

Rawlsian Reasonableness: A Problematic Presumption?

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The concept of reasonableness has occupied a prominent place in the history of liberal thought. Indeed, it has been argued that “public reasonableness is at the centre of liberalism” (Moore, 1996: 167; see also, for example, Macedo, 2000). Such a claim is especially true with respect to the conception of political liberalism promoted by John Rawls. References to “reasonable people,” “reasonable doctrines,” “reasonable pluralism,” “reasonable disagreement,” and a host of other terms that use “reasonable” as an adjective abound in Rawls’s argument. More importantly, the tangible significance of reasonableness is evident even when such terms are absent; the central role it plays in Rawls’s project is, perhaps, best exemplified by the fact that it serves as the fundamental criterion for judging the acceptability and legitimacy of the public conception of justice¹ and all associated “political” claims and decisions—those that place demands upon all citizens of the polity. The consequences of such a position and, more generally, Rawls’s understanding of the concept of reasonableness, are significant and manifest themselves in a number of ways. In particular, the viability of Rawls’s venture is rendered dependent upon the reasonableness of both the public conception of justice and the individuals who must live under its constraints.

Not surprisingly, Rawls’s reliance on reasonableness, especially as a mechanism for regulating and adjudicating disputes concerning matters of political justice, and his related claims and expectations regarding individual behaviour generate a number of potential difficulties for his argu-

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ment. Perhaps most noteworthy and problematic in this respect is the requirement that individuals freely, willingly and reliably support his conception of public reasonableness and adhere to its demands. According to Rawls, only if individuals do so is it possible to secure and sustain the conditions needed to establish and preserve a genuinely just and stable—in Rawlsian terms, *well-ordered*—liberal democracy. Rawls does not believe that such a demand poses a significant threat to the viability of his argument. He suggests that all “reasonable” individuals can reasonably be expected to support his conception of public reasonableness and defer to its requirements voluntarily and typically when addressing questions of public import.

However, for a number of reasons, Rawls’s conclusions regarding the extent to which it is realistic to presume the reasonableness both of individuals and their behaviour seem, at minimum, overly optimistic. Insofar as such is the case, the validity and viability of his conception² are brought into question. Moreover, even if one accepts Rawls’s claims, problems remain. The primary task of this essay is to identify and explain a number of concerns that render suspect the plausibility of Rawls’s conclusions regarding the reasonableness of individuals and, by extension, the ability of his conception to create the conditions he contends are necessary to establish and sustain a just and stable liberal democracy. Prior to doing so, it will be useful to recount Rawls’s understanding of the proper character of reasonableness and its role in securing a well-ordered polity. Completing such a review will make available certain information essential to both gaining a clear appreciation of the basis for the concerns noted and assessing the validity and significance of those concerns.

Accordingly, I shall begin by providing a brief description of Rawls’s understanding of the nature and function of reasonableness and then proceed to present a number of concerns related to his argument. In concluding, it will be suggested that the only way one can be assured—to the extent humanly possible—of generating the conditions Rawls seeks is to adopt a governance framework that publicly supports and protects the principles embodied in his conception of reasonableness, rather than relying upon the reasonableness of individuals to secure and nourish the required environment. In other words, achieving and sustaining the type of society that Rawls desires necessitates that the political conception of justice embrace a more “perfectionist” stance with respect to the legislated limits of public reason(ableness).³

Rawlsian Reasonableness

Rawls identifies “reasonable” persons as those who seek “a social world in which they, as free and equal, can cooperate with others on terms all

Abstract. The notion of “reasonableness” has been a prominent feature of liberalism since the latter first emerged as a coherent philosophical project. Indeed, arguably, reasonableness is the core value animating the liberal outlook. Such a claim is especially true with respect to the conception of political liberalism promoted by John Rawls. In essence, the viability of Rawlsian political liberalism is dependent upon the “reasonableness” of both the public conception of justice and the individuals who must live under its constraints. However, this reliance on reasonableness poses a number of potential difficulties for Rawls’s argument, particularly insofar as his belief in the ability of his conception to secure the conditions essential to establishing and sustaining a just and stable liberal democracy is premised upon a number of questionable claims and expectations regarding the reasonableness of individual attitudes and behaviour. The primary task of this essay is to identify and explain a number of concerns that render suspect the plausibility of Rawls’s conclusions regarding the extent to which it is realistic to presume the reasonableness of individuals and, by extension, the ability of his conception to achieve its stated goal.

Résumé. La notion du « raisonnable » constitue un aspect important du libéralisme depuis l’émergence de ce dernier en tant que projet philosophique cohérent. En fait, le raisonnable est sans doute la valeur principale qui anime le point de vue libéral. Ceci est particulièrement vrai de la conception du libéralisme politique défendue par John Rawls. Le libéralisme politique de Rawls dépend essentiellement du caractère raisonnable de la conception publique de la justice, ainsi que des individus qui doivent vivre selon ses contraintes. Toutefois, l’importance du raisonnable dans ce concept soulève un certain nombre de problèmes dans le raisonnement de Rawls. Il est persuadé que ses idées garantissent les conditions essentielles pour établir et maintenir une démocratie libérale, mais ce postulat s’appuie sur de nombreuses affirmations et espérances discutables quant au caractère raisonnable des attitudes et comportements individuels. Cette dissertation s’efforcera principalement d’identifier et d’expliquer un certain nombre de problèmes remettant en cause la plausibilité des conclusions de Rawls. On étudiera tout particulièrement dans quelle mesure il est réaliste de présumer du caractère raisonnable des individus et, par extension, de la capacité de la conception de Rawls à atteindre ses objectifs.

can accept” (1996: 50; see also, for example, 2001: 6–7). Such terms are those that all reasonable individuals can support voluntarily and reliably without having to compromise adherence to their respective fundamental (which is to say, non-negotiable) beliefs. More specifically,

Citizens are reasonable when, 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 ideals) 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. (Rawls, 1996: xliv; see also 2001: 6–7)

Reasonable citizens will understand that the achievement of the social world they seek requires that they treat their fellow citizens in a “reasonable” manner, which necessitates, among other things, that they recognize the right of others to develop, pursue and (hopefully) realize their own visions of the good life, and consider how their actions might affect that right (Rawls, 1996: 49n1). Satisfying such a requirement in contemporary liberal democracies demands that individuals freely and willingly

accept the ineliminable presence and public accommodation of (reasonable) views with which they disagree—in essence, the facts of reasonable pluralism and reasonable disagreement—and voluntarily refrain from attempting to use state power to enforce adherence to the dictates of a single comprehensive doctrine,⁴ or worldview.

