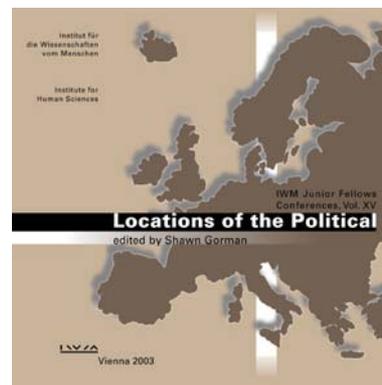


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Rawls and the Duty of Civility

Eric Brown

Part One

The ancient Greeks and many who have taken inspiration from them have understood human life as fulfilled in participation in political life, which, of course, includes public discussion, voting, and holding political office. Further, the bemoaning of sophistical, improper participation in public discourse is not new either. Think of Alcibiades' use of his superstardom; the sycophants and demagogues clogging the law courts and the Assembly. That such activity should be curtailed for the sake of the health of the community is a common classical theme. However, establishing the conditions under which one can fulfill one's *telos* as a political animal is not the same as having what in modern and contemporary terms we would call an obligation. New issues concerning the obligation to obey certain limits in one's participation in public discourse in light of the plurality of moral worldviews and the persistence of disagreement under modern democratic conditions has caught the attention of contemporary liberal theory. These new issues focus around deontological principles of reasonableness and reciprocity rather than the ends of human nature. In relation to these new issues there is still some interest in what might be called the health of the political community, in the form of a concern for

the stability of liberal society. However, the conception of a stable liberal society is, in many ways, a much “thinner” conception than the classic vision of the healthy political community.

In this paper I will examine one attempt to articulate these obligations associated with pluralism and liberal society, John Rawls’ account of the duty of civility. Under the conditions of (reasonable) pluralism and the likelihood of persistent disagreement among citizens about basic matters of fundamental value, Rawls supposes that we are able to isolate a certain range of political values that can serve as reasons that citizens can give to each other in public discussion of political matters, use to come to conclusions about how to vote, and evaluate the official discourse of those who hold public office. This range of values is one thing that Rawls means by *public reason*.¹ Rawls claims to have demarcated this range of values as a common ground that we *can*, and *ought to*, use in our public discussions. It is this last claim, the claim that we have an obligation to give reasons to each other about public matters from this range of values, that is the focus of this paper.

The range of values to which we may appeal, according to Rawls, “is given by a family of political conceptions of justice,” not just one conception, and therefore there are “many forms of public reason specified by a family of reasonable political conceptions.”² The content of public reason consists in liberal values of political justice such as equal political liberty, equal opportunity, social equality, and liberal values of public reason such as guidelines for public inquiry (publicity, transparency), reasonableness and “a readiness to honor the duty of civility.”³ This range of

¹ Rawls seems to mean at least two other things by public reason. One is the means or the process by which a democratic society makes plans, prioritizes goals, and deciding in accordance with these plans and goals (Rawls, *Political Liberalism* [New York: Columbia UP, 1993], 212). A second is something like a mental faculty of public, the reason of equal citizens in establishing laws and constitutional principles for the exercise of coercive political power over themselves (Rawls 1993, 214).

² John Rawls, “The Idea of Public Reason Revisited” in *The Law of Peoples* (Cambridge: Harvard UP, 1999), 140-1. There are three major statements of Rawls’ understanding of public reason, chapter VI of *Political Liberalism*, “Reply to Habermas,” and “Idea of Public Reason Revisited.” There are some changes in his characterizations of public reason (and other things—compare the principle of legitimacy in Rawls 1993, 137 to Rawls 1999, 137) from from text to text but I do not think that, however interesting, any effect my claims in this paper. For Rawls’ claim about what counts as a liberal conception of justice see Rawls 1993, 223 and Rawls 1999, 141.

³ Rawls 1993, 224.

values is bounded by the criterion of reciprocity.⁴ People are reasonable in the sense specified by reciprocity when they “are ready to propose principles and standards as fair terms of cooperation and abide by them willingly, *given the assurance that others will likewise do so.*”⁵ It is this last clause that is essential in distinguishing reciprocity from altruistic impartiality and will play a key role in my subsequent argument.

It is Rawls’ contention that the duty of civility commits us to using the values within the range of reasonable liberal conceptions of justice when we vote and participate in public discussion. The duty of civility is a non-legal moral duty to “be able to explain to one another on [...] fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason. This duty also involves a willingness to listen to others and a fair-mindedness in deciding when accommodations to their view should reasonably be made.”⁶ My discussion will focus on the first part of the duty of civility, as it is this part that is made the most of by Rawls himself.

