. This seems to be a serious problem in Rawlsian rationality. If rationality is a crucial feature of political liberalism—and Rawls would argue it is—then it needs to be justified outside of its own particular perspective. But it cannot because Rawlsian rationality is subsumed to a horizontal conception of the good that cannot get outside itself. "It is natural to think of rationality as a goal-directed process," writes Robert Nozick, and "on this instrumental conception, rationality consists in the effective and efficient achievement of goals, ends, and desires."[30] In the context of

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[29]Rawls, *Political Liberalism*, 50-51.

[30]Robert Nozick, *The Nature of Rationality* (Princeton, NJ: Princeton University Press, 1993),

political liberalism, this means an exclusionary border on religious claims as grounds for policy deliberation.

Rawls is correct, but only to a point. His emphasis regarding rationality is insufficient, and it is precisely because he deliberately discounts the idea of truth as a relational component to rationality.[31] Mere rational agents only have a sense of justice but no procedural mechanism to pursue it, and thus reasonableness becomes the most important part of the procedure.

Yet, the reasonable and rational, while distinct, are complementary and cannot stand without one another.[32] This creates problems, for when taken together reasonable people find their ends in rationality and rational people find their proper cooperation in reasonableness. And if reasonableness is what provides a framework to rationality, the question arises as to how different they truly are. If, as Rawls concedes, they are complementary, is there a real distinction between the two? And, if not, what implications may be drawn? The need for political liberalism to place the onus on

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64. In a footnote on the same page, Nozick quotes Herbert Simon as follows: "Reason is wholly instrumental. It cannot tell us where to go; at best it can tell us how to get there. It is a gun for hire that can be employed in the service of any goals, good or bad." Herbert Simon, *Reason in Human Affairs* (Stanford, CA: Stanford University Press, 1983), 7-8.

[31]Consider that one may indeed be rational, pursuing conceptions of the good on one's own terms but have views of reality that are not in fact corroboratory in any manner. A person may believe, on Rawls's terms, a conception of the good that is merely false. One may believe that trees are ensouled entities like human beings and thus, based upon their own conception of the good, believe that deforestation is a crime against ensouled beings. But this is hardly true, and a person may indeed be rational according to Rawls while advocating for patently irrational ideas. Imagine further that this individual decides to advocate for such a policy, initiates reciprocity, and advocates that others, based on their conceptions of the good, adopt such a policy of deforestation. The individual considering such a policy may find this idea cohering with his or her conception of good and will join the others in opposing deforestation. Notice what is completely discounted or not considered here: truth. The fact that Rawls does not entertain such ideas leaves his conception of rationality with much to desire.

[32]Rawls, *Political Liberalism*, 52; Samuel Freeman, *Rawls* (New York: Routledge, 2007), 345-47.

reasonableness means that the distinction drawn by Rawls is important. A citizen's

pursuit of rational ends must be guarded by—and ultimately determined by—

reasonableness. Rational behavior, then, "must respond to the demands of public

reasonableness."[33] Yet, if this is the case, it is difficult to imagine a way in which the

reasonable and the rational are distinct. In fact, their complementarity demonstrates how

little difference there is between reasonable and rational. In effect, one cannot act

reasonable without acting rationally.[34] If one recalls Rawls's notion of the primacy of

reasonableness then the distinction becomes further problematic. For, Rawls's admission

of the interdependency of reasonableness and rationality means the primacy of

reasonableness is dependent upon rationality. One cannot derive reasonableness without

rationality nor can one derive rationality without reasonableness. Thus, they do not

function independently of one another, and this axiom runs counter to Rawls's claim. It

runs aground of the distinctions between reasonableness and rationality and delivers the

conclusion that Rawls's distinction between public and non-public reasons is

disingenuous.

Recall that Rawls states that public reason only delimits reason that is

considered public, and non-public reason is not confined in any manner by his political

liberalism. Non-public reasons, those beliefs that are part of the background culture, are

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[33]Young, "The (Un)reasonableness of Rawlsian Rationality," 314.

[34]It may be suggested that one can be rational without being reasonable. Indeed, this is in some sense Rawls's point. But this only explains that human beings have the capacity to pursue their own life according to a conception of the good. If the individual in mind here wishes to engage in deliberative discussions about society, they must be willing to take such conceptions and subsume them under political liberalism. In this way, they become *reasonable.* Thus, while Rawls is assuredly right that an agent can be rational without being reasonable, it seems like the goal of political liberalism is to produce the latter. Thus, Rawls's point is true but incomplete. The goal is to produce reasonable citizens, not necessarily rational.

in reality as constrained by political liberalism as public reasons. For, this distinction—like the distinction between reasonableness and rationality—is one of private versus public. If an individual who holds comprehensive and private beliefs in the non-public realm desires that such beliefs be protected or enshrined into legislative policy, he or she is taking his or her private convictions and ushering them into the public realm. No doubt the individual would need to translate such beliefs, but there is increasing conviction among individuals that non-public beliefs and practices be accommodated by legislation.[35] In effect, one is asking for non-public reasons to be counted as public reasons. The Rawlsian project of political liberalism, of which public reason is a subset, is laudable. But the distinctions drawn within the schema fail to actualize because they collapse into one another. Just as non-public and public reason eventually morph into one large *public* arena with public reason serving as the mechanism for justice, so do distinctions drawn between reasonableness and rationality collapse. Reasonableness becomes the critical mechanism by which inclusion or exclusion of policy is contained.

Moreover, even if one grants that reasonableness and rationality are complementary, as Rawls believes, there is nothing inherent in the structure of political

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[35]Culturally, this conviction can be seen by the recent entanglements over the HHS contraceptive mandate and the Hobby Lobby decision. The Supreme Court ruled in favor of Hobby Lobby and stated that the HHS mandated substantially burdened the plaintiffs' exercise of religion. A limitation on the law was viewed through the lens of a citizen's religious beliefs. Put positively, the religious beliefs of a citizen were considered when deliberating about the proper requirements of a law. See Cristina Squires, "Employment Law—Hobby Lobby's Narrow Holding Guards against Discrimination," *SMU Law Review* 68, no. 1 (2015): 307-14. Additionally, Cathleen Kaveny mentions Jeffrey Stout's *Democracy and Tradition* as making a case for policy from the grounds of each individual's distinctive point of view. In other words, if a religious citizen wishes to argue for a policy prescription from his or her comprehensive doctrine, he or she should be able to do so. "Why not view the person who takes each competing perspective on its own terms, expressing his views openly and practicing immanent criticism on the views of others, as reasonable (i.e., socially cooperative, respectful, reason-giving) person?" Jeffrey Stout, *Democracy and Tradition* (Princeton, NJ: Princeton University Press, 2004), 73, quoted in Cathleen Kaveny *Prophecy Without Contempt* (Cambridge, MA: Harvard University Press, 2016), 63.

liberalism to say that will always be the case. Herein lies a fundamental problem with instrumental reasoning as a ground for rationality—it is contextual and has difficulty accounting for shifts in ways people justify their reasons.[36] Rawls must assume a more stable ground, that rationality will always be tempered by reasonableness. Yet, he does not provide an argument for *why* this may be the case. A "thick" conception of reasonableness is necessary for the Rawlsian project to work but he does not supply sufficient reasons for this.[37] Though for differing reasons, the conclusions of both reasonableness and rationality in the Rawlsian schema are that they may be conceptually consistent but die a death of a thousand qualifications. That is, the distinctions drawn by Rawlsian liberalism cannot sustain the type of electoral body it needs, and cannot account for the stability it so desires. To be more specific, the failure is This failure is also true with Rawls's discussion about justification and coercion.

Justification and Coercion

Justification in political liberalism is solidified by public reason. Indeed, much of political liberalism's justification is structured around a type of interpersonal justification. By this, justification is principally *public* or an agreement for the execution of justification—and by extension, coercion—of public deliberation. While not a problem

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[36]Some form of instrumental reasoning is normative. The question behind Rawls's distinction between reasonableness and rationality is whether or not the assumption that rationality will always be tempered by reasonableness is a fair assumption. While not convinced of that supposition, it is the question that should be answered, and Rawls merely assumes it to be true.

[37]Young, "The (Un)Reasonableness of Rawlsian Rationality," 317. Here, Young states that a widespread "thick" agreement on what constitutes reasonableness is necessary for the establishment and maintenance of a reliable overlapping consensus. This means that it is necessary as a starting point and as a continuing structural necessity.

on its own, it becomes menacing when placed as the *sole* grounds for the justification of laws.

Yet, this interpersonal justification is the primary type of defense whereby the structures presume association and participation of reasonable citizens. Following such an idea, the principle of reciprocity serves as the spirit of this justification, where one engages the perspective of others and, in this, justification is set forth. Public reason is the guardrail of this justificatory enterprise, whereby proper deliberative structure presumes an association and participation of reasonable citizens. The criterion of reciprocity serves as the spirit of this justification, and it is here that one engages the perspective of others. In this way, justification is set forth.[38]

But this account of justification is insufficient because it does not take into account the *internal* deliberation of the agent. That is to say, the capability to arrive at an interpersonal justification assumes an already solidified *internal* justification with the individual self. An agent must first deliberate with the self before deliberating with others. This process is not given serious weight in public reason liberalism. The justification set forth by Rawls is insufficient because political liberalism places too high a premium on interpersonal justification.

Rawls believes coercion is central to his overall theory of justice. Here, coercion is tied to the previously discussed justification in that the former is contingent on coercion being properly adjudicated. Without proper justification there can be no proper coercion unless it is in accord with a political conception of justice. Hence, for

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[38]Dennis F. Thompson, "Public Reason and Precluded Reasons," *Fordham Law Review* 72, no. 5 (2004): 2073-88; Samuel Freeman, "Public Reason and Political Justification," *Fordham Law Review* 72, no. 5 (2004): 2021-72.

political liberalism, public reason is the best mechanism to justify coercion. Coercion is a

type of public justification and reasons considered justified are only those accessible to

all within their own framework. Hence, reasons that lie within the boundaries of public

reasons are regarded as legitimate.

Rawls suggests this to be about the ability for public reasons to be accessible to

all, but this requirement is problematic. Religious reasons are not able to meet the public

justification principle as they are not accessible to everyone.[39] But reasoning from

accessibility produces so little to agree on that one wonders whether the principle itself is

worth preserving.

The deliberative process for accessibility is often too restrictive or too broad.

This makes for a strong case that the accessibility requirement should be rejected.[40] If the

requirement is rejected, then public reason can be rejected as well. If coercion is rejected,

then the mechanism by which coercion is instantiated—public reason—can be rejected as

well. Without a rejection of the Rawlsian conditions for justification and coercion,

paradoxical conditions become likely.

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[39]In one sense, this idea is commendable from Rawls. There may be religious reasons for policies one would want to exclude from deliberation. Take, for example, honor killings, which can be argued from Islamic principles. Certainly, no matter the sincerity of their religious belief, a pluralistic society would not want such ideas included in policy deliberations. So, Rawls is not altogether wrong. See, for example, Alisha Gill, Carolyn Strange, Karl Roberts, eds., *Honour, Killing & Violence* (New York: Palgrave-Macmillan, 2014). Further, Rawls believes that social preservation overrides a conception of tolerance. He writes, "An intolerant sect does not itself have the title to complain of intolerance, its freedom should be restricted only when the tolerant sincerely and with reason believe that their own secularity and that of the institutions of liberty are in danger." John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1999), 193.

[40]On this idea, see Kevin Vallier, "Against Public Reason Liberalism's Accessibility Requirements," *Journal of Moral Philosophy* 8 (2011): 366-89.

<div align="center">**The Paradox and Effects of**
Rawlsian Exclusion</div>

The previous chapter argued that Rawls is dependent upon implicit

comprehensive doctrines while also concluding that comprehensive doctrines are outside

the bounds of political liberalism. Thus, public reason is designed to delimit such

influences in deliberation. The paradox here is that public reason liberalism's structure

does not allow for comprehensive doctrines, and the result is that Rawls has excluded

comprehensive doctrines from deliberation by way of a set of comprehensive doctrines.

The rest of the chapter will be divided into three main sections: first, it will further

analyze those implicit doctrines set forth in Rawlsian public reason; secondly, it will

discuss the effects of Rawlsian exclusion. Here, it is suggested to have a psychological

effect, a practical effect, and a public effect. The chapter will conclude with an analysis

of the naiveté of public reason and false conceptions of neutrality.

Kantian Anthropology:
Free and Equal Rational Beings

The previous chapter argued that there is at least an implicit Kantian

anthropology attached to the public reason project. Here, I extend that argument to show

that Rawls excludes comprehensive doctrines by way of comprehensive doctrines. One

way he accomplishes this task is through an anthropology that summons two conceptions

that are derived via the heritage of Immanuel Kant. The first is Rawls's depiction of a

"free and equal rational beings." In Kant's essay, "Theory and Practice," the German

philosopher expounds on the concepts of freedom, equality, and independence. Such

principles, Kant states, are not merely a preferential endorsement for certain kind of

localized society but rather the principles by which the establishment of a state is even

possible.[41] That is, "A state that is in conformity with right must be founded on a view of persons as free, equal, and independent."[42]

Rawls's view is strikingly similar to Kant's.[43] Indeed, he sets forth in his writings that human beings should be known as free and equal rational beings. He states in *A Theory of Justice* that he does not believe utilitarianism can sufficiently provide for an account of the basic rights and liberties of citizens "as free and equal persons, a requirement of absolutely first importance for an account of democratic institutions."[44] While this commitment is assuredly laudable, it is undoubtedly structured from within the confines of a Kantian blueprint. Individuals are free, according to Rawls, because they conceive of themselves and others as possessing the moral power to have a conception of the good. Further, people are self-originating sources of valid claims.[45] That is to say, people derive from "pure rational"[46] principles conceptions of the good and their consequent *political* structures. When these structures are derived from sources outside the self, they cannot be self-originating and thus not applicable to a political conception

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[41]Immanuel Kant, *Political Writings* (Cambridge: Cambridge University Press, 1991), ed. H. R. Reiss, 73-74.

[42]Alexander Kaufman, "Rawls and Kantian Constructivism," *Kantian Review* 17, no. 2 (2012): 227-56.

[43]Ibid., 252-53. See also Freeman, "Public Reason and Political Justifications" and Nyathamar de Oliveira, "Rawls's Normative Conception of the Person," *Veritas* 52, no. 1 (2007): 171-83.

[44]John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999), xii.

[45]John Rawls, Justice as Fairness: Political, not Metaphysical," *Philosophy and Public Affairs* 14, no. 3 (1985): 223-51.

[46]This conception comes from Immanuel Kant, in *Political Writings.* ed. H. R. Reiss (Cambridge: Cambridge University Press, 1991), 73.

of justice.[47] Rawls has in mind that the agent is one that has a "standing to address claims, and owed justification for however they are treated."[48] In this sense, then, one can see not the Kantian heritage of an autonomous agent authenticating their own conceptions of the good, but also Rawls's understanding of a rational being as distinct from Kant. Rationality, for Rawls and Kant, is functional.[49] Instrumental reasoning is a central kind of reasoning one can find in Kantian thought.[50] It is the most basic, least common denominator reasoning through which humanity constructs thought.[51] Rawlsian rationality is constructed as fundamentally instrumental, where reason assists an

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[47]Rawls, "Justice as Fairness," 243.

[48]Aaron James, "Contractualism and Political Liberalism," in *The Routledge Companion to Social and Political Philosophy*, ed. Gerald Gaus and Fred D'Agnisto (New York: Routledge, 2013), 323.

[49]For anyone, the fruits of reasoning are functional. That is, they produce propositions and obligations that result in actions. Here, the concern is the source of rationality.

[50]This statement is not intended to imply that instrumental reasoning in Kant is the sole process through which a person reasons. Rather, it demonstrates that practical reasoning—reasoning derived from hypothetical imperatives—is part of how an agent reasons. Consider that the forms of the categorical imperative produce unconditional and non-instrumental reasons for human actions. These come in the form of commands, each containing the other within it. But this only reveals the necessary formation of the action, not the proper action itself. To achieve that end, one must use instrumental reasoning. Practical reasoning considers things like desires along with the hypothetical imperative as operative for determining the moral correctness of an act. Kant's distinction between instrumental and non-instrumental ultimately collapses into the categorical imperatives guiding one's instrumental reasoning. That is to say, the moral rules are rules for rationality. The question arises, then, that if those rules that are instrumental in nature require an imperative that is not hypothetical, are hypothetical imperatives not ultimately categorical as well? In other words, are the requirements of the agent to know the moral law and act on it not on the same metaphysical ground? Certainly, most would say that practical rationality is grounded in some form of normativity. But one could make a case that instrumental reasoning becomes just as essential to the *moral* constitution of an agent as the categorical imperatives. See Christine Korsgaard, "The Normativity of Instrumental Reasoning," in *Ethics and Practical Reason*, ed. Garrett Cullity and Barys Gault (Oxford: Clarendon Press), 1997. Phillipa Foot would disagree. She states that the conclusion one derives from this distinction is not that the categorical imperatives are morally obligatory, but rather that they should be viewed as hypothetical. The use of moral judgments as categorical is not a reason to adhere to them. Further, the normativity of these moral judgments is not a clear enough reason to adhere to them. See Phillipa Foot, "Morality as a System of Hypothetical Imperatives," in *Virtues and Vices and Other Essays in Philosophy* (Berkeley: University of California Press, 1978), 157-73.

[51]Allen W. Wood, *Kantian Ethics* (Cambridge: Cambridge University Press, 2008), 20. While this is assuredly not the *only* reason that Kant distinguishes, Wood is correct to note that instrumental is the

individual in attaining his or her goal as conceived by their conceptions of the good.

Rational beings are choosing means based on function. In the case of public reason, then,

these mutual interests are structured around political conceptions of justice.

Kantian Anthropology: Autonomy

Rawls picks up the Kantian heritage of autonomy by linking it with the

exercise of reason. Through this exercise of an autonomous agent, the Kantian depiction

of autonomy becomes evident. Rawls states in *A Theory of Justice* the he believed Kant

held that

> a person is acting autonomously when the principles of his action are chosen by him
> as the most adequate possible expression of his nature as a free and equal rational
> being. The principles he acts upon are not adopted because of his social position or
> natural endowments, or in view of the particular kind of society in which he lives or
> the specific things that he happens to want. To act on such principles is to act
> heteronomously.[52]

When one acts out of his nature as a free and equal rational being, one is exercising

autonomy. Political liberalism is derived from non-metaphysical conceptions through the

cognitive capacities of rational agents. Further, principles of justice must be decided by

an exercise of reason alone and, in the political sphere, actualized by way of public

reason.[53] For once assent is provided from the expressions of one's nature as a free and

equal rational being, such conclusions lead one to value the sphere of his political

autonomy. As such, proper political values find their expression in proper political

reasons.

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most basic, least-common denominator type of reasoning.

[52]Rawls, *A Theory of Justice*, 222.

[53]Michael Frazer, "John Rawls: Between Two Enlightenments," *Political Theory* 35, no. 6
(2007): 756-80.

Autonomy in the Rawlsian schema becomes the fruit of acting as a free and equal rational being within the realm of the political. Yet, a question remains as to whether Rawls's distinction between a moral autonomy and political autonomy is within the bounds of Kantian thought. Moral autonomy fails to satisfy because of reasonable pluralism. Political autonomy is limited in its sphere. Rawls writes, when speaking of autonomy, that the latter is where he primarily concerns himself. [54] Kant, on the other hand, does not include such distinctions in his writings. He instead makes distinctions between acting autonomously and acting heteronomous. One acts out of the latter when he or she "seeks that which should determine it *anywhere else* than in the suitability of its maxims for its own universal legislation; . . . then *heteronomy* always comes out of this."[55]

An act of autonomy is derived from practical reason, becomes a law to itself, and provides grounds for the categorical imperative.[56] In this sense, Kant assuredly imagined the autonomous agent to be linked with a universality that is not found in Rawls.[57] Still, this notion of autonomy is connected with Rawlsian thought, particularly public reason. Consider that Rawls desires that reasonable citizens come to agreement on policy from the grounds of consensus. And this consensus, acquired from the fact of reasonable pluralism, is necessary and executed by the principle of reciprocity. The

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[54]Rawls, *Political Liberalism*, 455-57.

[55]Immanuel Kant, *Groundwork for the Metaphysics of Morals*, ed. and trans. Allen P. Wood (New Haven, CT: Yale University Press, 2002), 58.

[56]Ibid., 57.

[57]J. P. Moreland, "Rawls and the Kantian Interpretation," *The Simon Greenleaf Law Review* 8 (1989): 25-55.

reciprocal nature of public reason—the providing of reasons such that they are universally accessible to all reasonable people—is derived from a Kantian categorical imperative. To provide reciprocity is to treat humanity never merely as a means to an end, but always at the same time as an end.[58] The imperative is actualized when one acts *autonomously* rather than heteronomous. So, in this sense, one can say that Rawls's conception of autonomy is along the same lines of thought as Kant's. The difference is of *sphere* instead of *substance.*

Rawls "universalizes" autonomous public reason within the realm of the political and yet does not comment on the moral. While this expansion says little about whether Rawls believes that autonomy speaks to the moral law, it shows that he limits the function of autonomy to the political. This is a deviation from Kant but the *Kantian* flavor of this political autonomy is unmistakable. Even when Rawls makes distinctions, he still operates from a Kantian framework. The outline of Kantian anthropology is shown to be operative when Rawls delimits the influence of other comprehensive frameworks for policy deliberations. Yet, this missive that is sent to both the individuals involved and the political is confusing, and Rawls continues to do it in other areas as well.

Kantian Moral Philosophy:
Deontological Assumptions

Rawls operates his political liberalism from deontological assumptions principally derived from the German philosopher. Like Kant, Rawls postulates a

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[58]This is the second formulation of the categorical imperative. See Immanuel Kant, *The Groundwork of the Metaphysics of Morals*, ed. Mary Gregor (Cambridge: Cambridge University Press, 1998), xxii.

deontological perspective, but he applies it to the institutions of political liberalism.

Consider that Kantian categorical imperatives are instantiated as universals derived from the moral law. These are necessary principles arising out of a practical reason that one is bound to obey.[59] In a related way, Rawls's application of the categorical imperative applies a similar form of logic.[60] Public reason is instantiated as the *political* universal by way of consent to the fact of reasonable pluralism and an overlapping consensus derived from political liberalism. Public reason is driven by the belief in reciprocity, an idea that "lies at the very heart of Kant's moral philosophy."[61] One is duty bound in both political liberalism and Kantian moral philosophy to respond in this way.

Both Kant and Rawls express the wills of their moral laws, and Rawlsian reciprocity mirrors Kant in substance. Undoubtedly, Kant imagined a wider application sphere to the reciprocity thesis, but Rawls's limitation of such an application does not in itself disestablish the link between the two concepts. The crucial feature within both is returning what has been given to you. Reciprocation in Rawls assumes one is countering in likeness because a mutual benefit exists between the two or more parties.[62] This

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[59]John Christman, *Social and Political Philosophy: An Contemporary Introduction* (New York: Routledge, 2002), 15.

