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Rawls and Gaus on the Idea of Public Reason

James Boettcher

Whereas the original position had played the starring role in John Rawls's systematic and widely influential *A Theory of Justice*, that role is now clearly occupied, in his theory of political liberalism, by the idea of public reason. This is nowhere more evident than in Rawls's most recent elaboration of political liberalism in "The Idea of Public Reason Revisited," where even the notion of the overlapping consensus – one of the main signposts of Rawls's political turn – is discussed only in passing. The original position is hardly mentioned at all.¹

By reintroducing Kant's idea of the public use of reason into a philosophical context, Rawls has also sparked a lively debate about the role of publicity in the understanding of basic institutions and norms, in political deliberation and in the way that citizens of a pluralistic society ought to relate to one another. But a precondition for approaching any of these topics through an idea of public reason is a coherent account of the relationship between public reason and two other notions:

¹ And when it is mentioned, it is immediately followed by the disclaimer: "Others will think that different ways to identify these principles [of justice] are more reasonable" (Rawls 1997, 773).

public justification and consensus. What sort of claims or principles should we attempt to justify publicly? And in what ways does an idea of public reason aim at consensus? Of course Rawls has treated both issues at length. But as just one example of the diversity of possible answers to these questions, consider the case of two recent philosophical statements that also share the commitment to an idea of public reason. Gerald Postema has developed a rather demanding standard of public justification for a wide array of political questions, and has argued for the necessity of recognizing political consensus as a regulative ideal (Postema 1995a and 1995b). Gerald Gaus, on the other hand, has provided a rich account of public justification but is skeptical about the possibility of achieving more than a limited number of such justifications. Gaus rejects political consensus even as a regulative ideal (Gaus 1996 and 1997).

In what follows I consider these issues and their relation to the idea of public reason. I will take as an occasion for doing so an essay published by Gaus criticizing political liberals and other deliberative democrats in general, and Rawls in particular². I should state at the outset that I cannot evaluate, nor do I endorse, the conclusions of Gaus's own ambitious theory of personal, public and political justification as they are worked out in his *Justificatory Liberalism*. Instead my focus is on Rawls, and my goals are threefold. First, I hope to defend Rawls from the charge that his account of public justification is incompatible with a principle of sincerity in reasoning and/or with the regulative ideal of real political consensus. Second, I hope that my response to Gaus can at the same time serve as a way of tracking the development of Rawls's idea of public reason. Analyzing some of Rawls's modifications of this idea, I shall argue that he understands it neither as a formula for solving political problems nor as a vehicle for consensus, but as an idea that can govern the political relations among democratic citizens, relations in which they recognize and reassure one another of their sincerity and reasonableness. Finally I conclude by reflecting critically on Rawls's attempt to identify and preserve a strictly political sense of the idea of the reasonable. As Gaus also argues, this attempt is problematic and derives in part from the aim of distinguishing political liberalism itself, in addition to the political conceptions of justice that it theorizes, from a comprehensive philosophical doctrine.

² I do draw on other texts by Gaus, but my focus is on Gaus 1997: "Reason, Justification and Consensus."

1. *The Main Ideas of Political Liberalism*

The main ideas of Rawls's political liberalism are well known and only briefly summarized here. After developing his theory of "justice as fairness," Rawls, over the course of the 1980s, gradually began to formulate a markedly different question: namely, what is the most appropriate conception of justice for a democratic society marked by a plurality of reasonable worldviews, not all of which are liberal? With his attention turned to issues of political stability and cultural pluralism, Rawls has come to reject his own prior interpretation of "justice as fairness" as a "comprehensive doctrine" – that is, one which makes a claim to moral truth and interprets most of the values central to the whole of human life. A *political conception of justice*, by contrast, proceeds independently of comprehensive religious and secular views, takes as its basic subject only the main institutional structure of society, and is based on fundamental ideas latent in the public political culture of a constitutional democracy (Rawls 1993, 11-15). Two such ideas identified by political liberalism are those of society as a fair system of cooperation and the person as possessing the two moral powers of rationality and reasonableness. Such a political conception, Rawls argues, can then be the site of an *overlapping consensus* among the reasonable comprehensive doctrines of a well-ordered society. An overlapping consensus is not a compromise or mere *modus vivendi*; rather it involves a moral affirmation of the political conception of justice by all reasonable citizens. But since the political conception itself does not make any claim to truth or validity, the affirmation or justification of it must occur from within the various comprehensive doctrines of citizens, within which it would fit as a "module" (Rawls 1993, 133-72).