A successful argument for the duty of civility is necessary for Rawls to resolve what he calls “the paradox of public reason.” The background of the paradox is Rawls’ famous “fact of reasonable pluralism.” The fact of reasonable pluralism is that “the diversity of reasonable comprehensive religious, philosophical, and moral doctrines found in modern democratic societies is not a mere historical condition that may soon pass away; it is a permanent feature of the public culture of democracy.”⁷ A pluralism of reasonable comprehensive doctrines is an inevitable feature of a modern liberal democratic society that results from “the work of free practical reason within the framework of free institutions.”⁸ To ground the public-political or-

⁴ Rawls 1999, 14.

⁵ Rawls 1993, 49. In *The Law of Peoples* (1999) the criterion “requires that when those terms are proposed as the most reasonable terms of fair cooperation, those proposing them must also think it at least reasonable for others to accept them, as free and equal citizens, and not as dominated or manipulated, or under the pressure of an inferior political or social position.” This formulation does not seem to be superseded by the 1999 formulation, as the 1993 text is cited by Rawls himself in a footnote to the 1999 formulation.

⁶ Rawls 1993, 217.

⁷ Rawls 1993, 36.

⁸ Rawls 1993, 37. For an argument that Rawls’ later work is not really concerned with *pluralism and moral conflict* and that the real issue Rawls’ work is aimed at is *reasonable disagreement* see Charles Larmore, “Pluralism and Reasonable Disagreement” *Social Philosophy and Policy* 11:1 (Winter 1994): 61-79.

der of a democratic society on one comprehensive doctrine is both immoral and unfeasible.⁹ It is immoral, for Rawls, because it does not allow us to acknowledge citizens as free and equal. It is unfeasible because it leads to instability.¹⁰ The conception of justice that supplies the principles for the ordering of a democratic society must be a “political conception of justice”—compatible with all or most reasonable comprehensive doctrines (worldviews that citizens take as expressing the whole truth about human affairs) yet not derived from any of them.¹¹

On this background we can see the importance of the paradox of public reason. The paradox of public reason is: “Why should citizens in discussing and voting on the most fundamental political questions honor the limits of public reason? How can it be either reasonable or rational, when basic matters are at stake, for citizens to appeal only to a public conception of justice and not to the whole truth as they see it? Surely, the most fundamental questions should be settled by appealing to the most important truths, yet these may far transcend public reason!”¹²

If this paradox remains unresolved, then citizens would have no reason to refrain from appealing to the idiosyncracies of their comprehensive doctrines when voting and deliberating on public matters. For Rawls this would be disastrous. He does not spell out explicitly what the consequences of failing to resolve the paradox would be, but we can conjecture. One would be that, in public discourse and her

⁹ The possibility of basing liberalism on comprehensive doctrines is examined closely in Tony Fluxman, “Critical remarks on Rawls’s burdens of judgment” *South African Journal of Philosophy* 17:4 (1998): 363-376. A defense of perfectionism generally against political liberalism’s antiperfectionism can be found in David McCabe, “Knowing about the Good: A Problem with Antiperfectionism” *Ethics* 110 (January 2000): 311-338.

¹⁰ The problem of stability is “how is it possible that there can be a stable and just society whose free and equal citizens are deeply divided by conflicting and even incommensurable religious, philosophical and moral doctrines?” A stable society can reproduce itself over time through the continued allegiance of reasonable citizens to a set of political principles that govern their conduct. (Rawls 1993, 143) Revising his understanding of the stability of a well-ordered society, given the fact of pluralism, is cited by Rawls as his intellectual motivation for developing the project of political liberalism. See Rawls 1993, xv-xvii. For Rawls’ account of the problem of stability in *A Theory of Justice* (Cambridge: Harvard UP, 1971) see 454-504. For an assessment of the extent to which stability ought to be a criterion for the acceptability of theories of justice see David Copp, “Pluralism and Stability in Liberal Theory” *The Journal of Political Philosophy* 4:3 (1996): 191-206.

¹¹ For a more detailed account of a political conception, see Rawls 1993, 11-15. For a more detailed account of a comprehensive doctrine see Rawls 1993, 13.

¹² Rawls 1993, 216.

own public deliberations¹³ a reasonable citizen would be confronted with an irreconcilable conflict between two values: her own attachment to some part of her comprehensive doctrine (or the whole of it) and the political conception's values of liberalism that she sincerely affirms.¹⁴ A second problem, from Rawls' point of view, is that failure to resolve the paradox could result in citizens actually speaking in public from out of their comprehensive doctrines, leading to an erosion of overlapping consensus and stability. The duty of civility, which is Rawls' response to the paradox of public reason, would be an overriding value which would decide, on universally acceptable grounds, the conflict between the two values of the citizen's comprehensive doctrine and the political conception, and would provide a publicly recognizable moral standard that would serve the purpose of sustaining stability.

Rawls' argument for the duty of civility has five elements, which I will lay out and give approximate tags for convenience. Then I will show how those elements can be made into an argument.¹⁵ I will reserve critical discussion of the argument for the next section of this paper.