[60]As previously noted, there are two versions of the categorical imperative. The first can be identified as a formulation of universal law: act only on that maxim whereby one can at the same time will that it become a universal law. This law is the duty of rational beings to obey and is prior to experience. It informs one on how one becomes morally good. The second formulation of the imperative can be entitled the law of ends: treat humanity, whether in one's own person or in that of another, always as an end and never merely as a means. See Allen W. Wood, *Kantian Ethics* (Cambridge: Cambridge University Press, 2008), 67-68; H. J. Paton, *The Categorical Imperative: A Study in Kant's Moral Philosophy* (Philadelphia: University of Pennsylvania Press, 1971).

[61]Immanuel Kant, *Groundwork for the Metaphysics of Moral in Focus*, ed. Lawrence Pasternack (New York: Routledge, 2002), 183.

[62]Gudrun von Tevenar, "Gratitude, Reciprocity, and Need," *American Philosophical Quarterly* 43, no. 2 (2006): 181-88.

mutuality is found in both Kant and Rawls, and the distance is more of sphere than it is of substance. While Rawls's "a-foundational" project separates the political from the metaphysical, what remains from such a demand is a disassociation of reciprocity. The returning-in-kind becomes instrumental as it does not appeal to a source outside itself. The insistence on the duty of civility and reciprocal consent demonstrates the influence of a Kantian moral philosophy for public reason. The necessity of reciprocity is forged by the belief that such assents are obligatory in a deliberative democracy.

Pragmatism

In addition to anthropology and moral philosophy, public reason is influenced by pragmatism. In the opening lines of his *Dewey Lectures*, Rawls admits to being indebted to well-known pragmatist, John Dewey. Pragmatism objected to the assertion that philosophical studies had fundamentally settled the frameworks of the debate. It disagreed that a fixed set of criterion were available for resolving problems. Rawls's insistence on a system of justice that is not grounded in metaphysics but in practical, political reasons demonstrates some of the heritage of pragmatism. In pragmatism, Rawls found a similar distrust of philosophical speculation. Political liberalism attempts to ground principles of justice not primarily in a philosophical or metaphysical milieu. Rather, it states what is clear for conditions of stability and the justification of proper legislative coercion. It is pragmatic. Richard Rorty, an American pragmatist philosopher, identifies strains of pragmatism in Rawlsian liberalism.[63]

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[63]Richard Rorty, "The Priority of Democracy to Philosophy," in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History*, ed. Merrill D. Petersen and Robert C. Vaughn (Cambridge: Cambridge University Press 2003), 262-63; and Frank Fleerackers, *Affective Legal Reasoning: On the Resolution of Conflict* (Berlin: Duncker & Humboldt 2000), 100-102.

Rorty's observation shows that Rawls's narrowing of rights to the political

sphere has a pragmatic emphasis. Rawls places political deliberation at the forefront of

the discussion. By doing so, he ensures that political liberalism is about *functionality*

instead of reflecting on arguments and propositions. Politics takes priority over

metaphysical speculation and here one sees the fruits of the pragmatist turn. For,

downplaying foundational issues leads to demonstrative effects. An unbalanced shift of

focus from political justification to functional stability trickles down from institutional

structures to individuals.

The Effects of Rawlsian Exclusion

Having shown that a Rawlsian exclusionism exercises from faulty criterion and

is foundationally built upon a paradox, this section will show that based on these

assumptions one can see at least three effects. The first effect that will be discussed is a

psychological effect, where it will be demonstrated that Rawlsian exclusion places a

heavy burden on citizens committed to comprehensive doctrines. Additionally, there is

what may be called the religious-identity struggle. That is, Rawlsian exclusionism causes

the religiously-committed agent to feel like he or she must chasten their epistemological

commitments, limiting their sense of the duty of civility. A second effect may be known

as a practical effect; this effect can be seen in at least two ways: (1) the subjectivity of

Rawlsian judgment sets forth a difficulty in instituting public reason and Rawls's political

liberalism overall; (2) the criterion Rawls's provides for reasonableness would be

difficult to boundary. Lastly, a public effect is discussed where beneficial views are

potentially excluded solely because they are grounded in a comprehensive doctrine,

bringing about a worrisome prospect of Rawlsian thought becoming a singular

perspective.

Psychological Effect

There are problematic effects to public reason that are felt beyond the bounds

of public discourse. Psychologically, public reason is making demands of religious

citizens not required by non-religious citizens. The effect can be seen in the problem of

translation. Religious citizens are required to translate their views in ways that non-

religious citizens are not. The effect of such a proposition can place an undue burden on

religious citizens.[64] Recall that political liberalism seeks to provide essential conditions

for just social institutions.

Consider further the Rawlsian designation of the fact of reasonable pluralism.

The best possible scenario is for deliberation to be from some shared conceptions that all

agree upon despite the differences among them. Hence, public reason asks *all* citizens to

translate their views into public reason.[65] Yet, a problem arises, for not *every* citizen will

be as equally committed to a comprehensive doctrine or religious belief. There will be

large amounts of the populace that will be religious, while others will not. If public

reason seeks neutral ground among the conceptions of the day, then it would stand to

reason that the burdens of the duty of civility would wear equally. Instead, religious

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[64]The religious citizen has to, as Alessandra Ferraro writes, go the "extra hermeneutical mile" compared to their secular counterparts in order to formulate reasons able to be used in the political arena. The non-religious citizen is closer to the political *lingua franca* than the religious citizen. The latter must take more steps to justify his or her reasoning. Alessandra Ferraro, *The Force of the Example: Explorations in the Paradigm of Judgment* (New York: Columbia University Press, 2008), 187.

[65]Though Rawls makes a distinction between public and non-public reason, this dissertation has shown that demarcation to be troublesome. The duty of civility extends public reason beyond the public realm to essentially all aspects of life, both public and non-public.

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citizens are asked to translate their views on a different level than their nonreligious

counterparts.[66] The constraints felt by public reason will be on a deeper level for those

citizens of faith. Consider Kent Greenawalt's objection:

> When someone urges that the value of autonomy be respected, it may be virtually
> impossible for him and others to tell whether he is relying on a particular
> comprehensive perspective or the widely shared value of autonomy in our culture.
> Liberal non-religious comprehensive perspectives are bound to 'suffer less' from a
> principle of self-restraint than both religious views and non-religious, nonliberal
> views. This difference may reasonably be thought to involve a kind of inequity.[67]

Here Greenawalt suggests that Rawls's pursuit of equality he may have set up conditions

for inequality. Mere appeals to autonomy will not do if such invocations present the

picture of a citizenry that will be, by this conception of autonomy, unequal. Given how

Rawls determines the spheres of public reason as it relates to reasonableness of citizens,

this objection rings true. That is, when Rawls demarcates essential conditions for even

the *inclusion* of comprehensive doctrines, he has already structured a sense of inequality

into political liberalism. This delimiting is felt by the religious citizen psychologically as

he or she is required to take three steps where the non-religious citizen may only take one

or two. The penchant for a duty of civility is diminished considerably when one particular

brand of citizen is burdened with advancing forward and another is not asked to do the

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[66]This is not just a tendency in public reason, but a necessary component. In order to address the balance necessary for public reason to occur, each individual must be willing to move in the direction of political liberalism. In other words, even the secular citizen has to "move toward" political liberalism and potentially do the work of translation. But it is not on the same level as the religious citizen. To equate the translation of one with the other is to assume that the deliberative distance traveled is the same. But, in practice, this is tantamount to claiming that one car driving from Sacrament to Los Angeles is the same as another driving from Louisville, KY to Los Angeles. They are both "moving toward" Los Angeles, but no one imagines they are tracking the same distance or that the trip carries the same kind of burden.

[67]Kent Greenawalt, "On Public Reason," *Chicago-Kent Law Review* 69 (1993–94): 688, as quoted in Melissa Yates, "Rawls and Habermas on Religion in the Public Sphere," *Philosophy & Social Criticism* 33, no. 7 (2007): 880-91.

same. The duty of civility looks less like a mechanism for deliberation and more like a way to delimit religious citizens from *whole-hearted* deliberation.

Indeed, the Rawlsian duty of civility seems one-directional. The non-religious citizen does not have to think as hard about the duty of civility. In this way, the duty of civility seems like it was designed as a first principle needed primarily for *religious* citizens.[68] Consider that the religious citizen must first understand his own comprehensive doctrines sufficiently to be able to know *why* his will discuss their favor or opposition to a policy position.[69] Second, he must be able to take such beliefs and have the ability to translate them in a way that may be reasonably accepted by others. The kind of epistemological charity the religious citizen must be aware of is shockingly broad. That is to say, even if they have assented to political liberalism and granted the status of "reasonable," there is little reason to assume this means they are aware of what may count as reasonable or not. Additionally, it assumes that a populace is comprised of religious citizens may discriminate against a less educated religious believer. Consider that for public reason to work, they must be able to internally compare the public conditions with their deeply held comprehensive doctrines. Next, they must find a way to explain them in a way that is cogent to all who may be deliberating on such matters. It

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[68]An objection might be brought that this is because it is *religious* citizens that have presented society with the problem of pluralism. Thus, their burden is higher. While not disagreeing in whole, it seems misguided. That is to say, public reason is designed to level the deliberative playing field, and there should be some kind of indication that religious citizens are in some way presenting society with a *problem* of religious pluralism. For Rawls, this seems like an assumption. Given that he presents in the Introduction to *Political Liberalism* various examples of how Christianity influenced the current climate, and in particular the Reformation, it is difficult to conclude otherwise. Further, one must assume in some way that these religious truths are oppressive in nature. That, it seems, is more assumption that proposition. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), xxii-xxx.

[69]As an aside, even if one grants that such an understanding will be completed in the non-public realm, the bringing of such conceptions to the public assumes an informed type of religious citizen

may be difficult for the religious citizen to explain their views in the language of public reason. This is a burden that lies on the religious citizen that does not lie so heavily on the non-religious citizen. When the right to deferentially prefer another's commitments becomes a one-way street, it is both fair and right to ask if such parameters are helpful. The infringement of epistemological liberty that is actualized in public reason brings about undue burden on a group within the political sphere. Further, the mere fact that that Rawlsian liberalism constructs conditions that relay, at least implicitly, that the citizen of faith must choose either to abandon fidelity to their religious belief or continue in commitment with the fear of being excluded from deliberation is, once again, placing an epistemological burden upon the religious citizen that otherwise is not placed on the non-religious citizen.[70]

One might object by stating that Rawls never intended to remove religious arguments from the public square. The Rawlsian *proviso* invites religious citizens to use their religious arguments concurrently with public reason. While this response is much better than essentially stating, "Get over it!"[71] it is hardly a sufficient retort, for it misses that a religious citizen's objection is more than mere whining because they are

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that may be beyond the bounds of reasonable expectation.

[70]For more on this, see Nicholas Wolterstorff, "The Role of Religion in Political Issues," in *Religion in the Public Square*, ed. Robert Audi and Nicholas Wolterstorff (Lanham, MD: Rowman & Littlefield, 1997), 103-5; and Michael McConnell, "Secular Reason the Misguided Attempt to Exclude Religious Argument from Democratic Deliberation," *Journal of Law, Philosophy and Culture* 1, no. 1 (2007): 159-74.

[71]Stephen Macedo, "In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?" in *Natural Law and Public Reason*, ed. Robert P. George and Christopher Wolfe (Washington, DC: Georgetown University Press, 2000), 35.

psychologically fragile.[72] Rather, it is a reminder to religiously oriented citizens that

Rawls burden is not merely to explain but to "be ready to explain their actions in terms

each could reasonably expect that others might endorse."[73] Is it sufficient for pubic

reason's criterion that the religious citizen merely be prepared to explain without

following through with the act of explaining? Rawls is unclear. On the one hand, the

above quote states that one must be ready to explain the basis of their action, while the

"duty of civility" seems to imply a moral obligation to discuss. Deliberation here seems

to assume more of a vocal deliberation than a mere epistemological order.

Another psychological effect may be called the religious-identity struggle.

Many citizens identify as religious and as such they deliberate from those fundamental

beliefs. Rawlsian exclusion is asking a critical part of their identity to be in effect

chastened. Also known as the integrity objection, the power of this disagreement centers

on the idea that Rawlsian liberalism requires the citizenry to "split" or compartmentalize

their commitments in such a way that it causes damage to their integrity.[74] As Kevin

Vallier puts it, the integrity objection is "said to require citizens of faith to repress their

fundamental commitments when participating in politics, thereby forcing them to violate

their integrity."[75] Thus, religious citizens are forced to choose between being committed

to their faith and feeling a sense of compromise in order to be involved in deliberations.

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[72]Kevin Vallier, "Liberalism, Religion, and Integrity," *Australasian Journal of Philosophy* 90, no. 1 (2012): 156.

[73]Rawls, *Political liberalism*, 218.

[74]Several scholars have noted the integrity objection. One of the better summations can be found in Vallier, "Liberalism, Religion, and Integrity," 149-65. See also Michael Perry, *Morality, Politics, and Law* (Oxford: Oxford University Press, 1988), 180-83.

[75]Vallier, "Liberalism, Religion, and Integrity," 149.

These effects present to citizens a struggle with their identity. Such an exclusion

precludes their ability to engage fully and properly in discussions. This is felt even

further when it is understood that non-religious citizens do not feel the weight of this

burden. Consider again that religious citizens acutely feel the problem of translation.[76] As

such, a sense of the loss of integrity may not be immediately clear to non-religious

citizens. Consider Stephen Macedo's rather famous retort to those who propagate the

integrity objection: "If some people nevertheless feel 'silenced' or 'marginalized' by the

fact that some of us believe that it is wrong to seek to shape basic liberties on the basis of

religious or metaphysical claims, I can only say 'grow up!'"[77] Others have suggested

objections in the likeness of Macedo's dismissal.[78]

However, this objection misses a crucial aspect of what the religious-identity

struggle seeks to relay, that is, it seeks to demonstrate that public reason places

restrictions on religious citizens that are not merely procedural but that also have

substantive features to them. Mechanisms do not harm integrity, but the implications

behind the mechanisms do and this suggests a critical problem for public reason. To ask a

citizen to chasten their full religious commitments is to chasten that citizen's ability to

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[76]An objection could be raised here that this is not merely a problem for religious citizens. A non-religious white supremacist, for example, would have to translate his beliefs in a similar manner as the religious citizen. While this objection is fair, it misses the fact that even Rawls imagines that a society will contain unreasonable, irrational, "and even mad" comprehensive doctrines. He hopes to contain those conceptions so that they do not undermine the unity of society. For this objection to work, one has to imagine Christianity as being in the same categorical boat as a non-religious white supremacist. Even Rawls will not entertain such an idea. He makes distinctions between what he imagines are reasonable comprehensive doctrines and worldviews that should be opposed from the outset. See Rawls, *Political Liberalism*, xvii.

[77]Macedo, "In Defense of Liberal Public Reason," 35.

[78]One example would be Jonathan Quong, *Liberalism without Perfections* (Oxford: Oxford University Press, 2011).

participate. The extension of a free form of religious expression is crucial to a liberal

democracy and for its citizenry to actualize it there must be conditions that do not

exclude or bracket off certain collections of citizens based upon their convictions.

Wolterstorff says this:

> It belongs to the *religious convictions* of a good many religious people in our
> society that *they ought to base* their decisions concerning fundamental issues of
> justice *on* their religious convictions. They do not view it as an option whether or
> not to do so. It is their conviction that they ought to strive for wholeness, integrity,
> integration in their lives: that they ought to allow the Word of God, the teachings of
> the Torah, the command and example of Jesus, or whatever, to shape their existence
> as a whole, including, then, their social and political existence; it is *also* about their
> social and political existence.[79]

Jürgen Habermas is instructive here as well. A proponent of a less-strict form of public

reason, he understands the dimensions of civil discourse that Rawls was setting forth are

unacceptable, and he demonstrates this by using an example of a state asking too much

from its religious citizens.[80] To misconstrue the nature of faith as one that can be

privatized is to misunderstand what faith is for religious citizens. Habermas writes that

"the liberal state contradicts itself if it demands that all citizens conform to a political

ethos that imposes unequal cognitive burdens on them."[81] It is totalizing and without

spherical submission.

Further, the Rawlsian duty of civility delimits the religious person's ability to

socially and politically complete. Again, Habermas is instructive. Here he notes that to

ask for such an identity separation as public reason demands is to burden a "division

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[79]Wolterstorff, "The Role of Religion in Political Issues," 105. Emphasis original.

[80]Jürgen Habermas, *Between Naturalism and Religion: Philosophical Essays*, trans. Ciaran Cronin (Cambridge: Polity Press, 2008), 126-27.

[81]Ibid., 136.

between political and religious convictions that seems impossible to sustain."[82] One could go even further and state that the burden of *preparing* a response by way of public reason would place those under a weight incapable of being sufficiently carried. It assumes an electorate that can sufficiently carry out such demands, as well as religious citizens who have the cognitive preparation to perform such a task.[83] In this way, citizens are left with a partial sense of their personhood. The Rawlsian schema that assumes that one can politically act divorced from his or her religious convictions is misguided.[84] When that assumption is driven into the structures of a stable society, as Rawls would want, it drives the person to be *less than* what they truly are. It is indeed *whole* persons that should deliberate in the public square, as their policies will affect *whole* people when completed. And as such public reason places a psychological burden upon citizens that demonstrates one way in which Rawlsian exclusionism affects them.

Additionally, a practical effect can be seen when public reason is the mechanism for proper deliberation. Consider the difficult undertaking needed to enforce the criterion for reasonableness. The categories for reasonableness assume that a religious citizen is unreasonable if they dogmatically hold to their conception of the good with an unwillingness to invoke public reasons to defend it. But attempting to enforce boundaries

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[82]Habermas, *Between Naturalism and Religion*, 127.

[83]Cathleen Kaveny, *Prophecy Without Contempt: Religious Discourse in the Public Square* (Cambridge, Ma: Harvard University Press, 2016), 46-58.

[84]The Rawlsian response here is to state again that his "wide view" of public reason does not necessitate such a format. But it misses that crucial distinctions built into political liberalism *do* necessitate such a break. Acknowledgement of the "fact of reasonable pluralism" necessarily drives political liberals to the conclusion that stability for institutions is best conceived *absent* of religious convictions being a part of public deliberation. Public reason becomes the guardian of that stability. The proviso is a conciliatory act that renders religious judgments *in* the political process, but not *of* the political process. It is as alien to the structure of political liberalism as an assumption of harmony among various comprehensive doctrines.

of deliberation from those conceptions paves the way for subjectivity. Imagine an individual object to particular policy proposal from his or her comprehensive doctrine. In this case, the objection is religious in nature.[85] The individual in question has fully deliberated internally with his or her worldview framework and concluded that the public reasons one could offer in support of this belief, while commensurate with them, are completely unconvincing.

Consider further that a law is presented for deliberation that would be opposed to the individual's *religious* convictions. He concludes, however, that the public reasons for opposing this law are insufficient. As such, he believes that he cannot argue sufficiently from public reason and instead will stand *only* on his comprehensive doctrine in opposition to such a policy.[86] In this context, he runs the risk of being designated as unreasonable. He may offer his views, but only if they are commensurate with public reason. On Rawls's terms, silence is his only *public* option, and in his silence he cannot fulfill what Rawls indicates is a moral duty.[87] This conception of reasonableness trades off the understanding that, according to Rawls, political values will always override other values. He states that political values are "very great values and hence not easily overridden . . . [and] political values normally outweigh whatever other values oppose

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[85]Rawlsian exclusion would also work in this case as a "secular" reason for opposition. See Rawls, *Political Liberalism*, 583.

[86]Examples like this abound in the Rawlsian literature. Two examples, in separate works, are from Christopher Eberle, "Religion, Pacifism, and the Doctrine of Restraint," *The Journal of Religion and Ethics* 34, no. 2 (2006): 203-24; idem, *Religious Convictions in Liberal Politics* (Cambridge: Cambridge University Press, 2002), 212-22.

[87]That is, the duty of civility, grounded in reciprocity.

them."[88] But Rawls should not state that a citizen has a duty to engage in public reason and then delimit one's ability to perform the action. The requirements of duty assume that an agent is capable of doing so. But this demand is subjective. There are no sufficient criteria for how reasonableness may be delineated. As the chapter previously demonstrated, the criterion for reasonableness collapses out of a lack of specificity.

Indeed, the subjectivity of this project is evident because the exclusion of comprehensive doctrines is grounded in reasonableness and this is validated in Rawlsian conceptions of freedom and equality. Yet, Rawls does not clearly define these concepts. Consider reasonableness again. Why must one assume that the refusal to offer public reasons *solely* is grounded in a lack of respect in one's fellow citizen? One can imagine a scenario where the base assumption is that it is perfectly reasonable to assume that agreement will not be the default, but rather the opposite. Reasonableness via a "consensus populi" is a project doomed to fail and wrought in subjectivity.[89] It seems reasonable to stand rather on the conception that disagreement in deliberation will be the default. This is beyond a mere understanding of the "fact of reasonable pluralism." Rather, the mechanisms set forth in Rawls are to allay this fact. It seems reasonable to assume disagreement and offer objections to policies that are grounded in an agent's comprehensive doctrines. It does not seem obvious that this would harm other individuals deliberating, and it allows the individual who cannot find sufficient public reasons for their private reasons to still be fully part of deliberation. As Nicholas Wolterstorff states,

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[88]Rawls*, Political Liberalism*, 139, 155.

[89]The term "consensus populi" comes from Nicholas Wolterstorff's article, "Why We Should Reject What Liberalism Tells Us," in *Religion and Contemporary Liberalism*, ed. Paul Weitham (South Bend, IN: Notre Dame Press, 1997), 174.

"How does [offering my religious reasons] violate her freedom and dignity? In no way whatsoever."[90] The hope of an overlapping consensus by way of reasonableness is well-intentioned but misguided as it plays on the potential fears of what comprehensive doctrines *might* do and translates them into a system that negatively shows what they *will* do.[91] By doing so, it shows its subjective hand and furthers the narrative that comprehensive doctrines are by definition hurtful to deliberative democracy. This in turn contributes to another effect of Rawlsian exclusion.

Consider that public reason is a concept of political engagement, it stands to reason that there would be public effects from Rawlsian exclusion. That is, if a political philosophy trades in framing critical distinctions between public and private, there should be a case one could make that shows an effect not merely on the individual, but on the *polis*. Here the case will be made that such effects can be demonstrated, and it begins by showing that beneficial views are excluded. That is, under public reason, beneficial views that may contribute to an overall good of society are excluded merely because they are grounded in a comprehensive doctrine. Further, even if one grants that a comprehensive doctrine may be included in public deliberation, such a doctrine is usually so diluted by the time it satisfies the conditions of public reason, it is rendered ineffective.

Take, for example Rawls's footnote on abortion. If citizens who oppose the practice cannot appeal to their belief in human dignity and worth, which are grounded in their comprehensive doctrines, and left with public reason only, the force of the argument

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[90]Wolterstorff, "Why We Should Reject What Liberalism Tells Us," 175.

