Legitimacy and Moral Pluralism

by

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-J.Z.
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Introduction: An Unfulfilled Promise

How is a legitimate democratic society possible despite persistent moral, cultural, and religious pluralism? As citizens in a democracy, we face a predicament in our attempts to govern the basic structure of our society according to principles that all can affirm, because the diversity of belief and social practice leads people to put forward conflicting principles. This problem receives additional urgency from the recent collapse of the so-called secularization hypothesis. The canonical sociological view, espoused by theorists such as Marx, Durkheim, and Weber, was long that social processes of modernization would necessarily lead to a decline in religious belief and in the social importance of religious practice. In recent years, however, it has become apparent that the secularization hypothesis has held true only in a very limited set of cases, notably in western continental Europe. There is no necessary connection between modernization and secularization.

If the secularization hypothesis were true, then the problem of cooperating in the face of a diversity of belief would be correspondingly diminished, because citizens would come to have a broadly secular and liberal worldview from which to reason in common. For over a hundred years, the dominant theories of liberal justice have presupposed an emerging consensus on secular beliefs. J.S. Mill, for example, famously advocated a “religion of humanity” as a secular humanist worldview to accompany his liberal political views. Given that modernity is not necessarily secular, however, we need a way of thinking about justice that does not exclude adherents of traditional forms of belief. How could there be a liberal political order that such believers could freely accept?
I think the best theory to date of how such legitimacy is possible is “political liberalism,” which holds that the fundamental principles of political justice that govern a liberal constitution should be justified independently of any particular system of cultural, religious, or philosophical beliefs. The best account of political liberalism is given by the late American philosopher, John Rawls (1921-2002), in a book of that title. What help is Rawlsian political liberalism with this problem of legitimacy in the face of moral pluralism, how can we build on his efforts, and how far do we have to revise his views? A good way to answer these questions is to place *Political Liberalism* within Rawls’s lifetime of work, and the trajectory of his intellectual development.¹ Rawls had the essential insight of conceiving of justice in pragmatic terms, as fair social cooperation according to principles held in common, responding to disagreements here and now—but he only partially realized the promise of his own insight. Once I have sketched the development of his views, I can show how Rawls failed to follow the logic of that development to its conclusion, and place my own work as a step closer to fulfilling Rawls’s vision. In this way, my own theory emerges out of an analysis and diagnosis of Rawls’s career, and of the way in which his work helps us respond to the central problem I identified. I will attempt to execute that sketch here; the hard work of offering an improved formulation lies in the chapters ahead.

Rawls’s 1958 article “Justice as Fairness” presents the essential core of his view of justice, that it fundamentally consists in fair social cooperation or reciprocity.

A just social order is one governed on the basis of principles that all can freely accept. This view of justice was intended as an alternative to the utilitarian tradition of thinking about justice in terms of aggregate want satisfaction, which Rawls saw as the dominant tradition of reasoning about justice and institutional design; the challenge was to provide a comparably systematic and coherent alternative. Rawls argued that this core of reciprocity, or “fairness,” is the “aspect of justice for which utilitarianism, in its classical form, is unable to account, but which is expressed, even if misleadingly, by the idea of the social contract.” Thus, “justice as fairness” was to be an update of the social contract tradition in political philosophy, worked into a suitably systematic theory for the purposes of modern institutional design.

The seeds of political liberalism were already present in this core idea of justice as social cooperation. Rawls saw questions of justice as arising out of disputes in the course of ongoing social practices; a just resolution of these disputes is one according to principles that all parties can freely affirm. The following question naturally arises, given the focus on the practical function of justice in resolving disagreements: how should an adherent of this philosophical view of justice respond to a social context in which others do not hold that view? “Justice as Fairness” argues for the philosophical thesis that the most important part of the concept of justice is the idea of fairness, or cooperation. That view of justice arises out of the social contract tradition in political philosophy, and it has a particularly strong affinity with the Kantian strand of the tradition. But often adherents of this view of justice will be engaged in social practices with those who understand justice in a different way. How

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should an adherent of this philosophical view respond to others who do not accept justice as fairness, but are nevertheless willing and able to cooperate?

The key turn here is realizing that a commitment to cooperation can be divorced from its deep philosophical underpinnings in justice as fairness. The logic of a view of justice as social cooperation demands that adherents of that view cooperate with any and all who are similarly willing to cooperate, even if they are willing to cooperate for very different reasons. In *Political Liberalism*, Rawls calls the existence of multiple cultural and philosophical traditions that are willing to cooperate across such differences the “fact of reasonable pluralism” (PL 36). The natural response of a theory of justice as fairness to reasonable pluralism is to present political justice as freestanding—as independent from any particular understanding of its true nature, or relationship to human flourishing or other values. In *Political Liberalism*, Rawls expresses this point by saying that a political conception of justice should be freestanding from any particular “comprehensive doctrine.”

This pragmatic impulse in the idea of justice as social cooperation, especially when confronted with a context of moral pluralism, captures the essential logic to the development of Rawls’s thought. Though it was largely obscured in his early work, by the end of Rawls’s career, he more clearly understood his own pragmatic emphasis on the social function of justice in resolving disagreements within a social practice.

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3 Ibid., p. 53.
4 Students of Rawls’s work will notice that the logic of this transition is brought out most clearly in *The Law of Peoples*, his work on international relations. How should liberal societies regard non-liberal societies that nevertheless realize a value of cooperation, both domestically and internationally? Rawls’s calls such well-ordered non-liberal peoples “decent societies,” and argues that we must treat them as fully
Moreover, he came to situate political philosophy as the public reasoning of citizens in a liberal democracy, as is particularly striking in his exchange with Habermas:

Citizens in civil society do not simply use the idea of justice as fairness ‘as a platform [handed to them by the philosopher as expert] from which to judge existing arrangements and policies.’ In justice as fairness there are no philosophical experts. Heaven forbid! But citizens must, after all, have some ideas of right and justice in their thought and some basis for their reasoning. And students of philosophy take part in formulating these ideas but always as citizens among others. Whether he was able to fully and consistently hold on to this pragmatic and situated view of political reasoning is another question, however. I believe he was not, as I explain below. The rest of this introduction will give a brief account of Rawls’ work after “Justice as Fairness,” focusing on the ways this pragmatic impulse was obscured and expressed. In particular, understanding the foundational and universalistic ambitions of Rawls’ first major work, A Theory of Justice (1971), helps explain why Rawls never fully embraced the pragmatism of political liberalism.

A Theory of Justice struggled deeply with the problem of fair cooperation in the face of moral pluralism, particularly deep disagreements in political values, but it failed to come to grips with reasonable pluralism. Rawls’s political context was the cold war internationally, and domestically the divide between proponents of free markets and classical liberalism on the one hand, and social democracy on the other. Both of these divisions—between the east and the west, and markets and social democracy, were often analyzed in terms of a conflict between values of liberty and equality. “The original position,” Rawls’s famous thought experiment from A Theory

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of Justice, was intended as a method of justifying principles of justice in the face of such moral disagreements. In this thought experiment, we imagine ourselves coming to agreement on principles for a social contract from behind a “veil of ignorance,” with no knowledge of our particular situation in society; Rawls referred to it as an “Archimedean point” for assessing the basic structure of society from within (TJ 229-232). With it, Rawls aspired to reach beyond moral disagreements to commonly accepted intuitions—for instance, that one’s economic position or religious beliefs should not influence judgments about justice—and use these intuitions to generate determinate principles of institutional design.

Within the view of justice as social cooperation, the original position serves as a way of thinking through or modeling our considered convictions about what principles of justice we could reasonably expect all to accept. In the original position, our ignorance of our particular position in society, including our cultural and religious beliefs, constrains us to give arguments that will be acceptable generally, and not just to someone in our situation. However, this brings us back to the central pragmatic question: what could motivate citizens to place themselves behind the veil of ignorance, as they offer justifications to one another? Frequently, offering and accepting the terms of cooperation that would be justified from behind a veil of ignorance would impose real sacrifices on some cultural and religious groups; it is not at obvious that all things considered they would have reason to do so. In Theory, Rawls’ answer to this problem turns heavily on a Kantian interpretation of justice as fairness, according to which the original position works as a “procedural interpretation” of our nature as free and equal, rational beings (TJ 226). When we act
according to the principles that would be chosen by the parties in the original position, we act autonomously, according to the dictates of reason, and without the undue influence of our particular position or desires. Rather than allow that there might be multiple perspectives that could justify the veil of ignorance, Rawls doubled-down on his own Kantian view.

This Kantian characterization of the original position is an aspect of Rawls’ “stability argument.” A view of justice as social cooperation naturally prompts a concern with actually realizing cooperation in our social practices. Such a view looks plausible only if people could actually come to propose and abide by fair terms; justice as fairness must envision a “realistic utopia,” to use terminology from later in Rawls’s career. In reality, however, the variety of views and forms of life in society renders any such consensus on cooperation unlikely, at least for now. Rawls responds to this issue by arguing that, if a society well-ordered by justice as fairness came about—which means roughly that justice as fairness would effectively and publicly regulate its basic structure—it would be stable or self-reproducing over time. Its citizens, Rawls argued, would come to have an effective sense of justice that would lead them to affirm and act from the public principles of justice.

The argument is long and complex, but for our purposes here it is enough to note that, in the end, it relies on the Kantian view mentioned above. It follows from this view that justice is congruent with our rational good, in that we have a highest-order interest in the exercise of our practical reason, and therefore that abiding by

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6 This is built into the idea of reciprocity; a practice of reciprocity is only sustainable if a sufficient number of others will practice it with you.
justice as fairness is sustainable and highly desirable.\textsuperscript{7} Thus, the stability argument in Theory grounds cooperation in one particular comprehensive doctrine, which it claims to be universally valid. Accordingly, much of Theory is devoted to giving a wider philosophical account of the nature of justice and its relationship to other human values, e.g. including an account of “goodness as rationality” (TJ 347). In this sense, it is directly opposed to the freestanding view of political justice.

Why did Rawls present justice as fairness as a comprehensive theory of justice? Why did he fail to acknowledge reasonable pluralism? Any answer will necessarily be speculative. Nevertheless, I believe one reason is that Rawls was still working in the tradition of liberalism that presupposed an emerging secular, liberal consensus, so that the possibility of a society well-ordered by his comprehensive view of justice seemed a real one. Additionally, Rawls was writing within a classical traditional in political philosophy that saw itself as rationally justifying universally valid principles of justice. A Theory of Justice was a contribution to debates in this tradition, in part by updating them to fit his social and political context. Writing political philosophy sub specie aeternus was not a mistake, from his perspective, but rather an achievement.

Three major philosophical ambitions of his, prompted by his participation in this tradition, drew him away from a more pragmatic, freestanding approach. First, the dominant view of political and moral philosophy at this time was deeply

\textsuperscript{7} For an interpretation and analysis of the transition from Theory to Political Liberalism that explicates Rawls’s brief remarks about the failure of the stability argument, and focuses on the Kantian interpretation of justice as fairness, see Samuel Freeman’s essay “Congruence and the Good of Justice,” in The Cambridge
influenced by value non-cognitivism, a meta-ethical position which denies that cognitively determinative grounds can be given for matters of value, such as justice. In one form, this reduces normative theorizing to mere personal expression or statement of opinion, and it suggests that the only legitimate role for moral or political philosophy is the analysis and clarification of moral or political concepts. The ambition to respond to the prevailing non-cognitivism helps explain how the pragmatic core of Rawls’s view of justice was obscured behind a more ambitious and foundational philosophical theory; a freestanding view of justice must abandon any attempt to refute value non-cognitivism, for that would require precisely the sort of rich philosophical argument it seeks to avoid.

Second, Rawls aimed to respond to the influential Marxist criticism that liberal freedoms are merely formal, and in fact mask social structures of domination, by synthesizing an egalitarian form of liberalism that could achieve the consent of its citizens on a continuing basis. This was related in obvious ways to Rawls’s cold war political context.

Third, Rawls presented *A Theory of Justice* as a comparably systematic alternative to utilitarianism, one which would have the same wide institutional scope, and would be capable of providing similar kinds of practical guidance. Thus, Rawls’s purpose was explicitly to demonstrate the superiority of his account of justice as fairness over alternatives, rather than to accommodate a variety of comprehensive views within a practice of cooperation.

Some time after the publication of *A Theory of Justice*, John Rawls came to believe that his argument for the stability of the proposed comprehensive version of justice-as-fairness was not successful. The problem, he reasoned, was that no single moral doctrine could ever be affirmed by every citizen in a free society. Rather, human reason under free institutions naturally gives rise to a plurality of reasonable philosophical and religious views, which Rawls called “comprehensive doctrines,” with different understandings of human flourishing and value. Insofar as the stability argument in *A Theory of Justice* presumed that citizens would hold a certain comprehensive understanding or interpretation of liberal justice, Rawls came to see it as self-defeating, since liberal institutions necessarily give rise to a plurality of such comprehensive understandings. Rawls argues that a reasonable pluralism of comprehensive doctrines is a necessary consequence of the “burdens of judgment,” which are, roughly speaking, the immense difficulties associated with practical and theoretical reasoning (PL 54). The solution to the problem of stability in the face of reasonable pluralism is an “overlapping consensus” of reasonable comprehensive doctrines on a shallow view, or a “political conception” of justice, presented as freestanding from any particular comprehensive view (PL 133).

Yet, even as Rawls acknowledged the fact of reasonable pluralism and accepted a freestanding view of justice, he failed to completely depart from the tradition of doing political philosophy *sub specie aeternus*. In important ways, political liberalism remained mired in the legacy of *A Theory of Justice*. It will be

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8 See Karl Marx, “On The Jewish Question,” for an influential statement of this critique.
impossible to make fully clear what I mean, until I develop my positive proposals for reformulating political liberalism, but a few brief remarks may be useful.

Part of the problem lay in the way Rawls understood the failure of *Theory*, and the transition to *Political Liberalism*. Rather than casting political liberalism as a pragmatic response to reasonable disagreement here and now, Rawls saw it as a necessary consequence of the nature of human reason, specifically what he called the burdens of judgment. Moreover, Rawls continued to advocate timeless principles of justice that aspired to completeness and finality. These principles were supposed to be autonomous in important ways from cultural and historical particularities. He never completely came to grips with the situated and pragmatic project of political and social engagement aimed at achieving a practice of political cooperation among all reasonable people, here and now. Paradoxically, he made a universal case for a pragmatic approach to justice. These are controversial claims, flatly contradicting Rawls’s own statements about the pragmatism of his approach, but I believe the arguments below will justify them. Correcting the consequent errors in political liberalism is a major ambition of this thesis.

In the chapters that follow, I will argue that Rawls failed to follow his pragmatic turn in political philosophy to its full conclusion, and I will attempt to provide a reformulated, more dynamic and inclusive version of political liberalism that better fulfills the promise of his project. The work moves along Hegelian lines, taking up particular problems with Rawls’s view as they present themselves, and showing how resolving them leads us to reformulate his account in substantive ways. In my first chapter, I begin by addressing the question of what moral commitments
and views citizens must have to be political liberals. Drawing on and clarifying Rawls's own views, I argue that citizens must have an explanation for reasonable pluralism that allows them to see that adherents of other comprehensive doctrines can be fully reasonable, as well as a commitment to cooperation or public justification in the face of reasonable pluralism. I then consider the particular explanation for reasonable disagreement that Rawls proposes, the "burdens of judgment," and argue that political liberals should be open to a wider range of explanations than the burdens of judgment alone. This resolves a common concern in the literature on political liberalism that a number of important comprehensive doctrines—especially religious ones—will not be able to accept the burdens of judgment. I go on to argue that Rawls was wrong to insist that reasonable pluralism is a necessary and permanent feature of the use of human reason under free institutions; political liberalism should be open to explanations for reasonable pluralism that characterize it as historically contingent or temporary.

In my second chapter, I pursue a parallel project with respect to the value of cooperation. I argue that political liberals should be interested in the range of ways in which comprehensive doctrines can prioritize public justification in the face of reasonable pluralism. Accordingly, I critique Charles Larmore's argument that political liberalism rests on a moral foundation of "respect for persons," on the grounds that "respect for persons" is only one possible moral commitment (an apparently Kantian one) that might motivate public justification. The rest of the chapter takes up the question of cooperation from two other comprehensive perspectives, that of utilitarianism and neo-Confucianism. Both, I argue, have
conceptual resources that can support a commitment to public justification in the face of reasonable pluralism.

My third chapter addresses Brian Barry’s *Justice as Impartiality*, another theory of liberal justice that advocates public justification in the face of reasonable pluralism. Barry’s theory serves as a useful foil for developing and defending my reconstructed version of political liberalism. Where my first two chapters argue that political liberalism should be open to and interested in a variety of doctrinal strategies for both explaining reasonable pluralism and affirming public justification in the face of that pluralism, Barry argues that no such overlapping consensus of reasonable comprehensive doctrines is necessary. The heart of Barry’s rejection of an overlapping consensus is his view that the only acceptable explanation for the fact of reasonable pluralism is a thoroughgoing skepticism about knowledge of the good. I argue that this is an overly exclusive formulation of what explaining the fact of reasonable pluralism requires. His rejection of an overlapping consensus also relies upon his failure to take seriously enough the problem of prioritizing cooperation over comprehensive values when they conflict.

Barry hints at an additional criticism of the idea of an overlapping consensus, on the grounds that it is redundant or overly stipulative, in that reasonable people are by definition those who can accept political liberalism. In my fourth chapter, I argue that the idea of an overlapping consensus is indeed redundant, but that this presents no problems for political liberalism once we conceive of an overlapping consensus in appropriately evolutionary or dynamic terms. I propose that we think of the political liberal project as one of intellectual and cultural engagement with diverse
comprehensive doctrines as they cultivate the resources within their own perspective for affirming the reasonable. Moreover, I argue that political liberals should be open to revising their understanding of what reasonableness requires as they encounter a variety of doctrinal resources and strategies through this process.

The dynamic or evolutionary view of an overlapping consensus naturally gives rise to a research program of serious engagement with the textual and interpretive traditions of particular comprehensive doctrines. In my fifth chapter, I take up an exemplar of this sort of project done within the theoretical framework of political liberalism: Andrew March’s *Islam and Liberal Citizenship: The Search for an Overlapping Consensus*. I argue that March’s valuable work provides some limited confirmation of the robustness of the political liberal project, and that his study both points to and would benefit from my reformulated account of political liberalism.

To conclude, I offer a unified statement of my reformulation of political liberalism, drawing together the various strands I articulate in my body chapters. If you would like to start with a statement of the position I will ultimately be arguing for, feel free to turn there now.
1. Explaining Reasonable Pluralism: Beyond the Burdens of Judgment

For Rawls, a crucial part of the solution to the problem of legitimacy in the face of reasonable pluralism is that citizens recognize that pluralism’s existence, and understand its implications. This requires, he thinks, accepting a particular explanation for comprehensive disagreement that is consistent with the reasonableness of all sides. He calls this explanation the “burdens of judgment,” and it refers to the many hazards that hound our reason, such as the difficulty of assessing complex evidence and weighing conflicting factors. These obstruct even our most conscientious attempts to achieve a general consensus of comprehensive views. For Rawls, acceptance of the burdens of judgment plays a critical role in citizens coming to see the unreasonableness of imposing on others terms of cooperation drawn straight from a specific comprehensive doctrine.

The Burdens of Judgment: Comprehensive not Political?

Rawls’s account of the burdens of judgment has been criticized from at least two directions. If the burdens of judgment are part of the argument of Political Liberalism, then they must be acceptable to all who hold reasonable comprehensive doctrines. Yet some have questioned whether the burdens of judgment manage to stay merely political in this way. There is a legitimate concern, for instance, that the major religions cannot accept them. Leif Wenar writes that “religious doctrines typically deny that the burdens of judgment obtain… a religious doctrine… characteristically presents itself as universally accessible to clear minds and open hearts.” Even worse, “heresy and infidelity are due to worldly temptation, demonic intervention, divine
predestination, and so on—forces within the horizons of the religious doctrine’s sure scheme of value and fact.”