Reasonableness also requires that citizens recognize and voluntarily accept what Rawls labels the *burdens of judgment*, “the many obstacles to the correct (and conscientious) exercise of our powers of reason and judgment in the ordinary course of political life” (2001: 35). These obstacles include 1) the presence of conflicting and complex evidence that is difficult to assess and evaluate; 2) reasonable disagreement about the primacy of agreed-upon considerations which, in turn, may generate different judgments; 3) the unavoidable need to rely to some extent on judgment and interpretation when considering matters about which reasonable people might disagree; 4) an inevitable divergence of judgments “on many if not most cases of significant complexity”; and 5) the presence of different types of normative considerations that exert varying degrees of influence “on both sides of a question,” thereby making an “overall” evaluation of the related case very difficult (Rawls, 2001: 35–36). Reasonable individuals will acknowledge that the burdens of judgment apply equally to all citizens, and freely and willingly accept the consequences of such a condition (Rawls, 2001: 197).

Essentially, then, reasonable citizens will believe that reasonableness must be the “final court of appeal” in relation to decisions concerning matters of political justice; reasonableness must be the standard used to judge the validity of all “public” claims—those that place demands upon all citizens of the polity. Only by assigning such a primacy to reasonableness can one adequately respect the human dignity and moral equality of one’s fellow citizens. To employ a different standard, for example, a single understanding of the “truth,” would be to disrespect and degrade others’ “reasonable” beliefs, and thereby effectively preclude the achievement of a society in which all citizens are able to “cooperate with others on terms all can accept”—the very foundation of a well-ordered liberal democracy.

It is important to note that in assigning primacy to reasonableness citizens are not espousing an indifference or skepticism toward the truth of moral judgments (for example, Rawls, 2001: 36). Rather, they are acknowledging the importance of such matters, but realize that 1) “while people can recognize everyone else’s comprehensive views as reasonable, they cannot recognize them all as true”; 2) “there is no shared public basis to distinguish the true beliefs from the false”; and 3) it is impossible to obtain a “public” (which is to say, consensual) solution for such questions (Rawls, 1996: 128). “Certain truths, it may be said, concern things so important that differences about them have to be fought out, even should this mean civil war” (Rawls, 1996: 151). Recognizing

these facts, “reasonable” citizens freely and willingly refrain from publicly passing judgment as to the truth or falsity of moral claims in order to avoid such conflict and provide the basis for public agreement (an *overlapping consensus*⁵) on a single conception of justice—in other words, they act in accordance with the *precept of avoidance*. Such an approach is not, Rawls emphasizes, akin to exhibiting indifference or skepticism toward the truth of moral judgments.

Also noteworthy is the fact that, unlike many of his predecessors, Rawls differentiates between “the reasonable” and “the rational,” suggesting that they are “two distinct and independent” ideas and “there is no thought of deriving one from the other” (1996: 51; see also, for example, 2001: 6–7). For Rawls, the “rational” refers to “a single, unified agent (either an individual or corporate person),” and concerns how the ends and interests of that agent are adopted and affirmed, how they are given priority, and the choice of means used to pursue them (1996: 50). In the case of the latter activity, the rational is guided by familiar principles such as “adopt[ing] the most effective means to ends, or ... select[ing] the more probable alternative, other things equal” (Rawls, 1996: 50; see also 2001: 87). In essence, people act rationally when they use their “powers of judgment and deliberation in seeking ends and interests peculiarly ... [their] own” (Rawls, 1996: 50)—that is, when they develop and pursue a particular conception of the good *intelligently*.⁶ Importantly, according to Rawls, rational agents need not be limited to means-end reasoning: “they may balance final ends by their significance for their plan of life as a whole, and by how well these ends cohere with and complement one another” (1996: 51; see also 56). Nor need it always be the case that rational agents act solely in a self-interested manner; they may pursue interests the realization of which are of benefit not to themselves but to others—for example, relatives, friends, community, country (Rawls, 1996: 51). Indeed, Rawls contends that “[r]ational agents approach being psychopathic when their interests are solely in benefits to themselves” (1996: 51). Accordingly, “[t]he disposition to be reasonable is neither derived from nor opposed to the rational but it is incompatible with [pure] egoism” (Rawls, 1996: 49n1).

Having declared the difference between reasonableness and rationality, Rawls further adds that, within “the fundamental idea of society as a fair system of social cooperation,” the reasonable and the rational are complementary and interdependent ideas (2001: 6–7). They are complementary in that they work together to specify the terms of fair cooperation; they are interdependent insofar as neither “can stand without the other” (Rawls, 1996: 52): “Merely reasonable agents would have no ends of their own they wanted to advance by fair cooperation; merely rational agents lack a sense of justice and fail to recognize the independent validity of the claims of others”⁷ (Rawls, 1996: 52).

However, though Rawls contends that reasonableness and rationality are complementary and interdependent ideas, it is reasonableness that reigns supreme in his conception and its supporting propositions.⁸ The validity of such a conclusion is reinforced throughout Rawls's argument. For example, he emphasizes that his conception of justice⁹ is properly understood as "reasonable," as opposed to true,¹⁰ "[presenting] itself as a possible focus of a *reasonable* overlapping consensus" (2001: 12, emphasis added). Indeed, to understand it differently would be to preclude the achievement of the sought-after overlapping consensus. He also observes that "the reasonable frames and subordinates the rational" in his conception (1996: 339), "it has priority over the rational and subordinates it absolutely" (2001: 82; see also, for example, 7n6, and 1996: 48). Further, he acknowledges that the conception of justice he promotes is concerned almost solely with those individuals who affirm "reasonable" comprehensive doctrines—"the doctrines that reasonable citizens affirm and that political liberalism must address" (1996: 36; see also, for example, 37–38).¹¹ "Unreasonable" comprehensive doctrines and their supporters are of concern only to the extent that both must be effectively managed to avoid their generating political instability (for example, Rawls, 1996: xix, 64n19).