[91]One only needs to read the introduction to *Political Liberalism* and notice the religious references throughout to see that Rawls is concerned about *religious* comprehensive doctrines far more than he is *secular* comprehensive doctrines. Further, he depicts such religious doctrines as necessarily

is stunted. That is, mere public reason cannot muster the kind of persuasive case that can be made against abortion. In the end, one is left appealing to, as Phillip L. Quinn states, "generally accepted common sense beliefs and uncontroversial science."[92] Yet, this does not get us very far and does not leave much for the religious citizen who aggressively opposes abortion. Their arguments against it have been diluted and have removed the possibility of beneficial deliberations from their worldview. While Rawls's proviso allows comprehensive doctrines to be used in public deliberation so long as eventually they come around to public reason, this provision necessitates a dilution of a religious citizen's worldview.[93]

Further, a frightening prospect of a singular perspective arises when Rawlsian exclusion becomes the principle mechanism for political deliberation. Other particular views that may be equally just—under different conditions—will not be considered or brought to light. Indeed, when a particular conception of deliberation is provided and a central feature of its conception includes the implicit call for the exclusion of a certain sect of political society, it may set up a structure where other views cannot even be heard

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divisive. This is an assertion masquerading as a point of fact.

[92]Phillip L. Quinn, *Essays in the Philosophy of Religion*, ed. Christian B. Miller (Oxford: Oxford University Press, 2006), 174.

[93]This is not to say that there cannot be a public reason argument against abortion. Indeed, one could frame the argument entirely in the language of human rights and dignity of the fetus and likely satisfy the conditions of public reason. However, the two sides of the discussion would likely still remain divided over the interpretation of these terms. Thus, it may satisfy the public reason requirement but it does precious little to advance deliberation toward the goal of just policies and institutions. The unborn child may be deserving of legal protection due to equal protection, but satisfying the conditions of public reason is only part of the Rawlsian project. This satisfaction *should* advance deliberation, yet even a public reason argument for abortion does not seem to provide that. The utopian nature of public reason can be seen here in that the ideal is satisfied, but the experiential veracity is missed. See David Thunder, "Public Reason and Abortion Revisited," in *Persons, Moral Worth, and Embryos: A Critical Analysis of Pro-Choice Arguments*, ed., Stephen Napier (New York: Springer, 2011), 239-54.

at all. While this may seem beneficial in the short run—it provides an immediate sense of stability—in the long run, one may become deaf to other concerns. If a comprehensive doctrine must pass through the already dominant values of the present hegemony, it may serve to harm rather than help.[94] In doing so, it provides favorable conditions for political liberalism at the expense of everyone else. "Sometimes what counts as public reason," says Zondra Wagoner, "is imbued with a comprehensive doctrine or philosophical doctrine that has become so 'common sense' that its injustice can pass as ethical, secular, and properly reasonable and rational."[95] Moreover, consider the potential danger of the mentality of a singular perspective. That is, how would those who have adopted the dominant position view those who continue to appeal to their comprehensive doctrines? It seems reasonable to think that they would be considered not merely unreasonable but unworthy of discourse at all.

The leveling of discourse to public reason stunts not merely the public conversation but also the individuals who may object. The process of offering an equal playing field hurts. As Edmund Burke writes, "Those who attempt to level, never equalize."[96] Political liberalism sets itself up as judge, jury, and executioner. It forces all citizens to assent to the basic tenets of political liberalism or risk the condemnation of being deemed unreasonable. What is a good-hearted attempt at equalizing public

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[94]Zandra Wagoner, "Deliberation, Reason, and Indigestion: Response to Daniel Dombrowski's 'Rawls and Religion: The Case for Political Liberalism,'" *American Journal of Philosophy & Theology* 31, no. 3 (2010): 188.

[95]Ibid., 189.

[96]Edmund Burke, *Reflections on the Revolution in France*, ed. F. P. Lock (New York: Routledge, 2010), 138.

deliberation becomes the very thing Rawls wanted to ensure comprehensive doctrines could not do—hold the market on a singular perspective.[97]

The Naiveté of Public Reason

Throughout the corpus of political liberalism, there is an underlying assumption that political liberalism is a *neutral* doctrine. That is to say, it does not prefer a religious or secular comprehensive doctrines. This section will show that such a conception is false and naïve. Statecraft is about more than a conception of political goods.[98] Further, it trades off the assumptions that comprehensive doctrines are by default divisive and thus cannot come to consensus. The section is designed to show these assumptions are false.

First, public reason trades on a false conception of neutrality. That is, it props up political liberalism as the central mechanism for proper deliberation. But public reason is not neutral. While it attempts to be neutral in its deliberation, the fruits of such a commitment demonstrate its bias toward secular, non-religious reasoning. Consider again what has been previously argued, namely, that Rawlsian public reason is contingent upon comprehensive doctrines.[99] The contours of political liberalism are such that it is

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[97]A kind of totalitarian impulse can be seen in Rawls's thought. The irony of such an impulse is that it is an *illiberal* idea, and yet it is a covering of the marketplace of ideas with a rubric that everyone must assent. Public reason seeks to ensure that liberal outcomes are provided. See Eyal Nir, "Grounding Public Reason in Rationality: The Conditionally Compassionate Medical Student and Other Challenges," *Law & Ethics of Human Rights* 6, no. 1 (2012): 47-86.

[98]The idea behind this statement is that political goods do not *constitute* statecraft. That is to say, statecraft is about more than mere transactional concerns. Pre-political commitments—like family— ground what comes after political goods, and statecraft should concern itself with those as much as the transactional. This has been elucidated from at least the time of Aristotle. See Aristotle's *Politics*, Book III, chaps. 4-9.

[99]Rawls is committed to many comprehensive doctrines. The one discussed here has been his Kantianism. Again, one should not conclude that Kantian commitments are the *only* forms of

structured to negate the influence of comprehensive doctrines on political deliberation—it is "political, not metaphysical." Hence, comprehensive doctrines are to be strictured from political deliberation. But public reason is in fact grounded in at least one comprehensive doctrine. If this is true, then it is no longer a freestanding conception of justice and by extension a freestanding deliberative process. Hence, what Rawls argues for and implicitly demarcates is political liberalism being the *sole* arbiter of public deliberation. That is to say, public reason is grounded in a *singular* comprehensive doctrine. By doing this, it prefers that which Rawls prioritizes—*non-religious* reasoning as operative in deliberative democracy.[100] In this way, he shows his bias toward non-religious reasoning.

Further, statecraft is concerned about more than mere *political* goods. The restructuring of political liberalism and by extension public reason toward moral conceptions being more political than metaphysical is naïve and demonstrates the fruits of separating essential aspects of philosophical anthropology. Rawls's preference for granting rights through political justice also derives its methodology from some conception of the good.[101] Governments are not, fundamentally, designed to be neutral toward conceptions of the good. Indeed, they will, in some form, function as an affirming

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comprehensive doctrines that Rawls assumes. Rather, making at least this commitment explicit helps to highlight that Rawlsian neutrality is not neutrality at all. On the limits of liberal neutrality, see Govert den Hartogh, "The Limits of Liberal Neutrality," *Philosophica* 56, no. 2 (1995): 59-89.

[100]Rawls makes distinctions between secular reasoning and public reasoning, but one can still affirm the former within the latter, and that is precisely what Rawls ends up doing.

[101]Some might suggest that this is consistent with political liberalism, namely, that Rawls is preference a neutrality between *persons* and not *conceptions of the good.* See Ludvig Beckman, *The Liberal State and the Politics of Virtue* (New Brunswick, NJ: Transaction Publishers, 2011), 232-33; Alan Patten, "Liberal Neutrality and Language Policy," *Philosophy & Public Affairs* 31, no. 4 (2003): 356-86.

agent toward certain conceptions of the good.[102] Even political liberalism is not immune to such assertions.

Deliberations from the grounds of comprehensive doctrine need not necessarily be divisive, counterproductive, or harmful. Rather, some comprehensive doctrines can prove to be beneficial.[103] This false dichotomy demonstrates another way in which neutrality is a myth. By delineating essential conditions for deliberation and bracketing "unreasonable" comprehensive doctrines out of policy discussion, political liberalism is siding with certain conceptions of the good. Rawls's "wide view" of public reason understands that people will deliberate from comprehensive doctrines but assuming that such conceptions are harmful is derived from a particular conception of the good.

Indeed, various conceptions of the good should be able to deliberate with the hopes of coming to consensus. Public reason either eschews a conception of the good or immanentizes it to the political sphere. Yet, there is nothing inherent in the structure of most comprehensive doctrines that forces one to assume that they are inherently divisive.[104] Taking their moral commands and making them horizontal certainly works

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[102]For more on this, see Robert P. George, *Making Men Moral: Civil Liberties and Public Morality* (Oxford: Oxford University Press, 1993), 160-62.

[103]The implication of political liberalism is that comprehensive doctrines serve as a hindrance to political deliberation. That is to say, its beneficial contribution to the process is the assent to political liberalism. But one can imagine rejecting political liberalism while providing helpful conceptions for political deliberation. Perhaps the current public reason of the day is so entrenched it cannot see past itself and a comprehensive doctrine can help clarify essential matters of justice. See Zandra Wagoner, "Deliberation, Reason, and Indigestion: Response to Daniel Dombrowski's 'Rawls and Religion: The Case for Political Liberalism,'" *American Journal of Philosophy & Theology* 31, no. 3 (2010): 179-95; Cathleen Kaveny, *Religious Discourse in the Public Square* (Cambridge, MA: Harvard University Press, 2016), 46-84.

[104]Divisive here is meant to relate the idea they are unable to reasonably contribute to political deliberation. It may be the case that a comprehensive doctrine is inherently divisive and fracturing to political deliberations, but it does not have to be. Various formulations of comprehensive doctrines can respectfully appeal to their own conceptions of the good in deliberation.

within the schema of political liberalism, but doing this fails to account for the various beneficial comprehensive doctrines that can contribute to political society. Indeed, various conceptions of the good may actually serve to bring about justice in a pluralistic society. By limiting their influence, Rawls may actually be limiting the *telos* of his project. Justice is secured and stability is attained more fundamentally when beneficial comprehensive doctrines are included in deliberation. But the naiveté of public reason misses this crucial and important conceptualization. In doing so, it harmfully excludes beneficial contributions in favor of a singular and difficult conception of political deliberation. In the end, this framework advances injustice rather than justice.

Conclusion

This chapter sought to demonstrate that Rawls's exclusion of comprehensive doctrines rests upon several faulty criteria. The relationship between reasonableness and rationality is closer than Rawls wishes to imagine, and his sense of complementarity does little to salvage distinguishing the two as separate considerations. This suggests that the overlap between the two is not as clear as Rawls believes, and this chapter sought to demonstrate that such a conclusion is unwarranted. Instead, the complementarity of the two conceptions demonstrates how interrelated they really are. As previously noted, one cannot act reasonably without acting rationally and vice versa.

Further, the chapter demonstrated that, like the criterion for reasonableness and rationality, Rawls conditions for justification and coercion are faulty as well. Justification within the Rawlsian project is instantiated through interpersonal communication without discussion of the previous *internal* deliberation an agent makes. This internal justification is crucial for verifying the interpersonal communication between two agents. The

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criterion of reciprocity assumes that two agents have fully and internally deliberated with themselves before deliberating with others, but this assumption is only stated and not demonstrated.

These conditions show the paradox and effect of the Rawlsian exclusion. The paradox is that Rawls excludes comprehensive doctrines by way of a comprehensive doctrine, and, in doing so, presents the religious citizen with the unreasonable choice of fidelity to their faith or full participation in deliberative democracy. But these conditions are built upon a naïve understanding of neutrality and the role of the state. Statecraft is a project structured around more than mere political goods, and public reason seeks to eliminate the discussion of such pre-political goods in preference for political goods. This is a troublesome exchange.

The exchange itself demonstrates the overall failed project of Rawlsian liberalism. In preferring political conceptions of historically trans-political concepts, it reduces those things connected to them to the whims of political culture. Yet, the inability of political liberalism to demonstrate sufficiently the justification for such a shift shows their utopian optimism for deliberative democracy. Pluralism does not need fewer comprehensive doctrines, but rather an injection of comprehensive doctrines that transcend the merely political. There are comprehensive doctrines that are not divisive yet grounded in religiously-oriented beliefs. Comprehensive doctrines can beneficially serve deliberation, especially those that can be demonstrated as amenable to citizens who do not affirm their convictions. Rather than comprehensive doctrines becoming exclusionary in the political sphere, they can be inclusive. The next chapter will demonstrate one particular comprehensive doctrine that satisfies these conditions.

CHAPTER 4

THE COMMON SENSE PHILOSOPHY OF THOMAS
REID: AN EXAMPLE OF A BENEFICIAL
COMPREHENSIVE DOCTRINE

Introduction

I argued in the previous two chapters that Rawlsian public reason harmfully
excludes comprehensive doctrines, some of which could provide a beneficial contribution
to the political sphere. Rawls's arguments are founded upon the idea that political
liberalism is not itself a comprehensive doctrine. The previous chapter sought to
demonstrate this claim to be false. In reality, public reason and the attendant
philosophical commitments needed to justify such a political philosophy are in fact
comprehensive. If that is indeed the case, then the entrance requirements for reasonable
deliberation are being violated by the very philosophy that formulated the boundaries.
Thus, Rawlsian public reason excludes comprehensive doctrines on superfluous grounds
and in doing so presents problematic implications for their exclusion of beneficial
comprehensive doctrines.

This chapter will demonstrate that Thomas Reid's common sense philosophy
can serve as one example of a beneficial comprehensive doctrine. Though not explicitly
religious, common sense is grounded in a metaphysical conception of reality that Rawls
would by definition exclude.[1] The appeals to conscience, God, and the like, as grounds

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[1]Reid appeals often to God as the ground for the trustworthiness of what common sense
delivers. Undoubtedly, then, Reid appeals to theistic foundations for why his philosophy is cogent, but he

for ethical—and by extension political—solutions would place it well within the

Rawlsian schema of a comprehensive doctrine. Common sense does make statements that

are moral, philosophical, and religious in nature. It claims principles that expand beyond

the political arena. In this sense, common sense may be designated as a comprehensive

doctrine. Hence, exclusion is the recourse Rawlsian liberalism in order to limit the public

influence of common sense. The assumptions of common sense are centered in broadly

theistic conceptions of human nature and how one interacts with the world. Furthermore,

Thomas Reid designates that common sense has implications for epistemology and

beyond.

Life and Influence

Taken up by Reid in the fall of 1764, the Glasgow Chair of Moral Philosophy

was a prestigious position held by widely-known and influential people.[2] The chair was

an intellectual hub that interacted with crucial ideas of the day, especially Humean

skepticism.[3] Additionally, Reid's lectures as Glasgow chair provide important insight into

how he conceptualized the schema of common sense unfolding. While staying within the

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does not *rely* upon them to defend his ideas. In this sense, one can say it is a metaphysical conception of reality. Norman Daniels believes that Reid grounds the trustworthiness of common sense solely on the grounds of a benevolent God. See Norman Daniels, *Thomas Reid's Inquiry* (New York: Burt & Franklin, 1971), 117. In an introductory essay to Reid's *Inquiry into the Human Mind on the Principles of Common Sense,* Derek Brookes ties Reid's conception of common sense to his commitment to providential naturalism. See the introduction to Thomas Reid, *Inquiry into the Human Mind on the Principles of Common Sense*, ed. Derek R. Brookes (State College: Penn State University Press, 1997).

[2]His penultimate and most recent predecessors were Francis Hutcheson and Adam Smith. The history of the Glasgow Chair of Moral Philosophy provides a balance to the often dominant discussion of the Scottish Enlightenment through Edinburgh. Paul Wood, "The Fittest Man in the Kingdom: Thomas Reid and The Glasgow Chair of Moral Philosophy," *Hume Studies* 23, no. 3 (1997): 277-314.

[3]The chair and those holding it precede Hume and his philosophy, but once Hume wrote his treatises, those men sitting in the chair spent considerable time engaging his works. Wood, "The Fittest Man in the Kingdom," 279.

spirit of the chair of moral philosophy, Reid gave imprimatur to pneumatology, and extensively discussed natural theology and design arguments.

Reid developed both public and private lectures. The private lectures were the "noon time" lectures with his students. What little evidence exists of these lectures suggests that they were oriented toward a practical understanding of what he stated in his public lectures.[4]

Public lectures in the Glasgow chair had traditionally taken a quadripartite structure, but Reid brought about a different look.[5] Instead of four parts, Reid divided his lecture into three: pneumatology, ethics, and politics. The move from mind to ethics to society illustrates the move from individuals to others to those entities that bind others. It is only when the first is properly understood did Reid think the rest could be suitably delineated. Considering his emphasis on common sense as grounded in first principles, this move is consistent with his philosophical outlook. A careful deliberation about the interworking of the human mind and the ability to know common sense first principles is crucial if one is able to extract from them implications for ethical and societal/political frameworks.

Reid prioritized pneumatology and only moved to ethics after the former's full deliberation. While pneumatology had traditionally been associated with the study of spirits, demons, angels, and the like, Reid devoted his understanding of pneumatology

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[4]On the whole, this conceptualizing of the private lectures is true, though it is not the complete story. Some would take the private lectures to be a special kind of clarification for students that desired to know more. See Thomas Reid, *Thomas Reid on Practical Ethics: Lectures on Natural Religion, Self-Government, Natural Jurisprudence and the Law of Nations*, ed. Knud Haakonssen (State College: Penn State University Press, 2007), 28-30.

[5]Wood, "The Fittest Man in the Kingdom," 292-93.

almost exclusively to its relation to the human mind. This was not an exclusive Reidian contribution however, for it was a fairly well entrenched understanding in Scottish universities at the time.[6] Certainly, with Reid, the absence of those discussions is not a denial of them. Reid was, after all, a Christian minister. Rather, it merely signals that Reid's decision to restrict his investigation to the human mind affords the opportunity to focus on that which he felt one could know best, namely, the mind of man and epistemology. Reid's lectures on pneumatology were focused on an investigation of the human mind and divided into two sections: the study of the divine mind and the human mind. The latter was divided by the investigation into the active and intellectual powers of the human mind.[7] Here, Reid discusses the mind's relationship to creation and how it may acquire knowledge. The mind, for Reid, is an active power. It has the ability to produce a change within an agent provided the will is connected to the mind and capable of producing such a change. Hence, the will of man must be free because it must have the capability to produce this change. It is within Pneumatology that Reid discusses this conception, and he continues to describe where the mind sits within the rest of creation and the associative powers that come with it.[8] In addition to the powers of the mind being explored, Reid invites the reader into natural theology.

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[6]In some cases, the studies of angels were taken completely off the academic itinerary. Further, Reid follows in the footsteps of one of his teachers, George Turnbull, in this laser focus on the human mind. See George Turnbull, *The Cambridge Companion to the Scottish Enlightenment*, ed. Alexander Broadie (Cambridge: Cambridge University Press 2003), 60-63.

[7]For more on Reid's structure, see Dale Jamieson, "Constructing Practical Ethics," in *The Oxford Handbook of the History of Ethics*, ed. Roger Crisp (Oxford: Oxford University Press, 2012), 843-66.

[8]Knud Haakonssen, *Natural Law and Moral Philosophy* (Cambridge: Cambridge University Press, 1996), 200.

In his lectures on natural theology, Reid discusses various arguments for design in addition to the being and attributes of God. In terms of God's existence, Reid states that there are two likely causes of speculative atheism, the first being their effort to explain the world "and what happens in it without once bringing in a wise and intelligent maker."[9] Second, atheism was intended to free men from fear of eternal punishment.[10] But atheism itself is not a foolproof argument for the non-existence of an afterlife. Reid imagines that the fruits and character of an individual's life may carry on after this life.[11] Dale Tuggy notes that in these lectures Reid sets forth several arguments for God's existence: cosmological, design, the argument from universal consent, the argument from miracles, among others.[12] Yet, it is only the cosmological and the design arguments that Reid presents in these lectures with any real persuasion.[13] The cosmological argument hinges on the universe being a contingent entity. The fact that the universe exists leads to only two possible conclusions: it is eternal or created. If eternal, then one should see an infinite change with no cause. For Reid, the eternality conclusion seems impossible.[14] Thus, the universe must be created by a non-contingent and independent being, one that

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[9]Thomas Reid, *Lectures on Natural Theology*, ed. Elmer Duncan (Washington, DC: University Press of America, 1981), 3.

[10]Ibid.

[11]Dale Tuggy, "Reid's Philosophy of Religion," in *The Cambridge Companion to Thomas Reid*, ed. Terence Cuneo and Rene van Woudenberg (Cambridge: Cambridge University Press, 2001), 291.

[12]Ibid.

[13]Reid connects the creation of the planetary system and scientific discoveries to the wisdom of God as its creator: "Here too we see the uselessness of man in venturing to censure the works of God . . . surely no man can call all this the effect of chance or say that there is not wisdom and contrivance in it" (Reid, *Lectures on Natural Theology*, 24-25).

[14]Tuggy, "Reid's Philosophy of Religion," 293.

"derives his power and his existence from no other being."[15] This being can only be God. In effect, as Tuggy writes, the summary of Reid's cosmological argument is this: "Given that the cosmos contains creatures with life, power, intelligence, and moral virtue, the first cause must have those features as well."[16] This section serves as a reminder that Reid was indeed a *Christian* philosopher. Whatever one may think of his "providential naturalism" or the success of his arguments for God's existence, at his very core he was a believer in God and committed to advancing the belief that He made man and all of creation to know him.

Notice that this discussion of pneumatology and God's existence is given primacy. Reid thinks it crucial to understand that the world is created by a personal God and that this fact grounds how individuals see the rest of their enterprises, ethical or political. The importance of starting with proper principles and ontological categories solidifies future discussions. That is, he centers the discussion on the understanding that God provides the constitution of the human mind and provides the ability to acquire truths. God is central to Reid's conception of the human mind. Once this belief becomes sufficiently settled within the plan of God's creation, Reid moves to ethics.

Reid divides ethics into two categories: speculative ethics, where he argues for a freedom of the will and the ability of an individual to make decisions, and practical ethics, where he delineates the various rights and duties required by agents and the state. Here, one sees Reid's preference for the natural jurisprudence tradition. Reid's

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[15]Reid, *Lectures on Natural Theology*, 66, quoted in Tuggy, "Reid's Philosophy of Religion," 292.

[16]Tuggy, "Reid's Philosophy of Religion," 293. Tuggy notes that much of this argument can be found in Samuel Clarke as well, who Reid recommends to his students.

conception of speculative ethics is similar to other eighteenth century moral philosophers.[17] Speculative ethics, often called the "theory of morals,"[18] discusses the nature of moral judgments, duty and obligation, etc. Both sections, for Reid, are related to the two types of powers of the mind discussed above. The contemplative is connected with speculative ethics. For within the contemplative mind, there is the capacity for discovering truth. The second type is called the active mind, where one uses the active mind to direct his or her conduct in life. This is the domain of practical ethics.[19] In both cases—speculative ethics, practical ethics; contemplative mind, active mind—the first is subservient to the second. Practical ethics is furnished by the conclusions drawn from the speculative. Further, speculative ethics must be grounded in a proper pneumatology.[20]

Reid devotes a substantial number of pages to practical ethics. Here, he delineates, in line with a long standing tradition, various rights and duties required by agents.[21] The necessity for this delineation centers in how Reid understands the foundation of these rights and duties. They are not, fundamentally, a contractual

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[17]Aaron Garret and Colin Heydt, "Moral Philosophy: Practical and Speculative," in *Scottish Philosophy in the Eighteenth Century*, ed. Aaron Garrett and James A. Harris (Oxford: Oxford University Press, 2015), 1:77-130.