(1) The ideal of citizenship. Rawls ascribes the ideal of citizenship to citizens who are assumed to be reasonable and rational. The ideal of citizenship is realized in a person when she is, wants to be, and wants to be recognized by others as a good

¹³ I distinguish between "personal deliberations about political questions" to which the duty of civility does not apply and one's own "public deliberations" which occur within the bounds of public reason. Both, it seems to me are necessary components of any Rawlsian model of an agent's political practical reasoning. How these two components might relate is beyond the scope of this essay. See Rawls 1993, 215.

¹⁴ Note that this is not a matter of a conflict between the comprehensive doctrine and the political conception themselves, but rather a conflict between some elements of the two in the context of the practical reasoning of the citizen herself. Rawls seems to deal with this issue at Rawls 1993, 145 and 155, but I think he simply stipulates the problem as solved in the account of the third view of the model on p. 145.

¹⁵ It might seem that there are two other arguments for the duty of civility—"that honoring the limits of public reason by citizens generally is required by certain basic rights and liberties and their corresponding duties, or else it advances certain great values, or both." This seems to be an argument for the duty of civility ("honoring the limits of public reason") but it is really, as Rawls says, "what has so to be shown" and based on conjecture (219). Further, if we actually take it as an argument, it seems only to repeat in an obscure way some part of what I take to be the main argument. There might also seem to be an argument on 218, but it relies on the duty of civility and presupposes its validity.

As Michael Meyer notes ("Liberal Civility and the Civility of Etiquette: Public Ideals and Personal Lives" *Social Theory and Practice* 26 (Spring 2000): 73-4) Rawls depends on the duty of civility a great deal, invokes it often, but does little to elaborate it.

citizen, that is, a reasonable and rational, normally and fully cooperating member of society.¹⁶ I have condensed two ideas into one. Rawls' strict formulation of the ideal of citizenship only involves the idea of being and being recognized as normal and fully cooperating. However, I include in my formulation of the ideal of citizenship the ideas of the rational and the reasonable on the supposition that Rawls means that it is a requisite of being normal and fully cooperating that the citizen have a form of moral sensibility that includes the rational and reasonable. A reasonable person acknowledges the criterion of reciprocity and is willing to offer fair terms of cooperation, to be brief. Thus, the notion of a fully cooperating citizen seems to involve the very idea of the reasonable. This ideal of citizenship describes the ideal to which the citizen's conception-dependent desire to be a good citizen is directed. This conception-dependent desire is part of the moral psychology that Rawls ascribes to citizens.

(2) The context. The political relationship among democratic citizens is one in which they are assumed to share for a lifetime a common framework of basic institutions, and political power, always coercive, is shared by citizens as a body.¹⁷ Emigration and secession, for instance, are ruled out.

(3) The liberal principle of legitimacy. Derived from the original position, it reads, "political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational."¹⁸

(4) The rough isomorphism of the reasonable with liberalism. Liberal principles and values are specified by working out, or are compatible with, principles of practical reason such as the reasonable, which includes the criterion of reciprocity. To require that the exercise of political power be restricted in its validity by a *reasonable* constitution is, in most cases, to require that such exercise is compatible with or supportive of basic liberal principles and values such as freedom of conscience.

(5) The duty of civility. Rawls claims that because of the liberal principle of legitimacy, the ideal of citizenship imposes a duty of civility, to repeat, "to be able to

¹⁶ Rawls 1993, 81 and 84.

¹⁷ Rawls 1993, 216.

¹⁸ Rawls 1993, 225; 217; This is a more precise presentation than found in Rawls' introduction of the principle on page 137. Elsewhere, Rawls derives the liberal principle of legitimacy from the criterion of reciprocity and changes its formulation slightly. See Rawls 1999, 137.

explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason.” In fulfilling their duty of civility, citizens fulfill the ideal of public reason.¹⁹

The inferential connections in Rawls’ text are extremely murky, but the best and clearest account of them I can give is as follows.

(A) The ideal of citizenship (1) is a reason for citizens to desire to and make efforts to be and to be recognized as reasonable (to keep matters simple). It can be an ideal in two senses, which Rawls does not distinguish between. That which an agent admires for its excellence and tries to embody in herself, honor, and/or maximize in such a way that it is preferred over other things that the agent wants and values—this is an attractive ideal. That which is the best possible instance (perhaps imaginary) of some type of thing, as such, or in one of its aspects, and on the basis of this superiority has a legitimate claim on its inferiors within this type to become more like itself—this is a normative ideal.

(B) Under the constraints of the context specified in (2) we can act on this reason only through cooperating with others in regulating the power shared by all and in ways compatible with the maintenance of a society from which we cannot emigrate or secede with others.

(C) Power, as specified in (2) is to be regulated by a principle of legitimacy (3) that restricts the proper exercise of power to cases in which all citizens can reasonably be expected to endorse (through the mediation of the constitution) such exercise as reasonable and rational. From this, in conjunction with the rough isomorphism of the reasonable with liberalism (see 4), we might conclude that if power is to be regulated by the principle of legitimacy, then it is effectively regulated by the range of liberal values specified as compatible with or as expressions of the criterion of reciprocity.