Eamonn Callan argues that the doctrine of the burdens of judgment, when viewed in terms of its consequences for political education, relies upon and promotes a comprehensive or ethical value of autonomy, antithetical to many of the comprehensive doctrines in society.

Both Callan and Wenar argue that the burdens of judgment are implicitly comprehensive rather than political. Their recommendations about how to revise Rawls’s account are very different, however. Wenar’s proposed solution is to strip political liberalism of the burdens of judgment. He argues that political liberalism can support an overlapping consensus without reference to an explanation for reasonable disagreement, and in particular, without the burdens of judgment:

toleration and public reason are already secured … by the desire to propose and abide by fair terms of cooperation. People with this desire want to cooperate with their fellows according to rules acceptable to all. They believe it illegitimate to use political power to repress comprehensive doctrines simply because these are different from their own doctrines, as there can be no publicly shared justification for such repression. There is nothing else here for the burdens of judgment to do….

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10 Ibid., p. 44.
12 In fact Wenar’s argument is somewhat broader than this, applying also to Rawls’s account of a “reasonable moral psychology” and “political constructivism.” I leave these aspects of his argument aside, and focus on his critique of the burdens of judgment.
He sees no necessary connection between tolerance and acknowledgment of the burdens of judgment, pointing out that Roman Catholic doctrine affirms freedom of conscience and thought but rejects the burdens of judgment.\textsuperscript{14}

Callan, on the other hand, argues that Rawls should have the courage and honesty to accept that his so-called political liberalism is really an ethical or comprehensive liberalism. If promoting the burdens of judgment requires promoting the value of autonomy in a way that many comprehensive doctrines will not be able to accept, then so be it; for Callan, autonomy is just that important. Whereas Wenar suggests stripping political liberalism of the burdens of judgment to make it more palatable to diverse comprehensive doctrines, Callan suggests that we simply accept that liberalism can be nothing but another comprehensive doctrine, competing with the rest. In this way, their criticisms push political liberalism in opposite directions.

These criticisms point to serious ambiguities and deficiencies in Rawls’s account of the reasonable. Rawls’s many and equivocal uses of the term “reasonable” obscure how the components of that ideal—a willingness to propose fair terms of cooperation and an acceptance of the burdens of judgment—combine to motivate citizens to bracket their comprehensive disagreements and affirm a political conception of justice.\textsuperscript{15} This vagueness in Rawls’s account leaves him vulnerable to Wenar’s criticisms, because it fails to fully elaborate the unique and necessary role that accepting an explanation for reasonable disagreement plays in motivating citizens to abide by the duties of public reason. Thus, Wenar supposes that a particular

\textsuperscript{14} Ibid., p. 43.
\textsuperscript{15} This is the specification Rawls gives for reasonable as applied to persons. See Political Liberalism, p. 54.
explanation for reasonable pluralism is merely one possible but by no means necessary grounds for motivating cooperation. Because Catholicism accepts religious toleration but seems to reject the burdens of judgment, Wenar supposes that accepting the burdens of judgment is not required to support political liberalism. In reality, I will argue, political liberalism requires that citizens accept some adequate explanation of reasonable disagreement, even if not the specific account Rawls proposes.

To address these defects in Rawls’s account, usefully highlighted by Wenar’s criticisms, I will first identify the views and desires that citizens need to offer only public justifications for their constitutional views. From there, I will argue that the robust recognition of reasonable disagreement between comprehensive doctrines plays a critical role in supporting at least one important group of those necessary views. In section three, I will argue that the robust recognition of reasonable pluralism requires explaining how disagreement between comprehensive doctrines can be reasonable, rather than merely accepting that fact without explanation. In section four, I will argue that Rawls should make room for alternative accounts of

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17 Rawls attaches two caveats to this duty to offer only public justifications for political positions. First, the requirements of public reason apply only to debates of constitutional essentials and matters of basic justice (“The Idea of Public Reason Revisited” in PL, 446). Second, even on these matters, justifications relying on a reasonable comprehensive doctrine are acceptable, subject to the proviso that a public justification is given in due course (462). Together, they mean that must offer public justifications for their views on matters of constitutional essentials, but need not offer
reasonable disagreement. Once we have identified the motivations any account of reasonable disagreement must secure, it becomes clear that a wider range of accounts than the doctrine of the burdens of judgment can sustain the necessary motivations. Because some of these accounts are less tied to a value of ethical autonomy than the burdens of judgment, including them as potential substitutes effectively addresses Callan’s criticism. Thus, a suitably reformulated Rawlsian political liberalism can steer clear of both Wenar and Callan’s opposing charges. Finally, clarifying the foundational role explaining reasonable disagreement plays for political liberalism reveals that Rawls is overly ambitious to insist that reasonable pluralism must be a permanent feature of free institutions. Rawls should be open to accounts of reasonable disagreement that suggest it is a temporary or contingent phenomenon.

Reconstructing the Reasonable

I contend that citizens must have the following commitments and views to accept an obligation to give public justifications for their political positions:

1. The commitment to cooperate on fair terms acceptable to all reasonable people. Rawls also calls this the “criterion of reciprocity.”

2. Recognition:
   a. of what Rawls calls “the fact of state oppression”: that here and now, we cannot achieve a workable consensus on a single comprehensive doctrine without relying upon state oppression to bring it about.

only public reasons, nor do they need to offer public justifications for all political questions.
that adherents of alternative comprehensive doctrines may
nevertheless be viable partners in political cooperation, with normal human
powers of reason and a similar desire to cooperate.

These two points do not follow exactly the definition Rawls gives for the
reasonable citizen: a citizen who is willing to propose and abide by fair terms of
social cooperation providing others do so as well, and who recognizes the burdens of
judgment and their implications. This is because I do not want to beg the question
about the function of an explanation for reasonable disagreement in political
liberalism. The dispositions required to support political liberalism are primary, and it
is up to us to see how the robust recognition of reasonable pluralism fosters those
dispositions. Ultimately, I will argue that an account of reasonable disagreement
plays a critical role in securing (2), though it also has some bearing on (1). In other
words, although Rawls sets out the desire to cooperate and the acceptance of the
burdens of judgment as two separate aspects of the reasonable, they are not entirely
independent, in that one’s explanation for reasonable disagreement may influence
one’s desire to cooperate. Nevertheless, the most crucial role for an account of
reasonable disagreement is in grounding the fact of state oppression and our view of
adherents of opposing comprehensive doctrines as nonetheless viable partners in
political cooperation.

(2b), which states that citizens must not view adherence to a reasonable
alternative comprehensive doctrine as a disqualification from political cooperation, is
a substantial reformulation of Rawls’s account. In my view, this condition is implicit
and sometimes explicit in Rawls’s writing on the ideal of the reasonable and of
reasonable disagreement, but it is not defined or elaborated with sufficient clarity. For a citizen to accept the requirement to justify political positions on public grounds, she must not consider the mere fact that another citizen subscribes to a different comprehensive doctrine enough to disqualify him from being a political interlocutor or partner in cooperation. In one of his clearest and best treatments of the issue, Rawls rightly insists that

reasonable disagreement is disagreement between reasonable persons: that is, between persons who have realized their two moral powers to a degree sufficient to be free and equal citizens in a constitutional regime, and who have an enduring desire to honor fair terms of cooperation and to be fully cooperating members of society. Given their moral powers, they share a common human reason, similar powers of thought and judgment: they can draw inferences, weigh evidence, and balance competing considerations (PL 55).

If one is already moved to cooperate, reasonable disagreement in no way obstructs that commitment. Such disagreement is reasonable precisely because it is between people who are fully capable of cooperation.

This central issue, that reasonable disagreement must be seen as compatible with political cooperation, captures what is of essence in some of Rawls’s more confusing or equivocal uses of the term “reasonable.” For instance, consider his characterization of a “reasonable comprehensive doctrine” as a systematic and coherent use of theoretical and practical reason that “belongs to, or draws upon” a tradition of reason giving (PL 59). This characterization has drawn two criticisms. Wenar rejects it because “this characterization fails to rule out comprehensive doctrines that are clearly unreasonable in Rawls’s sense: Moslem fundamentalism, white supremicism, and rational egoism are all exercises of theoretical and practical
reason within a tradition of doctrine.”18 Taking the opposite view, Evan Charney worries that internal coherence sets far too high a bar for a comprehensive doctrine to be considered reasonable: “How many religions [sic] (or for that matter philosophical) views actually fit this characterization of the reasonable? I would hazard that there never has been a religious or philosophical system without major inconsistencies, incoherences, and incompatibilities as well as a general clash of values on one level or another.”19

Both of these criticisms show some insight, but both uncharitably overlook the deep connection between the characterization of a reasonable comprehensive doctrine and the function of an explanation for reasonable disagreement. On my reconstruction, Rawls is only suggesting that the adherents of such doctrines must be capable of normal human reason and thus be viable partners for political deliberation and cooperation. Contrary to Charney, perfect coherence is not a requirement to see a comprehensive doctrine as reasonable—exercises of normal human reason rarely (or never) are perfect, but we can still recognize a tradition of reason giving even if it does not seem to us a perfectly coherent one. Thus, to recognize other comprehensive doctrines as reasonable is merely to recognize that the way a given adherent engages with her comprehensive beliefs does not disqualify her from political cooperation, the way belief in a doctrine that refuses any obligation to engage in reasoned dialogue about its beliefs very well might. We should also concede that Rawls’s characterization of a reasonable comprehensive doctrine is incomplete: surely an

18 Wenar, “Political Liberalism: An Internal Critique,” p. 36.
adequate characterization would insist that a reasonable comprehensive doctrine should provide the resources for its adherents to accept the value of cooperation, as well as the resources for an account of reasonable disagreement.\(^{20}\) Still, Rawls’s characterization of a reasonable comprehensive doctrine, even if incomplete, hints at the function of an account of reasonable disagreement within political liberalism: it gives us reason to see adherents of conflicting comprehensive doctrines as viable political cooperators, capable of listening to and responding to reasons.

The important thing to grasp here is the way recognition of reasonable disagreement and a commitment to cooperation on fair terms must interact to support political liberalism and public reason. Neither alone is sufficient. Simply recognizing others as viable partners for cooperation does not, in itself, provide reason to bracket one’s comprehensive views and give justifications that all such partners can accept. This is key, because if we do not see that both are necessary, then we might be tempted to suppose that an account of reasonable disagreement must do more work than it feasibly can. In particular, it might seem that such an account must involve a skepticism or fallibilism regarding one’s own views, so that the differing worth of opposing doctrines becomes less pronounced, and easier to tolerate. But political liberalism must not require this, as Rawls clearly saw: “[political liberalism] does not argue that we should be hesitant and uncertain, much less skeptical, about our own beliefs” (PL 63).\(^{21}\) This would be anathema to the project of political liberalism,

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\(^{20}\) For more discussion of this issue, see my fourth chapter, where I address the charge that Rawls’s use of “reasonable” is overly stipulative.

\(^{21}\) More generally, political liberalism cannot require that all comprehensive doctrines accept any such controversial epistemological position. So, even if there are some
which is to accommodate multiple reasonable comprehensive doctrines within a just constitutional democracy, in part by including nothing in a political conception of justice that would require citizens to abandon their reasonable comprehensive beliefs. These beliefs can continue to be “non-negotiable” for their adherents.22

Finally, it is worth noting that the account one chooses for explaining reasonable comprehensive disagreement may have some influence on whether one desires to cooperate at all. Those who deny that adherents of other comprehensive doctrines can be reasonable tend to believe that the important thing is that the institutions of society are justified, period, rather than that they are acceptable to others. Imagine a case in which a religion explained all disagreement about comprehensive matters by the devil’s intervention. If we view others’ comprehensive doctrines as the devil’s instruments for enacting his will on earth, we may be less willing to tolerate those views. But that does not mean that even this explanation is completely incompatible with a commitment to cooperate, provided the desire to cooperate for other reasons is sufficiently strong. Suppose, for example, I believe that those whose beliefs contradict my own were simply unfortunate in having been tricked by the Devil, but that God still requires me not to impose my beliefs on them oppressively. Here the explanation for disagreement is one factor among many leading to a motivation to cooperate, and it is very hard to address these issues outside

notions of fallibilism that do not require us to be “hesitant and uncertain, much less skeptical,” political liberalism cannot champion these either. 22 Which is not to say that they necessarily will. Political liberalism should stay silent on this issue. I will say more on this in part five of this chapter.
of the context of specific doctrines or beliefs. Notice here that Wenar and I agree that an account of reasonable disagreement can be one factor influencing a general desire to cooperate, and that it is not a necessary factor to that desire. However, I break from Wenar in insisting that an adequate account of reasonable disagreement is nevertheless necessary, because it secures other views required for political liberalism.

Having established more clearly what dispositions and views citizens must have to accept an obligation to justify their political views on public grounds, we are in a position to see both why Wenar’s reconstruction of political liberalism without an account of reasonable disagreement cannot succeed, and how to use Wenar’s criticisms to revise Rawls’s views. In short, Wenar’s reconstruction cannot work because it fails to secure condition (2b). If one does not accept some account of reasonable disagreement, one could desire to justify one’s political positions to all reasonable people, while simultaneously holding that belief in an opposing comprehensive doctrine is enough to disqualify one from the set of reasonable people. Wenar does not seem to realize that determining to whom we have an obligation to justify ourselves is key.

In the quotation above, Wenar interprets fair terms of cooperation as “rules acceptable to all.” Yet, this cannot be quite correct. The rules do not have to be acceptable to those who are not genuinely motivated to cooperate, nor do they have to be acceptable to those incapable of normal human reasoning. We should not be overly

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23 Why the adherents of diverse comprehensive doctrines might come to see cooperation as a value, one that is embedded within their own comprehensive
concerned if racial supremacists, for instance, cannot accept our political justifications. Rawls’s is quite clear that he is concerned only with the possibility of an overlapping consensus among reasonable comprehensive doctrines—unreasonable doctrines are to be contained like “war and disease” (PL 64). The essence of the burdens of judgment, as an explanation for reasonable disagreement, is that it explains disagreement without supposing that those holding views incompatible with one’s own are either unwilling to live cooperatively with others or are deficient in their capacity to reason and deliberate in the necessary ways for cooperation. Thus, the duty to cooperate, absent an account of reasonable disagreement, is inadequate to provide an account of political legitimacy in the face of reasonable pluralism.

The problem of designating who is entitled to be given an adequate justification is relevant even for liberal comprehensive doctrines. While their comprehensive views may dictate that they tolerate a wide range of cultural and religious practices and beliefs, they will have no reason to present their political justifications in public terms if they do not accept the fact of reasonable pluralism. They will insist that the state should be tolerant, but the reasons they give (e.g. reasons resting on the value of autonomy) may not be ones that other reasonable comprehensive doctrines can accept.

Wenar is correct in pointing out that some apparently reasonable religious doctrines reject the burdens of judgment. Yet once we understand the role of a robust recognition of reasonable pluralism in supporting public reason, it is clear that those who do not have an adequate account of reasonable disagreement will not in fact have understandings of what is valuable, is another issue that Rawls leaves insufficiently...
good reason to accept the obligation of public justification, except perhaps
disingenuously or strategically. One conclusion that this discussion suggests, which I
will elaborate more fully below, is that political liberalism should be open to a wider
range of explanations than merely the burdens of judgment, so long as these other
explanations can secure the necessary motivations delineated above. This discussion,
however, has so far relied on an implicit assumption that a robust recognition of
reasonable pluralism requires an explanation for such disagreement. Let us turn to
that question now.

Does Recognizing Reasonable Pluralism Require Explaining It?

I have been arguing that political liberalism requires that citizens have a
robust recognition of the reasonableness of disagreement between comprehensive
doctrines. Does this entail that they need some explanation, like the burdens of
judgment, for that disagreement? Charles Larmore argues the contrary: “Explaining
the prevalence of reasonable disagreement about the human good is necessarily a
speculative endeavor, and we do not need to have a satisfactory explanation in order
to recognize the phenomenon and expect that it will endure.”24 Still, without some
sort of an explanation for this troubling phenomenon, belief in reasonable
disagreement seems hard to sustain. Indeed, one might suspect that without some
such explanation for reasonable disagreement, “reasonable” is just a shell of a term—
we have very little idea how it might differ from other sorts of disagreement. The

problem is that we are always under pressure to see those who disagree with us as unreasonable. We often have great interest in doing so. Unless we can incorporate the fact of reasonable disagreement into our worldview so that it makes sense to us, we are unlikely to be able to sustain belief in reasonable pluralism in the face of the great pressures of political and social life in a pluralistic society.

However, there is a sense in which this is a moot point, for comprehensive doctrines will inevitably venture their own explanations for comprehensive disagreement. The question is not whether some explanation is necessary, exactly, but rather what sorts of explanation will lead to genuine acceptance of the obligations of public justification, and hence full participation in an overlapping consensus.

Wenar is only partly right when he objects that, even if he is wrong that no explanation is necessary, he “can see no reason why there needs to be a nationally accepted explanation, instead of a variety of different (and possibly conflicting) explanations in the minds of those citizens who care to consider the issue” (Wenar 48). Certainly different doctrines will understand reasonable disagreement in different ways, but political liberalism should insist that whatever explanation they give is in fact an explanation for reasonable disagreement—that it is compatible with viewing adherents of other reasonable comprehensive doctrines as viable partners in political cooperation.

controversial metaphysical stance, and would obviously be unacceptable to many reasonable comprehensive doctrines. See The Autonomy of Morality, pp. 141-2.

25 Though they will likely cast this as explaining the existence of erroneous views; their own, correct views need no such explanation.

26 Of course, it is unrealistic to expect every citizen to have a fully worked out theory of reasonable pluralism; citizens’ views on these matters are likely to be partial and fragmentary. This merely heightens the importance that comprehensive doctrines
We should be wary of excessive ambition here. We do not need to give only one account of reasonable disagreement that will accord with the perspective of all comprehensive doctrines. Political liberalism can try to sketch the kinds of accounts that will be viable for explaining reasonable disagreement—and the kinds of accounts that will not work. This sketch will necessarily be rough and incomplete, and it should not claim to be exhaustive. The substantive work will be done in the process of engaging dialogically with real comprehensive doctrines, for these are matters that can only be worked out in practice. On close examination, perhaps an account that we previously thought could not sustain reasonable disagreement will turn out to be successful, when embedded and interpreted in a particular way. Other accounts that initially seemed promising may turn out to be insufficient. Political liberalism does not view comprehensive doctrines as static things—many may have to be reinterpreted or developed to more clearly support the possibility of reasonable disagreement. In this light, the greatest weakness of Wenar’s reconstruction of political liberalism is that he views the existence of an overlapping consensus, if one should come about at all, as a matter of luck and contingency. Political liberals can do more than remove the metaphysical baggage from liberalism and wait, hoping that comprehensive doctrines will come to see the light.

contain such accounts, for citizens are likely to turn to the resources these doctrines provide when confronted with a practical need to think about such pluralism. A charitable reading of the lists of burdens that Rawls gives will acknowledge that he does not try to do give one rigid and fully developed explanation, but rather leaves the list intentionally vague and unsystematic, so that it can be embedded into different comprehensive doctrines in different ways. He did not fully succeed in this goal, but he had the right intention.
Neither should political liberalism view comprehensive doctrines as monolithic entities. One of the unfortunate consequences of Rawls’s use of the phrase “comprehensive doctrine” is the impression it may give that these doctrines are monolithic and static. Of course, they are not—even the most hierarchical and centrally controlled of these doctrines, like Catholicism, admit of widely varying interpretations, often tied to internal power struggles. So, Rawls does not need to claim that the only, or even the dominant, interpretation of the major religions supports an explanation for reasonable disagreement. Rather, political liberalism is plausible if these doctrines have the conceptual resources to support such an explanation, even if this explanation is not currently the dominant interpretation. Political liberalism seeks to create an environment in which potentially hostile doctrines will develop in a tolerant direction—while making it clear what counts as a genuine development towards tolerance. The hope is that, as they come to see the goods that social cooperation brings, adherents of non-liberal comprehensive doctrines will fit the “module” of a political conception of justice into their own comprehensive views. Accepting the possibility of reasonable disagreement about comprehensive matters will be a crucial step along the way.