In essence, then, Rawlsian political liberalism is concerned to offer a *reasonable* public conception of justice that can accommodate the demands of *reasonable* comprehensive doctrines and *reasonable* citizens situated in an environment of *reasonable* pluralism and *reasonable* disagreement and, subsequently, provide the basis for a *reasonable* overlapping consensus on a single conception of justice to regulate society's basic structure.

The Willingness to Act Reasonably

As the preceding remarks suggest, the viability of Rawls's project is inextricably connected to the presence of and deference to (Rawlsian) reasonableness. In particular, his conception can provide the framework for the establishment and preservation of a just and stable liberal democracy only if individuals behave in a "reasonable" manner, which they do insofar as they freely and willingly accept his notion of reasonableness as the ultimate standard against which the validity of all "public" claims is to be judged and reliably abide by the associated demands. Rawls insists that only by assigning such a role to reasonableness is it possible to achieve and preserve the type of overlapping consensus on a single conception of justice necessary to establish and sustain a well-ordered polity.

According to Rawls, generally speaking, the citizens inhabiting existing liberal democracies already more than sufficiently exhibit such a will-

ingness and fidelity; this belief, he contends, is not merely hopeful conjecture on his part: it is, rather, grounded in empirical fact (for example, 2001: 5–6; 1996: 13–15, 54, 167).¹² Such being the case, it is neither unrealistic nor improbable to suggest that in instances of potentially divisive, destabilizing conflict between the rational (which is to say, the *private good*)¹³ and the reasonable, individuals will voluntarily and typically be willing to assign primacy to the latter. Arguably, however, Rawls's assessment of the type of reasonableness that can consistently be expected of citizens is overly optimistic and, subsequently, he is too sanguine about the likelihood of citizens voluntarily and reliably acting in the manner required to secure *and* sustain the desired overlapping consensus.

As George Klosko, among others, has noted, the accuracy of Rawls's "empirical" claims is, at minimum, extremely suspect and certainly debatable (for example, Klosko, 1993, 2000, 2004). Klosko observes that a significant volume of social science research concerning the attitudes of citizens in a number of contemporary constitutional democracies critically undermines the validity of Rawls's belief in the "reasonableness" of said citizens. In particular, citizens' general willingness to respect the beliefs of others "reasonably" and voluntarily—that is, to accept the fact of reasonable pluralism and abide by the constraints of the precept of avoidance—seems to be much less assured than Rawls suggests. Various studies conducted during the preceding fifty years reveal that when push comes to shove, many individuals are publicly willing to declare certain seemingly "reasonable" views (as such are defined by Rawls) to be unacceptable and demand actions which abridge many of the "basic liberties" promoted by Rawlsian political liberalism (Klosko, 1993: 352; see also 2000: 42–115).

Indeed, it has been suggested that somewhere between 20 per cent and 40 per cent of the US population (the principal referent for Rawls's arguments), for example, affirms doctrines that would be incompatible with the demands of Rawls's conception (Klosko, 1996: 258–59; see also 2000). (It is worth noting that 20 per cent of the population of the US translates into approximately 50 million people.) Further, it has been argued that while anywhere from 60 to 80 per cent of the US population affirms what could be labelled "moderate" doctrines—that is, doctrines that do not generate "unbridgeable gaps" among the citizenry (for example, Klosko, 1996: 258–59; see also 2000)—when trying to resolve contentious political questions, the general ignorance of the members of that cohort "allows extremists and special interest groups to play on their emotions and so to manipulate them" (Klosko, 1996: 259), thereby enabling (purportedly) "rational" but "unreasonable" objectives to win the day.

If it is unrealistic not to expect a significant (problematic) percentage of the citizenry to be unable or unwilling to adhere to the demands of public reasonableness voluntarily and reliably, then Rawlsian political

liberalism cannot “reasonably” be expected to secure the type of “substantial” overlapping consensus it requires (Rawls, 2001: 34). To the extent that such a conclusion is valid, Rawlsian reasonableness seems to impose a condition—namely, that all citizens freely, willingly and typically defer to the demands of public reasonableness in instances of conflict between the reasonable and the rational—that significantly jeopardizes the ability of Rawls’s conception to secure the type and degree of public support and subsequent political stability needed to establish and sustain a well-ordered liberal democracy, the *raison d’être* of Rawlsian political liberalism.

It might be argued that Rawls has anticipated this evidential problem—the existence of numerous concrete examples of individuals’ willingness to act unreasonably—and effectively confronts it via his use of, and emphasis upon, the notion of *fundamental ideas*. According to Rawls, there exist within the public political culture of all (or, at least, almost all) democratic societies certain fundamental ideas, a “shared fund” of accepted foundational beliefs and norms that are innate to and guide the public realm of a society (2001: 2–38; see also, for example, 1996: 14–15). In the case of Rawlsian political liberalism, these fundamental ideas are represented by the notion of “society as a fair system of cooperation” and the conception of persons as free and equal beings (Rawls, 2001: 5). Rawls argues that the presence of, and *existing* support for, these fundamental ideas justify his claim that, in general, citizens of a Rawlsian well-ordered society can typically be expected to accept the notion of reasonable pluralism and adhere to the demands of the precept of avoidance voluntarily and reliably.