(D) Since the exercise of power in a democracy occurs in the context of public discussion and voting on the part of officials and citizens (see 1), and the content of public reason (liberal political values) is roughly isomorphic with the reasonable and the criterion of reciprocity (see 4), the citizen acts on the reason provided by the ideal of citizenship (see A) in the context of her participation in public discus-

¹⁹ Rawls 1999, 135.

sion and voting only by appealing to those liberal values in her public discussion and voting on issues regarding the coercive use of political power.

(E) To do this would require that she comply with the duty of civility (5) and “be able to explain to [others] on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason.”

It is fairly clear from this exposition that a great deal of work in this argument is done by the principle of legitimacy and the ideal of citizenship. The principle of legitimacy serves as a template, as it were, for Rawls’ drawing of the limits of public reason. Even more work is done by the ideal of citizenship. The principle of legitimacy helps to specify what is honored when a citizen fulfills the duty of citizenship, but the ideal of citizenship seems to provide the reasons for the citizen to fulfill the duty of civility. If we understand the ideal of citizenship as an attractive ideal, then it must be a preference that necessarily outweighs other preferences when they conflict.²⁰ If we take the ideal of citizenship to be a normative ideal, then it must necessarily override other values for the citizen.

Further, it is not the case that if the ideal of citizenship is one reason among others for citizens, then the argument for the duty of civility that Rawls gives succeeds. The ideal of citizenship must be a reason that is always overriding for persons in their capacity as citizens. In neither case is the ideal of citizenship to be thought of as applying to persons in their nonpublic life, of course; when I speak of ‘the citizen,’ like Rawls, I mean persons in their public-political capacity, and not in their capacity as parents, wage-earners, or members of associations.

If Rawls’ argument for the duty of civility is to work, the ideal of citizenship must necessarily be either more attractive to citizens than other values and ideals or an ideal to which they are always obligated, in some sense, to live up to. If it is not one of these, then Rawls’ argument fails. This is so because Rawls claims to have shown that there is a *duty* of civility—an unconditional obligation. If the ideal of citizenship is not necessarily overridingly attractive to a citizen, then the duties that are associated with that ideal do not apply to the citizen, any more than the duties of a NASCAR pit crew member apply to a brain surgeon who is not attracted to

²⁰ Whether or not an attractive ideal or a self-conception can generate an obligation is a large issue that goes beyond the scope of this paper. I will assume for the sake of argument that it can.

autoracing. If the ideal of citizenship is not necessarily overridingly normative for a citizen, then the same conclusion follows.

It is crucial to Rawls' argument that step A and step 1 of the argument reconstruction go through. In step D of the argument the liberal principle of legitimacy may serve as a template for the limits of public reason. But if the ideal of citizenship, in at least one of the two senses of 'ideal,' is not a necessarily overriding reason for the citizen, then she has no reason or obligation to be, to want to be, and want to be recognized as a reasonable, rational, and fully cooperating citizen at the expense of other ends. Without this, she has no duty to recognize the limits of public reason proposed by Rawls.

There are two qualifications of public reason and the duty of civility that we should consider briefly. In *Political Liberalism* Rawls endorses an inclusive view of public reason that allows us to present, under certain circumstances, reasons from our comprehensive doctrines that are not included in the content of public reason, so long as we do so in a way "that strengthens the ideal of public reason itself."²¹ This is not so much a qualification of the duty of civility, but rather the idea that we can violate an obligation (the duty of civility) for the sake of furthering some set of values and norms that includes, supports, or enjoins fulfillment of the obligation itself. Secondly, Rawls claims in "The Idea of Public Reason Revisited" that *citizens* (as opposed to citizens who are government officials) discharge their duty of civility when they deliberate about their votes and vote in accordance with the duty of civility and when they hold public officials accountable to the limits of public reason. The vast bulk of what we would normally understand as political discussion, and which most fundamentally informs our understanding of matters of justice and society's good, takes place in the "background culture" and the "nonpublic political culture" (churches and associations, universities, professional schools, on the one hand, and the media, on the other) that falls outside the stricture of the duty of civility.²² According to "the proviso," we can invoke the content of the background culture in public-political discussion, so long as we, in due course, offer considerations from public reason. This however does not rescind the duty of civility's injunction to *be able and ready*²³ to explain the basis of our voting (and other public-

²¹ Rawls 1993, 247.

²² Rawls 1993, 14 and Rawls 1999, 134n13.

²³ Rawls 1993, 217-8.

political actions) to our fellow citizens. These qualifications are important for Rawls' notion of public reason, but are not central to the issue of this paper, Rawls' argument for the existence of the duty of civility in the first place.