The Variety of Explanations for Reasonable Disagreement

I have been arguing that citizens must accept an adequate explanation for reasonable disagreement in order to be motivated (by principled reasons) to provide public justifications for their political views. Yet, many apparently reasonable comprehensive doctrines will not be able to accept the specific explanation that Rawls’s proposes, the so-called burdens of judgment. In this section, I will argue that political liberalism should be open to a range of alternative explanations for
reasonable disagreement, which can play the necessary motivational role. This inclusion will effectively respond to Callan’s criticisms as well, showing that my reformulation of Rawlsian political liberalism successfully evades both Wenar’s and Callan’s opposing challenges.

Before exploring alternatives in greater detail, however, I want to respond to an objection that suggests that the burdens of judgment are not actually an adequate explanation for reasonable disagreement between comprehensive doctrines. At first glance, the list of difficulties that Rawls gives seems to explain disagreements about particular judgments, rather than disagreements between whole frameworks of belief or value. The six factors that Rawls lists are: the complexity of the relevant evidence, the difficulty of weighing various factors, the “vagueness” and “indeterminacy” of our concepts—all of which are “subject to hard cases,” the inevitable influence of subjectivity and perspective, the difficulty of assessing conflicting normative considerations, and the difficulty of doing justice to all the values we think important in any given case (PL 56-57). These are suitable explanations for why two adherents to the same framework of value might disagree; they might agree about which doctrine should be used to evaluate the issue, but disagree about which provisions are the most relevant, how they should be weighted, and how the evidence bears on them. But this is too narrow for Rawls’s purposes, because the essential kind of disagreement that Rawls needs to explain is reasonable disagreement among conflicting comprehensive doctrines. Thus, an Islamic fundamentalist could accept that there is room for reasonable disagreement about how the tenets of his religion
apply to a specific case, but still insist that no reasonable person would deny that there is no God but Allah, and Muhammad is His prophet.

However, I think Rawls’s account of justification as the search for reflective equilibrium makes sense of why the burdens he lists apply most obviously to matters of particular judgment, and yet can still explain reasonable disagreement between comprehensive doctrines. In the search for reflective equilibrium, judgments of value in particular cases play an important role in determining our ultimate theoretical commitments, as we proceed by adjusting both our considered convictions and our theoretical understanding until they are as consistent as we can make them. So, two different series of particular judgments about value could lead down divergent paths, to different schemes of value. Furthermore, while each individual judgment may seem rational from within its respective scheme of previous judgments, the different frameworks developed through these processes may very well seem alien and obviously incorrect from the points of view of the others. Thus, with the idea of reflective equilibrium operating in the background, Rawls’s list of difficulties in reasoning works as an explanation for differing frameworks of belief and value.

However, if the burdens of judgment do in fact rely on Rawls’s account of reflective equilibrium, then this explanation for reasonable disagreement is (even more closely) tied to a partially comprehensive epistemological doctrine that will be unacceptable to many reasonable comprehensive doctrines. This merely reinforces my earlier conclusion that political liberalism should be open to a range of alternative explanations. Without trying to give an exhaustive list, these might include accounts that are practical in the sense that they stress that the time and dedicated effort it
would take to convert others to our comprehensive view prohibits using those views as a basis for governance, particularly as we have no right to demand that attention and effort from others. They might include accounts that rest on epistemic difficulties, like Rawls’s burdens of judgment, as well as more straightforward versions of fallibilism and skepticism. A theory of value pluralism, like Isaiah Berlin’s, might also provide the resources for an adequate account. Finally, some accounts might explain reasonable disagreement by way of extra-cognitive factors, or causal stories that do not rely on explicit judgments and do not impugn the rationality or reasonableness of those who disagree. For my purposes here, I want to focus particularly on explanations that rely on extra-cognitive factors, because these most directly respond to Callan’s criticisms.

The key feature of extra-cognitive explanations for belief is that they allow us to recognize that someone holds a patently irrational or otherwise unacceptable view, without implying that their capacity for political reasoning is deficient in ways that would preclude political cooperation. Extra-cognitive explanations sidestep the issue of the believer’s rationality by assigning the cause of the belief to something other than the exercise (or failure) of the believer’s rational faculties. Thus, although we can say that some extra-cognitive explanations for disagreement do not impugn the rationality of the disagreement, we need to be careful here. The relevant sense in which the disagreement is rational is that it is compatible with all sides having a normal capacity for political reasoning—not that both views have any particular merits of rationality. Insisting on the latter point would be incompatible with

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28 Obviously, these various explanations can also be combined in different ways.
vehement disagreement between comprehensive doctrines. Additionally, extra-cognitive explanations for reasonable disagreement need not be compatible with the global or complete rationality of those who disagree, but merely with their capacity for the kinds of reasoning essential for political cooperation.

As an example of a extra-cognitive explanation, a radical secular humanist might argue that the proper way to understand the origins of religious belief is through a process of socialization, rather than as a product of a rational decision informed by carefully weighed evidence, as the burdens of judgment suggest. On this account, the religious merely had the misfortune of having been born into religious families. While such a radical secular humanist might very well believe religion to be itself irrational, simply being religious is not taken as evidence that one’s powers of rationality are fundamentally or globally deficient. On the contrary, this account leaves room for secular humanists to accept that (some) religious people are capable of normal human reasoning, particularly about political matters. Of course, our radical secular humanist might insist that religious people are rendered incapable of reasoning correctly—for now, at least—about some issues, like religion or some matters of science, because of their framework of belief. But he can also see that this deficiency does not fundamentally impair their ability to cooperate politically.

Additionally, the secular humanist could find evidence for the compatibility of some religious belief with normal human powers of reason in the reasoning way in which many people of faith engage in their tradition. Within a particular framework,

29 Note the “some” in that sentence. Rawls correctly insists that we accept some common grounds for our public reasoning, like the uncontroversial findings of
which may have been adopted because of extra-cognitive causes, many people of
faith are capable of listening and responding to criticism, and often of revising their
own views for reasons. Even where a secular humanist regards the conclusions of
religion as false, he may be able to recognize a degree of internal coherence, that
suggests that a genuine capacity for reasoning is at work in an otherwise irrational
framework.\footnote{A central theme of Alasdair MacIntyre’s work has been the rationality of traditions. One need not accept such a controversial view as a historicist conception of...}

Note how the sort of “practical” account mentioned above can reinforce the
secular humanist’s extra-cognitive account of reasonable disagreement. Our secular
humanist might find it plausible that, even if a religious framework of belief has
extra-cognitive causes, if believers nevertheless retain normal human powers of
reason over a fairly wide range of issues, then they should be open to reasons that
question and undermine their beliefs. The “practical” account eases this difficulty, by
emphasizing that even if believers retain the powers of rationality that are required for
cooperation, undermining a deeply entrenched system of belief would require the
sustained attention and effort of both the believer and the non-believer. And while a
secular humanist might think that he has convincing reasons for rejecting religion,
and that he would be able to win over a religious person given enough time and
opportunity for discussion, he recognizes that he has no right to demand that the
religious lend their attention and effort. Thus, a practical account that emphasizes the
difficulties of undermining entrenched beliefs can help support a extra-cognitive

\footnote{Science. It is difficult, however, to specify ahead of time what that category must include. See \textit{Political Liberalism}, p. 224.}
explanation for religious belief that nevertheless does not impugn the believer’s capacity for political reasoning. Furthermore, this combination of accounts supports the “fact of state oppression,” in that considerable state oppression would be required to break up religious families in such a way that religious belief would not continue to be reproduced.

Similarly, Christianity has resources for an extra-cognitive explanation for reasonable disagreement. There is a traditional Christian belief that one has to receive God’s grace—which we do not deserve or merit in any way, and is hence freely given—before she can accept Jesus as her savior. Calvin presents a variant of this view in a particularly strong form, as a doctrine of predestination, but it resonates throughout the faith. Of course, this view does not demand tolerance, in and of itself; Calvin himself was deeply intolerant of religious difference. Rather, I merely suggest that this extra-cognitive causal account of belief is one resource that Christianity provides for explaining reasonable disagreement between comprehensive doctrines, without claiming that this has been an influential interpretation. Under a fully developed version of this view, non-Christians are (at least in some cases) merely unfortunate, and to be pitied. Perhaps more importantly, they are still worthy partners in political cooperation—nothing about their misfortune in not receiving God’s grace suggests that they are unreasonable or otherwise incapable of political rationality, however, in order to find evidence for a capacity to reason in the way someone engages with a tradition.

31 See Calvin’s *The Institutes of the Christian Religion*, book II, chapter 4. St. Augustine was also a major proponent of the doctrine of grace.

32 Note that Rawls is careful to say that political liberalism does not deny the doctrine that there is no salvation outside the church. It merely decries those who try to impose that doctrine on others. See *Political Liberalism*, pg. 138.
cooperation, or that oppressing them would be just. Of course, the prospects for Christians to accept an account of reasonable disagreement do not turn on this particular proposed explanation. Rather, this example merely suggests the fertility of religious doctrine as material for such explanations.

Finally, once we see that political liberalism can accommodate a variety of explanations for reasonable disagreement, we can effectively respond to Callan’s criticism that education for the burdens of judgment constitutes education for ethical or comprehensive autonomy. Callan argues that educating citizens to accept the burdens of judgment will require teaching them to see questions of comprehensive value from multiple perspectives, including ones critical of their own doctrine. In addition to being unacceptable to some comprehensive doctrines, he suggests, this is indistinguishable from educating them to make autonomous choices about their values and beliefs. Rawls leaves himself vulnerable to this criticism by insisting that all reasonable citizens must accept his particular highly cognitive explanation for reasonable disagreement.

However, if I am right, political liberalism does not need to insist that every citizen accepts the burdens of judgment, but only that they accept some adequate account of disagreement. For instance, many religious doctrines seem compatible with the extra-cognitive or practical strategies for explaining reasonable disagreement. Hence, there is room for political liberalism to require a robust recognition of reasonable pluralism, while still not collapsing into a comprehensive or

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33 Callan, “Political Liberalism and Political Education,” p. 16.
34 My focus on religions is a product of the specific criticisms I respond to in this chapter, but my argument applies to other comprehensive doctrines as well.
ethical liberalism. Of course, political liberalism must still insist on the value of a *political* autonomy adequate to the development and exercise of its citizens’ two moral powers, but this value will be less stringent than the comprehensive autonomies of Mill or Kant, and hence more palatable to diverse comprehensive doctrines. Thus, neither Wenar nor Callan is wholly correct: political liberalism both *needs* explanations for reasonable pluralism and can accommodate such explanations without collapsing into comprehensive liberalism.

**Must Reasonable Pluralism Be Permanent?**

My account of the function of an explanation for reasonable pluralism points to a further necessary revision to Rawlsian political liberalism. It suggests that Rawls makes a mistake in characterizing reasonable pluralism as a necessary and permanent outcome of the operation of human reason in free societies. He does not have to claim so much; explaining why reasonable moral pluralism exists does not require showing why it *must* exist. Insisting that reasonable pluralism is permanent and necessary is likely to strain comprehensive doctrines that believe in progress towards truth, and religious comprehensive doctrines that emphasize the duty of proselytism.³⁵

How could political liberalism insist, with any certainty, that pluralism will never be overcome—that conscientious reasoning will never lead to the convergence of views—without an impermissibly comprehensive epistemology? As Burton Dreben (approvingly) points out, the burdens of judgment are “really an attack on the

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³⁵ As I suggested in my introduction, Rawls’s casting of reasonable pluralism as necessary arises out of the particular way he understood the failure of the stability argument in *Theory*, and the transition to political liberalism. Just as the stability argument was part of a universal argument for justice as fairness, the burdens of
traditional view of reason,” but this is precisely the kind of commitment political liberalism aims to avoid. Different comprehensive doctrines will have different views about these matters, and there is no reason for political liberalism to insist upon such an epistemologically loaded position.

Rather than focus on the necessity and permanence of reasonable pluralism, political liberalism should emphasize the practical impossibility of cooperating on the basis of a single comprehensive doctrine, here and now. At times, Rawls clearly acknowledges this:

we are to recognize the practical impossibility of reaching reasonable and workable political agreement in judgment on the truth of comprehensive doctrines, especially an agreement that might serve the political purpose, say, of achieving peace and concord in a society characterized by religious and philosophical differences. The limited scope of this conclusion is of special importance (PL 63).

Unfortunately, Rawls does not realize that he exceeds that “limited scope” when he casts the burdens of judgment as an explanation for permanent pluralism. Once again, it is important not to require too much of an explanation for reasonable disagreement: they merely show us the practical necessity of accepting political liberalism, if we are already committed to cooperating here and now. Any explanation that does more—

\[\text{Note that Rawls specifies that the relevant societies are already characterized by religious and philosophical differences. This will be relevant when I explore below the possibility of a legitimate society well-ordered on a comprehensive doctrine.}\]
that explains, for instance, why pluralism will never be overcome under free
institutions—may be unacceptable to some reasonable comprehensive doctrines.

In particular, some citizens of faith, who might otherwise be willing to
cooperate on liberal terms, will not be able to accept an explanation of reasonable
disagreement that renders proselytism futile. Proselytism is central to many religions,
in liberal democracies as elsewhere, and many look on it as a holy obligation. But if
reasonable pluralism must be permanent, then the implicit goal of proselytism—
bringing all into the light of God’s truth—is already conceded to be impossible.
Better to focus on the practical impossibility of achieving such a consensus here and
now, in time to use it to govern ourselves. Perhaps with enough time we could
convince others to convert to our view; perhaps over decades or centuries we will
make significant progress. But, for now, the only way to cooperate on fair terms is to
bracket our comprehensive disagreements and rely on a shared basis of public
justification.

The view that the burdens of judgment are insurmountable where
comprehensive doctrines are concerned, and thus that moral pluralism is inevitable
and permanent, even seems contrary to the spirit of other aspects of Rawls’s view of
comprehensive doctrines are—and should be—up for discussion in the general
background culture, though they are not to be invoked as determining grounds for

38 I agree with Andrew March’s view that citizenship in a political liberal society
requires that one not view one’s sole purpose in such a society as spreading one’s
faith, but rather appreciates the variety of goods that one enjoys as a member of a
liberal community. But, I disagree that this requires accepting the permanence of
pluralism. See my last chapter, on March’s work.
constitutional essentials (PL 444). Free discussion in the background culture ensures that if some comprehensive doctrine is “right” and has the arguments (or divine evidence, etc.) to convince others, then it has the social space in which to conduct that persuasion.

Thus, political liberalism should leave open the possibility that reasonable pluralism, and hence political liberalism itself, is historically contingent. Supporting political liberalism with a specific historical narrative of modernization is a dangerous game, and risks alienating those who cannot embrace that story. It is ironic that Rawls would make this mistake, because one way to look at the transition from *A Theory of Justice* to *Political Liberalism* is that Rawls came to reject the secularization hypothesis, which holds that traditional forms of belief will gradually die out with modernization. On my reading, Rawls makes a mistake by replacing one grand—and loaded—historical narrative with another: replacing a view that sees the progress of rationality giving rise to secularism with a view that sees the progress of freedom and reasonableness giving rise to pluralism.

One important consequence of accepting the contingency of reasonable pluralism is worth mentioning here. The contingency of political liberalism implies that it is at least conceptually possible for a legitimate society to be well-ordered by agreement on a comprehensive doctrine, if a sufficient consensus on that doctrine exists. In *The Law of Peoples*, Rawls allows for the possibility of what he calls ‘decent societies,’ which are societies well-ordered on a “common good conception
of justice” drawn from a comprehensive doctrine. These societies are to be considered full members of the society of (well-ordered) peoples, because they realize the value of fair social cooperation, as they are governed on the basis of principles that their citizens freely affirm. Yet Rawls shies from calling such societies “just,” pointing out that they are not founded on the liberal principles of the freedom and equality of all citizens. The ultimate source of this tension, and Rawls’s reluctance to recognize the justice of societies that apparently instantiate the value of cooperation at the core of political liberalism, is Rawls’s view that the burdens of judgment necessarily give rise to reasonable pluralism under free institutions. If that is true, then the sort of consensus that makes a decent society possible can only be achieved through some form of coercion, and hence decent societies cannot be fully just. Once political liberalism gives up the view that reasonable pluralism is permanent and necessary, it can fully embrace the possibility of legitimate non-liberal societies without internal contradiction.

However, even as I break from Rawls on the inevitability of reasonable pluralism, I do so in accordance with his wider views about the pragmatic purposes of political philosophy. Rawls cautions us to avoid any dogmatism that might hinder our

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40 Of course, important epistemic concerns remain: how do we know that a non-liberal society is really well-ordered on a common good idea of justice? Rawls makes two suggestions to deal with these difficulties: first, that such societies have to guarantee basic human rights, for no society that violated those rights could be genuinely cooperative (LP 65). Second, the society should have an institutional structure that allows for genuine dissent and consultation. Rawls suggests a rough outline of a legitimate institutional structure, which he calls a “decent consultation hierarchy” (LP 71). Whether these are adequate cannot be addressed here.
attempts to cooperate, here and now; removing such dogmatism is precisely the motivation for my revision.

**Conclusion**

This chapter started from trenchant criticisms in the literature that the burdens of judgment constitute a partially comprehensive epistemological doctrine. In response, I have tried to show how an account of reasonable disagreement grounds motivations necessary to political liberalism, so that we can see both that an adequate account is essential, and that insisting on such an account does not necessarily require that political liberalism take on comprehensive commitments. Along the way, it became clear the Rawls made a number of critical errors. Importantly, rather than proposing one universal explanation for reasonable disagreement, political liberalism should be open to a variety of accounts. In addition, political liberalism need not insist that reasonable disagreement be explained as a *permanent* phenomenon, which suggests that we regard political liberalism itself as a pragmatic response to a (possibly) contingent circumstance, rather than as a universal ideal.

I began this chapter by outlining two essential elements of the reasonable: the commitment to cooperate on terms acceptable to all reasonable people, and some explanation for reasonable pluralism. This chapter was primarily concerned with showing that comprehensive doctrines can explain reasonable disagreement in a variety of ways. Does the same flexibility hold true for a commitment to cooperate? I take up that question in my next chapter.
2. Prioritizing Cooperation

In my last chapter, I stressed that to adopt political liberalism one must have a desire to cooperate on fair terms with others similarly motivated, and some explanation for the existence of reasonable pluralism. I also argued that Rawls left himself vulnerable to misinterpretation because he failed to differentiate clearly enough between these elements of the reasonable, and failed to show how they “fit” together to support liberal legitimacy in the face of reasonable pluralism. Recall that Wenar interprets Rawls as positing the burdens of judgment primarily as a motivation for cooperation. As I have argued, this interpretation puts too much weight on an account of reasonable disagreement, pushing that account towards some comprehensive epistemological doctrine such as skepticism or fallibilism. In order to avoid this untenable consequence, we need to recognize these two, distinct presuppositions of political liberalism.