Importantly, Rawls believes that individuals’ affirmation of the aforementioned fundamental ideas and, by extension, their free and willing acceptance of both the concept of reasonable pluralism and the demands of the precept of avoidance, can and often will be implicit or unrecognized (for example, 2001: 5–6; 1996: 13–15). Such being the case, he suggests that it is possible for an individual to support publicly a claim that conflicts with both the notion of reasonable pluralism and the dictates of the precept of avoidance and yet still remain committed to the tenets of these concepts. Hence, an overt display of “unreasonable” behaviour does not necessarily represent a fundamental rejection of, or even a withdrawal of support for, either the concept of reasonable pluralism or the precept of avoidance. Moreover, the lack of a predictable correlation between one’s behaviour and one’s level of commitment also means that the maintenance of a stable overlapping consensus does not require that individuals explicitly or even knowingly support either the concept of reasonable pluralism or the precept of avoidance. Thus, according to Rawls, individuals can publicly pursue claims that conflict with the notion of reasonable pluralism and/or violate the precept of avoidance—in other

words, they can act “unreasonably”—without having to withdraw their support for either, and without seriously undermining the stability of the overlapping consensus.

However, whether it is possible, either in theory or in practice, to accomplish such apparent contradictions is irrelevant: what matters is how people act. For example, if a judge rules that the suppression of communist propaganda or the rejection of the practice of legislated affirmative action is justifiable and legal, then it hardly matters whether he unknowingly or otherwise supports principles that conflict with these decisions. Indeed, a penetrating self-analysis or Socratic interrogation may reveal that the judge’s decision does not coincide with her fundamental beliefs; but this revelation changes nothing. The presence of an underlying yet dormant support for certain principles does nothing to alter the consequences of the judge’s decision. If the judge’s ruling incites a riot, a *post facto* recognition of the “unreasonableness” of her decision will not undo the damage resulting from the riot. The point is this: the stability of the overlapping consensus cannot be adequately safeguarded by the implicit or unrecognized affirmation of guiding principles and concepts such as certain “fundamental ideas” and, by extension, the notion of reasonable pluralism and the precept of avoidance. If citizens are publicly (if unknowingly) allowed to reject the concept of reasonable pluralism and violate the dictates of the precept of avoidance, then surely the likelihood of “unreasonable” behaviour dramatically increases and with it so does the fragility of the overlapping consensus and, subsequently, the viability of Rawls’s conception.

An alternative defence of Rawls’s empirical claims respecting the reasonableness of individuals might be that he is not primarily or even significantly concerned with the ability of his conception to provide a viable solution to the problems currently troubling *existing* liberal democracies. Such being the case, the value of criticizing the inability of his conception to resolve such problems, and the damage wrought by such criticism, is questionable. If Rawls has (at least to some extent) accepted that the viability of his conception is dependent upon the presence of circumstances that may not currently exist—either in character or in degree—in any actual society, then what purpose is served by noting that empirical evidence suggests the absence of those circumstances? Arguably, such a fact is damaging to the viability of Rawls’s argument only if one assumes that he meant to address the concrete difficulties currently distressing contemporary liberal democracies.

In fact, Rawls has made public statements that suggest that his proposed conception can properly be understood as an attempt to respond successfully to the problems that imperil the survival of “a reasonably just and effective” constitutional democracy in the US (for example, see Prusak, 1998). Yet, even if it were true that Rawls is relatively uncon-

cerned with the ability of his conception of justice to resolve the problems of stability that currently trouble existing liberal democracies, there nevertheless remains an inextricable and crucial link between the socio-political realities of such societies and the theoretical viability of his conception. Given that he has premised the credibility of a number of his central claims—for example, that certain fundamental ideas are inherent in the public political culture of nearly all democratic societies and widely supported by the citizens of such societies—upon their empirical verifiability, any retreat from emphasizing the correspondence between the circumstances confronting the theoretical society presented by Rawls and the reality of existing contemporary liberal democracies makes little difference in terms of the significance of the inability of Rawlsian political liberalism to address adequately the problems posed by empirical evidence that contradicts said claims. That is to say, if the viability of Rawls's conception is dependent upon the validity of, for example, certain claims about the capacities and behaviour of the citizenry of existing societies, claims that, on investigation, prove questionable, then merely disavowing any desire to resolve the actual problems confronting existing societies does not eliminate the difficulties that related contradictory empirical evidence poses for Rawls's conception. It would seem that if it is to maintain its theoretical viability, Rawlsian political liberalism must abandon its claim to an empirical basis, at least in regards to certain of its animating ideas, and present an alternate justification for its use of such ideas and the precise character or status that it attributes to them.

Resolving Conflict between Reasonable Demands

Even if one were to accept Rawls's "empirical" claims concerning the type of behaviour that can consistently be expected from "reasonable" individuals, difficulties remain. For example, though Rawls (not surprisingly) devotes significant attention to explaining how it is possible to distinguish reasonable from unreasonable demands and satisfactorily resolve conflicts between the two, no similarly detailed explanation is offered respecting the effective adjudication of disputes between competing "reasonable" claims. Yet, his arguments would seem to suggest the need for such an explanation. To illustrate: Rawls readily acknowledges that "the reasonable" is not a "uniform" entity. Indeed, he emphasizes that there is and *must be* room for diversity within the realm of the reasonable (for example, 1996: 174). In turn, the existence of a plurality of reasonable views and, consequently, a number of different reasonable answers to any particular question (Rawls, 1996: 240; see also 243), would seem to guarantee that there will be conflicts between different reasonable demands. Rawls acknowledges the potential for such conflicts, con-

ceding that “[i]t is unreasonable ... not to recognize the likelihood—indeed the practical certainty—of irreconcilable *reasonable* disagreements on matters of the first significance” (1989: 240; emphasis added).