A political conception is *pro tanto* justified once it is formulated independently of comprehensive doctrines, and is more or less complete. Citizens then fully justify the political conception by embedding it in their various comprehensive worldviews. *Public justification*, is reached, once all citizens have fully justified the political conception and each recognizes this fact of overlapping consensus (Rawls 1995, 142-9). A publicly justified political conception can then provide the basis for *public reasoning* about what Rawls calls fundamental questions, i.e., those concerning constitutional essentials and matters of basic justice.³ When fundamental questions are at stake, both the guidelines and the content of public reason serve as a limit on the pool of reasons available in democratic deliberation and decision-making. So according to Rawls, "Public reason is characteristic of a

³ Constitutional essentials concern the identification and scope of rights and liberties; matters of basic justice concern the basic structure and its relation to social and economic opportunities and inequalities. See Rawls 1993, 227-30.

democratic people: it is the reason of citizens, of those sharing the status of equal citizenship. The subject of their reason is the good of the public: what the political conception of justice requires of society's basic structure and institutions, and of the purposes and ends they are to serve" (Rawls 1993, 213).

2. Sincerity and Dissensus: Gaus's Critique of Rawls

Gerald Gaus has developed a conception of deliberative democracy which rejects real political consensus even as a regulative ideal. Like Rawls, Joshua Cohen, and others,⁴ Gaus endorses an ideal of public justification – applied to policies and principles rather than a conception of justice – informed by a notion of public reasoning. In fact, his epistemologically oriented theory of justificatory liberalism provides one of the most systematic accounts of these ideas to date. But whereas public reason and justification may logically aim at a rationally motivated consensus, for Gaus these ideas do not additionally imply that we must seek the regulative ideal of *actual* common conviction on political questions. In "Reason, Justification, and Consensus" Gaus defends this claim by arguing that no viable interpretation of public justification sustains the commitment to actual consensus, and in so doing, he also calls into question some of the fundamental ideas of political liberalism.

Gaus begins by highlighting a central feature of an idea of public reason, namely a principle of *sincerity*. In offering public reasons, we are called on to advance only those reasons that we also sincerely believe to be good ones. What one takes to be a good reason, however, is not to be defined only in terms of those reasons which follow from one's own present set of beliefs. We are also permitted to appeal to reasons which derive from the beliefs of others, reasons which we do not share but which we do not consider others unjustified in holding. Thus in deliberating about health care distribution there is nothing necessarily cynical about a nonbeliever's appeal to a Catholic on the basis of a religious conception of social justice. But there are also limits to this kind of practice. Gaus observes that a nonbeliever would not be justified, for example, in trying to win support for a particular educational policy by appealing to a view that she knows to be incorrect, such as the fundamentalist's claim that the earth is 4,478 years old (Gaus, 1995, 246). And even in the less extreme case, Gaus argues, the nonbeliever's appeal to the other's reasons is legitimate only insofar as she finds his beliefs to be minimally credible

⁴ Gaus also explicitly distinguishes his view from the views of Gerald Postema and Habermas. For a valuable survey of contemporary accounts of deliberative democracy, see James Bohman 1998.

and not incompatible with beliefs she takes to be obviously true. Gaus thus arrives at a principle of sincerity which reads: “S: A reasoned justification must be sincere. Betty’s appeal to reason r justifying P to Alf is sincere if and only if (1) she believes she is justified in accepting P ; (2) she believes that Alf is justified in accepting r ; and (3) she believes that r justifies P in Alf’s system of beliefs” (Gaus 1997, 208). The implications of this principle will depend, in large part, on how (2) is interpreted: just what does it mean for us to take someone else to be justified in accepting reasons which we may not happen to share? I shall return to this issue below.

Gaus then examines different conceptions of public justification, and claims that none of them can sustain the ideal of real political consensus. For example, we might say that a norm is publicly justified insofar as it is acceptable to all agents, under perfect discursive conditions. But given our cognitive shortcomings this formulation tells us very little about agreements reached by actual agents. Gaus is particularly fond of citing the empirical studies revealing the familiar fallacies, heuristics and inferential errors which so often skew human reasoning (Gaus 1996, 45-62). He notes that political liberals hope to avoid this problem by connecting a notion of public justification with the concept of reasonableness: publicly justified norms are a matter of *reasonable* agreement. This idea of the reasonable is ambiguous, and may refer to (i) agents generally and/or (ii) beliefs in particular. Yet both interpretations, Gaus wants to argue, are fraught with conceptual problems.