Now that I have explored the role of an account of reasonable pluralism, I turn to the other major component of the reasonable, the duty of cooperation. Just as I showed how different reasonable comprehensive doctrines could all furnish adequate accounts of the fact of reasonable pluralism, I now undertake a parallel inquiry into the motivation to cooperate. Political liberalism will be greatly strengthened by a discussion of why a range of different comprehensive doctrines might come to see cooperation as a value from their own points of view, and more importantly as a value that normally outweighs many other values.

Charles Larmore and “Respect for Persons”
Charles Larmore has given an influential but mistaken response to the problem of grounding the duty of cooperation. Larmore argues that political liberalism rests on a moral foundation of “respect for persons.”\(^{41}\) Larmore shares with Rawls the project of political liberalism, which he describes as re-conceiving “the core principles of liberal democracy in a ‘freestanding’ or ‘autonomous’ fashion, dispensing with the divisive ethical or religious underpinnings of the past and regarding them instead as having a strictly political basis in their acceptability to the citizens whom they are to bind.”\(^{42}\) Yet, he complains, Rawls falls into a grave error by losing “sight of the moral assumptions that inspire this project.”\(^{43}\) The essential point here is that a desire to cooperate does not follow immediately upon acknowledging the fact of reasonable pluralism; we need some reason to seek principles that could be accepted in common, instead of imposing our own comprehensive views on those who reject them. Larmore makes the point well, and it is worth quoting at length:

> Why should liberal thinkers not instead dig in their heels and, observing correctly that no political conception can accommodate every point of view, maintain that liberalism stands or falls with a general commitment to individualism? The answer must be that the essential convictions of liberal thought lie at a more fundamental moral level. So it needs to be made plain what these convictions are. Once we realize that insisting on the terms of our own comprehensive doctrine is a possible response to reasonable pluralism, we are in a position to realize that cooperation requires some additional motivation. “Respect for persons” is Larmore’s response to what that motivation might be.

\(^{41}\) Larmore, *The Autonomy of Morality*, 143.
\(^{42}\) Ibid., p. 139.
\(^{43}\) Ibid., p. 146.
According to Larmore, political liberalism values cooperation on terms acceptable to all, because that is the only mode of social coordination compatible with viewing others as *people* with purposes of their own, and not merely as *things*. Larmore argues that, “if we try to bring about conformity to a rule of conduct solely by the threat of force, we will be treating persons merely as means, as objects of coercion, and not also as ends, engaging their distinctive capacity as persons.”⁴⁴ By contrast, if I look to cooperate with another on the basis of reasons she can accept, I appeal to her reason, rather than merely her interest or need.⁴⁵

“Respect for persons” may well be one foundation for valuing cooperation. Yet it cannot be extended to all of the comprehensive doctrines that might support political liberalism. The problem is, if “respect for persons” means anything more substantial than the relatively thin value of cooperation itself, that deeper meaning seems to be drawn from a Kantian view. It echoes the so-called principle of personality formulation of the categorical imperative, which demands that we treat others as ends and never merely as means.⁴⁶ Yet, this reliance on a particular comprehensive doctrine is precisely what political liberalism seeks to avoid, in order to enable cooperation despite deep differences in belief. To insist that such

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⁴⁴ Ibid., p. 149.
⁴⁵ Actually, it seems that Larmore’s view needs some qualification. Political liberalism does not fully eliminate the problem of political coercion, since the likelihood remains of coercing those who do not accept the presuppositions of political liberalism. I do not think this is a devastating objection to Larmore’s view, however. Perhaps respect for persons demands that we offer reasons that are accessible to someone who is similarly committed to a practice of reason giving.
cooperation must nevertheless rest on a common Kantian perspective is counter-productive.

Notice that Larmore’s framing of the problem of motivating cooperation in the long quote above actually addresses only a special case: the problem of giving comprehensive liberals reason to also be political liberals. If this is the primary case, then it is easy to see how Larmore could make the mistake of basing cooperation on reasons that liberals influenced by Kantian ideals of autonomy are likely to accept. Larmore may well be right that respect for persons is a key reason for convincing comprehensive liberals. Yet political liberalism explicitly tries to appeal not only to already liberal doctrines, but to reasonable non-liberal comprehensive doctrines, as well. Political liberals cannot afford to appeal to comprehensive liberals at the expense of these others, for then political liberalism loses its distinctiveness – it would then be no more inclusive than comprehensive liberalism itself.

Larmore briefly addresses my objection, saying that, though the principle of respect for persons “obviously owes a lot to Kant’s views about respect and treating persons as ends, never merely as means, it has a more specific scope (namely, the institution of coercive principles) and avoids the many particularities of Kantian ethics as a whole.”47 I do not believe that this response is adequate. Any application of a comprehensive moral philosophy to political subject matter will have a more specific scope that the comprehensive philosophy as a whole. That does not change that it is nevertheless an application of moral philosophy to politics, which is precisely what political liberalism tries to avoid, in favor of remaining “freestanding.”

47 Larmore, The Autonomy of Morality, 149
In another place, Larmore argues that respect for persons “does not express or entail a comprehensive moral philosophy” because it is a value in a variety of different comprehensive doctrines. He emphasizes especially that it is a value in both doctrines that stress individual autonomy and critical reflection, and in doctrines that stress belonging to a moral tradition and community. Yet clearly there are relevant differences between reasonable comprehensive doctrines that cannot be characterized along this individualist-communitarian divide, and it is surely rash to say that respect for persons plays a prominent part in all reasonable comprehensive doctrines. Moreover, even if respect is a near universal value, it is not clear that it is always an understanding of respect, like the more robust “respect for persons,” that is capable of grounding a duty of cooperation.

Of course, none of this refutes the claim that the value of reasonableness must rest on a moral value of respect for persons. It shows that political liberals have important reasons for wanting to avoid that conclusion, and hence that Larmore is working against his own purposes, in a sense. Nevertheless, it is possible that respect for persons really does provide the only adequate basis for a duty of cooperation, and hence for political liberalism. Perhaps those comprehensive doctrines that are not inclined to base cooperation on respect for persons are simply incapable of taking cooperation as a genuine duty, and are hence unreasonable. This can only be refuted by looking at how alternative perspectives ground a value of cooperation in different ways. Better yet, it is refuted by a range of comprehensive doctrines sustaining and implementing a duty of cooperation in practice.

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48 Ibid., p. 164.
Political liberalism would be greatly strengthened by at least a preliminary sketch of how a value of cooperation can be embedded in a range of comprehensive doctrines, religious and secular, liberal and non-liberal, in different ways. Even more, political liberalism needs to show that different comprehensive doctrines can all prioritize the value of cooperation so that it at least normally overrides the many other values that come into conflict with it. To simply require that all comprehensive doctrines can value cooperation, period, greatly understates the problem. We might rightly suppose that most, if not all, major and enduring comprehensive doctrines value cooperation. Indeed, from a sociological perspective, it is difficult to see how they could survive if they did not, for some value placed on cooperation seems required for even a modicum of internal cohesion. The crucial issue is whether cooperation is prioritized when it comes into conflict with other values held within the comprehensive doctrine. When cooperating requires giving up the substantial goods that could be achieved by organizing society according to terms drawn directly from one’s comprehensive doctrine, reasonable citizens nevertheless take it as their duty to cooperate. Rawls states this issue dramatically in “The Idea of Public Reason Revisited”: “how is it possible—or is it—for those of faith, as well as the nonreligious (secular), to endorse a constitutional regime even when their comprehensive doctrines may not prosper under it, and indeed may decline?” Each comprehensive doctrine must see cooperation as a duty that outweighs the possible benefits of non-cooperation. While we might expect all of the major comprehensive

49 Ibid., p. 165
doctrines to include some value of cooperation—and we would certainly expect all normally functioning humans to recognize that value with respect to at least some people under some conditions—it is certainly not obvious that all major comprehensive doctrines provide the conceptual resources for prioritizing cooperation in this way. Thus, there seems to be real investigative work to be done here.

A utilitarian might adopt cooperation as a utility maximizing rule of action in the context of a constitutional democracy characterized by reasonable pluralism. Christians might value cooperation with others because we are all children of God, and God gave us free reason so that we might choose our own moral commitments, even when we choose wrongly. Kantians might value cooperation out of respect for persons, as distinct from things. There is no reason to insist that cooperation be embedded in all comprehensive doctrines in precisely the same way. In the following sections, I will explore two comprehensive perspectives capable of affirming a value of cooperation with respect to constitutional essentials.

Neo-Confucianism and the Self-Negation of Virtue

At first glance, Confucianism might seem unlikely to provide resources for prioritizing cooperation with respect to constitutional essentials, because of the closeness with which the tradition intertwines a perfectionist morality with the conduct of politics (Angle 183). The proper relationship between personal and political morality has, however, been the subject of much innovative Confucian thought, in part prompted by problems of tyranny arising from identifying legitimate

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rule with the personal virtue of the ruler (the “sage-king”), and not with objective structures of law. In his recent book *Sagehood*, Stephen Angle presents an interpretation of the Confucian ethical and political tradition that attempts to avoid many of the problems associated with previous ideals of Confucian politics. His account of Confucianism may support the political liberal ideal of public justification for constitutional essentials.

Angle relies heavily on the work of Mou Zongsan, an important 20th century Confucian thinker. Mou argues that the proper relationship between personal morality and Confucian politics is a dialectical one. Politics should have a degree of independence from personal morality, but that independence arises out of the demands of Confucian morality itself. Full Confucian virtue can only be achieved through “self-negation,” where Confucian virtue dictates its own limits. Mou does not mean that Confucian morality has no place in politics—he still believes that politics has a crucial role to play in cultivating Confucian virtue, and that the virtue of political actors is important to bringing about desirable political outcomes—but this role is necessarily limited by the unique demands of objective, lawful politics.°

Moreover, we would be wise to hold people to lower standards in the political than in the moral realm: “in politics, one cannot have an expectation that the people will become sages.”° These properly lowered standards of expectation are “the core Confucian virtues, which collectively make up the minimal and universal way of humanity.”° If we try to apply the full standards of Confucian virtue through the (at

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52 Ibid.
53 Ibid., p. 193.
least potentially) coercive structure of the state, then this overly zealous application of virtue is likely to backfire.

Building on Mou’s insights, and drawing on arguments by perfectionists George Sher and Joseph Chan, Angle argues that “Confucians should only endorse a specific and limited sort of state perfectionism.”\textsuperscript{55} He endorses Sher and Chan’s arguments for a moderate, non-coercive perfectionism that does not promote a comprehensive view of the good life wholesale.\textsuperscript{56} Angle approvingly cites Sher to the effect that structures of rights and laws help to prevent even this moderate form of state perfectionism from becoming oppressive.\textsuperscript{57} Moreover, he argues that Confucians have strong reason to encourage the political participation of multiple and conflicting points of view, and insists that such participation can only be sustained if citizens are granted a robust scheme of rights which ensures that their personal way of life will not be put at risk when they voice their sometimes unpopular views.\textsuperscript{58} Along these lines, Angle argues that “we must encourage every voice to speak up, and all ears to listen.” Moreover, “encouragement’ must go beyond exhortation and slogans if it is to be successful: a robust system of civil rights is necessary if people are to feel confident in their ability to put forward their perspectives—and to complain if such perspectives are not taken adequately seriously.”\textsuperscript{59} Thus, Confucian ideals mandate a

\textsuperscript{55} Ibid., p. 206.
\textsuperscript{56} Ibid.
\textsuperscript{57} Ibid.
\textsuperscript{58} The three main lines of argument Angle gives for the importance of participation in a Confucian political order are arguments from the importance of participation to moral growth, from the necessity of participation to the independence of politics from morality, and from the human fallibility of any possible political leader. See Angle, \textit{Sagehood}, p. 209.
\textsuperscript{59} Angle, \textit{Sagehood}, p. 212.
scheme of rights that is at least partially independent of substantive Confucian moral values.

The crucial question from a political liberal perspective is whether these guarantees of personal liberty are to be defined and justified in public terms, or terms drawn straight from Confucian doctrine. In other words, does this Confucian view of virtue as necessarily self-limiting support public justification for constitutional essentials, which would be compatible with political liberalism, or merely toleration from within their own particular comprehensive perspective. That the limits Confucianism places on its own perfectionism could be interpreted as a kind of tolerance defined within a particular comprehensive perspective is suggested by Mou’s insistence that the content of Confucian state perfectionism be defined by the minimum core of Confucian virtues. This is not a necessary consequence of Mou’s view, however, if 1) these minimum virtues are fully covered by the political virtues derived from the political conception of a citizen as rational and reasonable, and/or 2) these minimum virtues can be adequately promoted by political means that do not violate a neutrally justified set of basic rights.\textsuperscript{60}

Several elements in Confucianism argue for public justification of constitutional essentials. Chief among these is the emphasis in the Confucian ideal of sagehood on context sensitivity and responsiveness to others, particularly in the face of various kinds of difference and apparent conflicts.\textsuperscript{61} In this case, the crucial feature

\textsuperscript{60} Rawls’s carefully restricts the norms of public reason to constitutional essentials or matters of basic justice. That move seems to pay off here, insofar as Confucianism would be unable to accept political liberalism if doing so involved completely rejecting perfectionism in politics.

\textsuperscript{61} Angle, \textit{Sagehood}, p. 73-74.
of the context is the fact of reasonable pluralism. The Confucian sage is always actively engaged with the particular features of these differences and conflicts in a form of moral perception that Angle calls “looking for harmony.” There is a sense in which toleration, in the sense of tolerating a range of practices defined in the terms of your own comprehensive doctrine, can be insensitive to the particular beliefs and moral commitments of those whom we are to tolerate. This is because it establishes the limits of acceptable practice from within a particular moral perspective, and does not consider whether those limits could be justifiable to those with different moral commitments.

This issue is particularly pressing if part of the reason for protecting certain rights is to encourage political participation and expression, as Angle suggests. If the protections we offer to encourage the voicing of alternative perspectives are drawn directly from the terms of our own comprehensive doctrine, then we run the risk of unjustifiably silencing some of the range of voices, and constraining the practices, we mean to protect. The Confucian emphasis on human fallibility, which Angle draws out quite strongly, also reinforces this point. None of us are sages; at best we are on the path toward sagehood. The fallibility of our moral perception argues in favor of the public justification of the terms of these protections; how can we know that our proposed scheme of rights really does protect the full range of alternative reasonable views unless we can actually justify that scheme to those reasonable others? Sensitive engagement with our social context, in part through dialogue, is a partial remedy to our imperfect moral perception.

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A final comment to close this discussion: given that my purpose here is to argue that Confucianism can support a duty of cooperation in the face of reasonable pluralism, I have simply assumed that Confucians have resources for an account of reasonable disagreement. Proving this, if it is indeed true, would require additional argument and evidence. Thus, the question in this section is not whether Confucians have reason to publicly justify constitutional essentials in just any society, but rather whether they have reason to do so in a society that they recognize as characterized by pervasive reasonable pluralism. Additionally, while much Confucian thought has focused on the most appropriate way of governing China, where Confucianism has been a rich and widely influential cultural tradition, in this context we are not necessarily talking about a society where Confucianism has played such an important role, which only reinforces the importance of taking reasonable pluralism seriously. In the absence of such a pervasive tradition, the case for taking reasonable pluralism seriously can only be stronger. Confucians might rightly suppose that virtue has to do a good deal more “self-negating” in the face of such robust pluralism than it would otherwise.

Utilitarian Reasons for Cooperation

The question of whether utilitarianism could be a full participant in an overlapping consensus has received some attention since the publication of Political Liberalism; Samuel Scheffler in particular has charged that Rawls is mistaken to claim the support of utilitarianism for political liberalism. His criticism comes in two related strands: first, the most basic and essential criticism is that utilitarians do not

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63 See, for example, p. 198-200.
accept the fundamental moral status of reciprocity, and the idea of society as a fair system of social cooperation, upon which political liberalism depends. 64 Second, the case Rawls makes for his two principles of justice is in large part an argument against utilitarian alternatives. In this section, I will argue that Scheffler’s criticisms are mistaken. 65

Briefly, before I take up this task, I want to explain why I do not take an alternative argumentative strategy. One response to the charge that utilitarians cannot participate in an overlapping consensus might be to play down the stakes involved in the dispute. While many moral philosophers might be utilitarians, very few people are philosophically informed enough to consider themselves followers of J.S. Mill, Henry Sedgwick, or the like. Certainly the number of utilitarians is minute in comparison with the number of adherents to any of the major religions. So, this line of response would go, perhaps Rawls can afford to lose the utilitarians.

I reject this strategy. While the explicit adherents to utilitarianism are relatively few, its doctrines have nevertheless been immensely influential.

64 Rawls insists that the fundamental idea of society as a fair system of cooperation is inherent in the public political culture of any liberal democracy. As we shall see, understanding this idea requires an account more subtle than Rawls’s.

65 Part of what makes this so challenging is that utilitarianism claims to provide a globally prescriptive theory of morality. It would be one thing if there were some reasons for cooperation, and utilitarianism could allow them, or at least not reject them, because they seem at least not inconsistent with the principle of utility, even if not positively required by it. But this cannot be the case, because any systematic course of action that is not required by the principle of utility is inconsistent with it. The principle of utility requires that we act so as to maximize global utility, which uniquely specifies a course of action that (to the best of our knowledge) does so. All other courses of action are inconsistent with the principle of utility. Hence, if a rule of cooperation is not required by utilitarianism, it is in conflict with utilitarian doctrine; there is no grey zone for political liberalism to take advantage of.
Utilitarianism underlies, often without our full awareness, much of our thinking about public policy, as well as influential modes of social inquiry. If political liberalism were incompatible with utilitarianism, it would be weakened more than the mere number of utilitarian philosophers suggests. Moreover, political liberals seek to cooperate not only with those with whom it is doctrinally convenient, or necessary for the sake of some bare standard of social stability, but rather with all reasonable citizens.

Fortunately for political liberals, Scheffler’s objection rests on a confusion about the relationship between comprehensive doctrines and political liberalism. Accepting political liberalism does not require rejecting utilitarianism as a comprehensive doctrine; all it requires is accepting that it would be unreasonable, in the face of reasonable pluralism, to draw the terms of constitutional essentials and matters of basic justice straight from the principle of utility.

Part of Scheffler’s objection relies on the observation that utilitarianism does not value reciprocity as a fundamental element of its moral conception. In support of this observation, Scheffler marshals Rawls’s own criticisms of utilitarianism from *A Theory of Justice*, quoting him at length: “the principle of utility is incompatible with the conception of social cooperation among equals for mutual advantage. It appears to be inconsistent with the idea of reciprocity implicit in the notion of a well-ordered society” (TJ 14). If utilitarianism does not recognize the fundamental idea of society as a system of social cooperation between people regarded as free and equal, then how can it participate in an overlapping consensus built upon that idea?
The answer is that political liberalism does not require comprehensive doctrines to accept reciprocity, and the idea of a society as a fair system of cooperation, as a fundamental feature of their moral doctrine. It only requires that doctrines recognize, and prioritize, the value of a certain kind of reciprocity in a society characterized by reasonable pluralism.\textsuperscript{66} It is certainly true that reciprocity is not a first-order utilitarian commitment. Act-utilitarians have, as their sole and overriding first-order commitment, a duty to maximize the good, or the average good as the case may be.\textsuperscript{67} And yet, many utilitarians have felt that their doctrine implies a duty of reciprocity, and a respect for individual freedom, J.S. Mill perhaps most famous among them. These utilitarians who affirm a duty to cooperate reject the view that morality, at its foundations, involves reciprocity between free and equal people, but nevertheless believe that they are required to engage in cooperation by the second-order implications of the imperative to maximize the good.\textsuperscript{68} In particular, a duty of public justification with respect to constitutional essentials may be a consequence of the imperative to maximize the good, in the context of a pluralism of reasonable comprehensive doctrines.\textsuperscript{69}

\textsuperscript{66} This can be seen through Rawls’s idea of a “common good conception of justice.” This idea receives more discussion in my next chapter.