[18]Reid designates this moniker in his lectures on natural theology as does Dugald Stewart. See Colin Heydt, "Practical Ethics in Eighteenth Century Scotland," *The Scottish Journal of Philosophy* 10, no. 1 (2012): v-xxi.

[19]Reid, *Thomas Reid on Practical Ethics*, 10-12.

[20]Ibid., 11.

[21]Reid follows in the heritage of other Professors of Moral Philosophy in incorporating a natural law tradition set forth in Pufendorf's *On the Duty of Man and Citizen.* Gershom Carmichael, the first chair of moral philosophy at Glasgow, used Pufendorf's work extensively; so much so that Francis Hutcheson stated that Pufendorf became the central avenue by which those who studied moral philosophy would travel. Samuel von Pufendorf, *On the Duty of Man and Citizen* (Cambridge: Cambridge University Press, 1991); Collin Heydt, "Practical Ethics in Eighteenth Century Scotland," *The Scottish Journal of Philosophy* 10, no. 1 (2012): v-vi.

agreement between individuals or with society like one would find in Rawls's political

liberalism. Rather, these rights and duties are of principal importance because of *who*

grounds them. They are grounded in a morally ordered universe derived from a morally

ordered God. God is owed rights and duties, and the moral structures to the universe

provide credence that we live in an ordered, coherent, and providentially structured

cosmos.[22] This idea can be found within a common philosophical-theological

commitment at the time and one that Reid shared: Christian stoicism.[23] This blend of

Ciceronian stoicism and Christian theology birthed a conception of duty-based practical

ethics that focuses on an individual's duty to God, the self, and others, along with the

virtues of prudence, temperance, fortitude, and justice.[24] Here Reid sets forth an

understanding of practical ethics from classical natural law mixed with stoicism and a

moderate Christian theology.[25] The last, justice, is delineated further in Reid and covers

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[22]Heydt, "Practical Ethics in Eighteenth Century Scotland," vii.

[23]For more on Reid, Christian Stoicism, and the context of the Scottish Enlightenment, see Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996), 193-96. One can find similar themes on one of Reid's influences in his life, George Turnbull, in addition to Francis Hutcheson and James Beattie. See also Heydt, "Practical Ethics in Eighteenth Century Scotland," vi-vii; and Garret and Heydt, "Moral Philosophy, 77-79.

[24]Haakonssen, *Natural Law and Moral Philosophy*, 201. While this breakdown highlights the seriousness with which Reid and the Scottish enlightenment took duty, one wonders if this is as clean as Reid imagines. Duty to self and others seems to ultimately find its end in obligations to God and his commands. Perhaps this is why Reid uses "virtue" for proper relations among people and duty for *actions*. One seems deliberate; the other seems to be what constitutes actions. See Thomas Reid, *Thomas Reid on Practical Ethics*, ed. Knud Haakonssen (Edinburgh: Edinburgh University Press, 2007), ii-iii.

[25]The word "moderate" here is not meant to be pejorative but rather relates the religious tensions found at the time in the Scottish Enlightenment between the "radical" evangelical wing and the more moderate or temperate wing of Christian Presbyterianism. See especially Christian Mauer, "Stoicism and the Scottish Enlightenment," in *The Routledge Handbook of the Stoic Tradition*, ed. John Sellars (New York: Routledge, 2016). This chapter will discuss this section of his practical ethics in greater detail later, as it's also a central conception of Reid's understanding of anthropology.

the most territory in practical ethics.[26] Here he conceives of justice as a natural virtue, common to all of humanity. Reid's blend of Christian stoicism is evident. While tensions were well represented within Scottish protestant thought, many theologians and philosophers found the two systems compatible. This is not to say that Reid and others adopted this ancient philosophy without qualification or clarification. They would disagree where it was crucial to Christian theology. Yet, they were more than willing to incorporate conceptions of natural law that align more clearly with stoicism than, say, Thomism, when the opportunity was afforded.[27] Conceiving of a natural law tradition as a large part of the ground of practical ethics underscores that Reid's starting point in terms of ethics is theological in nature. That is, Reid grounds this discussion in understanding that God has provided the proper constitution of the human mind to acquire these truths. God is central to Reid's conception of practical ethics and societal justice; God gives commands to men, understood through human reason, but they are applied to society.[28]

Concluding the structure already found within the Scottish enlightenment, Reid applies what has been delineated in regards to duty to ourselves (practical ethics) and designates what is required in our duty to others (politics).[29] Recall that this discussion is established on what preceded it, that is, the discussion about pneumatology and practical

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[26]Haakonssen, *Natural Law and Moral Philosophy*, 203.

[27]For Reid's disagreement with Stoicism, see Mauer, "Stoicism and the Scottish Enlightenment," 266. Additionally, this may provide as a different conceptual window of response to Rawlsian liberalism. Thomistic responses have been written as responses to Rawls, but would this blend of Christian stoicism provide any new insights or conceptual differences in a response to Rawlsian liberalism?

[28]Haakonssen, *Natural Law and Moral Philosophy*, 202.

[29]Ibid., 193-94.

ethics. Humans have, first and foremost, a duty to God, followed by a duty to ourselves and only then a duty to others. This outline reinforces that "we are called upon to know and worship the creator and to promote the 'good upon the whole' of the rest of creation."[30] In other words, Reid applies a broad and prudent theo-political conception of public actions grounded in a framework that structured by the reality of moral truths. Applications are drawn *from* them as first principles, but these first principles of morality are not derived via reason; rather, they are known by common sense.

Why Was Reid So Influential?

Reid's prudential theism and its influence on the fruits of Scottish enlightenment are clear when viewed in retrospect. One could trace a myriad of directions but two stand out as exemplary. The first is Reid's response to Humean skepticism. Reid's persistent attack on Hume's writings provided a key and immediate interlocutor with Hume. His fear was not primarily Hume's outright skepticism trickling into metaphysics and the laws of nature. He no doubt had concerns about both, but viewed them as symptoms, not causes. Rather, Reid's concern was moral philosophy. For Reid, a deep skepticism about epistemological matters eventually trickles into morality. This central concern is what drives Reid throughout his writings. The loss of a clear moral philosophy has detrimental effects on one's overall philosophy because it is a bellwether of sorts that designates the direction one may be heading. Skepticism about the viability of acquiring knowledge of the external world has consequences, and Reid

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[30]Haakonssen, *Natural Law and Moral Philosophy*, 193.

saw the primary problem of those consequences in moral terms. An inability to know the

external world means an inability to know the moral truths unveiled from within creation.

Reid's response to Hume provided a template for responding to Humean skepticism. Two

individuals in particular deserve note.

First, the criticism from Reid's pen influenced a Professor of Moral Philosophy

and Logic at Marischal College, James Beattie. He continued the attacks on Humean

skepticism originally foisted by Reid. Beattie, like Reid, was concerned not merely with

combating a philosophical conception, but what that conception entailed. Benjamin

Redekop writes, "In Beattie's view, nothing less than the existence of truth itself was at

stake in the debate with Hume and other skeptics and infidels. Religion, morality,

civilized behavior were teetering on the edge of the abyss, and it was time to rise up and

put a stop to the nonsense before all was lost."[31] Beattie's work, *Essay on the Nature and

Immutability of Truth*, gained significant praise and immense traction after being

published.[32] Beattie used common sense as the foundational apparatus by which he

judged Hume to be a sinister philosopher whose ideas purported even more sinister

consequences.[33] While the *Essay* was uncharitable toward Hume,[34] the influence that

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[31]Benjamin W. Redekop, "Reid's Influence," in *The Cambridge Companion to Thomas Reid*, ed. Terence Cuneo and Rene van Woudenberg (Cambridge: Cambridge University Press, 2004), 314.

[32]Ibid., 315. Indeed, the *Essay* gained such positive traction that King George III granted Beattie a yearly pension because of it. See James Fieser, "Beattie's Lost Letter to the *London Review*," *Hume Studies* 20, no. 1 (1994): 73-84.

[33]Beattie did not share the amicable feelings toward Hume that others in the Aberdeen Philosophical Society. For example, Reid wrote to Hume hoping he would write more so that the society would have something to talk about. Beattie, on the other hand, felt that Hume was a menace to the order of society. See James Harris, *James Beattie: Selected Philosophical Writings* (Exeter, UK: Imprint Academic, 2004). See also E. C. Mossner, "Beattie's 'The Castle of Skepticism': An Unpublished Allegory Against Hume, Voltaire, and Hobbes," *University of Texas Studies in English* 27, no. 1 (1948): 108-45.

[34]Beattie writes in a letter that Hume felt deeply disrespected by his responses: "I have heard,

arose from this work helped to catalyze common sense philosophy in Britain. The work was translated into German, French, and Dutch and went through multiple English editions.[35]

Additionally, and to a much greater extent than Beattie, Reid influenced Dugald Stewart. Appointed the Chair of Moral Philosophy in 1760, Stewart absorbed Reid's criticisms and his common sense philosophy, teaching it to students and in his writings. His three-volume work entitled *Elements of the Philosophy of the Human Mind* was reprinted in both France and America. Here Stewart applied Reid's thought in various areas of life, including the social and political and one can see Reidian common sense applied to political society at large. In this way, once can see that common sense is being appropriated to build political decisions. Indeed, Stewart felt that "political and economic thought must also be grounded in common experience and understandings, if it is going to be useful."[36] Stewart's conceptualization of such a political application no doubt influenced early American adopters of common sense like John Witherspoon.

Reid's influence on early American life is another example of how his thought percolated beyond just his writings. Reid's common sense realism was almost a default in early American universities and the culture at large.[37] John Witherspoon was a defender

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from very good authority, that [Hume] speaks of me and my book with very great bitterness." As quoted in Margaret Forbes, *Beattie and His Friends* (London: A.C. Constable and Co., 1904), 48.

[35]Redekop, "Reid's Influence," 315. For a remarkably well-developed picture of Beattie's influence in Britain, see R. J. W. Mills, "The Reception of 'That Bigoted Silly Fellow,' James Beattie's Essay on Truth in Britain 1770-1830," *History of European Ideas* 41, no. 8 (2015): 1049-79.

[36]Redekop, "Reid's Influence," 315.

[37]Elements of common sense realism can be found within Thomas Jefferson's writings as well as other signatories of the declaration, including James Wilson. Many scholars note that you can see echoes of Reidian common sense in Thomas Jefferson, for example. He states in a letter from Monticello that he

of common sense philosophy. Witherspoon garnered tremendous influence by way of his

students who further dispersed common sense into early American life.[38] His students

were introduced to both Reid and James Beattie through his lectures. Additionally,

Witherspoon can be viewed as a combination of common sense with a clearer theological

lexicon, which influenced the two directions Reid's philosophy took when applied

theologically.

Harvard's Leftist Reid

A series of instructors holding the Alford Professorship of Natural Religion,

Moral Philosophy, and Civil Polity at Harvard University for most of the nineteenth

century no doubt saw Reid's philosophy as helpful. Levi Frisbie assumed the chair in

1817 and gave his inaugural address whereby he stated that moral philosophy is the

"science of the principles of obligation and duty."[39] Echoing Dugald Stewart and Thomas

Reid, Frisbie set the foundations common sense philosophy's influence in their lectures

and writings.[40] Frisbie's guidance is evident when seen by the instantiation and

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thinks Stewart has reasoned deeper than anyone before him on the human mind. See *The Adams-Jefferson Letters*, ed. Lester Cappon (Chapel Hill: University of North Carolina Press, 1959). See also Terence Cuneo, "Reid's Influence," in *The Cambridge Companion to Thomas Reid*, ed. Terence Cueno and Rene van Woudenberg (Cambridge: Cambridge University Press, 2004), 327-28.

[38]Cuneo, "Reid's Influence," 328-30. See also Daniel Howe, "John Witherspoon and the Transatlantic Enlightenment," in *The Atlantic Enlightenment*, ed. Susan Manning and Francis G. Cogliano (Burlington, VT: Ashgate, 2008). While later in his life Witherspoon states that he was in no way depending on Reid for his thoughts, it is quite clear that he is echoing Reidian criticism of skepticism and the attendant moral approbation that goes with it.

[39]Levi Frisbie, *Inaugural Address* (Cambridge: Hilliard and Metcalf, 1817), 10-11, quoted in *The Cambridge Companion to Thomas Reid*, ed. Terence Cuneo and Rene Van Woudenberg (Cambridge: Cambridge University Press, 2005), 331.

[40]Frisbie's *Inaugural Address* serves as an example of his indebtedness to common sense. See Daniel Walker Howe, *The Unitarian Conscience: Harvard Moral Philosophy: 1805-1861* (Cambridge, MA: Harvard University Press, 1971), 47-64.

dissemination of Transcendentalism through one of his students, Ralph Waldo Emerson.[41] Men like Levi Hedge, James Walker, and Francis Bowen succeeded Frisbie and depended heavily on Reidian common sense for their writing and public lectures.[42] Reid and Stewart are cited extensively by Hedge, and Bowen uses Reid in an effort to unify the distinctions between science and religion.[43] As the university served as a hotbed for Unitarian thought, the faculty members used common sense to interpret their Bibles in ways that were in lockstep with reason but not revelation. They saw Reid's common sense as a way to negotiate the difference between reason, religion, and epistemology in a way that did not place one as the superior avenue of knowledge.[44] Take for example James Walker, who before assuming the Presidency of the institution, served in the Alford Chair. Walker's stress on the universality of conscience combined with Reid's conception of the mind and emotions as active and rational powers perpetuated the idea that one's conscience can be viewed as the supreme delegator of truth.[45]

The stress on intuition as veridical for each individual shows the stress Walker places on educating the intuition of individuals such that they are aware of their errors in

[41]Ralph Waldo Emerson, *Two Unpublished Essays* (Boston: Lamson, Wolffe & Co., 1896), 64-67. For more on the influence of Frisbie on Emerson, see Gerald Vaughn, "Ralph Waldo Emerson's Mentor at Harvard," *Historical Journal of Massachusetts* 35, no. 1 (2007): 78-96.

[42]Howe, *The Unitarian Conscience*, 51.

[43]Redekop, "Reid's Influence," 330-32. See also Edward H. Madden, *The Unitarian Conscience: Harvard Moral Philosophy, 1805-1861* (Cambridge, MA: Harvard University Press, 1970).

[44]Jose R. Torre, *The Political Economy of Sentiment: Paper Credit and the Scottish Enlightenment in Early Republic Boston* (New York: Taylor & Francis 2007), 23-26, 91-110.

[45]Howe, *The Unitarian Conscience*, 69-74. For more on James Walker, see John R. Shook, ed., *Dictionary of Early American Philosophers* (New York: Continuum, 2013), s.v. "James Walker," by Robin Vandome.

misappropriating common sense.[46] Walker suggests in a tract entitled *Philosophy of Man's Spiritual Nature in Regard to the Foundations of Faith* that common sense teaches that "there is nothing, therefore, in the real or apparent diversity of our spiritual impressions which would shake our confidence in the principles, that, to a rightly constituted and fully developed soul, moral and spiritual truth *will be revealed* with a degree of intuitive clearness and certainty equal at least to that of the object of sense."[47] Here one sees the emphasis on the more empiricist side of common sense realism adapted to religious beliefs.

In addition, Walker edited two works on Common Sense Philosophy.[48] Walker's appropriation of Scottish common sense rendered a psychological account of religion that centered in sensibilities being the ground of religious sentiment. While not denying the necessity of revelation nor its importance for Christian theology, Walker assists in directing Harvard toward a more liberal interpretation of Thomas Reid's common sense philosophy. Various generations followed Harvard's direction through men influenced by common sense, many of whom would go on develop ideas that were antithetical to even a broad theism. William James, a student of commonsensical professor France Bowen, used Bowen's conceptions of religion as moral psychology to perpetuate and assist in the birth of pragmatism in America. Ludwig Wittgenstein and G. E. Moore would advocate for a common sense grounded in linguistic certitude rather than

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[46]James Walker, *Reason, Faith, and Duty: Sermons Preached Chiefly in the College Chapel.* (Boston: Roberts Brothers, 1879), 202-7. See also Redekop, "Reid's Influence," 332-33.

[47]Ibid., 57-58. Emphasis original.

[48]The two works are Dugald Steward's *Philosophy of the Active and Moral Powers* and Thomas Reid's *Essays on the Intellectual Powers of Man.*

a theistic ground. That is, they were concerned about language rather than prescriptions set forth by language. Thus, the downplaying of Christian revelation in preference for the ultimacy of conscience birthed a subjectivism that has plagued common sense since its inception. But that is not the only legacy of Reid's thought in America.

Princeton's Conservative Reid

Along with Harvard University, Princeton used Thomas Reid's common sense philosophy in tandem with their theological apparatus. The difference lies in that this appropriation did not cause the institution to take a decided leftist turn. While both institutions, at this stage, are indebted to common sense, Princeton was founded with a distinct apologetic emphasis. Conceived as a way to train individuals to combat an ever-encroaching deism, Princeton armed their students with common sense realism. The emphasis on self-evident first principles combined with an apologetic that stressed evidentiary support for the Christian faith made Reidian common sense remarkably appealing in their attempts to combat deism. A founding professor of theology of Princeton, Archibald Alexander, was a pioneering appropriator of Reid's common sense in tandem with Christian theology. Because of the well-founded fear that deism was gaining traction in American life, Alexander and others saw fit to combat deism with evidentiary support that was grounded in both reason and Scripture. Indeed, they sensed that the truths of Scripture could be confirmed through evidentiary claims. The best way to do this was to contend with deists on their own terms. This conception of defending the faith was not a new phenomenon.

Consider the words of Archibald Alexander's teachers, John Witherspoon: "It is true that that infidels do commonly proceed upon pretended principles of reason. But

as it is impossible to hinder them from reasoning on this subject, the best way is to meet

them upon their own ground and to show them from reason itself the fallacy of their

principles."[49] Deism's insistence on the practicality of religion rather dogmatic made it a

keen enemy for orthodox Christianity. Deistic reasoning was used to circumvent the

truths of Christianity. Alexander, along with myriad of other early American theologians

and statesmen, also saw what his mentor understood as dangerous. Alexander's common

sense can be seen in his defense of reason in light of how God has made this world. He

states that just as it is reasonable to believe that one's senses are not deceiving him or her

about the external world, "it is reasonable to believe what God declares to be true."[50] This

becomes an apologetic move by Alexander in defense of all of biblical revelation when

viewed as a response to the Deist's skepticism to the supernatural.

Further, Alexander wrote a work entitled *A Brief Compendia of Bible Truth*, in

which he takes extensive measures to defend the biblical accounts of prophecy, miracles,

and the fantastical. Alexander believed this defense was necessary because the truth of

Christianity rests on the veridical defense of this aspect of Christianity.[51] Rather than

overinflating veridical testimony at the expense of intuition and experience, Alexander

felt that a proper epistemological framework of Christian truth affirmed both. Knowledge

can be found within the twin approach of reason and religious experience.[52] While

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[49]John Witherspoon, *The Selected Writings of John Witherspoon*, ed. Thomas P. Miller, (Carbondale: Southern Illinois University Press, 1990), 152.

[50]Archibald Alexander, *Thoughts on Religious Experience* (Philadelphia: Presbyterian Board of Publication, 1841), 8.

[51]Archibald Alexander, *A Brief Compendia of Bible Truth* (Philadelphia: Presbyterian Board of Publication, 1846), 15.

[52]On this framework, see Jack Rodgers and Donald K. McKim, *The Authority and*

evidentiary support for Christianity was designed to buttress attacks against this faith, it was the experience of the faith that Alexander wanted so desperately to retain. This experience was not to be divorced from the essential dogmas of the Christian faith, as the Harvard divines seemed to be doing, rather the experience *was* the fruits of a confirmatory investigation through reason and revelation. It was this investigation where Reid was so helpful to Alexander.[53] But it was one of his students who advanced common sense to a degree that even Archibald did not reach.

Charles Hodge was a student of Alexander and imbibed the common sense realism that came from his mentor. For Hodge, Christianity had no place for a strident rationalism that elevates the mind as the arbiter of all things true and false. Yet, at the same time, the faith once delivered to all the Saints does not discount reason in the pursuit of revealed truth: "Reason is presupposed in every revelation. . . . [T]ruths, to be received as objects of faith, must be intellectually apprehended."[54] These intellectually apprehended truths can be discovered by way of reason, but they are not reducible to reason. That is to say, reason serves alongside revelation in order that one may understand how God has made the world. But this is not to say that God's revelation of himself is fundamentally subjected to reason. Nor, on the other hand, is it merely an open-ended question of intuition and conscience. Rather, revelation, reason, and experience are seen as complementary. This serves as a testament to the Scottish triumvirate of reason, revelation, and experience as well. That the "Old Princetonians"

Interpretation of the Bible: An Historical Approach (Eugene, OR: Wipf and Stock, 1999), 265-75.

[53]Mark Noll, ed., *The Princeton Theology, 1812-1921: Scripture, Science, and Theological Method from Archibald Alexander to Benjamin Breckinridge Warfield* (Grand Rapids: Baker, 1983).

[54]Charles Hodge, *Systematic Theology* (Cambridge, UK: H.O. Houghton and Co., 1873), 1:49.

were indeed indebted to common sense realism is undeniable.[55] But the extent to which

they were influenced is tempered by their confessionalism and their understanding of the

role of reason in their appropriation of revelation. They appropriated the cultural milieu

of the day in ways that would seem appealing to those around them without sacrificing

the essential truths of the Christian faith. Paul Helseth concurs:

> What this suggests, rather, is that they were more or less consistently Reformed scholars who responded to the modern era's relocation of the divine-human nexus not only by insisting that the Christian religion entails the rational appropriation of objective truth, but also by maintaining that the ability to see this truth for what it objectively is presupposes the work of the Holy Spirit on the "whole soul" of a moral agent.[56]

That is to say, the Princetonians did not go by the way of liberalism or Unitarianism

because they were confessionally committed to Christian truths in a way unlike the

Harvard divines. Regardless, the point of this exploration into how the two different

schools appropriated Reid is to show that, although Reid's prudential theism can leave

open various windows by which to view his writings, it does not render itself a

monolithic subjectivism. Nor does it mean that Reidian common sense befriends

rationalistic empiricism at the expense of biblical revelation. Indeed, the Princetonian

interpretation of Reid demonstrates that his conceptions of common sense can be well

amalgamated to Christian truth. Reid's philosophy then, despite what some scholars have

viewed as problematic, can be amended and modified in order to fit within a narrower

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[55]Hodge favorably cites Reid in his *Systematic Theology*, especially in vol. 2. For one example, see Charles Hodge, *Systematic Theology* (Peabody, MA: Hendrickson Publishers, 1999), ii.v.2. See also chap. 2 of William C. Davis, *Thomas Reid's Ethics: Moral Epistemology on Legal Foundations* (New York: Continuum, 2006), 16-18.

[56]Paul Kjoss Helseth, *"Right Reason" and the Princeton Mind: An Unorthodox Proposal* (Phillipsburg, NJ: P&R Publishing, 2010), 43.

theological commitment.[57] This conclusion should be unsurprising, as Reid himself was a committed Christian with particular theological assumptions about reality. The use of Reid by Christian theologians to defend the faith is perfectly congruent to Reid's overall project: a defense of a common sense understanding of the world in the face of intense skepticism.