Focusing on the reasonableness of agents, one interpretation of public justification finds a norm publicly justified only insofar as “it would be accepted by every reasonable person reasoning in good faith” (Gaus 1997, 211). But Gaus rejects this interpretation. Both Gaus and Rawls acknowledge that reasonable persons, even after they are challenged, may continue to adhere to unreasonable beliefs. So any actual political agreement among otherwise reasonable people always runs the risk of resting on unreasonable grounds. I believe that the more important point, though, is Gaus’s claim that this conception of public justification would sanction agreements inconsistent with the principle of sincerity. To return to the above example, an agreement concerning health care may obtain public justification through a nonbeliever’s appeal to the religious views of the other, who is considered reasonable. But insofar as the nonbeliever deems this worldview itself nonsensical, such an agreement is no longer justificatory, as the conditions which produce it are marked by insincerity.⁵ The same may be said about the believer’s judgments about the reasonable nonbeliever’s worldview. In this way, Gaus hopes to issue an important criticism of political liberalism, namely, that its conception of public

⁵ On this point, see especially Gaus 1995, 256.

justification is at times incompatible with the commitment to sincerity in public reasoning.

According to Gaus, the same problems arise when we attempt to theorize public justification in terms of beliefs rather than agents, as in “Principle or policy *P* is publicly justified if and only if everyone has reasonable grounds for accepting it” (Gaus 1997, 214). The success of this interpretation of public justification turns on the distinctively *political* conception of reasonableness endorsed by Rawls. Of course Rawls uses the term “reasonable” in different ways to characterize either citizens generally, their conceptions of justice or their comprehensive doctrines, and I will examine some of these ideas in more detail momentarily. But for now we can focus on the way in which the reasonable for Rawls “is not an epistemological idea” but rather a “part of a political ideal of democratic citizenship that includes the idea of public reason” (Rawls 1993, 62). Political liberalism’s search for consensus, Gaus notes, thereby rests with a defense of the following two claims: “that (1) political reasonableness can be distinguished from epistemic reasonableness and (2) disagreements about epistemic reasonableness do not lead to disagreements about political reasonableness” (Gaus 1997, 217). A second criticism of political liberalism is that this distinction cannot be maintained.

The content of Rawlsian public reason, to repeat, derives from a *political* conception(s) of justice. Thus we must ask: can a distinctively political point of view be identified, and does it provide a framework for deliberation and decision-making, independently of other sorts of considerations? Does not an appeal to a “public reason” already presuppose that we can draw a bright line between the political and the nonpolitical domains? Is this even possible? Gaus suggests that is not, and does so by employing an argument familiar from Ronald Dworkin’s early critique of Rawls’s political liberalism. In his *Tanner Lecture* Dworkin argues that political liberalism’s “discontinuity” strategy of nonfoundationalist justification fails to resolve the problem of how to decide between competing political conceptions of justice, or even between competing liberal political conceptions.⁶ Given this unresolved dilemma, we might add, the idea of public reason later introduced by Rawls cannot be the source of shared reasons, facilitating political decision-making.

Likewise, Gaus emphasizes that we are able to draw reasons from a general *concept* of the political only insofar as we rely on a more particular *conception* of

⁶ With respect to the Rawlsian justificatory strategy, Dworkin argues that multiple political conceptions might fit a nation’s history and traditions, and that “[w]e can only decide which principles are latent when we already have in hand some conception of justice whose categorical force we can defend in some *other way*” (Dworkin 1990, 34).

politics. But how do we evaluate competing conceptions? Political liberals must somehow maintain a sense of the politically reasonable without basing the determination of the ‘political’ on controversial ‘nonpolitical’ claims. Gaus thus considers, before ultimately rejecting, the following “principle of perspectival autonomy”: “*C1* is a better conception of [political point of view] *V* than *C2* only if *C1* is better justified solely on the basis of *V* reasons” (Gaus 1997, 220). He associates this principle with the logic of Rawls’s overlapping consensus. However, Gaus argues that even if the principle of perspectival autonomy is accepted, and a particular conception of the political is established, political deliberation still cannot prescind from epistemic disagreements. This claim can be illustrated with the example of a political actor who accepts a particular principle as justified from the best conception of the political point of view, but who sincerely believes, on the basis of other (e.g., religious) reasons, that the recommended action is *pragmatically* impossible to carry out.⁷ Or, to take another example, we might consider the case of Christian Scientists who refuse medical treatment for their children on the basis of an alternative view of the “facts” of the medical condition and its effective treatment. As James Bohman has observed, “The intertwining of moral and epistemic reasons makes it difficult even to formulate any sort of compromise about the treatment of the children of Christian Scientists, since there seems to be no public basis for justification that would be acceptable to everyone” (Bohman 1995, 257). Abstracting from this kind of epistemic diversity thus proves to be extremely difficult; but admitting this diversity into the political point of view is tantamount to giving up on the goal of a distinct idea of the politically reasonable, one that would facilitate agreement through shared public reasons.