So, for example, I may petition the government for a legislatively mandated and enforced programme of affirmative action, believing it to be necessary to ensure that the least advantaged members of society secure the economic wherewithal needed to realize meaningful individual freedom and self-fulfilment. Concurrently, my neighbours may seek the passage of legislation that requires that hiring practices treat all individuals equally insofar as no special consideration can be given to members of any particular group or segment of society, claiming that allowing (or worse, requiring) such consideration precludes equal treatment. Arguably, the fundamental principles underlying both positions satisfy the standard of Rawlsian reasonableness; yet, obviously, both proposals cannot be simultaneously or equally accommodated.¹⁴

However, if it is impossible to accommodate conflicting demands equally—as it must surely be—then one is confronted with the following dilemma: there is an expectation that all reasonable demands can be accommodated, but it will be impossible to offer such accommodation. Rawls’s observation that not all reasonable views can survive could be understood as a response to this problem (for example, Rawls, 2001: 36n26, 154, 155n30). Yet, such a response does nothing to alleviate the problem; it merely suggests that life is not always “reasonable” and those who present reasonable demands which fail to be accommodated should not react unfavourably to such decisions. But if individuals are told or led to believe that the particular comprehensive doctrine which they affirm is “reasonable,” then it does not seem unreasonable to suspect that they will likely also believe that *all* demands arising from adherence to that doctrine are reasonable and therefore deserving of public accommodation.

Thus it could be argued that conflicts between competing reasonable demands might often be *more* difficult to resolve than conflicts between reasonable and unreasonable demands, and insofar as the former type of conflicts are likely to concern “matters of the first significance,” they are potentially more threatening to the stability of the overlapping consensus. Hence, it is not enough merely to explain how to distinguish between reasonable and unreasonable demands and suggest how we might resolve conflicts between the two; it is also necessary to explain effectively how we are to resolve conflicts between different reasonable demands. Arguably, providing a satisfactory scheme for the resolution of conflicts between competing reasonable demands is a task that possesses, at minimum, an importance equal to that assigned to detailing the means by which to mediate conflict between reasonable and unreasonable demands.

Rawls does suggest that when we are confronted with a number of competing reasonable demands, we should endorse the demand that best reflects the “most reasonable understanding of the public conception and its political values of justice and public reason” (1996: 236). However, it would seem that before it is possible to make such a determination it is necessary to possess a clear, “thick” definition of “reasonable.” Though Rawls presents a number of statements that provide a general description of the realm of the reasonable, arguably, little in the way of any detailed explanation of the *specific* parameters of the reasonable is offered. Essentially, a political conception of justice, such as *justice as fairness*, is meant to exemplify the significant boundaries and features of public reasonableness. Yet, Rawls also acknowledges that within his proposed overlapping consensus, there will be several competing political conceptions of justice, each “no doubt favored by different interests and political strata” (1996: 164; see also, for example, xlviii, 227).

The presence of multiple, competing political conceptions of justice, coupled with the existence of a plurality of associated reasonable doctrines and a number of different reasonable answers to any particular question, generates a situation which renders extremely problematic (if not impossible) any effort to identify consensually which political conception is the most appropriate, or “reasonable.” Subsequently, it would seem that the most that can be determined is that something is “reasonable” if it can “reasonably” be expected that it will be endorsed by a majority of “reasonable” individuals. Unfortunately, such a definition is both empirically debatable and much too vague to provide a viable standard of judgment. In the final analysis, then, Rawls fails not only to provide an effective elaboration as to how one might acceptably identify the “most reasonable understanding of the public conception” and who will decide such matters, but also to demonstrate clearly how one might both “reasonably” and effectively resolve conflicts between reasonable demands. If it is possible that conflicts between competing reasonable demands will be as numerous and more difficult to resolve than those between reasonable and unreasonable demands, then it would seem that providing for a stable overlapping consensus necessitates that Rawls offer a scheme by which to adjudicate disputes between the former type of demands effectively. If he is to do so, he needs to present a definition of the reasonable that meaningfully distinguishes between different degrees of reasonableness. However, no such definition is readily available in Rawls’s argument.

One possible response to the above criticism would be to argue that Rawls’s explanation of the features and role of public reason will help provide the means by which we can define the proper content and boundaries of the reasonable in a manner that will effectively control the emergence of potentially divisive conflicts and allow for the peaceful resolution

of any disagreements that may arise. In essence, public reason is citizens' reasoning regarding "the good of the public: what the political conception of justice requires of society's basic structure" (Rawls, 1996: 213); it identifies the "guidelines of inquiry that specify ways of reasoning and criteria for the kinds of information relevant for political questions" (Rawls, 1996: 223; see also, for example, 1999: 132–38; and 2001: 89). Examples of such guidelines are "the general beliefs and forms of reasoning found in common sense, and the methods and conclusions of science, when not controversial" (Rawls, 2001: 89–90). By delineating the boundaries of what constitutes a legitimate consideration when discussing matters of fundamental public import, public reason helps to define the proper parameters of the reasonable and thereby sufficiently reduces the likelihood of divisive conflict.

However, once again the relative generality of Rawls's definition of "reasonable" would seem to jeopardize the viability of his argument. The ability of public reason to help isolate the specific parameters of the reasonable is based upon the assumption that Rawls's distinction between fundamental and non-fundamental political matters—constitutional essentials and questions of basic justice, such as "who has the right to vote, or what religions are to be tolerated, or who is to be assured fair equality of opportunity" (1996: 214; see also 2001: 28)—will be acceptable to all reasonable individuals and therefore uncontroversial. Yet, as many theorists have observed, reasonable people "with different values will identify ... [the political culture's] most salient elements differently according to their values and beliefs" (Klosko, 1993: 352; see also, for example, Bohman, 1995: 268). Subsequently, the definition of what constitutes a "fundamental matter" will itself be a source of controversy and conflict. In turn, when adherents of different world-views attempt to realize their values in the public realm the resulting conflict over matters of supreme importance "makes public reason itself essentially contestable" (Bohman, 1995: 255). Thus, one could accept, for example, Rawls's definition of what constitutes a fundamental matter as an adequate explanation of the distinction between essential and non-essential matters, and still be effectively unable to preclude divisive conflict over the appropriate "standards of public reason and hence its limits in deliberation" (Bohman, 1995: 264).