Within the first couple hundred years of American life, Reid's ideas had not merely influenced universities but political life as well. It would seem reasonable, then, to surmise that his philosophical system could provide beneficial contributions to political culture today. While American culture has changed since the early days of post-Revolutionary America, Reid's understanding of the human person and his ability to understand the world has not. It is there, to Reid's common sense philosophy, that this chapter turns in hopes of locating the central tenets of this thought and its applicability to political deliberations.

Common Sense

Thomas Reid was involved in political deliberations and issues throughout his career.[58] The application of common sense was part of what Reid hoped to demonstrate in the third section of his student lectures while a professor in Glasgow. He takes the internal constitution of human nature and applies it without hesitation to the broader society. In this sense, one can define Reid's common sense as a comprehensive doctrine,

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[57]The mere use of common sense by the Princeton scholars does not, despite Marsden and Noll's claims, take their theology hostage. The confessionalism of Westminster precedes common sense. While historically at Princeton they were interwoven, this does not mean one was contingent upon the other, or that common sense was diluting their orthodoxy.

[58]See the introductory essay in Knud Haakonssen, *Thomas Reid on Society and Politics* (State College: Penn State University Press, 2015).

the reason being Rawls's definition of comprehensive doctrines. Common sense can be defined as "certain principles…which the constitution of our nature leads us to believe, and which we are under a necessity to take for granted in the common concerns of life."[59] Viewed in this manner one can see it is a conception of moral and philosophical realities that extends into all of life. When common sense is examined, it becomes evident that it is a comprehensive doctrine, answering questions within a wide range of human life, including the political.

The basics of common sense can be understood through anthropological and moral commitments. Common sense—like all philosophical conceptions—makes certain crucial assumptions about the nature of humanity and the nature of morality. By examining these commitments, one can see why common sense is a comprehensive doctrine that provides moral, religious, and philosophical realities that stand beyond the mere political. In doing so, it can show that Rawlsian exclusion of such beliefs is unwarranted.

The Features of Common Sense Realism

While there are several important anthropological features of Reidian common sense, those explored in this section will be those that relate aspects of how common sense philosophy may provide a beneficial contribution to political deliberation. In this way, the narrowing of focus allows for a straighter line to an analysis of common sense as a beneficial response to Rawlsian pubic reason. The first to be explored is Reid's conception of the conscience.

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[59]Thomas Reid, *Inquiry into the Human Mind on the Principles of Common Sense*, in *The Works of Thomas Reid*, ed. William Hamilton (Boston: Adamant Media Corporation, 2005), 1:108.

Conscience. For Reid, conscience is a central characteristic of common sense philosophy, and it is presented as a reliable guide for humanity. For Reid, the faculty of conscience is not a fallacious entity and one can thus receive its testimony without fear. Since Reid believes no radical error is present within conscience, it would not allow for belief in something that did not exist.[60] Reid imagines that the mere awareness of the conscience within an agent indicates something about the state of affairs to which it may be focusing. In other words, one cannot be aware of something that does not exist. Indeed, to state that the conscience may be aware of a thing that does not exist is to label the conscience as something that can render a false judgment. Reid sees little room for such a proclamation. When used appropriately, it will render true information about the issues at hand.[61] One may use conscience in ways it was not designed for, but, on the whole, the conscience is a trustworthy faculty that relates true moral judgments about the world.

When Reid speaks of conscience he has in mind this connection with a moral ground. In effect, when he states that conscience is a reliable faculty, he means that it is attuned to *real moral truths* in the world. Just as the eyes are attuned to see real things in the external world, so the conscience is well prepared to do the same.[62] It sees moral

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[60]Reid notes in relation to conscience that something like beauty must exist because "to say that there is in reality no beauty in this objects in which all men perceive beauty [and that is a mere fancy to us], is to attribute to man fallacious senses" (Thomas Reid, *Essays on the Intellectual Powers* [Cambridge, MA: MIT Press, 1969], 763).

[61]Reid posits that someone might misuse their conscience, but the fault is on the part of the individual, not the conscience. See Keith Lehrer, "Thomas Reid on Common Sense and Morals," *The Journal of Scottish Philosophy* 11, no. 2 (2013): 109-30.

[62]Several philosophers have made perception a window into understanding Reid's conception of moral philosophy and the conscience. See various articles in *The Cambridge Companion to Thomas Reid*, ed. Terence Cueno and Rene van Woudenberg (Cambridge: Cambridge University Press, 2004).

truths in the external world and delivers judgments about them. Additionally, these moral truths are attached to first principles through which individuals are structured to know. These first principles are not acquired primarily by reason or induction. Rather, they sit *behind* those engines of knowledge as the ground of them. Moral truths are discovered in the judgments one pronounces on the world. But these pronouncements are public agreements with how God has ordered the universe. It is not merely social recognition of a right or a wrong. As shown later, those recognitions have behind them a structural integrity that can only be traced back to God himself and how he shaped the constitution of the human being. Everyone is structured to know these moral principles because one cannot but know them. And yet conscience was not merely meant to be understood in relation to human knowledge. It was God who gave conscience to humanity. Conscience is not a product of social arrangement, conventions, or contracts. It is "excellently fitted" by God to human nature. Ultimately, this seems to be what grounds Reid's confidence in conscience. It is not fallacious because it was given by God.

Moreover, conscience is not instantiated through social conditioning or situatedness; rather, its reliability means all are able to make relevant decisions from it. Applied to politics, a sense of right and wrong from the conscience drives individuals to support or reject policies or political ideas from the same source. This conscience, again, is not driven by reasons or deliberation, but it is intrinsic to human nature. Rawlsian reasonableness and the "duty of civility" seem to run counter to this claim. Recall that Rawls's "duty of civility" is structured such that it places a moral burden on everyone to offer arguments that are publically accessible on matters of basic justice. Rawls might respond by stating that the *proviso* is formulated to allow appeals from conscience so

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long as the individual eventually uses public reason. But this conditional and the unconditional judgments of right and wrong from conscience do not square so easily. The Rawlsian proviso is tantamount to explaining to a child that wants to sit with the adults during Thanksgiving dinner that he may do so, provided he speaks like an adult when he arrives at the table. For Reid, the conscience delivers true judgments of right and wrong, and these are pre-political[63]. One's judgments *from conscience* are not restricted to linguistic limitations.

Further, Reid's understanding of the conscience is such that one is duty bound to it prior to verbal affirmation of what is known in the conscience. That is to say, the conscience guides one's public affirmations and denials. It is the conscience that shapes one's public moral codes. It is from the conscience that one derives a sense of right and wrong. Reid's conscience does not speak to, nor would it submit to, external pressures on the internal witness of that which is "excellently fitted" by God for humanity. When the conscience speaks humanity should align accordingly and stand on what it speaks of, regardless of whether or not such reasons are "publically accessible." Yet they are publically accessible, just not in the manner that Rawls would have his citizens affirm. Since the conscience is so excellently fitted by God to humanity, everyone is endowed with such a conscience as to be able to appeal to it without restriction. Whatever reasons may be provided by way of the conscience is not to be delimited by arbitrary delineations like reasonableness and rationality. To be sure, an open appeal to conscience would not

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[63]Reid's argument from the conscience is similar to Joseph Butler's. See Bob Tennant, *Conscience, Consciousness and Ethics in Joseph Butler's Philosophy and Ministry* (Rochester, NY: Boydell Press, 2011), 102-4.

render a universal judgment, but it aligns with Reid's conception of human nature and its relationship to the conscience.

Playing a crucial role in understanding Reid's formation of humanity, the conscience ascribes a public dignity to humanity that is lost within a Rawlsian schema. Rather than caring about whether one's words are the proper actualizing of a proper public arena, common sense sides with what seems intuitively known by an individual. It speaks to metaphysical and actual moral truths, and renders judgments—which are public in their very nature—in relation to them. Indeed, actual moral truths are related to the conscience in moral judgments and this process is all prior to any deliberation or reasoning. But it is not absent from reason or rationality. The next section explores how Reid understands the role of reason in human nature.

Reason. Thomas Reid ascribes two offices to reason, "the first is to judge of things self-evident; the second to draw conclusions that are not self-evident from those that are."[64] The first, Reid says, is the sole province of common sense. Here, Reid desires to reconcile reason with common sense.[65] The unity of reason with common sense was excised by what Reid calls "the theory of ideas." Centered in enlightenment thought, Reid saw in Descartes, Locke, Hume, and others an epistemology that sought to disentangle the external world from the internal mind. That is, he was fearful that they were advancing ideas that would make the external world essentially unknowable or, at

[64]Thomas Reid, *Essay on the Intellectual Powers*, ed. William Hamilton (Chesnut Hills, MA: Adamant Media Corporation, 2000), 425.

[65]Reid almost exclusively uses the "theory of ideas." There has been a common epithet, "the way of ideas," that is attached to Reid, but he does not use it. See James Van Cleve, *Problems from Reid* (Oxford: Oxford University Press, 2015), 57n2.

the very least, incapable of being directly known by the mind. For these men, the way one understands the world and gains knowledge is through reason. Reason was being used, Reid thought, to foster a skepticism of external reality. If what becomes present to the mind is only accessible by the internal mind, the implications that flow from such conceptions of reason were troublesome. Reason could be used for not merely a denial of the external world, but morality as well. This was Reid's principal objection to the theory of ideas: it used reason as a Trojan horse to escape the moral structure embedded in creation by God himself.

Reid's alternative is the use of reason to form beliefs about the external world that one knows to be true. Like the conscience, reason is a faculty that can be trusted because it is given by God. While some may think this places common sense on shakier ground, Reid did not think so.[66] This foundational aspect of common sense is evidenced in that "common sense and reason have but one author; that Almighty Author."[67] So, common sense can be trusted because it is a "taking for granted"[68] what is given in experience related to reason. Reason does not work in opposition to common sense, but works to confirm what is known by common sense and intuitively knows that common sense is true. Take, for example, Reid's statement that the enlightenment philosophers

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[66]Norman Daniels notes that grounding common sense on these theological principles is no surer a foundation than his interlocutors he disagreed with. But this mistakes the fact that common sense, like anything, is grounded in a metaphysical conception of reality that is inescapably theological. Reid's prudential Theism only falls flat if you assume that such foundations must be first verified evidentially. The *fruits* of those beliefs are seen evidentially. But the source of Reid's common sense is, on his own admission, God. Normal Daniels, *Thomas Reid's Inquiry* (New York: Burt Franklin, 1975), 117-18.

[67]Thomas Reid, *Inquiry into the Human Mind on the Principles of Common Sense*, ed. Derek Brookes (State College: Penn State University Press, 1997), 68.

[68]Nicolas Wolterstorff, "Reid on Common Sense," in *The Cambridge Companion to Thomas Reid*, ed. Terence Cuneo and Rene van Woudenberg (Cambridge: Cambridge University Press, 2004), 80.

demand that whatever may be believed must be ground in reason. But, he writes, these men look to philosophy to furnish "them with reasons for the belief of those things which all mankind has believed, without being able to give any reason for it."[69] Reason does not provide the first principles of belief. Rather, it seems to serve Reid's second designation of reason: draw conclusions that are not-self evident from those that are. That is, reason's relationship with first principles is needed to understand the two offices by which Reid ascribes reason.

Indeed, understanding reason's relationship with first principles is crucial in understanding the relevance of Reidian reason to politics. Recall that reason serves to draw conclusions that are not self-evident—the province of common sense—from the things that are—common sense. Whatever principles reason would induce from common sense will be in line with and not contrary to these essential common sense principles. They are provided by God and are demonstrated in their public fruits; they are held immediately and rationally.[70] Nevertheless, it is important to emphasize again that these principles are not derived by way of reason or discursive thought. Rather, one holds them prior to reasoning them out, and one continues to hold them with good evidence, but they are not grounded in rational deliberation. They are those things that one cannot but know. Reid says, "Those who reject [some principle in common sense] in speculation, find themselves under a necessity of being governed by them."[71] Reason serves as a help to common sense, not as the soil from which it grows.

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[69]Wolterstorff, "Reid on Common Sense," 18.

[70]Ibid., 85.

[71]Reid, *Essay on the Intellectual Powers of Man*, quoted in *The Cambridge Companion*, 87.

Further, these common sense beliefs are derived from first principles. For Reid, first principles are crucial for moral and social life. This emphasis includes the political. In a lecture on politics, Reid writes that every science must be grounded on some set of first principles. Politics is no different from mathematics or the like where certain principles guide the structure of the discipline itself. Reid continues, "It easy to shew [sic] that the First Principles of Politicks [sic], upon which all Political Reasoning is grounded, must be taken from the Knowledge of Mankind."[72] Conceivably, this knowledge of mankind includes the very grounds by which they discover and confirm the basic principles of common sense. Indeed, Reid states that politics is the science of discovering "the principles of Action and general tenor of Conduct that is common to the whole Species."[73] While civic discourse and the models by which they actualize may change, for Reid, the foundation undoubtedly would be in line with common sense.

This proves helpful in assessing common sense as a potential interlocutor with Rawlsian liberalism. Reid's first principles of politics are not fundamentally grounded in a rational understanding of human nature. Whatever else may be said about Reid's common sense, he would not welcome the advancement of political society on the grounds of reason alone. Further, the Rawlsian conceptualization of reasonableness and rationality as markers for proper deliberation would find an unwelcome ear with Reidian common sense. The restriction for deliberation in common sense would fall on the line of something like properly functioning cognitive faculties. That is, provided one's cognitive

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[72]*Thomas Reid on Society and Politics: Papers and Lectures*, ed. Knud Haakonssen and Paul Wood (State College: Penn State University Press, 2015), 27.

[73]Ibid.

faculties are functioning properly, the principles of common sense become the marker by which one is considered rational. Politically, then, deliberation becomes more open. It becomes a freely shared public square by which one may appeal *from* the conscience and *toward* the conscience of an individual. With the trust that this faculty has been provided by God, one can rest assured that while the individual may not agree, the appeal has not fallen on unreasonable ears. This, among other aspects, separates Reidian common sense from Rawlsian liberalism and would provide a more open and capable public square.

Yet this conceptualizing would make Reid's common sense an unreasonable comprehensive doctrine. Like Reid dismissing those who would deny their own existence, the absurdity that follows from such a pronouncement is evident.[74] Yet Reid's conception of humanity goes further than reason and the conscience. That is, an additional and crucial aspect of Rawlsian thought stands in stark contrast to Reid. Where one sees a constructed conception, the other sees a natural virtue prior to social instantiation via discursive thought.

Justice. Justice being a natural virtue ties into how Reid sees human nature. Justice, for Reid, is a conception prior to social convention or merely an artifice for judicial rendering. He demonstrates this by arguing that justice is something human beings are aware of prior to any normative appropriation of it.[75] Human nature is aware

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[74]Reid writes in this vein that reasoning with someone that denies their own existence would be the equivalent of arguing without someone who believes they are made of glass. Thomas Reid, *Inquiry into the Human Mind on the Principles of Common Sense* (State College: Penn State University Press, 2004), 16.

[75]This idea seems correct. Cries of injustice are for some form of action to be in accord with a moral law. If this morality is intricately tied to human nature, as Reid would believe, then it seems true as well to state that justice is intrinsic to human nature. Morals do not arise from mere social convention but are part of a wider domain. Since justice is in some sense a part of morality, then neither morals nor justice

of a sense of justice and injustice, harm and favor, prior to being told that something is just or unjust, a favor or a harm. It is intrinsic to human nature. While one may not be able to articulate the categories of favor and harm, for example, one is aware of such conceptions.

Reid believes that conceptions like favor and harm, justice and injustice relay moral categories that are pre-political and pre-social convention. Notions of favor and harm, regardless of how developed they are in an agent, are grounded in a broader and deeper notion than particular categories like justice. These particular notions imply a larger notion, which then implies a large category of justice as a natural virtue and thus, a category with *moral* characteristics. Justice, as part of morality, is not constructed or delivered through rational deliberation, but is intrinsic to humanity. Reid states that "the notion of justice carries inseparably with it a perception of its moral obligation. For, to say that such an action is an act of justice, that is due, that it ought to be done, that we are under a moral obligation to do it, are only different ways of expressing the same thing."[76] This conception of justice suggests a proper instantiated through moral obligation. For Reid, justice does no favors nor provides harm. These, again, are moral concepts tied to how humanity is structured. To deny these realities is to deny an essential anthropological point: humans are cognizant of these things *a priori*. If one is aware of such things *a priori*, a developed a sense of justice is present.[77] Here Reid connects conceptual

are instantiated by social convention. See Esther Engels Kroeker, "Reid's Response to Hume's Moral Critique of Religion," *Journal of Scottish Philosophy* 14, no. 1 (2016): 85-100.

[76]Thomas Reid, "Essays on the Active Powers," in *The Works of Thomas Reid*, ed. William Hamilton (Chesnut Hills, MA: Adamant Media Corporation, 2000), 2:655.

[77]Rawls speaks of a sense of justice as part of his overall theory of justice, but this sense of justice is not in the same vein as Reid. Rawls's conception of this sense is intrinsic to human nature, like

awareness with moral and psychological awareness. Notice that this link is done before social conventions. For Reid, this means that justice is intrinsic to human nature and a first principle not demonstrated by reason.

Reid's conception of justice can provide a helpful window to evaluate Rawlsian instrumental justice whereby society becomes arbiter and designator of justice. Reid would suggest that justice is something prior to society instead of formed within it. Rawls often mentions that political liberalism is catalyzed by an individual's sense of justice,[78] but Reid's understanding of justice goes beyond mere sense. While it is true that Reid believes a sense of justice can be heightened and developed, Rawls is after is a different conception of justice. The intellectual capacity of an agent is what designates Rawls's sense of justice. It is still rationally driven and structured.[79] Rawlsian justice is instituted and safeguarded by the boundaries set forth in a rationally formulated conception.[80]

Reid's conception of the person suggests that he understands the creature to be subservient to his creator. Reid was conscious that humanity does not receive its mental acuity nor the structure of their minds from convention. Rather, they are "excellently fitted" by God. His holistic picture of humanity set him apart from enlightenment-

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Reid, but it does not signal to the conscience a *prescription* for right and wrong. Rather, it is a faculty that must be developed by way of political liberalism. It is still a *rational* enterprise. See John W. Chapman, "Review: Rawls's Theory of Justice," *The American Political Science Review* 69, no. 2 (1975): 588-93.

[78]John Rawls, "The Sense of Justice," *The Philosophical Review* 72, no. 1 (1963): 281-305.

[79]Rawls, *A Theory of Justice*, 16.

[80]Indeed, David Hume's theory of justice shares similarities with Rawls. Both develop theories of justice grounded in social conditions. See Andrew Lister, "Hume and Rawls on the Circumstances and Priority of Justice," *History of Political Thought* 26, no. 4 (2005): 664-95.

thinking contemporaries and shows that his conceptions of a human being translate into all areas of life. Reid's anthropology demonstrates one aspect of an overall comprehensive doctrine. Reid's moral philosophy furthers this hypothesis.

The moral ground. Like his anthropology, Reid's moral philosophy is filled with Christian influence. From his time as a Christian minister to the time he chaired the Professor of Moral Philosophy at Glasgow, Reid's Christian roots were clear. His moral philosophy can be understood from his disagreement with Hume about the nature of morals. This difference provides light into how Reid understood morality in general.

Reid's rejection of Hume's philosophical skepticism was propelled by his concerns about Hume placing morality in mere feeling or sentiment. That right and wrong are adjudicated by whims of emotions or passion was problematic for Reid. Hume designates "right" as that which is approved by society or convention.[81] Reid's rejoinder to the proposition is a key distinction between what is right and what is approved, noting that these two are not always the same thing. A thing, Reid suggests, can be right without it being approved and can be approved without it being right. By missing this crucial distinction, Hume misses that proper judgments of right and wrong give rise to proper feelings, not vice versa. This shifts the discussion forward into societal approbation of right and wrong. The Humean condition sees societal appropriation as the origin of morality. On the other hand, Reid sees clear lines of assembly from moral judgments to the proper societal appropriation of those judgments.

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[81]Horacio Spectator, "Hume's Theory of Justice," *Rationality, Markets, and Morals* 5, no. 84 (2014): 47-63. See also Jacqueline Taylor, "Justice and the Foundations of Social Morality in Hume's Treatise," *Hume Studies* 24, no. 1 (1998): 5-30.

Additionally, Reid makes an additional distinction between general and particular moral facts. General facts are those that may be considered axioms.[82] "Stealing is wrong" would be an example of a general moral fact. Particular moral truths are beliefs that show themselves to be proper applications of general moral truths. The question here is not one of a general nature, i.e., "stealing is wrong," but rather the particular instantiation of those general truths: "*This* instance of stealing is wrong." It is *this* scenario here where bad actions are to be avoided. For Reid, general moral truths are grounded not merely in sentiment but first principles that are universal regardless of time and culture. The particular application of those general truths is an affirmation that these truths are placed in contexts and situations. The situations do not overrule the moral structure of the beliefs. They do seek to verify those truths, applied in contexts and situations.

The distinction here demonstrates that Reid's understanding of morality is realist. He understands morality to be something that is existentially independent from an agent's mental state.[83] This sets him apart from both Hume and moral sentimentalism. Further, it solidifies common sense philosophy as providing beneficial applications to political life. Moral realism is a clearer path forward for deliberation than Rawlsian liberalism. Within Reid there are true moral facts that ground particular types of applications. Within Rawls we see a distinction between what is "true" and what is

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[82]Terence Cuneo, "Reid's Moral Philosophy," in *The Cambridge Companion to Thomas Reid*, ed. Terence Cuneo and Rene van Woudenberg (Cambridge: Cambridge University Press, 2004).

[83]Terence Cuneo, "Duty, Goodness, and God in Thomas Reid's Moral Philosophy," in *Reid on Ethics*, ed. Sabine Roeser (London: Palgrave, 2010), 238-57. See also chap. 6 of Haakonssen, *Natural Law and Moral Philosophy*.

"applicable." Common sense and its moral realism, then, demonstrate an ability to bring beneficial applications to political deliberation.

Duty. The moral imperative behind judgments, for Reid, is duty. These moral judgments derive their moral status from the fact that they are obligatory. Actions are judged correct or incorrect by moral first principles, and actions should coincide with that judgment.[84] Reid suggests that such duties are clear to all because they are grounded in first principles not derived from reason but known through common sense:

> From the principles above mentioned, the whole system of moral conduct flows so easily, and with so little aid of reasoning, that every man of common understanding, who wishes to know his duty, may know it. The path of duty is a plain path, which the upright in heart can rarely mistake. Such it must be, since every man must walk in it, . . . for the unlearned man, who uses his best means in his power to know his duty, and acts according to his knowledge, is inculpable in the sight of God and man. He may err, but he is not guilty of immorality.[85]

The individual may not understand what is required because Reid is certain that duty, which implies some kind of knowledge, will be plain to them. Its role is ultimately grounded in some moral structure of humanity and the world. That is to say, Reid's confidence is derived from his trust in a deity that has excellently fitted humanity with the capabilities to acquire knowledge. The first principles of morals relate themselves to duty by way of judgment. They are related in their actions, which are oriented toward a moral end—duty.[86] Duty, when properly understood, works for the completion of justice

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[84]Thomas Reid, *Essays on the Active Powers of Man*, in *The Works of Thomas Reid*, ed. Sir William Hamilton (Chesnut Hills, MA: Adamant Media, 2000), 674.