Part Two

I contend that Rawls' argument fails. My contention is based on Rawls' reliance on the ideal of citizenship. My objection in the case of the ideal of citizenship as an attractive ideal is that, simply put, Rawls tries to derive from an idealized moral psychology and its associated ideal of citizenship a duty of civility that is supposed to be binding on us. One problem is that I, as an actual agent, do not have reason to do what I would have reason to do if I had an idealized moral psychology and its associated ideals. An actual citizen, I contend, is not necessarily attracted to the ideal of citizenship. Given the role of the ideal of citizenship in the argument for the duty of civility, it would seem that the argument does not show that I have such a duty.

If the ideal of citizenship is interpreted as a normative ideal, a different kind of idealization is necessary for the normative hold of that ideal over the citizen to generate a duty of civility. The actual conditions in which citizens live must be idealized; if there is not widespread reasonableness -- specifically, responsiveness to the criterion of reciprocity -- then the normative ideal of citizenship has no hold on citizens. Widespread reasonableness would be a feature of what Rawls calls a "well-ordered society," and, as Rawls himself notes, the concept of well-ordered society is "highly idealized."²⁴

A further problem is that Rawls' idealization is based on an essentially contested concept—'citizen'—without attention to the interpretive demands and limits of the use of such concepts. Rawls cannot simply claim that his understanding of the ideal of citizenship, nor the moral psychology that includes this ideal as an overriding attraction he "ascribes" to citizens, can be derived from a straightforward analysis of the concept of 'citizen,' nor does he do nearly enough to acknowledge and engage the controversial character of this concept.

²⁴ Rawls 1993, 35. Rawls does not explicitly cite widespread reasonableness as a feature of a well-ordered society, but I take to be included in, at least, the idea of citizens having "a normally effective sense of justice" (35).

To substantiate these arguments I should first distinguish between idealization and abstraction. I will follow Onora O'Neill's excellent discussion of this distinction. Abstraction is the bracketing of or disregarding of predicates that are true of some something under discussion. Abstraction is not in itself problematic, and seems to be unavoidable in everyday and intellectual activity. "All uses of language must be more or less abstract; so must all reasoning."²⁵ When we reason through abstraction we make claims that do not depend on some predicate or predicates holding of the subject matter of our reasoning. "The important merit of abstraction ... is that it never arbitrarily augments a given starting point, so will not lead one validly from a truth to a falsehood."²⁶ Idealization, on the other hand, can lead to falsehood. "An assumption, and derivatively a theory, idealizes when it ascribes predicates—often seen as enhanced, 'ideal' predicates—that are false of the case in hand, and so denies predicates that are true of that case."²⁷ Call these 'ideal' predicates "false predicates" for short.

Rawls' work is notorious for its liberal use of idealization. As O'Neill notes, even in his later work in *Political Liberalism*, after his "pragmatic turn," Rawls grounds his idealizations in "the tradition of democratic thought" or "certain fundamental ideas seen as implicit in the public political culture of a democratic society."²⁸ What exactly such things are, and whether or not they are the same, is far from clear. O'Neill seems to think that through the pragmatic turn Rawls believes that he has avoided the problem of idealization.²⁹ If this is so, it only exacerbates the problem of idealization, for Rawls does not acknowledge clearly enough that in deriving his ideals he is involved in a fundamentally hermeneutic or interpretive enterprise. The criteria that Rawls has used to select certain ideas as fundamental, and to delineate the borders of what he takes to be the tradition of democratic thought and the public political culture of democracies, are not made clear and argued for by Rawls in relation to other interpretative possibilities. Rawls' hermeneutic has led him to select as fundamental ideas of democratic societies and public cultures variations on the doctrines of Immanuel Kant, an author hardly read, understood or appreciated

²⁵ Onora O'Neill, *Towards justice and virtue* (New York: Cambridge UP, 1996), 40.

²⁶ O'Neill 1996, 40.

²⁷ O'Neill 1996, 41.

²⁸ Rawls 1993, 13, 18; O'Neill 1996, 46.

²⁹ O'Neill 1996, 46.

in American public culture. Further, though (some) philosophers may appreciate a hermeneutic that picks out Kant's work as a particularly salient feature of the thought and culture of modern democracy, this seems to me to be a case of *déformation professionnelle*. Basing one's political theory on Kant's moral psychology is a defensible enterprise, but holding that Kant's moral psychology is a, if not *the*, fundamental idea of democratic culture requires a much more elaborate hermeneutic exposition and justification.

There is a wide range of material in the culture of modern democracies that could serve to characterize its ideas. Publius' skeptical view of human nature, Emersonian perfectionist individualism, various discourses on race, racism, and cultural belonging—this is just a sample of the diverse and conflicting ideas from *American* democratic culture, let alone those found in other national traditions. To speak to our instance, Rawls' hermeneutic basis for his idealization of the moral psychology of persons is inadequate, as he has not articulated his criteria of selection that sort out the alternatives and pick out his quasi-Kantianism as so fundamental.