Rawls concedes that, even given a consensus on a conception of public reason, there will still be instances when an appeal to public reason is, by itself, insufficient to resolve conflict. Though he argues that claims concerning constitutional essentials and questions of basic justice can usually be settled by an appeal to public reason alone, he also acknowledges that this is not always possible (for example, 1996: 240, 246). Political questions will arise that involve issues—such as public policies on abortion, gay rights, assisted-suicide and capital punishment, to name a

few—that generate such emotion and controversy that an appeal to public reason alone is inadequate to resolve any disputes which emerge. Hence, even in a well-ordered society founded upon Rawlsian political liberalism, there will be instances when everyone appeals to public reason “but agreement is lacking and more than marginal differences persist” (Rawls, 1996: 240). Rawls recognizes that in such circumstances, citizens may often believe it appropriate and acceptable to “invoke principles appealing to nonpolitical values [which is to say, nonpublic reason]” to resolve the conflict “in a way they find satisfactory” (1996: 240; see also 230).¹²

Of course, to allow individuals to appeal unqualifiedly to nonpolitical values would be to undermine unacceptably public reason and, by extension, the overlapping consensus. Rawls attempts to resolve this seemingly irreconcilable conflict by including the option that citizens may appeal to nonpolitical values, “provided they do [so] ... in ways that strengthen the ideal of public reason itself” (1996: 247). Yet, such a proposal is problematic for two reasons. First, the reasonableness of such appeals can be determined only via *due reflection*—that is, one must first speculate as to the (un)reasonableness of an appeal and then wait to have one’s conclusion vindicated. However, if an appeal had initially been accepted as reasonable, but upon due reflection proved to be unreasonable, then that would suggest that the prevailing understanding of reasonableness could be unreasonable. Second, it remains unclear as to who is to decide when it is reasonable to invoke nonpolitical values and exactly which nonpolitical values it is reasonable to invoke. Surely the question of who determines such matters will itself be a source of significant debate and conflict. By failing to provide a more detailed and concrete definition of reasonable(ness), Rawls allows for such uncertainties and in so doing further impedes efforts to identify the proper content and boundaries of the reasonable. Subsequently, even if one accepts Rawls’s claims concerning the appropriate content and application of public reason, such an understanding does not seem able by itself to ensure the absence of irreconcilable, divisive conflict to the degree required by his conception.

Remaining Reasonable

The ability of Rawls’s conception to prevent divisive, destabilizing conflict is further jeopardized by his failure to recognize or acknowledge and provide for the critical interdependence between the preservation of an overlapping consensus and the maintenance of a single understanding of reasonableness. He concludes that an overlapping consensus requires the participation of a “substantial majority” of reasonable individuals (for example, 2001: 34; and 1996: 38)¹⁵ He also suggests that only reason-

able people can be relied upon to maintain their commitment to the political values comprising the conception of justice. If the establishment and preservation of a viable overlapping consensus is dependent upon its securing and sustaining the free and willing support of a “substantial majority” of the citizenry, and if only reasonable individuals can be relied upon to maintain their support for the conception of justice voluntarily, then the perpetuation of a viable overlapping consensus would seem to require that the majority of the population be reasonable in the sense understood by Rawls. Recall, Rawls believes that the necessary foundation for such a condition already exists,¹⁶ and thus this criterion is not considered an obstacle to the achievement of an enduring overlapping consensus.

However, he (purposely or otherwise) neglects to acknowledge a corollary demand: namely, that all reasonable citizens *maintain* the same definition of “reasonable”—specifically, that propounded by Rawls. Only by ensuring such an enduring homogeneity of belief can one be assured of securing the type of unwavering public support required to guarantee the continuation of an overlapping consensus. Yet, Rawls acknowledges that “reasonable” people will affirm different understandings of what constitutes “reasonableness” (for example, 1996: lvi, 61, 226, 243, 253). Even if one were to argue that a certain general understanding of reasonableness is supported by a “substantial majority” of the citizenry, such a fact is no guarantee that the necessary number of citizens will faithfully continue to support that understanding of reasonableness. Surely history demonstrates the fluid and essentially contested character of “reasonableness” and suggests that it is too dynamic and fickle a basis upon which to premise citizens’ *continued* support for the prevailing public definition of “reasonable.” As was observed long ago by Machiavelli, “People are by nature inconstant. It is easy to persuade them of something, but it is difficult to stop them from changing their minds” (1995: 20). Given the unavoidable heterogeneity and fluidity of reasonableness, it seems improbable and, indeed, implausible to suggest that all (or even the majority of) reasonable people will voluntarily endorse *and* remain faithful to any single definition of “reasonable” and its associated demands.

Similarly, if, as Rawls argues, the degree of political stability provided by the overlapping consensus directly corresponds to the depth of its members’ moral affirmation of the conception of justice (for example, 2001: 195; 1996: 147–48), and if we are to believe that the strength of this affirmation will not diminish following a change in members’ personal circumstances or shifts in the distribution of political power (for example, Rawls, 2001: 193, 195; 1996: 148), then it would seem that ensuring the necessary political stability requires that members of the overlapping consensus unflinchingly support the conception of justice with an equal or greater conviction than that which they maintain for the most valued aspects of their respective comprehensive doctrines. However,

Rawls's insistence that the conception of justice need be affirmed only as "reasonable" would seem to render unlikely the achievement of such support.

In the absence of such unfailing support, individuals may find themselves confronted with a situation in which they believe it to be either morally appropriate or necessary to abandon their support for the overlapping consensus, and in so doing unacceptably compromise its stability and that of their society. Rawls acknowledges the possibility—indeed, the likelihood—of such a situation when he concedes that, "For many the true, or the religiously and the metaphysically well-grounded, goes beyond the reasonable" (1996: 153). Indeed, surely an individual "will be moved by the appeal to reasonableness ... only to the extent that he values reasonableness [more than he values the truth]" (Huemer, 1996: 382), and there seems to be little reason to be convinced that a "substantial majority" will do so. Certainly there exists no persuasive evidence to suggest that individuals will voluntarily and reliably subordinate their fundamental "truths" in favour of "reasonable" propositions, even if requests to do so are restricted to issues within the domain of the political. If anything, empirical evidence would seem to suggest that it is at least equally as likely (if not more so) that in such instances of value conflict, individuals will usually opt to act in accordance with their understanding of the truth as defined by their respective comprehensive doctrines. If such a conclusion is correct, then it would seem that unless the majority of citizens unfailingly support the public conception of justice with a conviction equal to or greater than that which they maintain for the most valued aspects of their respective comprehensive doctrines, the type of overlapping consensus being sought by Rawls is impossible to achieve.