[85]Ibid., 640.

[86]Haakonssen and others see this conception as problematic. That is, Reid does not clearly delineate the difference between the moral faculty's assent to first principles and the judgments arising from them that culminate in duty. William C. Davis, *Thomas Reid's Ethics: Moral Epistemology on Legal Foundations* (New York: Continuum, 2006), 3-4. See especially footnotes 4 and 5 on these pages.

instead of interest. That is to say, the questions one asks and the conclusions one arrives at when deliberating will determine whether one sees the function of duty as further justice or interest.[87] Humean morals—and by extension, duty—would originate in the form of interest instead of justice. This is because the source would Hume's notion that morality and judgments are socially contrived. Instead, Reid would ground them in the constitution of human nature. Reid is careful to see this distinction and side with first principles reaching their teleological end in duty and justice.

Additionally, this understanding of duty is not merely from a "moral law within" but is expressly understood in Reid first as a duty to God and then to ourselves.[88] This follows Reid's threefold format to his lectures: pneumatology, ethics, and then politics. Duty to God is primary, ourselves second, others third.[89] Structured in this way, one can see Reid's dependence upon God for common sense.

The moral sense. Moral sentimentalism saw the moral sense as a particular thing, guarding motivation for upholding moral truths. On the other hand, rationalists located objective moral truths but grounded them within the function of reason's ability to acquire truths.[90] Reid, rather brilliantly, splits the difference. In effect, Reid states that moral truths are objective, but they are not grounded in reason. There is a moral sense

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[87]Cuneo, "Duty, Goodness, and God in Thomas Reid's Moral Philosophy," 239.

[88]See Haakonssen in his introduction to *Practical Ethics* (State College: Penn State University Press, 2007).

[89]Ibid. Reid's conception of duty seems less clear here than in other places. On the one hand, he understands that complexity renders an individual subjectivity to duty; nevertheless, his *telos* is the objective knowledge that supplies duty in everyday life. See Thomas Reid, *Essay on the Active Powers* (Chesnut Hills, MA: Ebron Classics, 2005), 640. See also Davis, *Thomas Reid's Ethics*, 75-76.

[90]Davis, *Thomas Reid's Ethics*, 80-81.

and it demonstrates itself in particular judgments, but this moral sense does not render a verdict of subjectivity.

Reid sees the moral sense embedded within humanity, not as a separate faculty but part of the constitution of human nature. It enables one to know what is right in order for one to do right.[91] These judgments are attributed to the moral sense, and they acquire objective moral features of the world:

> There is this analogy between [the moral sense] and the external senses, that, as by them we have not the original conceptions of various qualities of bodies, but the original judgments that this body has such a quality, that such another; so by our moral faculty, we have both the original conceptions of right and wrong in conduct, or merit and demerit, and the original judgments that this conduct is rights, that is wrong; that this character has worth, that demerit.[92]

Here one sees that Reid views the moral sense as one that renders moral conceptions and beliefs.[93] The moral sense is the application of active powers of the mind to moral matters.[94] It judges real relations between actions and the actor, and this is intrinsic to human nature. While this sense can be honed, it is not through this constructive apparatus that the moral sense is found. Rather, "[w]hen this perceptual ability is not impeded in its operations, it reliably produces warranted beliefs about moral reality."[95]

The moral sense aids in allowing the agent to see the world the way God designed. It presents judgments that fit with the constitution of human nature and creation

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[91]Davis, *Thomas Reid's Ethics*, 75. In this way, one might say that the moral sense is similar to conscience. Both present the agent with moral judgements. Reid even uses the moral sense and conscience interchangeably in his *Essay on the Active Powers*. See Reid, *Essay on the Active Powers*, 662-80.

[92]Reid, *Essay on the Active Powers*, 590.

[93]Robert Slecker, "Thomas Reid on the Moral Sense," *The Monist* 70, no. 4 (1987): 453-64.

[94]Davis, *Thomas Reid's Ethics*, 92.

[95]Ibid., 93.

itself. Moral insights provide a window into "God's necessary beliefs about real relations between existing individuals."[96] Understood as a realist enterprise, one can see how this framework may prove beneficial. If the moral sense is an application of the mind's active powers to moral matters, such a belief could prove serviceable to political matters as well. There is a relationship between how man is designed to function and what the moral sense renders appropriate or inappropriate in daily life. Reid's emphasis is that this model is clear even to the uneducated individual. The moral sense can be developed, but it is not only for those able to develop it.[97] Hence, its universal application suggests all are endowed with a moral sense and as such, may be aware of it. Appealing to a moral sense, which implies a judgment, renders an obligation to speak as the conscience permits. Opposing a policy prescription, for example, on the grounds of conscience would be acceptable to Reid. Common sense would not merely stop at this level, but it would not discount such objections or label them unreasonable on rational grounds.

**The Goal of a Politically-Influenced
Common Sense: Universal
Civic Participation**

The application of common sense to politics seems both warranted and helpful. For Reid, moral truths can be known. These moral truths are objective and not the product of sentiment or social construction—they are grounded in deep-seated first principles of human nature. To deny these principles is akin to becoming a madman, they are known *a priori* but are applied by the lenses of reason and conscience. This is not to

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[96]Davis, *Thomas Reid's Ethics*, 79. See also Keith Lehrer, "Thomas Reid on Common Sense and Morals," *Journal of Scottish Philosophy* 11, no. 2 (2013): 109-30.

[97]On the development of the moral sense, see Rebecca Copenhaver, "Reid on the Moral Sense," *Canadian Journal of Philosophy* 41, no. 1 (2013): 80-101.

say that reason and conscience are in conflict—conscience is an intellectual as well as an active power.[98] Rather, the former serves the latter in expressing what the latter judges to be right. Reason does not decide moral judgments; it communicates what is already known.

By extension, potential policies can be derived from them. This falls well within the framework Reid describes as the second office of reason. It is used in tandem with common sense principles. While the latter are not derived from reason, they are not in contradiction to them. As such, principles can be derived from common sense used by reason to ground a helpful deliberative outline in the political arena.

Thus, individuals are capable of potential legislative deliberation. The goal of Rawlsian liberalism is to delimit the influence of comprehensive doctrines because they harm to the overall project of stability. Common sense demonstrates that such concerns are unwarranted. Instead of working through arbitrary borders of reasonableness and rationality, common sense offers a conception that is tied intrinsically to human nature. Common sense helps to alleviate the schismatic effects found within Rawlsian public reason. The psycho-identity struggle is reduced as common sense does not call for an agent to suppress one's faith. Further, for many citizens an appeal to conscience is an acknowledgment of a supernatural source. This appeal is well-intentioned and a sufficiently-grounded assent and should be honored in deliberations. The faith-fidelity struggle is limited because the sincerity of one's public faith is not viewed as a hindrance

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[98]Scott Philip Segrest, *America and the Political Philosophy of Common Sense* (Columbia: University of Missouri Press, 2010), 48-49.

to political deliberation. Indeed, one would expect such assertions in the public square where the consideration of reasonableness is not delimited on subjective grounds.

Conclusion

This chapter suggests that Thomas Reid's common sense philosophy can provide a beneficial contribution to public deliberations. It has sought to do so by highlighting the crucial anthropological and moral grounds of common sense. In doing so, it has provided a window into which one can see the essential theistic grounds of common sense and how it can act as an alternative for public and political deliberation. It suggested that Reid's understanding of conscience provides a valuable contribution to political deliberations. Conscience is connected to a moral ground, and delivers judgments of right and wrong. These judgments are not grounded in social convention or sentiment, rather they are attached to first principles given to humanity by God. Conscience guides one's public affirmations and denials, and shapes an agent's moral code. When used in tandem with reason, the individual could make pronouncements on potential policies. Additionally, this chapter analyzed Reid's understanding of justice, concluding that it could be useful to policy discussions. Viewing justice as prior to social instantiation locates it within the contours of human nature. Justice becomes not merely instrumental but rather grounded in something deeper. Like the conscience, these are all provided by God and renders judgments in line with how He has made the world. The features of Reid' moral philosophy suggest that he viewed right and wrong as objective. Thus, the moral imperative behind this understanding is duty. Once moral truths have been judged correct, actions that follow from this judgment are oriented toward duty. Duty works for the completion of justice. This is a duty to God, self, and others. The

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moral sense aids the agent in seeing the world how God intended. Finally, the chapter

suggested that the goal of a politically-influenced common sense realism is universal

civic participation. That is, common sense can be applied to deliberations because the

features of this philosophy are useful to deliberation and civic participation.

What may help to solidify this belief is an analysis of common sense, both

historically and presently. What would common sense look like if applied to present

political struggles and issues? The next chapter is a hopeful attempt to explore these

realities.

CHAPTER 5

ILLUSTRATING A REIDIAN APPROACH TODAY

Introduction

The previous chapter demonstrated that Thomas Reid's common sense
philosophy as beneficial to political deliberations. Contra Rawlsian public reason,
common sense can offer a conception of political involvement that is available to all
while being properly restrictive. It is not that common sense provides no boundaries, but
rather that it suggests borders that are along the lines of the constitution of human nature.
It is perfectly reasonable to provide boundaries for deliberation, but not on the grounds of
Rawlsian reasonableness.[1] Instead, how individuals are structured and created provides a
more stable and just ground to rest political deliberation.

In order to demonstrate that Reid can offer beneficial illustrations to political
deliberation, it is important it see his philosophy appropriated before present day. To
accomplish this, surveying key interpreters might serve a beneficial role. Thus, this
chapter will first offer historical examples in addition to contemporary examples in the
hopes of seeing that Reid has always been keenly involved in the political arena.

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[1]It is important to note that Rawls is not wrong to want some form of border around policy
deliberation. Indeed, he is right to seek such a consensus. The question is whether or not he provides the
right kind of boundaries. Further, there are other definitions of reasonable that might serve to Rawls's end
without the harmful delimitation of comprehensive doctrines. Here one could have in mind the Reidian
emphasis by the Reformed epistemologists, especially Alvin Plantinga, of properly functioning cognitive
faculties. If those are not presenting, then restricting the boundaries of deliberation may be warranted. This
limitation is built around that which is consistent with a proper constitution of human nature. The rational
aspect of an individual is not preference over intuition, so much as they are seen as working in tandem. The
latter provides the initial impulse and the former provides the explanation. If these both are not in "proper
working conditions," it may seem justified in limiting civic discourse around these parameters. Alvin
Plantinga, *Warranted Christian Belief* (Oxford: Oxford University Press, 2000).

The first section will cover two historical figures, John Witherspoon and James Wilson. Both were signatories on the Declaration of Independence and advocates of common sense in their writings. Witherspoon provides a public political appropriation of common sense. Additionally, he integrates Christian theology with his public appropriation of common sense. Witherspoon did not see major conflict between common sense and revealed religion, suggesting present appropriation in a similar manner.[2] James Wilson provides a legal appropriation of Reid. In writings and in a Supreme Court decision, Wilson shows an indebtedness to common sense. This section will demonstrate that Wilson saw Reid's common sense as an advantage to legal and political philosophy.

Adoption of Reid's philosophy is not limited to the halls of American history, but also part of contemporary discussions on political philosophy and legal deliberation. Two contemporary figures, Hadley Arkes and Scott Phillip Segrest, are analyzed. The final section will transition to applying common sense to contemporary examples. The two cases, abortion and same-sex marriage, were chosen by virtue of their present importance and social awareness. This section will demonstrate that common sense can provide clarity to the issues surrounding these cultural touchpoints. A common senses emphasis on conscience provides a helpful defense of life against abortion rights. Further, it can provide a defense to a historic understanding of the institution of marriage. In the face of current legal changes in the latter, common sense could suggest useful categories to defend marriage.

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[2]That Witherspoon saw little conflict between the two should not be surprising. As the previous chapter demonstrated, the Princetonian Reid was a demonstrably different Reid from the Harvard Reid. The former institution saw little conflict between common sense and evangelical religion.

<h1 style="text-align:center">Historical Examples of Common
Sense Appropriation</h1>

John Witherspoon

An original signatory to the Declaration of Independence, John Witherspoon was a major influence for establishing common sense in American life. Witherspoon personified the Scottish common sense tradition in his writings. He applied common sense to the public arena in his writings, public lectures, and civil discourse.

Indeed, Witherspoon is a political embodiment of common sense. Whether it was writings in political life or moral philosophy, he stayed in close contact with common sense and sought to appropriate it to politics and the common good. As Scott Phillip Segrest writes,

> He is representative of founding [American] period thinking about human nature, social life, religion, law, rights and duties, which paralleled on all essential points the Scottish Common Sense understanding, and he applied this thinking directly to the political arena . . . [i]n the person of Witherspoon as in no other American we can see a common sense philosopher as a political practitioner.[3]

As President of New Jersey College (later known as Princeton University), Witherspoon gave lectures entitled *Lectures on Moral Philosophy*. Here he outlined, in the spirit of common sense in Hutcheson and Reid, an exposition of conscience and its relation to the public good. The *Lectures* became a central vehicle in disseminating Reidian thought throughout early American culture.[4] These lectures were crucial in establishing Witherspoon as a public appropriator of common sense philosophy to the

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[3]Phillip Segrest, *America and the Political Philosophy of Common Sense* (Columbia: University of Missouri Press, 2010), 64-65. See also Syndey E. Ahlstrom, "The Scottish Philosophy and American Theology," *Church History* 24, no. 3 (1955): 257-72, especially 261-62.

[4]To be sure, it was not that common sense was not found in early American life prior to Witherspoon; rather, he was articulating in writing what they had for so long assumed to be true. See Segrest, *America and the Political Philosophy of Common Sense*, 64-100; Knud Haakonssen *Natural Law and Moral Philosophy* (Cambridge: Cambridge University Press, 1996), 333-36; and Mark Noll, *America's God* (Oxford: Oxford University Press, 2002), 105-10.

political arena. Witherspoon, however, used common sense in more than just the *Lectures*.[5]

The Druid essays. Common at the time, Witherspoon wrote a series of essays under a pseudonym, which he named "Druid." Here, Witherspoon unpacked a common sense emphasis even more than in the *Lectures*. He teased out those principles and applied them to the political order. In these essays, he works through war, just war, and natural law.

The foundation of natural law, for Witherspoon, was conscience.[6] This emphasis is picked up from common sense's focus on conscience. For Reid and Witherspoon, conscience and the "laws on nature" were grounded in divine reality.[7] God gave both as a public witness, and conscience is strengthened by natural law. This fits with a common sense understanding of conscience, for it provides a context for liberty guided by divine and natural law.[8] Witherspoon takes this to be a critical step in describing a common sense relationship between natural law and human nature.[9]

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[5]The format of the lectures follow Francis Hutcheson's *System of Moral Philosophy* so closely that many have assumed that Witherspoon merely adopted full-stop a Hutchesonian common sense. This approach would be a mistake. While Witherspoon undoubtedly affirms aspects of Hutcheson's thoughts, when he disagrees, he aligns with Reid. Particularly with regard to moral knowledge and the moral sentiments, Witherspoon sounds decidedly Reidian instead of Hutchesonian. Segrest, *American and the Political Philosophy of Common Sense*, 65; and Susan Manning and Francis D. Cogliano, *The Atlantic Enlightenment* (Edinburgh: Edinburgh University Press, 2008), 71-73.

[6]John Witherspoon, "Lectures on Moral Philosophy," in *The Works of Rev. John Witherspoon*, 2nd ed. (Philadelphia: William W. Woodward, 1802), 3:367-70.

[7]Rather than be related to a mechanistic conception of the universe, the phrase "the laws of nature" in Witherspoon and in Reid denotes the natural laws that God has instituted for humanity. See also Haakonssen, *Natural Law and Moral Philosophy*, 333-36.

[8]Segrest, *America and the Political Philosophy of Common Sense*, 66-67,

[9]Witherspoon, *Works*, 3:432-33.

Witherspoon suggests a more explicit defense of common sense in the fourth essay. Here, he denotes that common sense is distilled into proper judgments. While being a gift of nature, common sense can be elevated and strengthened by proper education. Like Witherspoon, Reid believed such judgments to be an essential part of human nature and development. This "gift of nature" can be misused and misappropriated but both agreed that proper judgment finds its origin in common sense.[10] Witherspoon sees the *telos* of common sense as good judgment.[11] This end fits within the Reidian outline, for Reid expresses the idea that common sense is the grounds of proper judgment, and it provides necessary and proper borders for judgment.[12] Witherspoon, then, rests the argument in Reidian categories.

For both men, common sense is more than mere recognition of a power that receives ideas or impressions. Instead, within common sense an evaluation of those ideas and impressions are built. That is to say, it implies judgment.[13] Common sense becomes a needed arbiter between conception and judgment and this implies an evaluation of what it is assessing. Reid writes, "In common language, sense always implies judgment. A man of sense is a man of judgment. *Good sense is good judgment.* Nonsense is what is evidently contrary to right judgment. Common sense is that degree of judgment which is common to all men with whom we can convers and transact business."[14]

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[10]Witherspoon, *Works*, 4:447.

[11]Segrest, *America and the Political Philosophy of Common Sense*, 68.

[12]Thomas Reid, *Essays on the Intellectual Powers of Man* (Edinburgh: Edinburgh University Press, 2002), 428-30

[13]Reid, *Essays on the Intellectual Powers of Man,* 423.

[14]Reid, *Essays on the Intellectual Powers of Man.*, 424. See also Aaron Wilson, "Reid's Account of Judgment and Missing Fourth Kind of Conception," *Journal of Scottish Philosophy* 11, no. 1 (2013): 25-40.

So, while judgment is common to all men, not all exercise it with moral clarity, hence the need for educating toward the goal of proper judgment. Indeed, one aspect mentioned by Witherspoon of this education is the science of politics. If common sense provides the foundation for proper judgment, then this must be true for the political arena as well.[15] The necessary principles for proper judgment—common sense, conscience, etc.—are all necessary for quality statesmen.

Yet, what makes Witherspoon a fascinating character in early American life is his willingness to weave a synthesis between evangelical theology and common sense. This synthesis is not in contrast to Reidian principles. Rather, Witherspoon, like many before, saw common sense as a helpful apologetic to combat theological issues.[16] Indeed, Witherspoon does not shy away from his evangelical convictions. In *Lectures on Divinity*, he implores his students—all future ministers—to rely on Christ alone for salvation, to devote time to prayer, and for the theological knowledge gained while studying to be tempered with humility and tenderness.[17] Common sense and a robust evangelical theology are not, at least for Witherspoon, in conflict.

Like Reid, Witherspoon gathers his understanding of politics from ethics. The moral sense in Scottish philosophy was a conflation of conceptions where various thinkers thought differently on the matter. The moral sense in both Reid and Frances Hutcheson, for example, indicate an internal sense that is like the external senses. This moral sense relates a higher moral law. Relatedly, the conscience, like the moral sense, points to a higher law and Lawgiver and this is all prior to the agent reasoning. The significance of such an idea is paramount because it attaches Witherspoon to the broader

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[15]Segrest, *America and the Political Philosophy of Common Sense*, 68.

[16]About this, Witherspoon states that the best way to meet the "infidels" is on their own terms via reason alone. Witherspoon, *Works*, 3:270.

[17]Ibid., 1:11-13.

common sense tradition of conscience and the moral sense. These ideas are instantiated by reason or culture, but stand behind it. They may be clarified by reason, but they are not established within the confines of reason. The moral sense described here is Reidian, for it is the conscience that Witherspoon speaks of here. That is, he sees the moral sense in the language that the Scriptures labeled as conscience: "[The conscience] is the law which our Maker has written upon our hearts, and both intimates and enforces duty, previous to all reasoning."[18] Reid would assent to this as well, for conscience produces proper types of judgments that correspond with a moral sense of approbation or disapprobation.[19] In other words, conscience assists in the production of proper judgment.

This proper judgment becomes crucial because it is the statesman's foundation as he seeks to serve the common good in deriving policies that align with common sense. Indeed, the statesman is applying common sense to the public square.[20] The moral sense is crucial for Witherspoon's conception of ethical and political philosophy, for it is the ground of judgments. Judgments are those public actions that, via conscience and reason, present to the agent, and by extension society, the presence of obligation. The rational aspect of duty and obligation is presented after common sense has provided the agent proper judgment. Here, both Reid and Witherspoon agree.

For Witherspoon, common sense is a basis for civic duty and jurisprudence. When correctly understood, this is not a proto-pragmatism, but steadied application of what conscience demands. The law has more than mere legal dimensions; it also has

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[18]John Witherspoon, *Lectures on Moral Philosophy* (Bedford, MA: Applewood Books, 1912), 18.

[19]Keith Lehrer, "Reid on Common Sense and Morals," *Journal of Scottish Philosophy* 11, no. 2 (2013): 109-30.

[20]Terence Morrow, "Common Sense Deliberative Practice: John Witherspoon, James Madison, and the U.S. Constitution," *Rhetoric Society Quarterly* 29, no. 1 (1999): 25-47.

moral dimensions. Witherspoon ably seeks to show the benefits of common sense on political life.

John Witherspoon was not the only thinker during this era to have used Thomas Reid and common sense philosophy to advance a public and political conception of common sense. A young lawyer that served as one of America's first supreme court justices also appropriated common sense philosophy.

James Wilson

Also a signatory to the Declaration of Independence, Wilson was one of the first Supreme Court Justices in American History. Credited with being among the earliest attempts to develop a distinct legal philosophy, Wilson used Reid's thoughts in his writings and legal opinions. Two examples show that he can be viewed as a legal appropriator of Reidian common sense during this era.

First, in Wilson's *Lectures on Law*, a Reidian conception of rights and natural rights is developed. One of Wilson's central concerns was the status of rights. Wilson felt strongly that humanity was endowed with certain natural rights that existed prior to society, and these rights should be ratified and instantiated in law. Wilson takes aim here at men like Edmund Burke and Judge Blackstone, both of whom conceived of the idea of rights to be those that are provided by civil society. Wilson's concern here is whether or not rights have a status independent from social recognition. Does society derive rights? On the contrary, are rights provided from some other independent source? James Wilson lands in the latter category. He believed that rights are derived from human nature and not from societal conventions. Wilson sees grave danger in the ideas of Blackstone and Burke:

> If this view be a just view of things, then the consequence, undeniable and unavoidable, is, that under civil government, the right of individuals to their private property, to their personal liberty, to their health, to their reputation, and to their life, flow from a human establishment, and can be traced to no higher source. The

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connection between man and his natural rights is intercepted by the institution of civil society.[21]

Instead of providing deference to history, prudence, and rights like Burke and Blackstone, Wilson pushes back. These rights, according to Wilson, are universal and embedded within the constitution of human nature. They are *recognized* in the law, not *instantiated* in the law. This is a difference in assumptions between the two parties. Whereas Burke and Blackstone are assuming a spirit of British empiricism,[22] Wilson is arriving from two convergences: common sense and a Christianized interpretation of Cicero.[23] The latter was ubiquitous in early American life as was the former. From the latter, Wilson gained an argument about the essential rights of man prior to society, and these rights being necessary for government.[24] That this conception is founded upon the law of nature[25] is evident for Wilson and why he felt strongly about the conjectures of Burke and Blackstone. For Wilson, this was a discussion not merely about the law but about human nature. He was concerned that such rights delineated in Burke and Blackstone could be subjected to rational analysis and discounted or, at worse, discarded altogether.