\textsuperscript{67} The distinction between maximizing social welfare, and maximizing average social welfare, Rawls names as between “classical” and “average” utilitarianism.

\textsuperscript{68} So far I have been arguing about act-utilitarians. The case is even easier to make, I believe, for rule utilitarians.

\textsuperscript{69} In criticizing Rawls, Scheffler considers a possible attitude that a utilitarian might have, which is: “to say that utility will actually be maximized if nonutilitarian principles are “publicly affirmed and realized as the basis of the social structure” (TJ 158). When Rawls discussed this attitude in Theory, he argued that it was tantamount to abandoning utilitarianism altogether, since, given the publicity condition, utilitarianism must be “defined” as “the view that the principle of utility is the correct principle for society’s public conception of justice.” See “Rawls and Utilitarianism,”
There is a second strand to Sheffler’s criticisms, which is that the argument for Rawls’s two principles of justice, in particular, involves arguments against utilitarianism. Scheffler asks, “if utilitarianism is said to be included in the overlapping consensus on Rawls’s two principles, then are we to imagine that utilitarians endorse Rawls’s arguments for the rejection of utilitarianism even as they continue to affirm that view? That seems incoherent.”

We have seen that political liberalism does not in fact require rejecting utilitarianism as a comprehensive moral doctrine, but nevertheless there is something to Sheffler’s criticism. The argument for Justice as Fairness’s two principles of justice occurs in public terms after the duty of public justification has already been accepted. But the argument, in Justice as Fairness: A Restatement, is nevertheless framed in terms of a choice, by parties in the original position, between the two principles of justice and a principle of average utility with a welfare floor. The latter distributive principle may be a more congenial alternative to many utilitarians, because it focuses on maximizing welfare, within the minimum restrictions of distributive justice (JAF 127).

In his final major statement of his political liberalism, his essay “The Idea of Public Reason Revisited,” Rawls

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in Samuel Freeman, ed., The Cambridge Companion to Rawls (New York: Cambridge University Press, 2003), p. 452. Clearly there was an important revision to Rawls’s understanding of publicity from Theory to Political Liberalism. As I have argued, in political liberalism utilitarians need not believe that the principle of utility should be the public principle of justice. This is not inappropriately self-effacing if their reason lies in the fact of reasonable pluralism.

This is connected with utilitarianism’s differences with contractualism: contractualists argue that, at least under normal conditions, we cannot reasonably expect some to accept violations of their basic liberties merely to increase the welfare of others.

I develop the line of argument that political liberalism should acknowledge the possibility of elective affinities between comprehensive doctrines and political
envisions a political liberal society characterized not only by a pluralism of reasonable comprehensive doctrines, but also by a pluralism of reasonable political conceptions of justice. Once Rawls makes that shift, the criticism that Rawls requires utilitarians to accept principles of justice that are cast as rivals to utilitarianism loses its force. Rawls’s revision in “The Idea of Public Reason Revisited” allows us to see that political liberalism does not need utilitarians to affirm any particular principles of justice within the family of political conceptions.

The decisive issue, then, is whether the principle of utility implies a duty of cooperation, at least under conditions of reasonable pluralism in a constitutional democracy. In a society characterized by reasonable pluralism, many utilitarians will see that structuring constitutional essentials as dictated directly by the principle of utility, without regard for the views of reasonable others, comes with considerable costs—costs such as promoting social conflict and undermining social trust. In the vast majority of circumstances, these costs would outweigh any possible benefits, so that social cooperation becomes a basic duty, one in jeopardy rarely, if ever.

This argument is strengthened by the fact that many utilitarians already prize cooperation; all that is left is to show that they should prioritize it in the case of constitutional essentials in a society characterized by reasonable pluralism. Jeremy Bentham, for instance, took utilitarianism to both imply and invoke a value of conceptions of justice under the heading of the proper sense in which a political conception of justice should be “freestanding” in my fourth chapter.

72 In Political Liberalism itself, Rawls argues that utilitarians may be able to accept the two principles of justice as a best workable approximation of what the principle of utility requires. I do not think, however, that Rawls has to defend this strong claim. It is sufficient that utilitarians can affirm some reasonable political conception of justice.
cooperation. Consider Bentham’s appeal to that value in *The Principles of Morals and Legislation*:

> Whether a moral sentiment can be originally conceived from any other source than a view of utility, is one question: whether upon examination and reflection it can, in point of fact, be actually persisted in and justified on any other ground, by a person reflecting within himself, is another: whether in point of right it can properly be justified on any other ground, by a person addressing himself to the community, is a third. The two first are questions of speculation: it matters not, comparatively speaking, how they are decided. The last is a question of practice: the decision of it is of as much importance as that of any can be.\(^73\)

Here Bentham argues that the principle of utility is the only adequate basis for public reasoning about justice. Even if other considerations—such as religious doctrine or intuitions of natural law—have some truth or validity, they are not sufficiently public to be brought to bear by a citizen “addressing himself to the community.”

Presumably, Bentham thought this is because utility has a certain objective status in the world, as a measurable phenomenon at least hypothetically observable by all, that is quite different from the status of tenuous speculative arguments for moral positions. Even if you are yourself convinced by one of these speculative arguments, others likely will not be, and so cooperation will be extremely difficult to achieve on that basis. Utilitarianism provides a way of treating the social pluralism of forms of life, and beliefs about right and wrong, in a uniform and fair way, by treating them all as individual preferences (or propensities for pleasure and pain in Bentham’s version), and evaluating outcomes that bear on them in terms of quantities of preference satisfaction. Thus, as Brian Barry argues, “it is neutral in the sense that it

can accommodate all substantive conceptions of the good, but only by transforming them into preferences.”

Yet this move is often not as uncontroversial as Bentham might have hoped. Many reasonable people deny that their deepest beliefs and moral commitments are adequately taken into account when treated as preferences. One influential line of criticism holds that this form of subjectivism, which locates all worth in aspects of subjective experience, is actually a form of nihilism. To locate value only in individual valuing undermines our accountability to anything outside ourselves. As Martin Heidegger famously puts it in “The Age of the World Picture,” “no one dies for mere values.” Alasdaire MacIntyre has also advanced many of these criticisms.

Clearly utilitarianism as a tradition of thought has long valued cooperation, and utilitarians have seen their doctrine’s ability to enhance public cooperation as an important aspect of its appeal. When many who seem otherwise willing and able to cooperate reject their doctrine as a basis of cooperation, reasonable utilitarians will look for another basis of public cooperation, and can find it in a political conception of justice. This is to say that getting utilitarians to abide by public reason is not

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75 Interestingly, Brian Barry argues that the failure of certain cost/benefit methods of accessing public policy through survey results is linked to the general rejection of the assumptions of utilitarianism. In particular, he argues that Contingent Valuation Method fails because “the respondents are refusing to accept that their views on environmental policy are being appropriately elicited by asking them what they would need to compensate them personally for the loss of utility that they would feel from either experiencing or simply knowing about some degradation of the environment.” See *Justice as Impartiality*, p. 156.
77 See particularly *Whose Justice? Which Rationality?*
necessarily as difficult as creating a value of cooperation from scratch, but rather simply employing in a novel way a value that already plays an important (second-order) role within the doctrine. Since utilitarianism is already deeply concerned with cooperation in the face of pluralism, it is in a position to grasp the importance of (Rawlsian) public reason, once it has fully accepted the fact of reasonable pluralism.

**Utilitarian Stability: Merely a Modus Vivendi?**

Rawls himself holds that a desire for social peace is an insufficiently principled reason for public cooperation; any stable social order relying on such a reason is a *modus vivendi* rather than an overlapping consensus. He cites, as an example of a society that remains in a kind of *modus vivendi*, one in which “political issues might be discussed in terms of political ideas and values so as not to open religious conflict and arouse sectarian hostility. The role of public reason here serves merely to quiet divisiveness and encourage social stability. However, in this case we do not have stability for the right reasons, that is, as secured by a firm allegiance to a democratic society’s political (moral) ideals and values” (IPRR 459). At first glance, this seems to rule out the sort of utilitarian reasons I have been advocating for accepting a duty of cooperation.

There is an alternative way of interpreting this passage, however, which is not so hostile to my argument. According to this interpretation, social stability and unity are not principled reasons if they directly lead a citizen to speak in public terms; the only good reason for speaking in public terms is a genuine desire to offer public justifications, i.e. to cooperate. But social stability and unity can nevertheless play a role in justifying cooperation as a duty. We can confirm this interpretation by looking
back at the passage in question. Rawls specifies that the stability of this society may collapse if the balance of power shifts. But will utilitarians withdraw their cooperation if they gain power in society? Utilitarians who adopt a duty to cooperate as a practical rule of action in a society characterized by reasonable pluralism are not likely to abandon that duty merely because the balance of power shifts, for it is not merely a way of biding time and gaining political power, but rather an integral part of realizing their vision of the good. Utilitarians have good reason to believe that any society marked by deep and enduring pluralism that failed to uphold standards of public justification would fail to be utility maximizing. Put in another way, the utilitarian motivation for cooperation is still a moral reason—it is not merely that utilitarians are too weak to impose their conception of the good on others, but rather that their own beliefs require them to cooperate in the face of reasonable pluralism. Even were utilitarians to acquire the social power to design the basic institutions of society according to utilitarian principles, they would nevertheless realize that such a unilateral move would likely undermine social utility, insofar as it would be perceived as oppressive, undermine social trust, and promote social conflict. They are committed to cooperation for reasons that make no reference to the current balance of power, though they do depend on the fact of reasonable pluralism.

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78 This needs some qualification, after my rejection of Rawls’s view of reasonable pluralism as necessary and permanent. The difference between a modus vivendi and an overlapping consensus cannot rest on the permanence of the commitment to political liberalism, since if a sufficient consensus emerges utilitarians could legitimately abandon political liberalism and organize society on the basis of their comprehensive doctrine. Rather, the crucial point here is that, so long as the fact of reasonable pluralism pertains, reasonable utilitarians are committed to political liberalism, regardless of the extent of their coercive power in society.
Generally speaking, political liberalism cannot require that all comprehensive doctrines urge cooperation for reasons completely independent of their own conception of the good. This would limit the participants in the overlapping consensus to only those who, like Kant, see morality in terms of a sharp priority of the right over the good. Rather, for many, cooperation will be a duty imposed by their conception of the good. Moreover, it may be imposed in light of the fact of reasonable pluralism.

What Standard for Assessing Reasonableness?

Political liberalism does not hold the internal reasoning of comprehensive doctrines up to some particular standard of rationality, not even those doctrines that claim such rationality for themselves. If political liberalism does not dispute the truth of the tenets of comprehensive doctrines, why should it treat the reasoning from those tenets—the way they are related and the conclusions that are drawn—any differently? Two conditions are important for the utilitarian argument for cooperation to be reasonable: 1) utilitarians must sincerely believe that their doctrine requires genuine (not merely superficial or deceptive) cooperation and 2) the way they deduce that duty must be compatible with their reasonableness, in the strict and limited sense in which I have elaborated the term. That is, their account of cooperation must not reveal that their normal human faculties of reason are fatally deficient, nor that their

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79 Along these lines, Andrew March insists, for the specific case of Islam as a comprehensive doctrine, that consequentialist modes of reasoning about cooperation cannot be judged reasonable or unreasonable wholesale. These judgments can only be made about specific instances of such reasoning. I believe the argument applies equally well to utilitarianism. If it did not, and all such consequentialist reasoning were unreasonable, then utilitarianism surely could not participate in an overlapping consensus, which is precisely the conclusion we hope to avoid. March, 269.
reasoning has somehow been corrupted by uncooperative motives (though how reasoning towards a value of cooperation could be corrupted in this way is hard to see), nor that they do not accept the fact of reasonable pluralism. Thus, the proper question for political liberals with respect to a utilitarian who regards herself as reasonable in the Rawlsian sense is not whether she is correct about the implications of her own doctrine, but whether a reasonable person could reason as she does.

In talking about the basis of the motivation to cooperate, we are always open to the objection that some doctrines secure reasonableness more surely than others. This cannot be avoided. This objection can occur on both essential elements of the reasonable: the account of reasonable pluralism, and the desire to cooperate. Perhaps some explanations of reasonable pluralism seem more secure than others in their affirmation of the reasonableness of the adherents of other comprehensive doctrines, and more likely to hold firm in the face of the inevitable tensions of politics. Rawls’s case against utilitarianism, from *A Theory of Justice*, should be understood in this light. Perhaps utilitarians are wrong that their doctrine adequately secures the basic liberties and hence the bases of social cooperation. Perhaps that inadequacy has the potential to show through in action in some unfavorable, or possibly quite extreme, circumstances. But this is an inevitable problem. Reasonableness comes in degrees, and we cannot insist that all adopt our comprehensive doctrine merely because we think it provides the strongest basis for liberal institutions.

I should emphasize here that I am not saying that it is impossible for non-utilitarians to reason from a utilitarian perspective with rational certainty. That would carry far more controversial philosophical baggage than political liberalism needs to
take on. Thus, comprehensive Kantians might very well wish to criticize utilitarians, within normal debates in the background culture, for failing to adequately secure cooperation, or for not fully grasping the illiberal implications of their moral philosophy. Political liberalism says nothing to stop them. But the bar to criticize doctrines from within the perspective of political liberalism itself must be substantially higher. Utilitarians who genuinely believe that their doctrine supports a duty of cooperation, and who accept an adequate account of reasonable pluralism, are well within the range of acceptable reasonableness.

Political Liberalism and Mutual Respect

As I suggest in the last section, the problem of whether utilitarianism can adequately ground a duty of cooperation and an account of reasonable pluralism is in fact a specific instance of a general problem. Citizens who take their comprehensive doctrines to ground these essential features of the reasonable can always be accused of being mistaken about the proper implications of their own views. A similar set of issues arise when we consider political liberalism’s attitudes towards mutual respect. Many have argued that an ethos of rich mutual respect is essential to justice in the face of cultural pluralism. What can political liberalism say to someone who insists that mutual respect is an essential ingredient to the success of a constitutional democracy? In the terms of this chapter, is mutual respect a necessary condition for a secure duty of cooperation? First, notice the similarities to the above criticism that utilitarianism fails to adequately secure a duty of cooperation. Here, one possible criticism goes that, without mutual respect, any commitment to cooperation is likely to be temporary or unstable, and likely to collapse in the face of significant political
tension and conflict of the sort that often arises in our unpredictable and dangerous world.

Two facts should frame this discussion. First, comprehensive doctrines are likely to disagree about what attitudes and traits citizens must have for their democracy to thrive. Second, the social science literature underdetermines the answer to this question. Neither side can appeal to the uncontroversial facts of science to show that mutual respect is or is not necessary in that way.

Political liberalism can insist upon political, but not comprehensive respect. It can instill respect for citizens *qua* citizens—as free and equal, and characterized by full possession of the two moral powers. This should certainly be an aspect of civic education in a political liberal society. Rawls gives plenty of scope for such education, for example in his discussion of the importance of promoting political virtues (PL 195). It is a mistake to think that Rawls is universally opposed to the promotion of virtues in constitutional politics. The key feature of these political virtues, however, is that they are derived from a political conception of the person as a citizen engaged in social cooperation among others free and equal, and not from a comprehensive conception of human flourishing.

However, as I argued in my last chapter, political liberalism cannot require respect for the content of others’ comprehensive beliefs *as comprehensive beliefs* (that is, aside from their role in supporting political cooperation). This form of respect, which we might call comprehensive respect, is a substantive and controversial comprehensive position. Many atheists who are willing and able to cooperate with citizens of faith nevertheless see religious faith as a terrible mistake,
or as the remnants of pre-modern superstition. Similarly, many citizens of faith who are willing and able to cooperate with atheists may nevertheless see atheists as lacking a dimension of fundamental importance in their lives, as spiritually crippled. Political liberalism cannot require either of these groups to give up these beliefs, no matter how ill considered or myopic they may seem to those with a different comprehensive perspective.

Interestingly, Rawls’s account of the burdens of judgment may give him reason to demand something like comprehensive respect. That account explains reasonable disagreement as the natural result of the free use of human reason in the face of persistent difficulties. This explanation of disagreement lends itself to the celebration, rather than mere acceptance, of the fact of reasonable pluralism, which helps explain why Rawls insists that political liberalism allows us to fully reconcile ourselves to pluralism, so that we no longer lament its existence (JAF 5). It also leads to a comprehensive respect for alternative comprehensive doctrines as the results of competent reasoning under conditions of freedom. Surely such reasoning must have a certain merit, or plausibility, even if it is mistaken? In the last chapter I argued that the burdens of judgment were only one possible explanation for reasonable pluralism, and that political liberalism needs to be open to others. The fact that the burdens of judgment seem to require a comprehensive respect for other doctrines lends even greater force to this conclusion, because it is another reason why the burdens of judgment will not be acceptable to all reasonable comprehensive doctrines.

Political liberals should be wary of even minimal or provisional forms of comprehensive respect, so far as they extend beyond merely political respect for the
role of a comprehensive doctrine in providing resources for cooperation. Here political liberalism cannot follow Charles Taylor in arguing that “cultures that have provided the horizon of meaning for large numbers of human beings, of diverse characters and temperaments, over a long period of time—that have, in other words, articulated their sense of the good, the holy, the admirable—are almost certain to have something that deserves our admiration and respect, even if it is accompanied by much that we have to abhor and reject.”\textsuperscript{80} Taylor says this in defending a “presumption of equal worth” as a “stance we take in embarking on the study of the other.”\textsuperscript{81} Some may regard a more critical stance as appropriate, and this depends greatly on one’s comprehensive doctrine.\textsuperscript{82} Some atheists, for example, might insist that a certain intellectual distance and a critical approach is necessary when studying religion, for fear of getting caught up in the immense psychological appeal of these doctrines and rituals. A similar story could be told from a religious perspective. Political liberalism can follow Taylor this far, however: it can insist on a presumption of reasonableness for those doctrines that have endured over time, and at least some of whose adherents have so far shown a willingness to cooperate. Any eagerness to

\textsuperscript{81} Ibid., p. 72. For Taylor, this presumption of respect is necessitated by a Hegelian view of mutual recognition as essential to liberal justice. Denial of recognition, or misrecognition, can itself be a real harm. What can political liberalism say about this? It can say that it avoids building some rich understanding of the self into the justification of coercive power—at least in the realm of constitutional essentials—and thus does not force a crippling misrecognition on those with a very different worldview. It can also insist that, because it does not prejudge these issues with a rich conception of autonomy, it remains open to the specific cultural understandings, values, and practices of diverse comprehensive doctrines. Finally, it can point to the profound recognition inherent in reciprocal and justificatory political equality.
discover unreasonableness in alternative comprehensive doctrines might well be a sign of unreasonableness itself. Of course, as the evidence is actually accessed, this presumption is rightly subject to change.

One of the upshots of this contrast between comprehensive and political respect is that rights of religious liberty cannot be grounded in a comprehensive respect for religious tradition and practice. Of course, those who feel that a richer sense of comprehensive respect is necessary are free to promote that sense outside of the so-called public political forum, in civil society and by democratic means that do not violate a publicly justified set of fundamental rights. Political liberalism neither endorses nor rejects their efforts.