Thus, I read Gaus’s critique of political liberalism as threefold. First, the commitment to a principle of sincerity, a necessary dimension of a coherent account of public reason, is incompatible with political liberalism’s account of public justification. Second, the attempt to limit public reason by identifying it with a strictly political conception of justice and a corresponding notion of the politically reasonable

⁷ Gaus provides the (somewhat odd) example of a political official in a polity where “a certain variety of Machiavellianism” has been established as the best political conception. This official is required, for political reasons, to kill the family of the former prince. Gaus then supposes that the official has not just contravening religious convictions, but also a particular religious view that God will always undo the plans of murderers. His point is that in a case like this the religious view renders a supposedly politically reasonable view unreasonable, even from the political point of view itself. “This example illustrates that a rational believer cannot compartmentalize her beliefs in a way that refuses to recognize that one perspective can entirely undermine the conclusions of another” (Gaus 1997, 221-2).

cannot succeed. We must determine how to choose between various conceptions of the political; and, moreover, concerning the issue of justification, in the final analysis we cannot avoid or bracket the more general epistemic question of what each of us considers “reasonable”. Finally, and on the basis of these two criticisms, Gaus suggests that liberalism should give up on the regulative ideal of real political consensus. He concludes that sincere reasoners “will arrive at conflicting judgments about the notion of reasonableness, about what has met the test of reasonableness, about what is sincere and much else. That is, a political order that embraces the Ideals of Reason and Public Justification will be one of constant arguments and disputes about what is justified, and there is no reason to think that anything remotely like actual consensus will emerge on these issues” (Gaus 1997, 232). Gaus suggests that if one takes seriously the epistemic dimensions of political argument, as he does in his own theory of justificatory liberalism, then one is led to a more Lockean understanding of which institutions are justified. Basic rights and democratic institutions are simply part of an umpiring mechanism that seeks the right answer to political questions, but settles for a practical resolution to disputes that are marked by “intractable differences of opinion” (Gaus 1997, 233; cf., Gaus 1996, 195-288).

3. Public Reason Revisited: Family Resemblances

Before evaluating these criticisms, it is important to examine in more detail two important features of political liberalism: (i) its objects of justification and (ii) the content of its public reason. The first feature concerns the question: *what* exactly is being justified in political liberalism? We can appreciate the significance of consensus in political liberalism only after clarifying the different roles it plays in the theory, depending on the *kind* of justification at stake. I suggest a threefold distinction in this regard. At the most basic level, Rawls tends to use the term “public justification” to refer to the political conception of justice itself. As I have already established, a political conception of justice, or as we shall see momentarily, a *family* of them, provides the basis for deliberation about more particular questions of justice, constitutionality or institutional structure. In *Political Liberalism*, Rawls suggests that it does so by providing a set of shared values and principles (e.g., those central to “justice as fairness”) upon which public reasoning can proceed. This political conception is also internally related to consensus since its public justification depends upon the emergence of an overlapping consensus of all reasonable comprehensive points of view.

At a second level, Rawls investigates how citizens themselves should approach questions concerning constitutional essentials and matters of basic justice. These

categories represent the domain of application for public reason; that is, all political officials and ideally even citizens in the public political forum are obligated to adhere to the limits of public reason when such questions are at stake. Agreement is not to be expected even at this still relatively abstract level; and, we are concerned at this point with a sense of public justification best captured by the term *legitimacy*. In this regard, Rawls formulates a principle of political legitimacy based on the “criterion of reciprocity”: “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 also reasonably think that other citizens might also reasonably accept those reasons” (Rawls 1997, 771). Two aspects of the principle of legitimacy are noteworthy. First, like Gaus, Rawls acknowledges that the exercise of public reason involves offering not simply reasons we believe to be persuasive or effective, but ones which we sincerely believe to be good. Second, the principle incorporates the idea of the reasonable at two moments, as a moral power of both the author and the addressee of reasons. According to Rawls, citizens are reasonable when they recognize others as free and equal and are prepared to offer and act on fair terms of cooperation, even at the expense of their own particular interests. Reasonable citizens also acknowledge that the so-called “burdens of judgment” apply to their own views: that even if they were to free themselves from prejudice, ideology and the like, the complexity of evaluating political questions would still result in frequent disagreements with others.⁸