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[21]James Wilson, *The Works of the Honourable James Wilson*, ed. Bird Wilson (Clark, NJ: The Lawbook Exchange, Ltd., 2005), 1:460.

[22]Joseph Pappin III, *The Metaphysics of Edmund Burke* (New York: Fordham University Press, 1993), 22-53.

[23]On the latter, see Daniel N. Robinson, "Do the People of the United States Form a Nation? James Wilson's Theory of Rights," *International Journal of Constitutional Law* 8, no. 2 (2010): 287-97.

[24]"As for Roman law—or, more broadly, the tradition of *ius commue—*the leading Founders knew the writings, not only of the natural lawyers, but also the primary works of Cicero and the Roman Historians" (William Ewald, "James Wilson and the Scottish Enlightenment," *Journal of Constitutional Law* 12, no. 4 [2010]: 1108).

[25]Recall that during this time and for the Scottish common sense philosophers, "law of nature" is equivalent to saying "natural law."

Wilson sees an intricate connection between human nature and rights assigned by God. They are universal to human nature. Indeed, they are not localized in one society or another, nor were they instituted by the contract of a particular people at a particular time. Instead, "the rights were there all along, and no government can claim validity or authenticity or fidelity of the governed unless it is based on this recognition."[26] The attempt to rationally instantiate human rights was something that Wilson would not stand for, and he finds a helper in Thomas Reid. Here he echoes Reid that agents choose myriads of things that are not rationally deliberated. Rather, they are givens that one takes for granted and acts without questioning or reasoning. This framework agrees with common sense, which is in accord with, as Cicero says, the "law which is not written, but inborn."[27] Wilson, then, is following Reid in forming natural law and common sense into a coherent public philosophy.

Additionally, Wilson expresses Reid's conception of the moral sense nearly verbatim. Wilson writes that he knows obligations because of the will of God. He rhetorically asks how one knows the will of God. Wilson answers that his moral sense or conscience informs him. Here one sees a commitment to Reid's understanding of obligation, judgment, and the moral sense. Conscience informs *objective* judgments that render moral obligations on behalf of an agent. This conceptualizing is a commitment to

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[26]Robinson, "Do the People of the United States Form a Nation," 291.

[27]Cicero, *Pro Milone*, 10, quoted in *Brill's Companion to the Reception of Cicero,* ed. William H. F. Altman (Boston: Brill, 2015), 141.

first principles and a commitment to the moral sense. Both are strikingly similar to Reid.[28]

Wilson applies Reid more specifically in a Supreme Court case. In one of the first cases in American history, *Chisolm v. Georgia*, Wilson cites or alludes approvingly to Reid on multiple occasions. The case involved the state of Georgia and Alexander Chisolm. Georgia had purchased supplies from a gentleman from South Carolina, which they never paid in full. The gentlemen passed away but the executor of his estate, Alexander Chisolm, sued Georgia for payments owed to the estate. The state of Georgia denied their need to execute the payments because they were a sovereign state, which was not subject to federal courts. Additionally, Chisolm was not a resident of Georgia, and the state posited he had no legal claim. The case was argued before the Supreme Court and, by a vote for 4-1, it ruled in favor of Mr. Chisolm. Sovereignty, the court would state, rests with the people and not with any entity like a state. Wilson's opinion is most remembered. It was careful and clear. One of the passages reads like this:

> This is a case of uncommon magnitude. One of the parties to it is a State; certainly respectable, claiming to be sovereign. The question to be determined is, whether this state, so respectable, and whose claims soars so high, is emenable [sic] to the jurisdiction of the Supreme Court of the United States? This question, important in itself, will depend on others, more important still; and may, perhaps, be ultimately resolved into one, no less radical than then: "Do the people of the United States form a Nation?"[29]

In answering this question, Wilson states that he will investigate it on three grounds. First, Wilson begins his legal philosophy primarily from the grounds of first principles of

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[28]Ian Bartrum, "James Wilson and the Moral Foundations of Popular Sovereignty," *Buffalo Law Review* 64, no. 2 (2016): 225-304.

[29]*Chisolm v. Georgia*, 2 U.S. (2 Dall) 419 (1793).

jurisprudence. He posits that the grounds for further inquiry into the case must first start on a foundation that can be built upon. This is true, Wilson believes, not merely for this case but for future cases. In the first section of the investigation, Wilson cites Reid approvingly. But before he cites Reid, Wilson provides a long string of superlatives in reference to him. Wilson cites Reid to demonstrate that an imprecise use of language can be detrimental to a cause. Like as philosopher's imprecise use of the theory of ideas, the concept of sovereignty would bring about deleterious causes among the people of the United States. If the state were allowed to render itself sovereign, the will of the people and their natural rights could be trampled. Thus, the necessity for an understanding of sovereignty and its relationship to the people was needed. This called for needed clarity in language and found the principle for it in Reid.[30] Here, a requisite for first principles as grounds for further inquiry was needed, and in one of the most important cases in early American life, Wilson goes to Reid to find his first principles.

Additionally, a Humean conception of justice is rejected by Wilson in favor of Reid. First principles of jurisprudence only work when it is assumed that such principles exist prior *to* legal institution. Wilson's emphasis on searching first for a first principle of jurisprudence indicates his understanding of legal justice accords with Reid. For, both men understood justice to be executed in society but not created within societal norms. The proper instantiation of justice echoes the moral law embedded within creation and human nature. Justice is a positive recognition of the individual rights that reside intrinsically within each person as moral agents. Government, then, becomes not the foundation but the fruit of recognizing the rights of individuals. Reid says it like this:

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[30]Bartrum, "James Wilson and the Moral Foundations of Popular Sovereignty," 230.

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> If we had no confidence in our fellow men that they will act such a part in such circumstances, it would be impossible to live in society with them: for that which makes men capable of living in society, and uniting in a political body under government, is, that their actions will always be regulated in a great measure by the common principles of human nature.[31]

A good society—and by extension good law—is the product of proper judgments. Here one notices a crucial connection between the two men discussed above, and Thomas Reid. All three see common sense finding its emphasis in proper public judgments. These judgments are attached to conscience and the moral sense, but all three understood these ideas to render judgments about objective moral realities.

To be sure, James Wilson provides a cleaner line of Reidian heritage than Witherspoon, yet both of them provide a unique perspective to see how, historically, common sense was helpful to political and legal life. Rather than being a burden to political deliberation, common sense provided clarity.

Yet much has changed since the nascent stages of the American experiment and one could fairly interject that the days of a shared cultural consensus that influence how individuals see the world are gone. The question as to whether common sense can have a current influence on cultural and political life is both fair and right to ask. This next section suggests the answer to this question is yes.

Contemporary Examples of Appropriating Reid for Political Philosophy

Two individuals will be discussed here that have used common sense philosophy in their thought and writings. Though neither would likely consider

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[31]Thomas Reid, *Essays on the Intellectual Powers of Man*, ed. Derek Brookes (State College: Penn State University Press, 2002), 488.

themselves "Reidian" in orientation, their use of Reid demonstrates that common sense was not just a ubiquitous enterprise in early American life, but it be applied to our current cultural climate.

Additionally, two test cases will be used to show what common sense may look like when applied to contemporary issues. How would one make a common sense case against abortion or same-sex marriage? Appeals to conscience and reasoning in relationship with epistemology show that common sense provides a helpful framework through which one can work through these issues.

Hadley Arkes

A professor at Amherst College, Arkes has been writing on political science and philosophy for a long time. His appropriation of Reidian thought comes through the framework of natural law. Arkes finds a friend in Reid because of a shared moral realism, and common sense's recognition of moral truths that transcend legal and social instantiation. While there are several sources worth exploring, this section will choose two in particular—an essay in the *Notre Dame Law Review* and his book entitled *First Things.*

Notre Dame Law Review. On being named the new Director for the Center for Natural Law, Arkes took the moment to appeal to jurists—conservative and liberal alike—to view the constitution in light of natural law. The aim of the essay was to expose the folly of contemporary originalism. It is built, says Arkes, upon a faulty premise about the nature of disagreement in law.[32] The weak lynchpin is the suggestion that

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[32]Hadley Arkes, "A Natural Law Manifesto or an Appeal from the Old Jurisprudence to the

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disagreement about the foundation of the law amongst conservative jurists and scholars implies universal disagreement. That is, many take the lack of agreement amongst legal scholars as evidence of no consensus.[33] Arkes rebuffs such ideas, emphasizing that lack of disagreement says nothing about the veracity of the propositions in question. Their objections do not validate the skepticism of natural law in jurisprudence.

Instead, the originalism that Arkes proposes is a recognition of first principles upholding the constitution. In effect, there needs to be a recognition that doctrines within the constitution are not created in a vacuum nor on their own terms. Instead, they stand beyond the constitution itself, as first principles. Indeed, these principles are what provide clarity to particular disagreements. Appeals to merely the text of the constitution cannot resolve the conflicts of opinions; instead, one must go behind the text.[34] This is where first principles are beneficial to the deliberative process. Arkes appeals to first principles of natural law for the foundation of this deliberation.

Indeed, these principles of natural law are so intrinsic to human nature that they may be viewed as intuitive. Here Arkes cites Thomas Reid as a helpful example. He writes that the principles of natural law that stand behind the constitution are so intuitive they bring about little disagreement. He considers Reid's principle that humans do not hold people accountable for actions they were powerless to affect.[35] Arkes notes that this

New," *Notre Dame Law Review* 87, no. 3 (2012): 1245-76.

[33]Arkes, "A Natural Law Manifesto," 1252.

[34]Ibid.

[35]Ibid., 1252-253. Here Arkes cites Reid, *Essays on the Active Powers* (Cambridge: MIT Press, 1969), 361.

type of principle has established our deliberation in legal cases of insanity pleas, discrimination, and the like. Yet, this type of thought is not clearly delineated in the constitution itself. Rather, it stands behind it and provides a framework for interpretation of the text based upon statutes and principles that are part of human nature. These principles are true before the text arrived. Arkes writes, "Axioms of this kind have been so woven into our law that we often fail to notice them any longer. But they stand as striking evidence that the deepest principles of the law do not in fact inspire a deep division in our country. They are understood readily by ordinary people, and are not regarded as inscrutable even by lawyers."[36] Like Reid and common sense, Arkes believes that natural law states one has to understand what principles are guiding law before one can claim to know what laws are. There are things known in moral judgments that could not be otherwise, and these principles affect the way one decides legal deliberations. The axioms taken for granted are grounded deeply in human nature, and affect how we function individually and societally. Arkes's appeal is for conservative jurists and legal scholars to recognize these axioms and the impact they have on our legal philosophies. The lack of acknowledgement says nothing about the fundamental nature of the actions; rather, it merely shows that these axioms are intuitive to human nature. In effect, Arkes is making the case that the constitution has a foundation that stands beyond the mere document itself. Reid is helpful to Arkes in revealing the clarity of that foundation.

Arkes, like Wilson, sees in Reid and common sense a dependence upon first principles that proves vital for legal deliberation. As in *Chisolm v. Georgia*, Wilson

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[36]Arkes, "A Natural Law Manifesto or an Appeal from the Old Jurisprudence to the New," 1253.

presses first for a guiding principle that aligns with human nature. Arkes appeals as well to first principles that originate in judgments. The original jurists, contrasted with modern jurists, would "trace their judgments back to first principles, to the principles that were usually not mentioned in the Constitution, because they were the truths that had to be in place before one could even have a constitution or regime of law."[37] The essay indicates this needed emphasis, but Arkes has an additional work wherein Reid is approvingly cited.

First Things. In *First Things,* Arkes seeks to outline the necessity and implications of first principles for law and politics. He writes that the difference between understanding this framework of moral deliberation and viewing politics as a realm where morals can be delineated and judged is crucial. For, in the former, one arrives at moral first principles and applies those to politics. On the latter, one assumes some form of disagreement about moral norms or their application to political life, which means there is no consensus on moral matters. This is a crucial mistake. To be sure, this sounds similar to Arkes's point in the essay. He goes deeper in *First Things,* however, expounding on the moral foundations of law and policy.

Arkes opens this work with an appeal from James Wilson, who cites Thomas Reid. Arkes suggests that Wilson is upholding a long-held tradition of sincere moral reflection in relation to law. Wilson understood that proper legal philosophy will only stand the test of time if it is established on something beyond itself. Reid's common sense understood this, and Arkes uses it to build the framework for his argument in this work.

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[37]Arkes, "A Natural Law Manifesto," 1254.

He stresses that first principles in law are as important as first principles in moral reasoning. While the two are not coterminous, they are related. Arkes writes of Wilson that his judgment "would insist on the possibility of moral understanding and the existence of moral truths as the only intelligible ground on which men, anywhere, could claim the authority of office and presume to render judgments that were justified and binding."[38] The question arises as to why he chose Thomas Reid to springboard this project. Arkes answers by stating that Reid stands in an important place in a tradition that made serious the notion of first principles in morals and law.[39] Reid and Wilson's awareness of moral truths, and a desire to stand their ground, should provide an advantage for current intellectual and educated individuals that they can stand within a tradition of reasoning that is aware of moral truths.

Additionally, Arkes invokes Reid to show a relationship between morality and the law. Like his previous essay, Arkes hopes to show that foundational principles of reasoning undergird the structure of the law. This endeavor is not an explicitly constitutional case, but Arkes attempts to show that mere feeling cannot be the grounds of judgment, especially in relation to law. When an agent makes judgments about a particular thing, says Arkes, some form of standard lies beyond the verdict. This standard is "accessible to others as well as ourselves, which allow these people to know that what they are doing is wrong."[40] Thus, Arkes suggests that it would be inconsistent to get upset

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[38]Hadley Arkes, *First Things: An Inquiry into the First Principles of Morals and Justice* (Princeton, NJ: Princeton University Press, 1986), x.

[39]Arkes, *First Things*, x.

[40]Ibid., 22.

on subjective or emotive grounds for moral disagreements. There can be no ground for judgment except the individual's own perspective.[41]

Further, judgments can only be designated as such when a standard can be known. Propositional knowledge of judgments is necessary. Arkes clearly appeals to a more didactic and natural law component, but he finds Reid enlightening here. Reid writes in his *Essays on the Active Powers* about the distinction between feeling and thinking and Arkes cites Reid as support for the idea that feelings cannot be the primary grounds for law and judgments. The former cannot be verified by proposition because it cannot be made into propositions. That is, feelings are always present in degrees. Thinking, on the other hand, revolves around judgment because it includes propositional knowledge that can be true or false. These judgments are only justified when known by deliberative thought.[42] Thus, judgments rendered from emotion can only be in relation to how the agent has been affected by his or her emotions, not on the judgments of the statements made. In other words, approval or disapproval of an action requires more than sentiment and feeling. It requires the agent to engage in propositional knowledge of actions. Judgment is derived from sources and feelings or sentiment cannot provide the positive grounds for moral, and especially, legal reasoning. Arkes states,

> When we invoke the language of morals, then, we move away from statements of personal taste and private belief; we offer a judgment about the things that are universally right or wrong, just or unjust. And once we are clear that the logic of morals must incorporate the sense of a true judgment that is universal in its reach, the connection between the logic of morals and the logic of law virtually establishes itself.[43]

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[41]Arkes, *First Things,* 22.

[42]Ibid., 22-23.

[43]Arkes, *First Things*, 23-24.

The law has its origins in morality and this requires judgments. Arkes approves of Reid for his insistence on the existence of necessary truths and their morality. Reid is brought forth for clarity in first principles. One knows, says Arkes, the existence of these intuitively and does not need rational demonstration in order to justify their existence or ground legal reasoning in their veracity. They are principles as true as mathematics or physics.

Arkes's use of Reid shows that even a long-standing tradition like natural law can appropriate common sense into its thinking, and, in many ways, the two traditions are similar. The broad theistic foundations of both natural law and common sense become helpful interlocutors in a culture that has a distrust of foundations. Further, common sense proves useful in response to legal philosophies that gives preference to sentiment over moral judgments. In effect, Arkes believes Reid demonstrates the fruits of a tradition that has withstood the test of time, even if it is currently out of step with cultural assumptions. To put another way, he believes that common sense can be beneficial to current attitudes in legal philosophy.

Scott Philip Segrest would agree, though he would expand the emphasis. Segrest, a political science professor at The Citadel, appeals to Reid and other common sense thinkers to show the applicability of common sense to moral and political life. Segrest believes common sense can be a help to political culture in America and that its use needs to be reimagined.

Segrest writes that Reid could be described as a latter-day Aristotle.[44] In addition to these ideas being prevalent in Reid, the notion of a common humanity

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[44]See also Wayne N. Thompson, "Aristotle as a Predecessor to Reid's Common Sense,"

manifested in basic rationality and common sense hearkens back to Aristotle. Indeed, as

Segrest writes, the delicate balance that Reid offers in his *Essays on the Intellectual*

Powers between the two offices of common sense reflect Aristotle's branches of reason,

nous, and *dianoia*.[45] For Reid and Aristotle, the use of the former is an intuitive

understanding of the world and its first principles. The latter was used when an agent

would take what was gathered via the *nous* and develop arguments grounded in first

principles. Politics is derived from these principles but deliberated through the second

office of common sense. Indeed these ideas lean toward the practical—moral and

political—notion of common sense. This is similar to Aristotle and Segrest notes this

implication. Understanding both first principles and the expression of contingent truths,

are, says Segrest, of profound importance for politics.[46] The necessity of moral truths and

first principles attached to them become paramount.[47]

Yet Reid is different from Aristotle and other moralist thinkers, says Segrest.

His emphasis on the conscience makes humanity less of a rational animal than the

Aristotelian image portrays. For Reid, conscience is both an intellectual and active power

that it judges as well as moves. This shows Reid to be distinct from his ancient

predecessor and brings a moral aspect to human reasoning that falls to the background in

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Speech Monographs 42, no. 3 (1975): 209-20.

[45]Segrest, *America and the Political Philosophy of Common Sense*, 45.

[46]Ibid.*,* 48.

[47]Additionally, an agent's expression of harm and their protection from it are bound up in all of societal laws. Segrest, *America and the Political Philosophy of Common Sense,* 48. Segrest quotes the same principles that Arkes does in his essay in the *Notre Dame Law Review.* The awareness of both, independently from one another, demonstrates the importance of Reid's common sense to political and legal culture.

Aristotelian thought.[48] Further, Reid brought clarity to the judgments required in practical

ethics. That is, he provided an awareness that moral approval of an action requires

judgments that must be designated as true or false. As Segrest notes,

> Reid seems to think that adherence to moral obligation is as crucial for the
> philosopher's attainment of moral excellence as it is for the man of humble capacity
> . . . . We do not merely apprehend the image of a table but judge it to exist
> independently of us; in like manner, we don't merely apprehend moral qualities
> (greed, kindness, and so on) but judge them to be good or bad, right or wrong.[49]

This framework comports with natural law theory as well. Like Arkes, Segrest

emphasizes Reid's ideas as favorable to natural law. Both adhere to first principles that

are pre-rational, both consist of conceptions of humanity that stand beyond mere social,

and both understand that contingent truths are bound up in first principles that make those

truths capable of being known.[50] As Segrest writes, "These necessary and contingent

principles are the rudiments of natural law,"[51] and one finds this in both natural law and

common sense.

Likewise, they share a common awareness of first principles bound up in a

shared constitution of human nature. This joint understanding provides a normative basis

where necessary and contingent truths are known. For Reid the awareness of these truths

relates to their end, which is moral obligation and duty. This is, says Segrest, one of the

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[48]Segrest, *America and the Political Philosophy of Common Sense*, 49.

[49]Ibid.

[50]Segrest uses the example of rational speech. This essential function of humanity without
which community is not possible is bound up in a first principle that human beings are capable of such
actions, and that language is used by the community as signs that all can understand. These are first
principles that guide the contingent truths. The contingency is attached to the idea that they flow from first
principles. Segrest, *America and the Political Philosophy of Common Sense*, 50.

[51]Segrest, *America and the Political Philosophy of Common Sens*e, 51.

key ways where Reid differs from Aristotle. While both saw man as a political animal, Reid saw that Aristotle's emphasis lacked the requisite impetus for duty and obligation.[52] Among these obligations is a pursuit of justice, a natural virtue framed by the constitution of human nature.

The Scottish philosophers treated natural law under the framework of jurisprudence and emphasized that justice is natural instead of a social construct driven by convention.[53] If justice is defined by utility it will make statements of obligation without a foundational framework to warrant justification. If justice is defined as a natural virtue, however, then it is designated as a right to humanity. For, a denial of justice would be a denial of a natural right. Segrest sees this conception as comporting with natural law as well: "Natural rights imply a natural law,"[54] which implies that government should work to secure such rights. Indeed, the "rights of the people imply a corresponding obligation on the part of human government to respect those rights and persevere their enjoyment, and obligation implies law."[55]

This picture of justice, natural law, and natural rights is profoundly different than present discussions about rights. Common sense, as Segrest notes, does not do what modern philosophy and rights theories do, namely, reduce man to a clever animal guided

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[52]Segrest, *America and the Political Philosophy of Common Sense*, 52-53.

[53]Ibid., 54. See also Knud Haakonssen, "Natural Jurisprudence and the Theory of Justice," in *The Cambridge Companion to the Scottish Enlightenment*, ed. Alexander Broadie (Cambridge: Cambridge University Press, 2003).

[54]Segrest, *America and the Political Philosophy of Common Sense*, 55.

[55]Ibid., 56.

by reason.[56] Instead, it stands as a judgment to those theories by positing conceptions of reality than cannot, on secularism or materialist terms, account for their existence. These principles are as relevant today as they were when Reid first articulated them, and both Arkes and Segrest demonstrate how well-established common sense is, and applicable to the present.

Test Cases

Given the historical and present exploration of common sense applied to politics, this section will set forth two separate test cases of how common sense may be situated in the current stream of American political thought. These two cases were chosen because of the enormous space they presently occupy in American culture and political life.

Abortion. Since its legal inception in 1973, abortion has served as a cultural marker that shapes political discourse. For decades, where one stands on this issue sets conditions for how one will vote, for whom one will vote, and for what types of policies one would agree to implement. Common sense philosophy could provide a bolster to the pro-life defense by validating three areas where common sense speaks clearly: conscience, morality, and identity.

First, common sense can speak from conscience. Objections to abortion rights can begin by stating the proposition that abortion is an unjust killing of an agent that has no say in the matter. People, as Reid would note, intuitively frown upon this type of action. Consider the legal rights and privileges afforded to an individual through due

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[56]Segrest, *America and the Political Philosophy of Common Sense,* 57.

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process. A citizen's right to be prevented from negative harm by an agent or the state is implied in the Fourteenth Amendment of the Constitution. The support of these rights extends to every American citizen. The relationship between the size or location of the agent and the protection of these rights should be considered irrelevant. Further, if one considers abortion to be a wrong placed upon an agent that has no say in the matter, and that they would not choose to be killed, then the fetus in the womb that is wronged. In this case, there is a legal argument in making a distinction between the legal killing of an agent and the unjust killing.