With the distinction between idealization and abstraction and this note about Rawls' interpretive, pragmatic turn in mind, I will first take up Rawls' idealized moral psychology and the attractive ideal of citizenship. The moral psychology that Rawls ascribes to citizens is an idealization, and this idealization vitiates his attempt to argue for a duty of civility on the basis of an attractive ideal of citizenship.

Briefly, the moral psychology Rawls ascribes to citizens is captured in three categories of desires.³⁰ One category is object-dependent desires, the satisfaction of which is dependent on some object. Examples include bodily desires as well as desires for status, wealth, love, loyalties, vocations, and, presumably, religious and ethnic identities. A second category is principle-dependent desires, the satisfaction of which is to be found in an aim or action that cannot be described without the use of principles of the rational and the reasonable. The third category is conception-dependent desire. The aim of a conception-dependent desire is to act from a reasonable or rational conception or ideal to which our principles belong and help articulate.³¹ The conception upon which this motivation depends is an ordering

³⁰ It should be noted that Rawls' use of 'desires' is, no doubt, a reference to what Bernard Williams has called the agent's "motivational set" which can include "dispositions of evaluation, patterns of emotional reaction, personal loyalties..." "Internal and External Reasons" in *Moral Luck* (New York: Cambridge UP, 1981), 105.

³¹ Rawls 1993, 83-4.

principle for principle-dependent desires and has priority over them in this sense and in the sense that it is of greater *normative* weight.³² In the case of the ideal of citizenship and the associated conception-dependent desire to live up to this ideal, the citizen orders her deployment of the principles of the rational and reasonable in such a way as to attempt to satisfy a desire to be, and to be recognized by others as, a good citizen, that is, a reasonable and rational, normally and fully cooperating member of society. The normative weight of this ideal as a reason, an overriding weight, for the citizen, is matched by what Rawls calls “the psychological strength of the desire itself.”³³ That is, just as the ideal of citizenship is a *reason* that normatively outweighs lower object- and principle- dependent desires, so to in the actual psychology of the citizen the psychological strength of the desire or impulse to be a good citizen outweighs other lower desires.

The moral psychology that Rawls ascribes to citizens is one that gives them certain reasons for acting and certain desires to act from those reasons. It seems that in Rawls’ account it is reasons that have priority; the hierarchical categorization of the desires is dependent upon an antecedent hierarchical categorization of the reasons. An attractive ideal of citizenship provides a reason to the citizen on the basis of her self-conception. She admires a citizen who is a reasonable, rational, normal and fully cooperating member of society, and she aspires to attain that status herself because it is part of her conception of the kind of person she is and wants to be. By ‘the kind of person she is and wants to be’ I do not mean that she necessarily *is* already reasonable, say, but that she is the kind of person who has some reasons to aspire to be reasonable. This aspiration must also be one that is overriding for her, at least in the context of political life.

If we bracket for the moment the issue of the validity of Rawls’ hierarchical categorization of reasons, we can see that the hierarchy of desires that Rawls ascribes to the citizen is an idealization. Citizens who have an overriding desire to realize the ideal of citizenship are not very common, I should think. Bruce Ackerman’s typology of citizens can help us see this. The *public citizen* “look[s] upon citizenship as a higher calling, the source of the deepest values to which man and women can ordinarily aspire.”³⁴ The *perfect privatist* takes the question ‘what is good for the coun-

³² Rawls 1993, 83 and 82-3n31.

³³ Rawls 1993, 82-3n31.

³⁴ *We the People: 1, Foundations* (Cambridge: Harvard UP 1991), 232.

try?’ to be a “fancy way of asking” ‘what is good for me?’³⁵ If we are *private citizens*, then “despite our manifest concern with our personal destinies, we continue to assert our capacity to speak about ‘the rights of citizens and the permanent interests of the community.’”³⁶ Taking the United States as an example, we can say that most of the citizens who actually vote and take part in public-political deliberation are either perfect privatists or private citizens. Some may be public citizens, but such characters, however noble and valuable, are rare.

Disregarding public citizens, it would seem that private citizens make good candidates for fulfilling the idealized moral psychology Rawls ascribes to citizens. But we should be careful. The deliberations that a private citizen engages in about the interests of society and the rights of individuals are not necessarily based in public reasons, and may very well issue in conclusions that fall outside of limits of public reason and within her comprehensive doctrine. She may come sincerely and in good faith to the conclusion that the best thing for society is to vote for a public official who intends to impose some part of a comprehensive doctrine on society. While, in some sense, she is a conscientious citizen, she is not attracted by Rawls’ ideal of citizenship. Of course, some private citizens will find Rawls’ ideal of citizenship attractive.