Finally, at a more concrete level, there are those political questions which are not “fundamental” in Rawls’s sense of the term. In his more recent writings, Rawls explicitly associates political liberalism with deliberative democracy, and emphasizes the sorts of conditions required to facilitate political deliberation in general. These conditions include both the attitudes of citizens and the protection of deliberative institutions from money, power, ignorance and apathy. But he also continues to insist that the limits of public reason do not apply, or at least do not apply with the same strength, to legislation and decision-making at the nonfundamental level. The important point, for our purposes, is that political liberalism certainly does not sug-

⁸ The burdens of judgment are not unique to the exercise of practical reason, and derive from a number of different sources, including, *inter alia*, difficulties in assessing evidence, weighing values, interpreting abstract concepts and reconciling various background experiences (Rawls 1993, 54-8).

gest that consensus is to be achieved on these sorts of questions any more than on fundamental ones.⁹

A second important feature of political liberalism concerns the content of public reason. Originally Rawls sought to derive the content for (a singular) public reason from *the* political conception of justice (i.e., justice as fairness), one that reaches overlapping consensus (Rawls 1993, 220; cf., 134). Recently, however, Rawls has modified this feature of political liberalism, and now explicitly connects public reason to a *family* of reasonable political conceptions of justice, as opposed to just one.¹⁰ In general, reasonable political conceptions are ones that justify constitutions satisfying the criterion of reciprocity. More specifically a reasonable political conception must include the following:

1. First, a list of certain basic rights, liberties, and opportunities (such as those familiar from constitutional regimes);
2. Second, an assignment of special priority to those rights, liberties, and opportunities, especially with respect to the claims of the general good and perfectionist values; and
3. Third, measures ensuring for all citizens adequate all-purpose means to make effective use of their freedoms. (Rawls 1997, 774)

These criteria express the general Kantian commitment to the priority of the right/justice over the good, and for Rawls they also characterize the very idea of the “reasonable” as it is applied to a political conception of justice.

Moreover, these changes to political liberalism obviously have important consequences for the idea of public reason. Rawls does not hope to identify a single conception of public reason with a fixed content. Rather there are several forms of public reason and they correspond to a multiplicity of reasonable political conceptions of justice. To be sure, the idea of public reason still operates by establishing various constraints. In addition to the above criteria of the reasonable, permissible political conceptions must be formulated as freestanding views, and must be more or less complete, providing answers to most fundamental questions. Hence, Rawls has maintained the distinction between reasoning from a comprehensive doctrine and reasoning from a political conception of justice, but now adds that the latter kind

⁹ I do not here address the question of how to maintain the distinction between fundamental and nonfundamental issues. It seems to me that this is a distinction which must be negotiated and renegotiated by citizens themselves, based on their political experiences. For a discussion of the potential problems this distinction poses for Rawls, see Greenawalt 1994.

¹⁰ See generally Rawls 1997, or see also the second introduction included in the paperback edition of *Political Liberalism*.

of reasoning admits of several permissible forms (Rawls 1997, 775). As I discuss below, the idea of public reason is principally about “how the political *relation* [between citizens] is to be understood” (Rawls, 1997, 766; my emphasis). Citizens must be able to *take one another* as reasoning in terms that each regards as reasonable. Political reasonableness is a normative *standard*, but one which can be established by the *normative attitudes* of citizens themselves, citizens who simultaneously attempt to take others as reasonable and to have their own views taken by these others as reasonable.

4. *Reply to Gaus*

(4.1) With these clarifications in mind, Rawls is in a better position to respond to Gaus’s criticisms. I begin with the alleged tension between sincerity and justification. At the level of political conception(s) of justice, Rawls’s theory is in fact well designed to reflect the diversity of reasons for which citizens might endorse not a single political conception but rather a family of them, i.e., the broad contours of the politically reasonable. The central position of the *overlapping* consensus in political liberalism generally and in Rawls’s account of public justification specifically reflects a concern with accommodating the different sources of validity available to citizens under conditions of cultural pluralism. Rawls also believes that the comprehensive doctrines of citizens are not rigidly fixed, but admit of sufficient “slippage” so as to cohere over time with liberal political values, especially when they come into conflict with other, nonpolitical values.¹¹ Thus Rawls’s view of the public justification of a family of reasonable political conceptions – while it might be questionable as an account of “justification” – does not seem to be incompatible with the commitment to sincere reasoning.