Consider also that the ground for abortion is often framed as a wrong being imposed by the child. For example, if the woman has the child, financial catastrophe will befall her. Or, the child will be stigmatized from lack of desire to be kept by the mother. Thus, the mother aborts the child. Here, the justification for elective abortion can be distilled into an argument of convenience. In some way, the choice of retaining the child prevents the mother from continuing in her current path of life or causes her to detour it severely. As the current legal status of abortion stands, this is enough justification to continue on with the act of terminating the pregnancy.

Reid proves instructive here and the principles underlying common sense can help provide clarity. The distinction between a correct killing of an agent by the state and unjust killings are two different things. Consider again Reid's principle that one does not hold people responsible for actions they are powerless to affect.[57] We do not punish when it is not within the agent's ability to prevent the action. But the state in its current

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[57]Reid, *Essays on the Active Powers*, 361-63.

manifestation of arguments for abortion seems to lump the mother into this type of category. The mother *does* have the capability to consider other rational options instead of abortion. The mother *does* have the potential within her to choose a decision that does not lead to aborting the fetus. Reid's principle speaks, as Arkes was right to note, to cases where individuals are *incapable* of coming to any other decision but the one they decided. That is, this principle is used to acquit an individual from legal prosecution. Current legal philosophy seems to place the mother under this umbrella, but it is not entirely certain that this framework is optimal.

Further, Reidian conscience provides a strong reinforcement against abortion rights. Consider that, for Reid, conscience is aligned with a moral ground not constructed by social conditions or sentiment. Rather, they are built by God to actualize true moral judgments about the world. In this case, conscience can safely render a judgment of wrong in relation to abortion. When the conscience speaks about a clear moral judgment, one should follow accordingly in denouncing it. Common sense delivers a judgment of abortion as morally troublesome.

Further, it is a sure and trustworthy guide in this world. Conscience provides a verdict of dignity to an individual agent, it delivers honor and respect regardless of developmental size or location of the agent in question. To see further, it is necessary to explore morality as well.

Morality. Reid's distinction between particular moral facts and general moral facts may prove helpful. Reid makes a distinction between general moral facts, which are necessarily true, and particular moral facts, which are in some way contingent. They are contingent because they depend on judgments provided by general moral facts. A general

moral fact would provide a judgment of "one should not murder." A particular moral fact would deliver a judgment of "in this particular instance, one should not murder." That a particular murder would be understood as instantiating from the other.

Further, this particular moral wrong is "existentially independent" of the situation or circumstance.[58] The term signifies that moral truths stand beyond an individual or social condition. Thus, the situation does not determine the morality of an act so much as its alignment with a general moral fact, in this case the murder of an innocent fetus in the womb. This, then, becomes problematic for abortion arguments driven by circumstance and situation. Consider, for example, the case of unwanted pregnancies. The argument states that the fetus should be aborted on the grounds that it is a child that is unwanted because of hardships or inconvenience.[59] Thus, because of a particular situation, the general moral fact of "one should not murder" is ignored for a higher principle of inconvenience. Reid's understanding of morality, however, would render this judgment false. It takes into account particularized situations and particularized individuals, but it does not account for the general moral fact that murdering an innocent person would be wrong. It makes it even more troublesome when the interlocutor becomes someone like Judith Jarvis Thomson, who openly admits that the fetus is a person, but does not think such a designation provides it with an equality of rights with the mother.[60] Common sense would respond and say that such a judgment

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[58]Terence Cuneo, *The Normative Web: An Argument for Moral Realism* (Oxford: Oxford University Press, 2007).

[59]J. P. Moreland and Scott Rae, *Body & Soul: Human Nature & the Crisis in Ethics* (Downers Grove, IL: Intervarsity Press, 2000), 242. On the inconvenience argument, see Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy & Public Affairs* 1, no. 1 (1971): 47-66.

[60]Ibid., 47-48.

misses the connection between general and moral facts. They work in tandem to render true decisions about real moral understandings, and this work arises from conscience.

So, when morality and conscience coalesce around a judgment for abortion, it will almost assuredly render it wrong. It is the unjust killing of an agent that cannot otherwise act on its own behalf, it preferences particular judgments at the expense of general judgments, and it singes the conscience. Reid, however, would also render abortion false because of his understanding of a human person.

Reid's understanding of the person and personal identity through time is helpful as well. This type of reasoning can provide an additional buttress against abortion arguments as well. In essay III of *Essays on the Intellectual Powers*, Reid calls into question a Lockean understanding of personal identity over time.[61] Locke emphasized that an individual's personal identity is connected to the person's awareness of memorial experience. The identity of the individual is related to consciousness in so far as the agent can recall a conscious experience. To that degree, the individual currently can be identified with the agent in the past. Thus, Locke imagines the ground for personal identity by an individual retaining consciousness between previous and current. If an agent remembers the occurrence of an act, he is then the same individual. If he does not retain the memory, he lacks the ability to state that he is the same person. Reid responds with common sense. In effect, he states that it is absurd to think that an individual's identity is so intricately tied up with memory. Reid says,

> Identity in general I take to be a relation between a thing which is known to exist at one time, and a thing which is known to have existed at another time. If you as whether they are one and the same, or two different things, every man of common

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[61]Reid, *Essays on the Intellectual Powers*, 346-50.

sense understands the meaning of your question perfectly. Whence we may infer with certainty, that every man of common sense has a clear and distinct notion of identity.[62]

The idea that a person's identity is in some way related to memory is undeniable. The question at hand is whether or not identity is bound up in memory or a feature of it. Locke seems to answer the former in the affirmative, while Reid affirms the latter. Common sense affirms an awareness of identity but it is a component of an agent's identity rather than constituting an agent's continual identity.

The implication of Reid's conception of memory over time can be delineated to a larger proposition that fits within the common sense outline: human beings are not reducible to their bodies.[63] That is to say, humanity is more than a collection of parts, one of which being memory. Instead, they are a constitutive whole of experiences that may change over time, but the individual who experiences them is the same. This is a crucial distinction between Lockean and Humean conception of a person's identity. Reid writes, "When a man loses his estate, his health, his strength, he is still the same person, and has lost nothing of his personality. If has a leg or an arm cut off, he is the same person he was before. The amputated member is no part of his person."[64] This suggests a common sense understanding that an individual is more than collections of characteristics and qualities. No doubt imagining the Humean bundle theory of self, Reid elaborates on his conception

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[62]Reid, *Essays on the Intellectual Powers*, 344.

[63]Rene van Woudenberg, "Reid on Memory and the Identity of Persons," in *The Cambridge Companion to Thomas Reid*, ed. Terence Cuneo and Rene van Woudernberg (Cambridge: Cambridge University Press, 2004).

[64]Reid, *Essays on the Intellectual Powers*, 345.

that a person known they have existed in two different times. For Reid, common sense delivers a judgment of the same human being for both occasions.

This type of argument can prove fruitful when discussing abortion arguments. Consider that much of the abortion discussion can be distilled into how the individual views a human being, and, by extension, the fetus. Many of those arguments will focus on person being comprised of mere *functional* status. That is, if the person functions like a human being and exhibits some form of pre-conceived qualities and characteristics, the agent is a person. When a fetus, for example, does not exhibit such qualities they can be designated as expendable. This kind of thinking fits well within the framework of a Humean understanding of the person. These characteristics are not substantially independent from the agent, but rather comprise the agent itself. Thus, if the characteristics are not present, then the agent is not present—or at least not fully present.[65] Reid's response to such a view is poignant and points to the larger project of common sense. This theory of the self is grounded in a skepticism that common sense would deem irrational. Recall that Reid believes one is obligated to take common sense first principles for granted. In doing so, one starts with the assumptions about human nature that Humean skepticism would explicitly deny. In other words, the downstream conception of human nature as a collection of characteristics has as its fountain a philosophical skepticism that common sense finds dangerous. Reid's worry of skepticism being a moral problem as much as an epistemological one proves true. Bundle theories of self are part of the abortion argument, and thus the project of common sense helps to

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[65]David Hume, *A Treatise on Human Nature* (Mineola, NY: Dover Philosophical Classics, 2003), 180. For a defense of this concept, see Nelson Pike, "Hume's Bundle Theory of Self: A Limited Defense," *The Monist* 2, no. 1 (1969): 159-65.

delineate the problems with such assumptions. Reid centers his conception of a person in *what they are*, not primarily in *how they function*. The difference between the two is the difference between justifying abortion because of lack of present characteristics, and the protection of life because the agent is not merely comprised of functionality.

Same-sex marriage. Same-sex marriage (SSM) is, before it is anything else, a resituating of a conception between a contract and a vow. It centralizes the arguments about marriage into a legally binding contract between two assenting agents based derived on feeling or sentiment. Reid's common sense could serve as a helpful arbiter here as well.

Reid's common sense distinction between feeling and moral judgment may provide a helpful pushback to marriage as focused on sentiment and emotional attachment, instead of a vow between two particular types of agents that can fulfill their obligations.[66] Contractual agreements are between two agents with their own self-interest as the principle concern. Related to SSM, this means that marriage entered into from a contractual assumption is entered into with the primacy of emotion and sentiment as a first concern. The problem with such a sentiment is the volatility of human emotions. Marriage centered on a contractual agreement grounded in emotion or sentiment will be very easy to dispel. A vow, however, is not merely a self-centered assent. It is an

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[66]John Witherspoon suggests that breaking an oath or, in this context, a vow brings about serious consequences to the individual. "An oath," he writes, "is an appeal to God, the searcher of hearts, for the truth of what we say, and always expresses or supposes an imprecation of his judgment upon us, if we prevaricate. An oath therefore implies a belief in God, and His providence, and indeed is an act of worship." John Witherspoon, "On Oaths and Vows," in *Lectures on Moral Philosophy*, ed. Varnum Lansing Collins (Princeton, NJ: Princeton University Press, 1912), 130. While there is a common distinction between an oath and a vow, in the context of marriage, the two are related. See Herbert J. Schlesinger, *Promises, Oaths, and Vows: On the Psychology of Promising* (New York: Taylor & Francis, 2008).

agreement between two agents and others to hold the agents accountable, it is a sacred

entrance, and breaking such a vow is a stain not merely on the agent, but the community

as well. Reid understood this, and saw that judgments made through sentiment are not

nearly as binding and obligatory as those entered into to fulfill an obligation.

Indeed, the intuitive function of common sense can be a powerful

demonstration of SSM being counterintuitive. That is, the *moral grammar* derived from

common sense that Reid offers can be said to demonstrate the possibility of society's

prescriptions against instantiating homosexual marriage as legitimate. Just as Reid

believed a natural language presupposes acquired language, so moral grammar of

common sense reveals moral first principles.[67] Natural law and common sense can work

powerfully in tandem here, as both can stress the necessity of practical reason and

implication for social norms. Common sense pursues the goods of society on the grounds

of how humanity is constituted. This framework is also well within the confines of

natural law theory. Both would state, in different terminology, that same-sex marriage is

an aberration of the goods of marriage and life.[68] The regulation of sexual behaviors by

all societies can be traced back to some form of common sense first principle. They

speak, in experiential form, what is known metaphysically from common sense.

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[67]Just as there must be an assumption from artificial language to attach certain meanings to signs, so does the penchant to assign specific moral truths assume a moral structure than stands beyond the individual. See John Turri, "Reid on the Priority of Natural Language," *Canadian Journal of Philosophy* 41, no. 1 (2014): 214-23.

[68]John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 2000), especially, 23-97.

CHAPTER 6

CONCLUSION

This dissertation provided a critical analysis of Thomas Reid's common sense philosophy as a potential response to John Rawls's concept of public reason. It made the case that Rawlsian public reason harmfully excludes religiously based comprehensive doctrines. Further, it sought to demonstrate that those comprehensive doctrines can provide a beneficial contribution to civic society.

Additionally, it showed the harm of public reason to deliberations and to the individuals that do not assent to public reason. They are, in effect, bracketed out of deliberations. This forces religious citizens to consider limiting their epistemological theological fidelity in order to ascribe to political liberalism. The gate to deliberation is through public reason and if an agent does not assent to it, he or she is delegitimized in deliberation.

Common sense suggested that the concerns Rawls has about effects of comprehensive doctrines are weakened. While it is true that there are comprehensive doctrines that may be by nature oppressive, it is not because they are a comprehensive doctrine. Rather, it is because of the features within the comprehensive doctrine. That is, the issue is with their beliefs, not the structure. Common sense's insistence on first principles and the belief that they are instantiated before rational inquiry, provides a foundation within agents for deliberation. Common sense does not provide an arbitrary framework of delimiting individuals. ; rather, the limitations drawn are outlined through a critical anthropology that considers the whole person.

Further, Reid's common sense has a *theological* underpinning. This suggests that even a clear *religious* comprehensive doctrine does not in itself make it divisive or problematic. The features within common sense show that, while Reid assumes a theological ground for his common sense, this recognition is not required by all agents in order to assent to common sense. Rather, it is something they have already assented to because they are human beings made by God. The world is structured in such a way as to make common sense foundational. The difference is not recognition, but metaphysics.

When applied to politics, this dissertation suggested that common sense can make advances in discussions on abortion and same-sex marriage laws. Whether it be the impetus for making moral judgments that are grounded in moral realism or the insufficiency of judgments that are based in sentiment, common sense helps disentangle the confusion surrounding modern discussions about sexuality and life. Additionally, Reid's critique of Locke's conception of identity over time can provide a strong buttress against abortion arguments that separate the fetus from the later developed agent. Showing that identity is actually the same at each stage of development can attenuate the abortion arguments.

Suggestions for Further Research

The dissertation leaves multiple arenas to be explored beyond the scope of this project. While this is clearly not an exhaustive list of future opportunities, it nevertheless provides a starting point for delving into areas related to this dissertation that may prove fruitful.

For example, chapter 3 explored how Rawlsian public reason provided a harm to the agent by limiting his deliberative capacities. It also suggested the harms provided to the agent psychologically. Further research might explore how current pluralistic democracies potentially force religious citizens to assent to truths they would not otherwise consider. A deeper exploration into the tensions of pluralism and religious faith

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may be worth investigating. One place to start might be reading and analyzing John Inazu's recent work, *Confident Pluralism: Surviving and Thriving Through Deep Difference.*[1]

Additionally, this dissertation explored how, both historically and presently, scholars and thinkers have attempted to apply common sense to the political and legal arena. This application could be explored further. For example, in the case of legal realism, is there a relationship between the moral realism of common sense and potential response with legal realism? That is to say, are the foundational and pre-societal beliefs verified by common sense a helpful conversation partner with legal realism? If, as the realist thesis states, "law is what courts do,"[2] then how does common sense provide a response? If common sense asserts that there are pre-societal and pre-jurisprudential foundations that reason and experience clarify, how would that harm the legal realists thesis? Hadley Arkes, for example, certainly saw a connection between moral truths and legal truths. He saw connections between foundational conceptions of reality as informing the structural assumptions of the law. Further exploration into these connections could provide good fruit for future legal and philosophical analysis.

Some may regard common sense's theological vocabulary as, if taken by the majority populace, some kind of dominionist Trojan horse. An exploration of the theological foundations of Reid's common sense might dispel such notions. Further, delineating the difference between Reid's moderate Presbyterianism as compared to something like John Witherspoon's more fervent and outspoken version might also alleviate such concerns.

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[1]John Inazu, *Confident Pluralism: Surviving and Thriving through Deep Difference* (Chicago: University of Chicago Press, 2016).

[2]James E. Herget, *American Jurisprudence, 1870-1970: A History* (Houston: Rice University Press, 1990), 302. See also Michael Steven Green, "Legal Realism as Theory of Law," *William & Mary Law Review* 46, no. 6 (2005): 1915-2000.

Explorations into how the Supreme Court, outside of James Wilson, may have appropriated common sense-like notions would be worth the time and energy expended. To be able to show that common sense philosophy has penetrated the law at the highest level could help to solidify the thesis here that it is indeed beneficial to legal and political deliberations. Further, returning to English common law and the British constitution to find traces of common sense influence may provide additional grounding that its understanding is coextensive with good policy. Also, what sort of relation did English common law and Scottish common sense play in early American life? What were their distinct features and how did their interplay provide a foundation for American constitutional law?[3]

To that end, one feature of the philosophy of law is not merely an exploration of precedent or the arguments within them, but also what the law embodies. The instantiation of law does not merely set boundaries for legality, but suggests what sort of society those laws will bind. An exploration into the kind of society bound by common sense laws could reveal further trouble with Rawlsian liberalism. What the law instantiates reflects not merely the court, but the culture as well. What becomes legal eventually moves to actions and beliefs of individuals. The approbation or disapprobation within the law shapes the culture of the society. What role might common sense play in upholding crucial ideas in law? The features of common sense could be extrapolated and viewed as embodied ideals for the law to uphold. This would not be an argument for an *exclusively* common sense approach to law, but a potentially *distinctive* approach to law. Further, what sort of features of Rawlsian liberalism should the law ignore? No doubt Rawls amicably seeks to limit the impurity of the law by outside influences, but what

[3]To start, one can explore Susanna Blumenthal, "The Mind of a Moral Agent: Scottish Common Sense and the Problem of Responsibility in Nineteenth-Century American Law," *Law and History Review* 26, no. 1 (2008): 99-159.

type of societal norms and values would a completely Rawlsian society uphold? These and other related questions would be worth exploring.

One common interlocutor with Rawlsian liberalism has been what is called the New Natural Law Theory. This dissertation showed a clear relationship between common sense and natural law. Would new natural law theory's emphasis on practical reason have any overlap with common sense? Does new natural law's emphasis on pursuing the goods—life, health, marriage, aesthetic experience, etc.—import well into common sense? It seems that the strengths of both theories can coincide and even strengthen one another. If common sense may be said to be an experiential ground of what natural law is metaphysically articulating, then the harmony between the two should be both evident and non-problematic.[4] An analysis of the strengths and weaknesses that arise from this exploration when applied to the Rawlsian project could prove beneficial.

Much of contemporary political discourse revolves around the market of "rights" and "human rights." Does this discussion have any ability to respond to Rawlsian liberalism? That is to say, what does the current discussion about rights owe to Rawlsian thought, and how might one respond to both. If one takes the approach of say, Oliver O'Donovan, the answer seems to be yes.[5] An exploration of the effects of rights language disentangled from a moral ontology, could show its incapability to hold up. That is, it does not provide a clear enough conceptual basis by which one can build one's adjudication of rights. This will likely drive those interested into a theological account of

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[4]For more on New Natural Law Theory, see John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 2011); Robert P. George, *In Defense of Natural Law* (Oxford: Oxford University Press, 2001); Germain Grisez, Joseph Boyle, and John Finnis, "Practical Principles, Moral Truth, and Ultimate Ends," *American Journal of Jurisprudence,* 32, no. 1 (1987): 99-151.

[5]See especially the last chapter of Oliver O'Donovan, *The Desire of the Nations* (Cambridge: Cambridge University Press, 2001); and idem, "The Language of Rights and Conceptual History," *Journal of Religious Ethics* 37, no. 2 (2009): 193-207.

rights language. A theological account of rights language could advance the ball farther against the liberalism of the day.

To that end, one of the worrisome prospects of Rawlsian thought is the ability for it to disenfranchise crucial "first freedoms" like religious liberty. While there are myriads of philosophical and legal defenses of religious liberty, a robust theological account would provide a very helpful companion. It would provide Christians especially with sufficient reasons as to why they should be advocating for religious liberty.

Christian thinkers could also consider two arenas based on this research. The first is the area of natural revelation and Christian political deliberation. To what extent does natural revelation ground Christian political deliberation? A theological account of political deliberations could help establish for some Christians the necessity of engaging in this way. Additionally, can a theological account of involving oneself politically be made?

Second, an exploration into the distinction between current "social justice movements" and the emphasis on natural justice found in Reid and others. Many social justice movements are, by their very nature, reactionary. That is to say, they are responding to injustices on the grounds of social instantiation. But if justice is a social construct, then many social justice movements often react to those situations in a way that reveals their metaphysical framework. This is not to say that they are illegitimate, only that their foundations may be less foundational than they suppose. Reid's emphasis on natural justice could provide a better basis for social justice movements. It localizes the instantiation of justice, not primarily as founded in social life, but in the constitutive nature of human beings. It demonstrates that an agent's pursuit of justice is not principally by adjudicating social instantiation, but that it accords with justice as understood as constitutive of human nature. Further explorations into what a modern version of Reid's natural justice may look like could prove fruitful in an American context where rights and justice are spoken of as instrumental rather than intrinsic.

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Conclusion

The thesis for this project demonstrated that Rawlsian liberalism does more harm than good. It sought to demonstrate that Reid can provide one avenue of exploration by which this thesis can be proven correct. Reid's influence was not merely on the philosophy of mind, epistemology, and the like but many saw him as a pioneer whose ideas could be shaped into a political philosophy. His influence is more extensive than he is often given credit. If this dissertation does anything, it shows that the absence of extensive writing on a particular topic does not mean that no one cared or that no one had anything to say about it. Instead, it means the scholar in question understood their abilities and stuck with that area. Those that came after him extrapolated, but within the spirit of philosophical ideas.

The landscape of political philosophy is ripe for further exploration, especially by evangelical scholars. If Rawls's project was merely viewed as a descriptive analysis for interaction in a political society, then its project is quite tame. But he goes further and the need to respond to his philosophical children will be needed as the window for civil disagreement narrows by the day. Reid's common sense can help provide some form of commonality, even if those who disagree with it do not share those same assumptions. Evangelical scholars should welcome further exploration into political philosophy to help build the foundation for flourishing within a culture that is increasingly antagonistic toward the church. With such tidal waves bearing down on those who would disagree, the impetus to find good, reasonable, and accessible cobelligerents will be necessary. In a culture of pluralism, the necessity for commonality and shared ground is essential for political deliberation. Rawls was right to seek this deliberation but quite wrong in his application. More thinkers and writers will go the way of Rawls in seeking to find a foundation while missing the application. Evangelicals should be aware of this mistake and provide both where others may fail. Good political philosophy is an application of reason about the truth of human nature for the good of a society. Reid's common sense is

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an apparatus of this type of thought and this project sought to show that. As much as he trusts common sense to bring veridical judgments, he can provide a needed help to evangelicals. The success of the project must be left to the reader; nevertheless, the work must continue.

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ABSTRACT

"REIDING RAWLS": A CRITICAL ASSESSMENT OF THOMAS
REID'S COMMON SENSE PHILOSOPHY AS A RESPONSE
TO JOHN RAWLS'S DOCTRINE OF PUBLIC REASON

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The Southern Baptist Theological Seminary, 2016
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This dissertation examines John Rawls's doctrine of public reason in light of Thomas Reid's Common Sense philosophy. Chapter 1 introduces the topics of public reason and common sense in order to suggest that Thomas Reid's philosophy can provide a beneficial contribution to public policy debates. Chapter 2 examines key features of Rawls's doctrine of public reason. Chapter 3 suggests that there are critical problems with Rawls's doctrine of public reason. Chapter 4 examines key features of Thomas Reid's common sense philosophy. Chapter 5 shows Reid's common sense application in early American history as well as contemporary scholarship. It argues that common sense can provide insight into two test-cases, abortion and same-sex marriage. Chapter 6 concludes the dissertation, summarizing the arguments and providing suggestions for further research.

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