Suppose that, as is often the case, the number of actual voters in national elections tends to amount to about half the number of eligible voters. Let me stipulate, and I think that it is a generous offering, that half of those who actually vote are private citizens.³⁷ This would mean that one-quarter of the eligible voting public is composed of private citizens. Again, being generous, let me stipulate that half of this one-quarter find the Rawlsian ideal of citizenship attractive at all, and half of that one-eighth find it overwhelmingly attractive. On these assumptions, one-sixteenth of American citizens are Rawlsian citizens. I do not think that the precise numbers matter here; perhaps one-eighth of American citizens find the Rawlsian ideal of citizenship attractive. My point is simply that there is no good reason to ascribe to any given actual citizen an attraction to the Rawlsian ideal of citizenship. To suppose that the citizen, *as such*, has an attraction, let alone an overwhelming

³⁵ Ackerman 1991, 233.

³⁶ Ackerman 1991, 231.

³⁷ I am more pessimistic that Ackerman, who claims (in 1991) that “most Americans answer the name of private citizen” (Ackerman 1991, 234).

one, to the Rawlsian idea of citizenship, is to impute a false predicate to real citizens.

If we take Rawls' imputed moral psychology to involve an *attractive* ideal of citizenship, one to which citizens necessarily give an overriding weight, then it would seem to be an idealization. It is false to impute to actual citizens such a moral psychology. Many citizens of modern democracies have no such ideals at all. A possible Rawlsian counterargument might be that such actual citizens do not really understand what it is to be a citizen and therefore do not understand that their status as citizens, by virtue of the very nature of 'the citizen,' commits them to the ideal of citizenship. However, this sort of ideal would be a normative ideal, which I will consider next. Additionally, after my consideration of the normative ideal of citizenship, I will offer an objection to the idea that a Rawlsian analysis of the concept of 'the citizen' can tell us anything uncontroversial about what citizens should be and are committed to by virtue of their status as citizens.

Now, I will consider the argument from the normative ideal of citizenship. It may be the case the ideal of citizenship has a normative claim of some kind on citizens. I do not think that the normative ideal of citizenship is necessarily a reason for citizens to forgo acting on other object-dependent reasons that conflict with it. In this case, the idealization is not an idealization of the moral psychology of citizens *as such*, but an idealization of the social conditions fostered by the actual moral psychology of citizens. Reasonableness, the fundamental characteristic of the ideal citizen, is in part a matter of acknowledging and acting on the criterion of reciprocity. But, as we will see, the criterion of reciprocity makes an essential reference to actual social conditions that make the elevation of reasonableness and the normative ideal of citizenship binding only under the idealized social condition in which the principle of reciprocity is widely acknowledged. Put another way, under realistic social conditions, the principle of reciprocity is in effect much more a principle of impartial altruism — a principle to which Rawls does not himself think citizens should be held.

Given that so few citizens in contemporary democracies can be counted on to have the moral psychology Rawls ascribes to citizens, it is appropriate for actually existing citizens to have different hierarchies of reasons than the one Rawls describes. It is not apparent that contemporary society is made up of agents who are willing to be reasonable in the sense Rawls understands. Modern democracies are characterized by citizens who are often quite reluctant to do as reasonableness (specifically, reciprocity) demands: "to propose principles and standards as fair terms of

cooperation and abide by them willingly, given the assurance that others will likewise do so.”³⁸ I am required by the criterion of reciprocity to propose fair terms, terms that would accord with the reasonable and, given the rough isomorphy of the reasonable and liberalism, liberal values, only if I can be assured that my fellow citizens will also do so. The ‘assurance clause’ may be understood to say that the criterion of reciprocity, and thereby reasonableness, is not a reason for me only if I cannot be assured that my fellow citizens will act on the fair terms they and I might otherwise propose. However, discussion of and agreement upon fair terms is a prelude to cooperative *action*. If my fellow citizens cannot be trusted to act on an agreement to fair terms, then this undercuts my reasons for offering and discussing fair terms in the first place. If my fellow citizens are not willing to be reasonable, then it is built into Rawls’ notion of the reasonable, specifically into reciprocity, that I do not have a reason to do so. To not defend my rational interests and abide by reciprocity when others are not willing to be reasonable would require altruistic impartiality, and Rawls—rightly I think—rejects the interpretation of reciprocity as altruism or impartiality. Under actual conditions, the normative ideal of citizenship, based as it is on the reasonable and reciprocity, cannot be said to always be an unconditional or overriding reason in a hierarchy of reasons for actual citizens.

Only if we idealize our social conditions and assume a false predicate of society—that the principle of reciprocity is widely acknowledged—do the principle of reciprocity and the normative ideal of citizenship hold. But, under realistic conditions, I would risk becoming the victim of other people’s assertion of their comprehensive doctrines in public discussion. For some citizens, this risk may not be a reason to not aim at the ideal of citizenship. For others, it may be a reason to act on a rather different conception of citizenship, or simply in their own rational self-interest. However, given the non-altruistic nature of Rawls’ notions of the reasonable and reciprocity, the basic components of the ideal of citizenship, this ideal is not always an overriding reason for the citizen as such.