But what about the public use of reason by citizens and officials concerning the so-called fundamental questions? With respect to such questions, just to repeat, political liberalism seeks legitimate decisions, based on citizens adhering to the criterion of reciprocity. In other words, citizens must account for their exercise of power with reasons they consider to be acceptable *to others*. Yet recall that in

¹¹ This is an important point. The supposition of a *plasticity* in reasonable comprehensive doctrines makes possible both the overlapping consensus and the priority of political values, when these values conflict with the other commitments of a citizen’s overall comprehensive view. It is questionable whether, from a normative point of view, the priority of the political can be established in this fashion, but I cannot discuss the topic here. For evidence of this supposition in Rawls’s thought, see Rawls 1993, 160 and 163; Rawls 1995, 147-8; and, Rawls 1997, 801.

discussing Gaus's principle of sincerity we left unresolved the key issue of what it means for one citizen to appeal to a reason she believes another citizen is justified in accepting. Consider again the attempt to appeal to a fellow citizen's religious views in support of a policy of universalizing access to basic health care.¹² Would such an appeal be insincere on the part of a nonbeliever? Of course a first attempt at justifying the principle of universal access to health care could draw on the political values of a conception of justice, something we impute or attribute to all reasonable citizens. Thus in this case a direct appeal to the comprehensive doctrine of the other would seem unnecessary. But insofar as we have admitted a family of reasonable political conceptions, how do we come to understand the details of the political conceptions of other citizens? What if the same basic values are interpreted in fundamentally different ways by other citizens? We assume that the differences between varying political conceptions derive, in part, from the different background experiences of a pluralistic citizenry. Thus it would appear that a sincere appeal to reasons the other can accept must take into consideration these different background experiences, including their connection to the many comprehensive philosophical and religious doctrines of a free society.

But Rawls argues that the idea of public reason is "wide" or "inclusive" enough to address these types of concerns. First of all, political liberalism acknowledges the importance of the appeal to nonpublic reasons, even on fundamental issues, as in King's invocation of religious grounds for legal reform during the civil rights movement (Rawls 1993, 250). Rawls now refers to this appeal as entirely in keeping with the public culture of a well-ordered society, insofar as citizens also recognize the following *proviso*: that "in due course proper political reasons – and not reasons given solely by comprehensive doctrines – are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support" (Rawls 1997, 784). Second, elements of citizens' comprehensive doctrines may also be introduced into public discourse so as to foster mutual understanding of differing interpretations of political values and mutual reassurance of each citizen's sincerity. This is the basic idea behind the criterion of reciprocity: citizens must *recognize one another* as sincere and reasonable, and so must adopt the kind of attitudes and practices this entails. Rawls discusses forms of nonpublic reasoning which promote this recognition and reassurance. On the one hand, a citizen or public official may

¹² Here I presuppose that this is a "fundamental issue" – a matter of basic justice – in Rawls's sense. Rawls's own view of the matter is that an assurance of basic health care for all citizens is one of the preconditions for a society which can be governed by the idea of public reason. On this point, see especially the second introduction to *Political Liberalism*.

declare her comprehensive view, in an effort to demonstrate to other citizens how this view also supports a liberal political conception. On the other hand, a citizen may engage in *conjecture*, arguing from premises she takes the other to accept to conclusions he ought to accept. Through conjecture it is possible, *pace* Gaus, to invoke reasons which we may not personally consider compelling. In a “sincere” and not “manipulative” conjecture “[w]e must openly explain our intentions and state that we do not assert the premises from which we argue, but that we proceed as we do to clear up what we take to be a misunderstanding on the others’ part, and perhaps equally on ours” (Rawls 1997, 787). Given these qualifications, it does not seem insincere or cynical for a citizen, hoping to arrive at common norm governing health care distribution or some other matter of justice, to appeal to the philosophical or religious commitments of another, even if she disagrees with them.

(4.2) A second criticism of Rawls concerned the attempt to clarify a distinctively political point of view. Gaus had argued that this attempt founders on an indeterminacy problem, namely, that of deciding between rival conceptions or interpretations of this point of view. But we have already seen how Rawls no longer limits the content of public reason to a single political conception of justice. Rawls would thus reject the idea that Gaus’s “principle of perspectival autonomy” is necessary in order to arrive at an understanding of the political point of view. Instead, a political conception is reasonable insofar as it is complete and freestanding, and meets the criteria of establishing basic rights, prioritizing these rights over conceptions of the good, and providing for the all-purpose means necessary for the effective use of freedom. Justice as fairness remains Rawls’s favored political conception; but political liberalism now views it as one among many possible political conceptions. Of course, this is not to say that the separation between the politically reasonable and the reasonable in general is as straightforward as Rawls suggests. As I see it, some of Gaus’s suspicions about this distinction are warranted, and so I will return to this problem in the final section of this paper.