While it might be argued that the percentage of the population either willing or "required" (according to their comprehensive doctrine) to behave unreasonably—that is, to obey the "truth" of their comprehensive doctrines rather than assigning primacy to "reasonable" propositions—is relatively small, arguably, the potential impact of that cohort is still significant enough to jeopardize sociopolitical unity and stability problematically. James Hunter, for one, has suggested that the existing moral-political division between the different extremist segments of the US population represents "a possible prelude to the outbreak of large-scale political conflict" (Klosko, 1996: 261; see also Hunter, 1994, 1990). Remember, according to some estimates, between 20 and 40 per cent of the US population affirms "unreasonable" comprehensive doctrines (Klosko, 1996: 258–59). Moreover, as Rawls acknowledges, the threat "of large-scale political conflict" need not be present before the stability of a society is unacceptably threatened: "That subversive advocacy is widespread enough to pose a live political question is a sign of impending crisis rooted in the perception of significant groups that the basic

structure is unjust and oppressive. It is a warning that they are ready to entertain drastic steps because other ways of redressing their grievances have failed” (1996: 346). Is the US likely to witness a civil war in the foreseeable future? No. However, such a fact does not negate the theoretical problem generated by a seemingly significant unwillingness or inability on the part of many individuals to adhere to the demands of Rawls’s notion of reasonableness.

Conclusion

As the above review suggests, the notion of “reasonableness” functions as a Hobbesian-style sovereign in Rawlsian political liberalism, demanding the unqualified subordination and obedience of all other components of Rawls’s conception. In doing so, it renders the viability of Rawls’s project conditional upon the willingness of individuals to ensure that their goals and related behaviour voluntarily and reliably adhere to the requirements of the public conception of reasonableness. However, for a number of reasons (many noted above), the satisfaction of such a condition seems unlikely and certainly impossible to guarantee; in particular, it would seem to require a homogeneity and continuity of belief and behaviour that cannot reasonably be expected in a society characterized by the type of diversity present in contemporary liberal democracies. Yet, even if one were to accept Rawls’s claims regarding the generally reasonable behaviour that can be expected from “reasonable” individuals, his conception remains troubled by a number of difficulties which suggest that in the (unlikely?) event that the sought-after overlapping consensus is secured, it remains improbable that it could perpetually maintain the kind of support necessary to sustain a well-ordered society, at least as such is understood by Rawls.

In essence, Rawls’s conception embodies a paradox with respect to reasonableness. The success of Rawlsian political liberalism is dependent upon its respecting the reasonableness of citizens; however, in doing so, it allows for the emergence of unreasonableness to a degree that critically undermines its ability to sustain the conditions Rawls deems essential to ensure the political stability required to establish and preserve a well-ordered society.

It would seem that the only way one can be (relatively) assured of establishing and sustaining the conditions needed to achieve the political stability sought by Rawls is to develop a conception of justice that publicly supports and protects the principles in question, rather than relying upon the reasonableness of individuals to secure and nourish the required conditions. As Judith Shklar, among others, observed, a cursory review of contemporary history reveals the potentially horrific consequences asso-

ciated with merely presuming that the majority of citizens will reliably act in a “reasonable” manner—that is, freely and willingly subordinate their fundamental aspirations to the demands of public reasonableness in order to obtain and maintain a “just” sociopolitical environment (for example, Shklar, 1989). If we are to avoid the dangers associated with such an expectation, we must be more proactive in terms of ensuring adherence to certain values and safeguarding their primacy in the public realm.

Accordingly, what is needed is a public conception of justice that forcefully supports and protects the liberal values embodied in Rawls’s notion of reasonableness. If it is true that there is “no social world without loss” (Rawls, 2001: 36n26, 154, 155n30),¹⁷ and if it is also true that many of the citizens of contemporary liberal democracies already significantly support the values embraced by Rawlsian political liberalism, then taking the additional step of publicly and actively endorsing and protecting such values should not constitute an unacceptably onerous or offensive imposition on those concerned. The only notable difference between such an approach and that advocated by Rawls is that the former is willing to declare publicly the value of what the latter requires to achieve its goals but is explicitly unwilling to demand of its adherents. The operationalization of such an approach would seem to require that the liberal belief in the justness of the principles of toleration and equal respect *explicitly* guide all public policy and, subsequently, the activities of all public institutions, including the public education system.

In many important respects such a position has previously been advocated by “perfectionist” liberals such as William Galston (1992), Stephen Macedo (1990), Joseph Raz (1986), George Sher (1997) and Steven Wall (1998). These individuals have argued that the establishment and preservation of a just and stable liberal society, a society that will provide the opportunity for all of its citizens to realize their full potential and achieve their freely chosen goals, requires the inculcation, continued affirmation and purposeful “elevation” of specific virtues and values—namely, liberal virtues and values such as toleration and autonomy. This conclusion is premised upon the belief that when given little direction and left largely to their own devices (in essence, the approach attributed to Rawlsian political liberalism), citizens cannot be relied upon to develop naturally the personal qualities and beliefs that will convince them to support the type of public policies and programmes that are necessary to establish and sustain a just and stable liberal society. Human behaviour is considered too unpredictable and mistake-ridden a basis upon which to premise such an expectation.