Rawls could not claim, either, that the moral psychology he assigns to the citizen follows analytically from the concept of ‘citizen’ itself. Rawls’ understanding of the

³⁸ Rawls 1993, 49. In *The Law of Peoples* (1999) the criterion “requires that when those terms are proposed as the most reasonable terms of fair cooperation, those proposing them must also think it at least reasonable for others to accept them, as free and equal citizens, and not as dominated or manipulated, or under the pressure of an inferior political or social position.” The 1993 formulation This formulation does not seem to be superseded by the 1999 formulation, as the 1993 text is cited by Rawls himself in a footnote to the 1999 formulation.

‘citizen’, like his understanding of many of the basic ideas of democratic society, is based in an undeveloped hermeneutic of liberal democratic culture. To work out *the* concept of ‘citizen’ for a liberal democratic culture might be impossible, since this concept seems to be extremely complex in its structure and essentially contested.³⁹ This does not mean that a philosopher cannot use the concept of ‘citizen’ (or some other essentially contested concept) in making an argument. Rather, using essentially contested concepts requires careful accounts of, interpretative justifications of, and awareness of the limits of, such use. It requires an openness to other appropriations of such concepts as well. My point here is that Rawls’ idealization is *but one* interpretation of the normative content of an essentially contested concept. It is not the case that if I do not live up to, or even do not want to live up to, Rawls’ ideal of citizenship that I am not a citizen or even a good citizen. Rawls would have to supply a much richer account of his criteria of interpretation to make his idealization more plausible in the first place. That accomplished, he would still have to meet the two previous objections I ventured above.

If this two-pronged argument is accepted, then element 1 and step A of the argument reconstruction above do not hold. In step D of the argument the liberal principle of legitimacy may serve as a template for the limits of public reason, though citizens do not have a duty or strict obligation to observe the limits involved. They are not necessarily attracted to nor normatively bound by the ideal that would be necessary to generate that duty. This may leave the principle of liberal legitimacy intact, which would apply to the use of state power, but not to public discussion about how state power can be used.

Let me consider two possible Rawlsian objections. One objection could run that my rejection of Rawls’ moral psychology as idealized is arbitrary. I would seem to be putting unjustified restraints on the moral psychology of persons. However, I do not mean to place any *limits* on what sorts of desires and obligations people could be said to have. I do not mean to rule out either the attractive or normative ideal of citizenship from the point of view of what it would mean to be a rational agent or on the basis of claims about what sorts of ideals or reasons can be genuinely normative and which just cannot. Certainly it may be the case that some citizens find Rawls’ ideal of citizenship attractive, and on that basis may respond to the duty of

³⁹ See William E. Connolly, *The Terms of Political Discourse*, 3rd edition (Oxford: Basil Blackwell, 1993), 10ff. The notion of essentially contested concept comes from W. B. Gallie, “Essentially Contested Concepts” in *Proceedings of the Aristotelian Society* 56 (London 1955-56).

citizenship. Also, it may be the case that further moral arguments could be provided to show that we actual citizens are bound by the normative ideal of citizenship despite the fact that it would require, under real social conditions, attitudes of and acts of altruistic impartiality. I merely want to argue that Rawls has not adduced good reasons, because of his use of idealization, to show that either case holds.

A second objection is that it follows from the fact of reasonable pluralism that I can count on my fellow citizens to be reasonable and reciprocal. Therefore the ideal of citizenship is an overriding reason for me. First, there is something question-begging about this objection. It seems to be the claim that I can count on my fellow citizens to be reasonable and reciprocal, just because of the fact that they are reasonable and reciprocal. Second, reasonable pluralism is a fact, if it is a fact at all, about the nature of extant comprehensive doctrines in pluralistic democracies. It seems to be fallacious to infer from the predominance of reasonable dogmas and worldviews that those who, in some sense, affirm those dogmas and worldviews are themselves reasonable. Though citizens may affirm comprehensive doctrines that include values of tolerance and freedom of conscience, this does not mean that citizens affirm values of tolerance and freedom of conscience. Many may affirm such doctrines despite their disagreement with or indifference to those values.

Let me conclude with a brief review. To simplify, Rawls claims that the duty of civility follows from the ideal of citizenship, the liberal *principle* of legitimacy, and the rough isomorphism of the reasonable with liberalism. I have shown that his use of the ideal of citizenship, because of the idealized moral psychology it is associated with, does not support this claim.

Rawls fails to solve the paradox of public reason, if my argument holds. At times there will be conflicts of value encountered in the practical reasoning of citizens between the demands of reasonableness, which are in some non-overriding form often acknowledged by citizens, and other values unique to the citizen's comprehensive doctrine. If the duty of civility were the only possibility for rational resolution of such conflicts, then they would be rationally irresolvable.

Of course, I have not shown, nor have I intended to show, that there is nothing that can perform something like the role Rawls intends for duty of civility, and I hesitate to draw general conclusions from my specific argument against Rawls' duty of civility. What my analysis of Rawls' argument does suggest is that justification of an obligation to remain within a certain range of reasons in public discussion must be sensitive to the various and different sets of reasons that persons actually have.