**Conclusion**

This chapter investigates the variety of ways that different comprehensive doctrines can affirm a duty of cooperation with reasonable others. It thereby extends the analysis of my first chapter, which argued that political liberals ought to be open to a variety of explanations of reasonable pluralism. Together, they form a picture of a political liberalism that is interested in the conceptual resources that comprehensive doctrines must have to affirm the priority of a reasonable scheme of political values, with respect to constitutional essentials, and yet open to a variety of doctrinal strategies for doing so. It is thus opposed on the one hand to views like Leif Wenar’s, which hold that political liberalism can say nothing about what would count as a

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82 I should note that Taylor was specifically discussing respect for cultures, not doctrines. Thus, much that I say does not count as criticism of him.
83 In contemporary political discourse, we might think that this is a particularly common attitude towards Islam as a comprehensive doctrine.
reasonable affirmation of political values, and on the other to theoretical attempts to require one specific form of affirmation, like the burdens of judgment or Larmore’s “respect for persons.”

In my next two chapters, I take up Brian Barry’s *Justice as Impartiality*, which is a theory of justice with many similarities to political liberalism, in that it reasons from the fact of reasonable pluralism to a duty of public justification for constitutional essentials. Barry, however, rejects the possibility that such a duty could be embedded in different cultural and philosophical traditions in different ways, insisting that skepticism about knowledge of the good is the only adequate basis. Evaluating his arguments, and his criticisms of Rawlsian political liberalism, thus serves as a proving ground for the more flexible and inclusive version of political liberalism I advocate.

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3. Brian Barry and *Justice as Impartiality*: The Case For An Overlapping Consensus

Rawlsian political liberalism is one of a loosely defined family of liberal views which hold that the proper response to the pervasive and reasonable moral pluralism that characterizes modern society is for the state to remain neutral among competing cultural and religious groups. How to characterize those options—for example, as “conceptions of the good” or “comprehensive doctrines”—is part of what is at issue among different views of liberal neutrality. Certainly not all liberals are neutralists; Joseph Raz is one prominent liberal who argues that the state should promote the good of individual autonomy as an element of human flourishing.\(^{85}\) Still, neutrality has become a quite influential, if deeply controversial, family of views among liberal theorists.\(^{86}\)

Different accounts of liberal neutrality suggest different constraints on government action. One quite stringent conception of neutrality holds that government policies should be neutral in effect among the various cultural options. According to this view, the government should design its activities so that it neither benefits nor burdens any cultural option relative to others. A less stringent view is that justifications of public policies should not depend on the contents of any of the competing cultural options.\(^{87}\) Rawlsian political liberalism is a variant of this view;

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\(^{86}\) Ronald Dworkin, for example, is one prominent advocate of liberal neutrality between conceptions of the good. See “Liberalism” in *A Matter of Principle* (Oxford, UK: Oxford University Press, 1985).

\(^{87}\) For Rawls’s discussion of these two forms of neutrality, see p. 195 in *Political Liberalism*, where Rawls addresses the question: “is Justice as Fairness fair to conceptions of the good?” Note that Rawls discusses “ways of life” “associated with” comprehensive doctrines. He does not clarify precisely the relation between a
Brian Barry’s *Justice as Impartiality* is another. In this chapter, I investigate the contrasting ways in which Rawls and Barry frame their accounts of justificatory neutrality, address the criticisms Barry makes of Rawls, and argue that Rawls’s account is superior—though in need of substantial reconstruction and modification.

As Barry’s project is remarkably similar to Rawls’s, and they agree on a great many issues, the criticisms Barry advances against Rawls are quite revealing. Thus, comparing the reconstructed account of political liberalism developed in the previous chapters to Barry’s similar account of the foundations of justificatory neutrality serves as a test of the overall coherence and cogency of my argument. Moreover, while I argue that Rawls offers a more promising approach than Barry, highlighting the points where political liberalism is superior to justice as impartiality has the additional effect of emphasizing the need to reform political liberalism along the lines suggested in my first two chapters. Specifically, political liberalism needs to be open to a range of accounts of reasonable pluralism, and to take seriously the resources that particular comprehensive doctrines have for prioritizing a value of cooperation.

Rawls often seems torn between Barry’s views and my own—offering an account more inclusive of diverse comprehensive doctrines than Barry’s, and less inclusive than mine; more open to the active role of comprehensive doctrines in affirming conception of the good and a comprehensive doctrine. Below, I argue that political liberalism ought to think of itself as neutral between comprehensive doctrines rather than conceptions of the good, for the latter is too exclusive a concept.

More precisely, both Rawls and Barry hold that neutral justification is required for the constitution of a liberal democratic state. Ordinary politics need not be neutral in this way, so long as it is conducted within a neutral constitutional framework. Here they break with Dworkin, who argues that all government policy should be justifiable in neutral terms. See *Justice as Impartiality*, p. 143. For another account of
political liberalism than Barry, and less interested in investigating those resources 
than mine—and by refuting Barry’s criticisms of Rawls I hope to reinforce the case 
that Rawlsian political liberals should adopt my reconstructed version of political 
liberalism.

**Exposition of Justice as Impartiality**

A brief exposition of Barry’s project in *Justice as Impartiality* will help 
contextualize his disagreements with Rawls. Like Rawlsian political liberalism, 
justice as impartiality derives its motivation from the problem of maintaining, in the 
face of reasonable pluralism, a principled or just social order based on free consent. 
Though he prefers to speak only of a pluralism of conceptions of the good, rather than 
comprehensive doctrines more broadly, Barry agrees with Rawls that the proper 
response to this pluralism requires that constitutional essentials not be based on any 
single conception of the good. Rather, these matters of basic justice are to be 
determined through public justifications: justifications not grounded in any particular 
conception of the good but on the contrary addressed to citizens as citizens. This is 
the sense in which both argue for justificatory neutrality.

Barry’s account is remarkable in part for the clearness with which he 
recognizes the two crucial features that citizens must have in order to accept justice as 
impartiality (or political liberalism). These are, as I have previously argued, a desire 
to cooperate on fair terms acceptable to all reasonable people, and a belief that 
reasonable people can hold different conceptions of the good (what Rawls calls “the 

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justificatory neutrality, from a libertarian perspective, see Gerald Gaus, *Justificatory 
Thus, Barry does not make the mistake of supposing that a commitment to cooperation is sufficient, without recognition of the fact of reasonable pluralism; in my first chapter, I criticized Leif Wenar for making this mistake. Barry states the problem well: “Suppose that somebody accepts the burden of public justification but says that his own conception of the good provides a basis for society’s major institutions that every reasonable person should be prepared to accept. This, and not the blank denial of any concern for the reasonableness of one’s claims, is the threat to justice as impartiality that must be taken seriously” (Barry 168). A duty of justification has little force without a specification of those to be addressed that acknowledges the fact of reasonable pluralism. This is a great deal clearer than Rawls’s own explication of these issues, at least at points.

Like Rawls, Barry argues that two other common accounts of the foundations of liberal institutions cannot serve as the basis for public justification: accounts relying on the good of individual autonomy, and accounts of the good as want-satisfaction. He calls both “second-order” conceptions of the good. Both specify goods indirectly, autonomy as those first-order goods that have been freely chosen, and are compatible with the free choice of others, and want-satisfaction as simply the objects of desire. Because autonomy specifies a certain necessary history for genuine goods, and imposes restraints on what can be chosen, it does not qualify as a form of neutrality—it rules out, or at least is biased against, conceptions of the good contrary to individual autonomy, for instance some that emphasize the obligations of individuals to their communities. Want-satisfaction does qualify as a form of

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89 I would say, following Rawls, different comprehensive doctrines.
neutrality, because it considers all desires equally, without discrimination, but it can only do so by transforming our deepest commitments to mere preferences. That is, it counts as valuable outcomes in accordance with the moral commitments of various comprehensive doctrines because they satisfy the desires of those who hold the relevant doctrines, whereas many would say that they value an outcome because it is valuable, and not the other way around. Those who feel this way will not accept that the calculus of desire satisfaction is truly neutral with respect to their views, for that very way of weighing opposing views is repugnant to their deepest commitments; it presumes an understanding of what is valuable that flatly contradicts their own. According to both Barry and Rawls, neither conception of the good succeeds as a basis for liberal institutions, because both conflict with moral pluralism.

Barry differs from Rawls in several important respects. As I have shown, Rawls’s own account of reasonable pluralism, “the burdens of judgment,” was intentionally vague and general, and was designed to avoid committing political liberalism to comprehensive epistemological ideas such as fallibilism or skepticism, though it failed in that design. By contrast, Barry argues that the fact of reasonable pluralism must rest on a form of skepticism about the good, which denies the possibility of certainty about any conception of the good. As he puts it, “no conception of the good can justifiably be held with a degree of certainty that warrants its imposition on those who reject it,” which he calls “the argument from

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91 Actually, it seems that Barry’s form of skepticism is better described as a form of fallibilism, which does not deny the possibility of knowledge, but only of certainty.
skepticism." Thus, Barry insists that acceptance of skepticism about the good is a condition of reasonableness.

Barry also rejects Rawls’s account of the stability of a just constitutional regime as necessarily based on an overlapping consensus of comprehensive views, and along with it Rawls’s argument that the stability of just institutions requires the congruence of justice and individual comprehensive doctrines. For Barry, the motivation to uphold the requirements of justice derives from a basic or fundamental desire to justify ourselves in ways that others cannot reasonably reject, combined with a skepticism about our knowledge of the good, so that we accept that justifications based on conceptions of the good can always be reasonably rejected. In this way, for Barry justice remains autonomous from the richer accounts of human value and final purposes that divide us, in that justice does not rely on any aspect of these accounts for support. Justice stands outside our conceptions of the good, and sets limits on their acceptable influence. This is quite a different story from the one I have been advocating, of various comprehensive doctrines themselves mandating cooperation in the face of reasonable pluralism. The core of this difference is Barry’s assertion that liberal neutrality on constitutional essentials does not require an overlapping consensus, for all reasonable people accept a neutral constitution for the same reasons.

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92 Ibid., p. 169.
93 Barry draws his account of moral motivation from T.M. Scanlon’s contractualism. See T.M. Scanlon, What We Owe to Each Other, (Cambridge, Mass.: Harvard University Press, 1999).
94 Barry also follows Scanlon in criticizing Rawls’s conception of the original position for collapsing the central issue of justification to each reasonable individual
In the following sections, I will argue that Barry appears to succeed tolerably well without an overlapping consensus because his skepticism limits the impact of particular conceptions of the good, giving the agreement motive room to dictate cooperation. This success, however, comes at a high price: it excludes important comprehensive views that cannot accept skepticism, and puts tremendous weight on the agreement motive, without explaining why one would want to prioritize this commitment to cooperate over one’s deepest understandings of human value, and the duties they give rise to, when the inevitable conflicts occur. Barry obscures these difficulties in part by speaking only of conceptions of the good, which do not have their own ideas of duty or justice that could possibly conflict with those of impartial justice. To drive home this consequential difference between conceptions of the good and comprehensive doctrines, I briefly explicate the idea of a “common good conception of justice,” which Rawls introduces in *The Law of Peoples*.

Given these costs, I argue that Rawls is right to make the idea of an overlapping consensus central to his account of stability in face of moral pluralism. An overlapping consensus allows reasonable comprehensive doctrines that do not endorse skepticism to be full participants; here, refuting Barry’s criticisms draws on and lends support to my earlier argument that political liberalism ought to be open to a range of accounts of reasonable pluralism. An overlapping consensus also reduces the difficulty of affirming a value of cooperation in the face of conflicting values, by casting those conflicts as between values within a comprehensive scheme, rather than between some external motivation on the one hand and one’s comprehensive...
understandings of justice, duty, and value on the other. Of course, we cannot expect this strategy to be completely successful, here and now—an issue I take up in my next chapter, where I argue for understanding an overlapping consensus as dynamic and evolving over time.

**Barry’s Skepticism**

Barry’s skepticism is the best place to start in order to understand his disagreements with Rawls (and myself). I argued in my first chapter that political liberalism should admit a variety of accounts of reasonable pluralism, allowing a range of comprehensive doctrines to come to their own understanding of the possibility of reasonable disagreement on comprehensive issues. I also argued that Rawls, while proposing a single account of reasonable pluralism for all comprehensive doctrines, gestures at the need for flexibility by leaving the burdens of judgment intentionally vague and general, so as to remain as uncontroversial as possible. In particular, Rawls tries to avoid basing the fact of reasonable pluralism on a comprehensive epistemological position such as fallibilism or skepticism, acknowledging that many reasonable comprehensive doctrines might find these philosophical accounts unacceptable. In contrast to my argument, which tries to further develop Rawls’s savvy recognition of the need for flexibility and tolerance in the way political liberalism explains reasonable pluralism, Barry proposes a more inflexible—and therefore exclusionary—account of the fact of reasonable pluralism, based on skepticism regarding our knowledge of the good.

purposes, however, and I leave it aside in the discussion that follows.
Barry argues that the case for skepticism about the good is so strong that one would have to be unreasonable not to accept it, implying that those who seek to justify themselves publicly to all reasonable people have no duty to do so to those who do not accept a doctrine of skepticism about the good. The contrast with Rawls on this point is instructive: while Rawls proposes that acceptance of the burdens of judgment is a condition for reasonableness, he does not give an argument for the burdens that he thinks everyone is rationally obliged to accept. This is, as I argued, because he wants to leave room for different comprehensive doctrines to integrate the burdens of judgment into their comprehensive views in their own way.

The argument Barry makes for skepticism about the good is an empirical or historical one. He writes:

> It is hard not to be impressed by the fact that so many people have devoted so much effort over so many centuries to a matter of the greatest moment with so little success in the way of securing rational conviction among those not initially predisposed in favor of their conclusions. In other words, if the good were the sort of thing about which certain knowledge could be achieved, we would expect that all the effort put into investigating it over the history of human civilization would have at least put us on the right track. The implicit contrast here is with the relatively greater degree of consensus in the natural sciences, and the accompanying sense of progress, a view based on the great prestige of the natural sciences in our culture. By contrast, since reasoning about the good does not admit—or has not admitted—of certainty, then we should hold our own conception of the good with a degree of doubt. Even if we think we have excellent reasons for
accepting our own account, we should recognize that many others have
thought the same thing, and thereby also acknowledge that our own account
may be mistaken. Given the history of human thought about the good, the
persistence of disagreement and the lack of progress, we cannot possibly hold
that the case for our conception of the good is so certain that it is unreasonable
for others to reject it.

A major difficulty with this line of argument is that there have been
persistant disagreements about matters of justice as well as about conceptions
of the good. And yet clearly Barry thinks that it is unreasonable to reject the
case for neutrality and impartial justice. Why should we be skeptical about the
good and not about justice? On the face of it, the empirical argument from a
history of disagreement does not seem to give us a way to be skeptical about
one and not the other. 96

At the very least, there are some plausible doubts about whether an empirical-
historical argument from disagreements about the good can serve as a basis for liberal
neutrality. But my aim is not to refute Barry’s argument that skepticism about the
good is rationally compelling. Political liberalism elects to stay silent on that question
altogether; it seeks to avoid comprehensive philosophical debates. Nor am I

95 Barry, Justice as Impartiality, 171.
96 For more discussion of this point, see Jonathan Quong, “Disagreement,
3, 301-330 (2005). Quong takes up the charge that political liberalism groundlessly
distinguishes between disagreements about political and comprehensive matters,
accepting state coercion that rests on political disagreements, but rejecting coercion
that rests on comprehensive disagreements. In his response, Quong argues that
political liberalism can evade this charge, but Barry’s impartiality resting on
skepticism cannot.
concerned to show that some such account of skepticism cannot possibly work as a basis for the fact of reasonable pluralism. Political liberalism should be open to a variety of such accounts, and skepticism is a plausible candidate for inclusion. As I discussed in my last chapter, with regard to the utilitarian argument for cooperation, political liberalism does not dictate to comprehensive doctrines how they are to embed political values within their perspective. Neither should political liberalism hold their accounts of political values up to some particular standard of rationality. Political liberals should not reject Barry’s skepticism as one possible basis for the fact of reasonable pluralism; they should only reject it when presented as the only possible one.

Rather than refuting Barry’s argument for skepticism, my response is simply to point out that, by making acceptance of his argument from skepticism a criterion of the reasonable, Barry makes justice as impartiality excessively exclusive; he fails to include some reasonable citizens. Of course, there is a conceptual difficulty here. Exactly who is to be counted as a reasonable citizen is part of what is at issue in this debate, so the criticism that Barry fails to include some reasonable citizens may seem to beg the question. To substantiate my response I refer to the account of the reasonable I developed in my first chapter. According to that account, if citizens

97 Political liberalism “does not criticize, then, religious, philosophical, or metaphysical accounts of the truth of moral judgments and their validity. Reasonableness is its standard of correctness, and given its political aims, it need not go beyond that” (PL 127).
98 I deliberately use “exclusive” rather than “intolerant.” Tolerance is a matter of which practices a state allows within its territory. The issue here is more fundamental: inclusion as a full member in the justificatory politics of constitutional essentials. Those justifications decide which practices a state will tolerate. Hence, inclusion is normatively prior to toleration.
accept a duty of public justification, and recognize that adherents of other comprehensive doctrines can be reasonable, then they are to count as reasonable. The issue, then, is whether skepticism about the good is the only adequate basis for recognizing the fact of reasonable pluralism.

There are at least two different categories of reasonable citizens who would not accept Barry’s argument from skepticism: those who think of themselves as certain about their comprehensive views in the way that Barry rules out, and those who do not see their comprehensive doctrines as candidates for either the sort of certainty or uncertainty that Barry discusses—for them, the whole issue does not seem to apply. In my first chapter, I explored a number of different explanations for the fact of reasonable pluralism, some of which are entirely compatible with certainty about comprehensive views. Among these are extra-cognitive accounts that explain disagreement based on factors outside of the process of reasoning. If I accept one of these accounts, then I can think that the case for my comprehensive doctrine is rationally compelling, and explain your disagreement with me without believing that your faculties of reason and judgment are fundamentally deficient. So, in part I respond by drawing on these alternative accounts I have already worked out, and suggest that Barry needs to include them in his idea of the reasonable.

But there is another group of citizens with perhaps even stronger reason to reject Barry’s argument from skepticism. Charles Taylor has argued that we misunderstand and distort religious experience if we interpret religions as “theories,” or “hypotheses, held in ultimate uncertainty, pending further evidence.” Rather, he argues, “there is a way in which our whole experience is inflected if we live in one or
It is not that Taylor is certain about his religious belief. Indeed, he describes a form of doubt or uncertainty tied to the awareness of other options—non-belief or some other form of spirituality—as a fundamental aspect of contemporary religious experience, at least in the United States and Western Europe. It is this doubt or uncertainty that often fools people into thinking that religion is a kind of theory. But, for Taylor, religions, or spirituality, are not the sorts of things that it makes sense to be skeptical about, in the sense of believing that we have insufficient evidence for proving them. In other words, they do not even show up as candidates for skepticism or proof. For Taylor, religion is not to be understood primarily in terms of propositional belief—though such beliefs are certainly important—but as a form of lived (and embodied) experience.

Taylor’s argument is about what religion is, and how it should be understood. But political liberalism can just as easily take this argument as the self-understanding of a comprehensive doctrine. Given that there are reasonable citizens who experience their faith in this way—and why on earth should we suppose otherwise—then the argument from skepticism faces a real difficulty. For it rests on a supposition that religion can be forced into the mold of a theory, and many reasonable believers will find that to be ill-fitted to their own experience, and perhaps even offensive.

Not all religious people will understand their faith in the way that Taylor suggests. Some believe that revelation is certain fact, on par if not competing with

100 Ibid., p. 11
101 Not unlike how some reasonable citizens will find offensive the way utilitarianism treats their deepest moral commitments as mere preferences.
scientific fact. We can call them literalists. Many literalists are unreasonable, and intolerant of those with different comprehensive beliefs. There is no reason to suppose that all literalists are unreasonable, however, nor that there is something about literalism that makes reasonableness impossible. Indeed, one of the accounts of reasonable disagreement I developed in my first chapter, which relied on the role of God’s grace in bringing about conversion and true belief, is remarkable for its compatibility with literalist faith. Where Barry would especially want to rule this group out for holding their beliefs in a dogmatic way that is incompatible with skepticism, political liberalism hopes for the possibility of cooperation here, as well.