Accordingly, *contra* Rawlsian political liberalism, the public conception of justice should not seek to remain “neutral” in relation to judgments concerning the value and desirability of certain conceptions of the

good. Rather, it should publicly support, protect and promote those conceptions of the good that affirm and assign primacy to liberal values and virtues. In other words, the government has a duty to “act with discrimination to encourage the good and the valuable [i.e., the liberal] and to discourage the worthless and the bad [i.e., the illiberal]” (Raz, 1989: 785). From this perspective, Rawlsian political liberalism is not nearly aggressive enough in its public endorsement, elevation and defence of liberal values and virtues; it is deficient to the extent that it refuses to “take ... [its] own side in an argument” (Neal, 1994: 26).

Though the regulatory framework produced by the above-recommended approach transgresses the boundaries of neutrality advocated by Rawls, arguably, it is no more illiberal or exclusionary in its *practical effect* than is the framework produced by his conception. Hence, the proposed alternative approach offers a paradigm that is able to provide greater certainty with respect to generating and sustaining the type of public behaviour necessary to secure and preserve the sought-after sociopolitical conditions, while maintaining an *actual* degree of accommodation equal to that available from Rawlsian political liberalism. Both in terms of its practical consequences and its fundamental character, then, the proposed alternative does not represent a significant departure from the approach promoted by Rawls. However, insofar as the above-recommended approach more fully acknowledges and responds to the frailties of human nature and in so doing secures greater protection against unreasonable public behaviour, it presents a more practical and, by extension, useful response to the problem of political stability than does that offered by Rawls’s conception.

Notes

- 1 As does Rawls, I will use the terms *public conception* and *political conception* interchangeably (for example, 1985; 1993; 1996).
- 2 Unless specified otherwise, all references to Rawls’s “conception” refer to his conception of political liberalism.
- 3 The principal point here is that, *contra* Rawls, the “limits of public reason” should be “limits of law or statute,” rather than merely “limits we honour when we honour ... the ideal of democratic citizens trying to conduct their political affairs on terms supported by public values that we might reasonably expect others to endorse [voluntarily]” (Rawls, 1996: 253).
- 4 A comprehensive doctrine is one that “applies to all subjects and covers all values [political and nonpolitical]” (Rawls, 2001: 14; see also Rawls, 1996: xxxviii4)—it is “a moral ideal to govern all of life” (Rawls, 1985: 245). Rawls offers utilitarianism, perfectionism, intuitionism, the theories of John Stuart Mill and Kant, and the belief systems associated with most organized religions, as examples of “fully comprehensive” doctrines (1996: 13, 175; see also 2001: 14, 198).
- 5 Simply put, an overlapping consensus is a free and willing agreement among the adherents of the various comprehensive doctrines that are *likely* to survive in a

- just* modern constitutional democracy (Rawls, 1996: 15; see also 2001: 32). An overlapping consensus on a political conception of justice means that despite the inevitable presence of a plurality of conflicting and irreconcilable views, citizens of a well-ordered society are able to agree on a single conception of justice to regulate society's main political and social institutions—its *basic structure* (Rawls, 2001: 4, 7–8).
- 6 The term *intelligently* has been italicized to emphasize that people act rationally not merely by pursuing their particular ends and interests, but by doing so in an intelligent manner. As Rawls notes: “knowing that people are rational we do not know the ends they will pursue, only that they will pursue them intelligently” (1996: 49n1).
 - 7 More specifically, “[merely] rational agents lack ... the particular form of moral sensibility that underlies the desire to engage in fair cooperation as such, and to do so on terms that others as equals might reasonably be expected to endorse” (Rawls, 1996: 51, see also 51n3).
 - 8 There are a number of (relatively) recently published articles the conclusions of which support this claim. See, for example, Noel O’Sullivan (1997); Michael DePaul (1998); Kai Nielsen (1998); Jon Mandle (1999); Shaun Young (2001); and David Rasmussen (2004).
 - 9 Unless specified otherwise, all references to the “conception of justice” should be understood as referring to the political/public conception of justice.
 - 10 This fact is emphasized (in different ways) throughout the entirety of *Political Liberalism* (and, indeed, other of Rawls’s texts). For a specific statement to this effect see Rawls (1996: xxii, 128, 175; see also 2001: 12, 32).
 - 11 Such doctrines accept the burdens of judgment, do not reject “the essentials of a democratic regime” (Rawls, 1996: xviii) and are not, as is presumably the case with *unreasonable* comprehensive doctrines, “simply the upshot of self- and class interests, or of peoples’ understandable tendency to view the political world from a limited standpoint” (Rawls, 1996: 37).
 - 12 This is not to suggest that Rawls believes that the citizens of existing liberal democracies completely satisfy the requirements of his understanding of “reasonableness” (though I believe that his arguments allow for such an interpretation). However, at minimum, Rawls does suggest that the *observed* character and behaviour of said citizens is sufficiently “reasonable” and consistent (and promising) to justify his claim that it is not unrealistic, or “utopian,” to imagine a society that is populated primarily by citizens who are completely “reasonable” in a Rawlsian sense.
 - 13 As already noted, though it is possible to be rational without being entirely self-interested (for example, Rawls, 1996: 51), the rational—as defined by Rawls—is not a “public” sentiment or entity: it is the pursuit of a particular (that is, *private*) conception of the good (for example, Rawls, 1996: 53–54, 62).
 - 14 Other issues that could produce similar predicaments (and, indeed, have already done so) are abortion, physician-assisted suicide and the provision of welfare/social assistance—issues that Rawls himself acknowledges as a source of both reasonable disagreement and potentially intractable, divisive conflict that could threaten social stability (for example, see Prusak, 1998).
 - 15 Though Rawls does, in places, add the qualification “politically active citizens” (for example, 2001: 34; 1996: 38), he fails to elaborate as to what exactly constitutes a “politically active” citizen. Furthermore, I believe that my omission of this qualification is justified by Rawls’s use of other less specific statements (for example, 1996: xviii). For an interpretation that supports this argument, see Klosko (1993: 349, 350).
 - 16 Refer to note 12.
 - 17 Paraphrasing Isaiah Berlin, Rawls notes that “there is no social world without loss: that is, no social world that does not exclude some ways of life that realize in special ways certain fundamental values” (2001: 154; see also 36n26).

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