(4.3) Finally there is the question of political consensus. I have already suggested why a consensus on most political issues, including fundamental ones, is not an expectation of political liberalism (Rawls 1997, 799). But what about the regulative ideal of real consensus? Should it remain a part of a theory of public justification? I believe that it should, but for reasons that Rawls has not clearly articulated. Other theorists, most notably Gerald Postema, have pointed out the practical advantages of such an ideal. The discipline that it imposes on public reasoning has immediate implications for the structure of our deliberative institutions (Postema 1995b, 369-77; cf., Habermas, 1996). But there is another reason for this regulative ideal. The notions of sincerity and public justification do not militate against a regulative ideal

of consensus; rather, from the point of view of those engaged in public discourse, they imply one. As Habermas has argued, to offer someone a good reason in the hope of justifying a norm is already to *anticipate* agreement. As observers of the political process we realize that consensus on fundamental questions is rare.¹³ But as participants, reasoning publicly with others in the second-person about norms for our common life, we seek rationally motivated acceptance for the claims we raise. That is, we want the other to accept our claim because she believes that, if challenged, it could be vindicated on the basis of reasons (Habermas 1998b, 320-5). So the expectation of consensus is a necessary part of the *attitude-structure* of participating citizens themselves, at least those reasonable citizens who are also committed to both sincerity and public reason.

Of course, even Gaus admits that public reason and public justification necessarily aim at a what he refers to as a “rationally motivated consensus.” What Gaus denies is that the quest for rationally motivated consensus also implies the regulative ideal of actual consensus. I do not see the point in making this distinction. Considering that we are concerned with questions that are debated publicly, a goal of actual consensus serves a number of important purposes. By encountering and trying to convince others in the public sphere, we are forced to consider reasons which may be incompatible with our own judgments. Moreover the goal of consensus reminds us of the provisional character of decisions made before full agreement is reached. Of course no actual consensus is equivalent to truth or correctness. And a goal of mere agreement, not informed by the other ideals discussed by Gaus, would not make very much sense. Given the limitations of our reasoning, Gaus is right to raise suspicions that our typical political agreements are influenced as much by blindness and arrogance as they are by the public use of reason. But, at the same time, an actual consensus based on reasons which survive public reflection and debate allows us to suppose that our decision-making is at least on the right track. What other options do we have?

5. The Limits of Political Liberalism

Though I have attempted to defend Rawls against many of Gaus’s criticisms, I want to conclude by suggesting that political liberalism remains burdened by one of the problems discussed by Gaus, namely the problem of the relation between the political and the epistemic senses of the reasonable. Of course, others have called into

¹³ For criticism of Rawls for overemphasizing the “observer’s” perspective, at the expense of the participant’s perspective, see McCarthy 1994, 60.

question the epistemic dimensions of political liberalism. Specifically, Rawls has been criticized for losing sight of the validity claim for his own theory of justice (Habermas 1995 and 1998a; Raz 1990). In formulating overlapping consensus as a criterion of justification, Rawls is able to address the problem of political stability only at the price of being able to account for what makes political liberalism itself correct or true. I am sympathetic to these critiques of what Joseph Raz calls Rawls's "epistemic abstinence"; but I would like to discuss a different aspect of the problem here, one that is not only located at the very foundations of political theory.

Nothing I have said has resolved the difficulties encountered by Rawls in the effort to maintain a distinction between the political and the epistemic in the exercise of public reason. The issue of abortion provides a particularly vivid example of how even citizens committed to public reason can find themselves in deep disagreements about basic judgments of fact (e.g., the fact of what a human life is and when it begins).¹⁴ It is important that we are clear about what is stake with this problem. It is not simply that public reason thereby fails to provide us with determinate answers in advance of deliberation. As Rawls rightly insists, that is not its goal (Rawls 1997, 794). Rather, certain epistemic disagreements complicate the notion – central to my interpretation of Rawls's account of legitimacy, reciprocity and public reason – of being able to draw on what others can recognize as the values of a reasonable political conception. Part of the idea of public reason, as we have seen, is the aim of enabling citizens to reassure one another that they are sincere and reasonable. Appealing only to what we take to be shared political values is supposed to facilitate this reassurance. But while this is an important goal in many cases, it is improbable that public debate on all fundamental questions can or even should prescind from issues that might be seen as nonpolitical or as comprehensive. The turn to political values is no longer sufficient for reasonableness when the source of our disagreement concerns differing views of more basic questions. Rawls's more recent discussion of the "wide view of public political culture" – i.e., the proviso, declaration and conjecture – does address this problem, but only in a limited way. These ideas all suggest that while nonpolitical beliefs or values may be introduced into the public forum, they should not be