Perhaps Barry insists on skepticism based on a belief that, if you disagree with me in a way that I am certain is a simple mistake or failure of rationality, then I have no duty to seek to give justifications that reach across that disagreement, since your irrationality precludes such justifications. This closely associates the standard for reasonableness with rationality. If Barry does feel this way, it is clear why he might think that skepticism would play a necessary role in supporting a duty of public justification, since the skeptic will not view other conceptions of the good as simple failures of rationality. But we need not follow Barry in his close association of reasonableness and rationality, because a disagreement can be reasonable if it compatible with the reasonableness of both sides, meaning that both sides remain viable political cooperators. On this view, I can be certain you are wrong about your

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102 People who understand their faith in this way are sometimes called fundamentalists. That term is used in a confusing variety of ways. For instance, Rawls uses it to refer to a category of unreasonable religious people, which would beg the question in this context—the issue is precisely whether people who understand their
comprehensive beliefs, but still feel that I have a duty to cooperate with you. Why should I cooperate with others who, I am certain, are wrong? Political liberalism responds that to not do so would be unreasonable, so long as they acknowledge reasonable pluralism and seek to cooperate with me. Deeper answers, if such are needed, can only be given from within each comprehensive doctrine.¹⁰³

One final note on skepticism: while I have been suggesting that Rawls tries to give a more flexible account of reasonable disagreement than Barry’s, one which is open to incorporation by different comprehensive perspectives, there is nevertheless one important respect in which he is quite close to Barry’s skepticism. This is his insistence that reasonable pluralism is a permanent feature of the use of human reason under free institutions. As I have argued previously, only some comprehensive epistemological view like skepticism or fallibilism could possibly justify such a faith in this way can be reasonable. Because of the potential confusion, I avoid the term in this discussion.

¹⁰³ This paragraph is necessarily confusing, because it treats “reasonableness” in two different ways: as a term within Barry’s comprehensive Scanlonian account of justification, and in the more general sense I have outlined for use in political liberalism. My general strategy is to reduce Barry’s universal theory of impartial justice to one more reasonable comprehensive doctrine among others. Where he thinks that skepticism is a universal condition for acknowledging reasonable pluralism, I show that it is merely one possible strategy. If this view is based on a belief that we need not count a disagreement that is based on patently irrational or mistaken beliefs, then he is allowed to hold that belief, so long as it does not prevent him from acknowledging the fact of reasonable pluralism, and the duty of public justification. What he cannot do is assert that the private standard he uses for those to whom we owe public justifications—a standard for which he uses the term reasonable, and associates closely with rationality—must be used by all as a condition of political reasonableness.
strong prediction. Eliminating this prediction is crucial to making political liberalism inclusive of diverse comprehensive views.¹⁰⁴

Disagreements Over Stability

The central idea in the account of “stability for the right reasons” given in political liberalism is that of an overlapping consensus of reasonable comprehensive doctrines on a family of liberal political conceptions of justice. This account involves convergence from different perspectives: “in such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view” (PL 134). In this thesis, I have been trying to develop and expand the sensitivity of political liberalism to the variety of ways in which political conceptions of justice can be embedded into different comprehensive doctrines. Barry’s take on liberal neutrality is, in this sense, directly opposed to mine. For Barry, the stability of justice is not a matter of comprehensive doctrines coming to embrace the demands of justice from their own perspectives. He rejects the very idea of an overlapping consensus. Instead, the demands of justice limit the possible influence of conceptions of the good from the outside. Everyone who acts according to the demands of justice as impartiality does so for the same reasons: because they desire to justify themselves in ways that others cannot reasonably reject, and they recognize that justifications based on a conception of the good can always be reasonably rejected. The “agreement motive” is

¹⁰⁴ See Jonathan Quong’s article “Political Liberalism Without Skepticism,” Politics, Philosophy, and Economics, Vol. 20, No. 3 (2007), pp. 320-340, for more discussion of these issues. Quong defends the burdens of judgment, arguing that they do not require any form of skepticism. He agrees with Rawls, and my argument here, that such a requirement would severely undermine political liberalism.
basic, according to Barry, in that it has no deeper foundation in the good as specified by this or that particular conception.

Barry’s skepticism plays a crucial role in making his account of justificatory neutrality without an overlapping consensus look plausible. An account of reasonable pluralism only dictates public justification if one is already committed to a duty of cooperation with all reasonable people, holding that duty to have priority over one’s other obligations. The only account Barry gives of our commitment to cooperation, however, is that it follows from the “agreement motive,” or our desire to publicly justify ourselves. This seems inadequate. Even if we all do feel a desire to justify ourselves to one another, it is hard to imagine that such a desire will win out with any consistency if it conflicts with our deepest understandings of human value. Skepticism about the good mitigates, but cannot completely resolve this problem. Skepticism has the important quality of simultaneously giving an account of reasonable pluralism, and of weakening the hold of our comprehensive doctrines and the obligations to which they give rise, to the extent that we are uncertain that they are valid. To some degree, it brackets the influence that our comprehensive doctrines can have in our lives, and thereby gives a Scanlonian agreement motive the room to flourish.

Without skepticism, Barry’s reliance on the thin agreement motive looks completely implausible. Even with skepticism, however, the agreement motive may not win out if it conflicts with our deepest understandings of human value, and the duties we take ourselves to have with respect to our comprehensive doctrines. So long as citizens hold these doctrines, even if they believe them to be fallible, they are still
weighing a desire to justify themselves against a fuller and richer understanding of value and duty. Whether the agreement motive wins out depends critically on the degree of skepticism that Barry requires: the higher the degree, the more likely public justification will triumph, but also the more exclusive the requirement. Political liberalism deals with the problem of prioritizing cooperation by casting this conflict as between different values within the rich moral resources of a comprehensive doctrine. Yet, of course, it remains a problem for political liberalism as well. There can be no guarantees that cooperation will always be given the priority that political liberalism says it deserves. Rawls’s hope is that such conflicts will be minimized and that cooperation will generally win out. I continue this line of thought in my next chapter, where I argue that this problem does not undermine the political liberal project, so long as the overlapping consensus is understood in an appropriately dynamic way.

Rawls is not always as clear as he should be about the need for doctrines to develop their own comprehensive accounts affirming the key aspects of political liberalism, and this lack of clarity and emphasis is a consequential mistake. Rawls hopes that, if the realm of comprehensive values is not perfectly congruent with that of the political, then in many cases at least it may be compatible, or at least not completely conflicting with it (PL 140). This sense that comprehensive doctrines can get by without explicitly endorsing political liberalism is reinforced by Rawls’s explanation for how an overlapping consensus could evolve from a modus vivendi (PL 158-164). In that story, Rawls emphasizes the role of doctrines that are loosely formed and only partially comprehensive. Because this looseness allows a sufficient
degree of “slippage,” the relevant doctrines never really have to come to see how their wider comprehensive views can be interpreted so as to be congruent with the requirements of political liberalism. In my view, this does not take seriously enough the need for comprehensive doctrines to affirm the duty of cooperation in their own terms. Abiding by a duty of cooperation means prioritizing cooperation over many other important values when they conflict, and it seems unlikely that we will do so unless the comprehensive doctrine itself prioritizes the value of cooperation in this way.

To Barry’s credit, he sees quite clearly that an overlapping consensus becomes necessary with the failure of his argument from skepticism. However, he mischaracterizes the consensus we need, in that case, as one among various accounts of the good on the demands of justice. This is not quite the same thing as an overlapping consensus among comprehensive doctrines on a political conception of justice. His misunderstanding of the nature of an overlapping consensus follows from interpreting that idea in light of Rawls’s argument in Theory for congruence between the right and the good, as I will explain below.

**Congruence in Theory and Political Liberalism**

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105 What it gets right, on the other hand, is the sense that comprehensive doctrines are dynamic and internally heterogeneous.
106 Sections of this paragraph were drawn from a paper written for a previous class.
107 Barry writes that, if the argument from skepticism “is too ‘metaphysical’ (and therefore too controversial) to play a role in an argument addressed to all reasonable people, regardless of their ‘comprehensive views,’ we are back to ‘overlapping consensus’ as a condition of stability.” Brian Barry, “John Rawls and the Search for Stability,” *Ethics* 105, No. 4 (July 1995), p. 876.
Though rejecting Barry’s argument from skepticism means that we cannot follow him in discarding the idea of an overlapping consensus, taking up his criticisms of the Rawlsian picture of stability will nevertheless be a useful exercise in filling out that picture, and recognizing some of its underappreciated strengths. Barry mistakenly interprets the idea of an overlapping consensus in terms of the argument for congruence between the right and the good that Rawls puts forward in *A Theory of Justice*, and thinks that the errors of that argument lie at the heart of the apparent need for an overlapping consensus. In *Theory*, Rawls argued that the case for principles of justice requires showing that a well-ordered society governed on those principles would be stable “for the right reasons.” This means that a society with institutions governed by those principles of justice would imbue citizens with an effective sense of justice, a sense that would lead them to affirm and act from those same principles (TJ 442). The second stage of the stability argument is the congruence of the individual’s good and the demands of justice. Rawls argues that individuals with a sense of justice in a well-ordered society would affirm that sense and the two principles of justice as part of their rational good.

Barry takes issue with the idea that the stability of justice requires the congruence of justice and the good, complaining that taking congruence as a condition of stability makes a “travesty of the thoroughly commonsensical idea represented by saying that people can do their duty out of a sense of duty and not in order to achieve some independently definable end.” We do not have to believe that observing justice is to our good, Barry insists, in order to do so. Similarly, when

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108 Ibid., p. 884.
Rawls argues in *Theory* that the priority of the right imposes limits on the acceptable ideas of the good, Barry responds that “we can accept that justice sets limits on the pursuit of something we conceive as being for our good, but we do not have to abandon the view that it is for our good.” For Barry, Rawls’s transition to political liberalism and the idea of an overlapping consensus is just a matter of realizing the inevitability of a reasonable pluralism of conceptions of the good, such that a variety of different conceptions of the good will have to be congruent with justice. Thus, for Barry, the original error in *Theory* of supposing that the stability of justice requires the congruence of the right and the good translates directly to error of thinking that an overlapping consensus of conceptions of the good is necessary.

I want to leave aside whether Barry’s criticism of the stability argument in *Theory* is correct. Resolving that issue is not critical to my argument here, for I think it is misleading in the first place to consider the idea of an overlapping consensus as a direct extension of the congruence argument from *Theory*. In *Political Liberalism*, Rawls purposefully speaks of an overlapping consensus of comprehensive doctrines rather than of conceptions of the good, dropping any mention of congruence between the right and the good. Instead, Rawls talks about the

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109 Ibid., p. 889.
110 Barry thinks that this transition is important largely because it rules out the Kantian argument for congruence.
111 Samuel Freeman has argued that Barry’s criticism misses the point of the congruence argument as presented in *Theory*. Rawls does think that people can act based on their sense of duty, and not to achieve some other good. Freeman argues that the crucial issue behind the congruence argument is not that people are incapable of acting from a sense of duty, but rather that people cannot be expected to consistently do so if it is not compatible with their good. See Samuel Freeman, “Congruence and the Good of Justice,” in Samuel Freeman, ed., *The Cambridge Companion to Rawls* (New York: Cambridge University Press, 2003), p. 283.
congruence of the “wider realm of values” with political values (PL 169). This is appropriate because comprehensive doctrines are often more than conceptions of the good, and typically come with their own ideas of duty and justice.\(^{112}\) An overlapping consensus is not simply a matter of people with different conceptions of the good coming to see that impartial justice is the best realization of their individual good. Rather, it is a matter of the duties imposed by different comprehensive doctrines, often with their own ideas of justice, lining up with the requirements of impartial justice. In other words, it involves each reasonable citizen coming to see that, in the face of reasonable pluralism, their comprehensive beliefs impose upon them a duty of public justification. The foundations of that duty—including the relationship between the right and our rational good, if matters are even conceptualized under those categories—are for individual comprehensive doctrines to decide.

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\(^{112}\) Barry’s opposition between the correct account of justice (as impartiality) and conceptions of the good breaks down in the case of important philosophical views, including utilitarianism and quasi-Kantian conceptions of autonomy. Even Utilitarianism, which stresses the moral role of the good so strongly, cannot be described as merely a conception of the good. It is, at the very least, a conception of the good as want-satisfaction, and additionally an imperative to maximize that good. Still, perhaps in the case of utilitarianism it makes some sense to speak of a congruence between the good and the requirements of political liberalism (we still would not want to say a congruence between the good and the requirements of justice, period, since utilitarians have their own understandings of justice, internal to their doctrine). Other comprehensive doctrines do not fit nearly so well into the mold of a conception of the good. Kantianism clearly mandates a duty of cooperation, and not simply as a way of achieving some good. A duty of cooperation or public justification is derived from our respect for the moral law—and most directly from the injunction to treat others as ends, and never merely as means. In this case, Kantians will not understand the “agreement motive” as something external to, or prior to, their comprehensive views. Such an understanding has no place in Barry’s scheme of justice as impartial among conceptions of the good.
One vivid way to see this difference between Barry and Rawls is to look at the concept of a “common good conception of justice” that Rawls develops in *The Law of Peoples*. In that work, Rawls argues for the possibility of a society well ordered on a non-liberal comprehensive doctrine, in which the basic structure of society is organized so as to best achieve some comprehensive set of values, or some vision of human excellence (LP 71). Following this account, we might suppose that each comprehensive doctrine will have its own common-good conception of justice—its own ideal of how it would organize a society well-ordered on its principles. However, as long as these doctrines recognize the value of cooperation and the possibility of reasonable disagreement, in a society characterized by reasonable pluralism they will bracket their own comprehensive views and affirm a duty of public justification, at least on matters of constitutional essentials. But this does not mean that they reject their common good conception of justice. And, if I was right to argue in my first chapter that political liberalism need not insist that reasonable pluralism is a permanent or inevitable outcome of the use of free human reason, then many reasonable citizens will legitimately long for a society sufficiently homogenous in its beliefs that their common good conception of justice could be fully implemented without injustice. I break with Rawls where he insists that justice in the face of reasonable pluralism requires a more complete reconciliation: that we cease to see such reasonable pluralism as a misfortune, because it is the natural product of human reason under free conditions.
It is crucial to Rawls’s project in *Political Liberalism* that he does not deny the truth of any of these common-good conceptions of justice.\(^{113}\) That is, the account of political justice he develops in that work is not meant to compete with the ideas of justice more directly tied to comprehensive doctrines. Rather, political liberalism merely says that it would be unreasonable to impose a common-good conception of justice on a society characterized by reasonable pluralism, not that any given common-good conception of justice is mistaken. This is in direct contrast with Rawls’s earlier work, *A Theory of Justice*, which explicitly attempted to work out the correct theory of justice, and to show its superiority over a number of other prominent accounts. Barry agrees with *Theory* that there may be multiple conceptions of the good in a liberal society, but he insists that only Justice as Impartiality (or Justice as Fairness) is the correct account of justice, thus breaking with Rawls’s more inclusive view in *Political Liberalism*.\(^{114}\)

**Are Deontological Theories of Morality Comprehensive Doctrines?**

I have just been arguing that Barry’s characterization of justice as impartiality as neutral between conceptions of the good rather than comprehensive doctrines is a mistake, because it obscures the fact that many comprehensive doctrines come with their own ideas of justice and duty. Moreover, I would add, important comprehensive views like Kantianism do not fit into the mold of a conception of the good. Barry

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\(^{113}\) Barry, while perceptive about the nature of justificatory neutrality in many other ways, completely fails to engage with this aspect of Rawls’s project.

\(^{114}\) Note that this is a different issue from the possibility of multiple reasonable political conceptions of justice in a liberal society. None of those political conceptions of justice is intended to replace, much less refute, the accounts of justice that comprehensive doctrines would choose to implement were they to have legitimate control of a society.
might respond, however, that this is no fault with his theory, if he thinks that political liberalism need not remain neutral with respect to deontological views of morality. Interpreting and evaluating Barry’s and Rawls’s views on this question will help clarify what is at stake in a political view of justice.

Barry’s remarks on Rawls’s critique of his own earlier work, *A Theory of Justice*, are a good place to start. In explaining why he developed the elaborate conceptual structure of political liberalism, Rawls tried to show that *Theory* was inadequate because it could reasonably be interpreted as putting forward a single comprehensive doctrine to act as the basis of political cooperation in a well-ordered society. In support of this interpretation of *Theory*, Rawls points out that in that work he presented justice as fairness as part of a more general conception of “rightness as fairness,” to be studied in greater depth if justice as fairness seems to succeed (TJ 15) Here Barry disagrees with Rawls that “rightness as fairness” is necessarily a comprehensive doctrine, insisting that a doctrine is only comprehensive if it specifies ideals of human flourishing and virtue. Rightness as fairness, by contrast, would avoid such values entirely. Barry points out that, like Justice as Fairness, “it would likewise set out ground rules designed to enable people with different conceptions of the good to live together without conflict in a society. The only difference would lie in its subject matter, which would consist of moral rules rather than institutions making up the ‘basic structure of society.’ But it would similarly prescribe limits to permissible action rather than setting out substantive ends.”115 Thus, Barry argues that a development of a deontological view of morality that specifies only norms of

interpersonal conduct—What We Owe to Each Other, to use the title of Scanlon’s book—and not “substantive ends,” would in fact be political and not comprehensive. This is surely wrong, for reasons elaborated below, but Barry draws some support from quoting Rawls on the question. Therefore, it may be useful to say something about Rawls’s position.

Rawls is himself deeply ambiguous about this contrast between comprehensive doctrines on the one hand, and conceptions of the good on the other. Consider how he draws the contrast between comprehensive and political conceptions:

the distinction between political conceptions of justice and other moral conceptions is a matter of scope: that is, the range of subjects to which a conception applies, and the wider content a wider range requires. A conception is said to be general when it applies to a wide range of subjects (in the limit to all subjects); it is comprehensive when it includes conceptions of what is of value in human life, as well as ideals of personal virtue and character, that are to inform much of our nonpolitical conduct (in the limit our life as a whole) (PL 175). This can plausibly read, as Barry is inclined to do, as an injunction against perfectionism in the politics of constitutional essentials. A political conception is one that does not specify virtues of personal character, or substantive ends or values to be pursued in our private life. This interpretation of Rawls’s distinction between the comprehensive and the political would stress that when Rawls writes of Kantianism as a comprehensive doctrine, he seems to imply that the comprehensive aspect of Kantianism is the way it emphasizes a good of autonomy, in a similar way to Mill’s emphasis on autonomy. In this way, Kantianism would be “comprehensive” rather than “political” precisely to the extent that it prescribed a substantive good, namely autonomy. On this reading, a purely deontological view of morality that did not
endorse autonomy as a personal virtue would in fact be political and not comprehensive. So Barry’s is not an unreasonable interpretation of Rawls’s text.

Not unreasonable, but ultimately mistaken, in my view. Rawls’s distinction between comprehensive and political conceptions certainly includes an injunction against perfectionism, but properly understood it rules out much else besides. One of the things it rules out is making a comprehensive Kantian understanding of the separation of morality and ethics—and the priority of the former over the latter—the basis of a constitution in a society characterized by moral pluralism. Whether a Scanlonian theory of morality is correct, political liberalism does not say. It is clear, however, that it cannot view political conceptions of justice as ultimately rooted in such a controversial view, since that would be unacceptable to many reasonable comprehensive doctrines.