¹⁴ Rawls treats the "troubled question of abortion" in a rather infamous footnote to *Political Liberalism*. What he says there seems to confirm, rather than allay, fears about the relationship between the idea of public reason and cases of epistemic disagreement. For his discussion of this topic as well as a later statement of clarification and retraction, see Rawls 1993, 243f, and Rawls 1997, 798.

debated or *contested* there, at least with respect to fundamental questions.¹⁵ Why not? The answer can be inferred from the overarching aims of political liberalism: this kind of contestation would work against the reassurance of reasonableness that Rawls hopes to achieve through the idea of public reason.

Yet disagreements about these issues are often part of the struggle to realize more fully the meaning of human rights and core liberal values. The realization, for example, that many taken-for-granted gender roles do not derive from simple facts of nature or sexuality has played an important part in the struggle against forms of gender disadvantage.¹⁶ Many of the historical examples of this kind, however, could be understood as involving first and foremost a dispute about what is epistemically reasonable, and the ideals political liberalism run the risk of closing off debate on these issues. Rawls is right to argue that we have duties of civility; but precisely how these issues should (morally) constrain public discourse and reason-giving must be continually reinterpreted (cf., McCarthy 1994, 52-4).

At the philosophical level of theory construction, the fact that even some fundamental political questions are informed by and may even turn on disagreements about nature, psychology, or scientific theory and method does not mean that we should give up on the attempt to articulate the differences between types of reasoning (e.g., moral-practical, theoretical, instrumental, and even public-political). But it does require that we examine the notion of what it means to have a reasonable belief, and how this notion is connected to ideas of truth and justification. This examination would have to draw, as for example Habermas has attempted to do, on a more complete theory of reason than is found in Rawls's discussion of the two moral powers of the rational and the reasonable.¹⁷ Again, the goal would not be to determine which beliefs are reasonable, once and for all, but to supplement and shore up Rawls's account of how citizens can act reasonably, and recognize one another's attitudes and actions as such.¹⁸ Yet for Rawls any philosophical investigation of this type would be part of a comprehensive doctrine and so would fall outside of the jurisdiction of political liberalism.

¹⁵ For Rawls such debate is permissible in what he calls the "background culture." See Rawls 1997, 768.

¹⁶ See generally Rhode 1989. See also McCarthy 1994 and Habermas 1996.

¹⁷ The moral powers are explained by Rawls in Lecture II of *Political Liberalism*. See Rawls 1993, 47-88.

¹⁸ Compare attempts to understand public reason in the context of deep moral disagreements, such as Bohman 1995 or Gutmann and Thompson 1996. Bohman, in fact, seems to anticipate many of the changes to political liberalism discussed here.

6. Conclusion

In this essay I have tried to show how the changes in Rawls's theory of political liberalism allow us to understand the idea of public reason as a vehicle for allowing citizens to see one another as reasonable, even when they are fully aware of what seem to be irreconcilable differences between them. On fundamental questions, citizens aim at a reciprocity whereby they can mutually *take* one another to be making an effort to be reasonable, by offering one another only public reasons. They are thereby assured of one another's reasonableness and of the legitimacy of their joint decisions. Contrary to some of Rawls's critics, public reason does not presuppose consensus about a single political conception; nor does satisfying the idea of public reason require that a consensus is reached (though it does imply that one is aimed at by citizens). In many ways, the idea of public reason is manifested in the *attitudes* of citizens and public officials, attitudes involved in both the offering and taking of reasons, and ones which are perhaps best captured in Rawls's recent use of the term "civic friendship" (Rawls 1997, 771).

I have also used this account of public reason in order to answer some of the specific criticisms of Rawls by Gerald Gaus. Far from working against publicly justified (or in Rawls's terminology "legitimate") decisions, sincerity is a vital part of Rawls's idea of public reason. Rawls even attempts to articulate the ways in which sincere reasoners can appeal to nonpublic reasons, and to premises which they do not accept, in order to reach agreement with others. And while Rawls is not entirely clear about why the presupposition of actual consensus (as a regulative ideal) is a part of the ideas of public reason and legitimacy, I have argued that it must be. But I have also suggested that Gaus is right to call into question Rawls's attempt to delineate so strictly a specifically political sense of the "reasonable." It is not that the idea of public reason should be abandoned; rather it must somehow incorporate the idea that at times we must discuss publicly issues and concerns which may not appear to us to be directly "political."

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