Political liberalism cannot be merely one more argument in the long debate about whether the good or the right is sovereign—these waters are far too deep for a political philosophy that aims to stay on the surface. The point of political liberalism is not to engage in the old debates, but to sidestep them. A Kantian view of the priority of right and respect for persons (to use Larmore’s phrase) is one way of deriving a duty of cooperation, and hence there is good reason to believe that Kantians could be full members in an overlapping consensus. Yet political liberalism does not side with Kant over the utilitarians, or Aristotelians, or Thomists, when it prescribes a political conception of justice as the way to maintain liberal legitimacy in the face of moral pluralism, for it hopes that all can each affirm the political conception in its own way.
Here we can draw on an early statement of Rawls’s political liberalism, in his article “Justice as Fairness: Political Not Metaphysical,” where he insists that in a constitutional democracy, the “public conception of justice” should not rely on “controversial philosophical and religious doctrines.”\(^{116}\) This suggests that Rawls had in mind from the beginning a wider category of “comprehensive” than merely perfectionist doctrines, or substantive views of the good. Since Rawls gives us no indication that he revised his views to a more limited conception of “comprehensive” in political liberalism, we can assume that Rawls meant his later definition to include deontological views of morality, even if he left the matter unfortunately ambiguous.

This also suggests that Rawls makes a tactical error in using the phrase “the priority of right” to describe a key aspect of the normativeness of an overlapping consensus—that all member doctrines must be reasonable. Rawls’s use of that Kantian phrase can give the mistaken impression, despite his clear statement to the contrary, that political liberalism sides with a Kantian view of the nature of morality and moral obligation. The title of lecture five in *Political Liberalism* is “The priority of Right and Ideas of the Good,” emphasizing the Kantian contrast between private ideas of the good and publicly accessible norms of interpersonal conduct. It turns out that what the priority of the right really means in political liberalism is that the reasonable sets limits on the permissible content of comprehensive doctrines (and not solely on the conception of the good): “in justice as fairness the priority of right means that the principles of political justice impose limits on permissible ways of life; and hence the claims citizens make to pursue ends that transgress those limits have no

\(^{116}\) John Rawls, “Justice as Fairness: Political not Metaphysical,” *Philosophy and*
weight” (PL 174). This is a glaring lack of clarity: in political liberalism, political justice does not only have priority over the concepts of good held by various comprehensive doctrines, but also over the concepts of duty and justice held by those doctrines.¹¹⁷

A comment on the Kantian origins of Rawls’s concept of the priority of the right might help to clarify matters. Kantianism claims that morality is “freestanding” from any conception of the good: it is a categorical imperative that in no way relies on our particular substantive ends. But Rawls wants to claim that political justice is freestanding from comprehensive debates within moral philosophy and ethics, including views about whether the right has priority over the good in determining the morality of individual conduct. Thus, Rawls makes a parallel move to the Kantian one of specifying norms of interpersonal conduct that are universally accessible through our common human reason. But it would be a grave mistake to think that wanting to make justice freestanding in this sense aligns him with Kant’s substantive views, for this is precisely the opposite of a freestanding conception of justice. Indeed, in my view, if political justice is to be freestanding, then political liberalism must accept multiple paths to the norms of public reason, including ones that incorporate an imperative to maximize the good.

Conclusion

Barry gives us one story for how a commitment to public justifications across deep differences in beliefs and values might be sustained. That picture involves

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*Public Affairs* 14, no. 3 (Summer 1985), p. 223.
everyone accepting a skeptical view of their own understandings of the good life, such that they do not feel justified in overriding the objections of others to impose those beliefs upon them. This is a plausible enough story for how a commitment to public justification could come about—but there is no good reason to believe that it is the only one. Barry’s endorsement of skepticism excludes important comprehensive views. And without skepticism, his heavy reliance on the agreement motive does not even begin to make sense of why people with different comprehensive beliefs might prioritize cooperation over other values with which it conflicts. Political liberalism’s commitment to an overlapping consensus, and its engagement with the variety of ways in which comprehensive doctrines can embrace reasonable political values, emerges stronger from confronting Barry’s views.

Barry hints at, however, another criticism of the idea of an overlapping consensus, which I have yet to address: that it is redundant or overly stipulative, insofar as reasonable people are defined by their acceptance of political liberalism. Responding to that criticism will require a more radical rethinking of Rawls’s account of political liberalism, along dynamic or evolutionary lines.

117 The “priority of the right” also describes the relationship of derivation and subordination between particular ideas of the good and the demands of justice within a political conception of justice, and it may be more appropriate in that use.
4. Overlapping Consensus as a Dynamic Project

In my last chapter, I argued that Barry was wrong to reject the idea of an overlapping consensus of comprehensive views, because his rejection relied upon two mistakes. These were 1) his endorsement of skepticism about the good, which is incompatible with many important comprehensive views, and 2) his heavy reliance on the “agreement motive,” without any indication of why people of diverse comprehensive views would prioritize their commitment to justify themselves publicly over their deepest understanding of what is valuable. I advocated as more promising Rawls’s idea of an overlapping consensus on a freestanding conception of justice, which is affirmed by diverse comprehensive views each from within its own perspective and for its own reasons—and reinforced my argument from previous chapters that political liberalism needs to take seriously the diverse resources that particular comprehensive doctrines have for doing so. This approach is more inclusive than Barry’s, in that it does not make acceptance of skepticism (or Rawls’s particular account of the burdens of judgment) a condition of reasonableness. It also helps to explain how a value of cooperation might successfully win out, by telling a story about how doctrines prioritize cooperation within their own scheme of value, rather than simply taking cooperation as an external imposition, weighed against all comprehensive values.

And yet, these conflicts between political and other values will often remain. There can be no guarantee that all important comprehensive doctrines—as they currently stand—will be able to affirm not only the value but also the priority of cooperation and the fact of reasonable pluralism, in all the relevant cases. Rawls’s
response to this obvious difficulty is to argue that political liberalism need only be acceptable to all “reasonable” comprehensive doctrines. This gives rise to one of Barry’s criticisms of the idea of an overlapping consensus: that it is either tautological, if it defines “reasonable” by the ability to affirm the core features of political liberalism, or it holds justice hostage to the opinion of actually existing comprehensive doctrines, thereby losing its normativity. Barry’s objection is correct in its own terms, but that simply reveals the most important failure of his project, which is that he conceives of the problem of political justice as the discovery of timeless principles. Political life in pluralistic societies evades any attempt to enunciate the truth about justice once and for all.

I argue that political liberalism ought to grasp the tautological horn of this dilemma, but hold that this does not undermine the political liberal project once we conceive of it in dynamic rather than static terms. On this view, political liberalism works with diverse comprehensive doctrines, to cultivate resources over time within each that enable them to affirm a political conception of justice from their own perspective. Simultaneously, political liberals critically examine their own understandings of political liberalism and what it requires of its participants, in light of these encounters with diverse and developing doctrines. Thus, the idea behind an overlapping consensus among reasonable comprehensive doctrines is less to distinguish those comprehensive doctrines that can be full participants from those that cannot, than to outline a continuing political and intellectual project of engagement.

Redundant or “Political in the Wrong Way?”
Not all doctrines will be able to prioritize political values in the way that political liberalism requires, even across the normal range of cases that arise in favorable circumstances. How is political liberalism supposed to think of doctrines that do not prioritize cooperation in the face of reasonable pluralism? Barry puts a sharp point to this problem, by presenting political liberalism with an unfortunate dilemma about the idea of an overlapping consensus, neither option of which is appealing.\footnote{Barry does not actually present his argument as a dilemma, but it lends itself to eventually I will argue that the dilemma somewhat misses the point by considering the problem of stability for the right reasons from too static a point of view, but for now it is important to understand Barry’s argument in his terms. The starting point for the dilemma is the basic distinction Rawls draws to deal with the existence of those who do not prioritize cooperation in the face of reasonable pluralism: between reasonable and unreasonable people, and reasonable and unreasonable comprehensive doctrines. Critically, Rawls is only concerned with the possibility of an overlapping consensus among reasonable people. If an unreasonable person rejects political liberalism, that does not undermine its justification.

The dilemma goes as follows: on the one hand, Barry argues, an overlapping consensus is basically redundant or tautological if accepting political liberalism is a condition of reasonableness. On the other hand, if political liberalism defines a set of people or doctrines as \textit{a priori} reasonable, and then checks to see if they can in fact affirm public justification, this approach threatens to make political liberalism “political in the wrong way,” to use Rawls’s phrase. If we have an argument for a political conception of justice that we feel confident goes through, and that all
reasonable people ought to accept, then it seems irrelevant to consider who actually accepts it. Those who do not are simply (to that extent) unreasonable. In order for the idea of an overlapping consensus to have any normative bite, we must define reasonable ahead of time, so that the possibility of an overlapping consensus on a conception of justice serves as a real test that a conception could plausibly fail. On the other hand, this looks like an implausible approach to normativity, since whether a conception of justice is justified should not depend on the contingencies of actual agreement, taking people’s current views as given.

Rawls himself shows signs of being concerned with the criticism that an overlapping consensus is redundant, and tries to respond to it by giving an independent definition of a “reasonable comprehensive doctrine,” a definition that makes no reference to whether the doctrine can accept the duty of public justification and the fact of reasonable pluralism. This definition depicts such a doctrine as a relatively coherent body of thought about a wide range of issues and values, that has evolved over time in response to criticism, and for what it takes to be good reasons (PL 59). By identifying reasonable comprehensive doctrines in a way that is independent of whether they uphold a reasonable political conception of justice, Rawls hopes to make the idea of an overlapping consensus into a genuine and testable condition of justice—one that is not merely tautological. If by contrast reasonable comprehensive doctrines are defined simply as those comprehensive doctrines that could accept the right sort of political justification for liberal institutions, then, as interpretation in that way.
Barry puts it, the “whole exercise is otiose.” Yet, it does appear that Rawls’s attempt to define a reasonable comprehensive doctrine so that it is not tautological is quite awkward. Certainly, as argued in my first chapter, the particular definition he gives is unacceptable, in that it admits doctrines that are clearly unreasonable in the Rawlsian sense (racist doctrines, for instance).

I should pause here to clarify the sense in which I mean “tautological” or “redundant.” Here I take the definition of a reasonable person, rather than reasonable doctrine, as basic, in the way I have previously expressed; reasonable doctrines are just those that provide the conceptual resources for their adherents to be reasonable. By “redundant” or “tautological,” I mean only that reasonable people are by definition those that can affirm a duty of cooperation and the fact of reasonable pluralism. I do not mean that it is a purely analytic truth, or true by definition (like the statement that “all bachelors are unmarried”), that all reasonable people will support egalitarian liberal institutions. While I believe that to be true, and to be the most reasonable conclusion to draw from a duty of public justification in the face of reasonable pluralism, it is not a tautology.

119 Speaking of Rawls, Barry argues that “he does not intend to foreclose by definitional fiat the question of the comparability of reasonable views with ‘justice as fairness.’ …Rawls lists a number of ‘reasonable comprehensive views’ and then proceeds to make a case for the comparability of each with ‘justice as fairness.’ This whole exercise would be otiose if it were conceptually impossible for a reasonable view to fail to be compatible with Rawlsian justice.” Barry, “John Rawls and the Search for Stability,” p. 898.

120 Wenar, “Political Liberalism: An Internal Critique,” p. 36. Of course, this criticism does not show that no definition could possibly play the role that Rawls hopes his definition will play, defining reasonable comprehensive doctrines apart from their actual affirmation of a public justification and the fact of reasonable pluralism. It merely gives us prima facie reason for looking for a superior strategy, like the dynamic one I elaborate below.
That being said, I believe that we should grasp the tautological horn of the dilemma, and accept that all reasonable citizens by definition both affirm a duty of cooperation with all citizens who are similarly reasonable, and acknowledge the fact of reasonable pluralism. This might rightly seem strange. What’s the point of including the idea of an overlapping consensus at all, if reasonable citizens by definition can be full participants? The answer, as I suggested above, is to consider the problem in dynamic rather than static terms. Thinking of reasonable people as by definition the kinds of people who can accept political liberalism does no significant damage, once we realize that the political liberal project envisions the evolution of an overlapping consensus through the interaction of political liberalism with the moral resources of particular comprehensive doctrines, as they cultivate and develop those resources. I elaborate in three points below.

First, the idea of an overlapping consensus serves as a “defense of reasonable faith in the possibility of a just constitutional regime” in the face of the challenge of reasonable pluralism (PL 172). The idea of an overlapping consensus is an elaboration of what it would mean for reasonable citizens of different comprehensive doctrines to all affirm a political conception of justice. It is a (quite abstract) picture of what a society might look like, an inspiring ideal and a resource against cynicism. Rawls’s writings on this vision for political philosophy are moving, and worth quoting at length: “The answer we give to the question of whether a just democratic society is possible and can be stable for the right reasons affects our

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background thoughts and attitudes about the world as a whole…. if we take for
granted as common knowledge that a just and well-ordered democratic society is
impossible, then the quality and tone of those attitudes will reflect that knowledge”
(PL lix). In insisting that a defense against cynicism is essential, Rawls cites the
widespread disillusion with democracy, especially among political elites, that
undermined the Weimar Republic in post-war Germany: “A cause of the fall of
Weimar’s constitutional regime was that none of the traditional elites of Germany
supported its constitution or were willing to cooperate to make it work. They no
longer believed a decent liberal parliamentary regime was possible. Its time had past”
(PL lix). Rawls emphasizes the practical role of political philosophy in maintaining
the possibility of just cooperation by staving off debilitating cynicism.

This view of political liberalism, as a defense of our reasonable faith, accords
nicely with a dynamic view of an overlapping consensus. In part, this is because it is a
defense geared toward action, and is thus a defense of our faith in a possibility or a
project, rather than in a static fact. Hence, the point of emphasis is not simply that a
range of doctrines, as they currently stand, can affirm reasonable political conceptions
of justice—though this is certainly important. This would leave political liberalism
open to the objection that some quite influential comprehensive doctrines cannot, in
their dominant or orthodox interpretation, prioritize political values on a consistent
basis. After several such examples, approached within a static frame of reference, we
might well lose faith in political liberalism, and succumb to the cynicism it is meant
to resist. But, from a dynamic point of view, the political liberal project would be
defensible so long as important comprehensive doctrines have moral resources—ripe
for development and engagement—that point towards an affirmation of political values.\(^{122}\)

Second, there is a sense in which the idea of an overlapping consensus can provide a test of the content of political liberalism. If we suspect that a set of views can provide the resources for citizens to be fully reasonable participants in an overlapping consensus, but a formulation of political liberalism fails to acknowledge them as reasonable, then we have reason to suppose that we went wrong in elaborating political liberalism in this particular way.\(^{123}\) In particular, we should suspect that we have somehow smuggle unacceptably comprehensive ideas into our supposedly freestanding view of justice. This strategy of critique should look familiar by now. In my first chapter, I followed it in arguing that requiring the burdens of judgment as the only acceptable explanation for reasonable pluralism was too exclusive. In my second chapter, I criticized Larmore’s suggestion that the ultimate moral basis of political liberalism lies in “respect for persons” along similar lines. Last chapter, I criticized Barry’s requirement of skepticism, in part because it seems to build in a comprehensive (Enlightenment) understanding of religions as theories.

\(^{122}\) Here I disagree with Barry, who stresses that the availability of such resources can do no work for Rawls: “Rawls, and others sympathetic his project, tend to suggest that important progress has been made if it can be shown that there is one version of each "comprehensive view" that can be squared (more or less) with the principles of justice. But this would be significant only if there were some good reason for attributing to such an interpretation a competitive edge simply in virtue of its compatibility with Rawls’s principles.” Barry, “John Rawls and the Search for Stability,” p. 912. Barry’s criticism would be significant only if Rawls’s project lived or died with proof of the actual existence—or imminent prospect—of an overlapping consensus. My point here is that the idea of an overlapping consensus serves as a defense of a continuing project, rather than an already established fact.
Crucial to this idea of an overlapping consensus as a test, or check on the content of political liberalism, is the presumption that comprehensive doctrines that meet Rawls’s (incomplete) criteria for reasonableness—a coherent and systematic body of doctrine that has evolved over time for reasons—can support interpretations that allow their adherents to be reasonable. This is, I think, the core insight behind Rawls’s definition of a reasonable comprehensive doctrine, and it shows an impressive political astuteness. As I have emphasized, these doctrines are not monolithic or static, and political liberalism hopes to encourage them to develop in directions that can support the ideals of public reason. Most doctrines that have been able to persist through time have developed ways of thinking about internal disagreements, and ways of reasoning about cooperation—it is hard to believe that they could thrive if they did not. Thus, there is prima facie reason to suppose that those doctrines will be able to sustain accounts of reasonable disagreement and public justification.

While recognizing this insight at the core of Rawls’s definition of reasonable comprehensive doctrines, I nevertheless insist that this insight cannot be definitive of what makes a doctrine reasonable. Rather, we should begin our engagement with comprehensive doctrines that have these characteristics with a strong presumption that they can find a way to affirm political liberalism—and if they cannot, our first reaction should be to check whether we have mistakenly framed the requirements of liberal citizenship in a way that precludes their participation. If, in the final analysis,  

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123 This view provides another way of making sense of why Barry would oppose the idea of an overlapping consensus, since it is against overly exclusive accounts of liberal neutrality like his own that the idea proves its use.
we are confident that our demands are not excessive, and the doctrine still cannot meet them, only then can we fairly say that they are unreasonable. This is acceptable, though unfortunate, because political liberalism does not need a perfect consensus. We begin the project with an understanding that some doctrines, and certainly some individuals, (though no specific doctrine or individual) are likely to prove unreasonable. Yet hopefully this process of engagement will have highlighted resources that could be used to develop such an account, and hence pointed the way towards future evolution.\(^{124}\)

Finally, the idea of an overlapping consensus emphasizes the role that specific comprehensive doctrines have to play in embedding political values within their perspectives. In this way, it creates a research agenda for investigating comprehensive doctrines, which I have tried to lay out in a programmatic way in my first two chapters. This evolutionary process of engagement and response is aimed both at cultivating resources within comprehensive doctrines for affirming political values, and developing our understanding, within political liberalism, of how an overlapping consensus can prioritize the reasonable and yet remain maximally inclusive. The idea of an overlapping consensus gives some direction to the sorts of questions we should ask, and the answers we should expect (or would count as reasonable). Andrew March’s work on Islam and the possibility of an overlapping consensus is, I think, an indication of the fecundity of this research program. In turn, the richness of this

\(^{124}\) Andrew March discusses this process of identifying terms of cooperation acceptable from the standpoints of both political liberalism and a specific comprehensive doctrine as finding an equilibrium between their competing demands. In a similar vein, it can be modeled by Rawls’s idea of reflective equilibrium. More on this in my next chapter.
research program provides partial confirmation of the value of a dynamic approach. March’s work is the subject of my next chapter.

The dynamic nature of an overlapping consensus was already an important strand of thought in Rawls’s presentation of political liberalism, though Rawls did not fully recognize its implications or its importance. Two moments in Political Liberalism, which I have already discussed briefly above, bring this out with particular clarity. First, as I stress in this section, the definition Rawls gives for a reasonable comprehensive doctrine emphasizes the development of that doctrine over time. One way in which this definition is lacking, however, is that it does not clearly identify the heterogenous and internally conflicted nature of these doctrines, though such an observation may be implicit in any understanding of the doctrine as evolving over time. Second, Rawls devotes a long section to telling a story about the evolution of an overlapping consensus out of a modus vivendi. Though I criticize this story above for not taking seriously the processes of doctrinal development that such an evolution would inevitably have to involve, clearly he thought of the possibility of an overlapping consensus in evolutionary rather than static terms.

Still, it seems that even in his account of the evolution of an overlapping consensus, the emphasis is on the possibility of finally achieving that consensus, which would then be stable over time. By contrast, in my account, the emphasis is on the dynamic process over time, with the ideal of an overlapping consensus serving only as a regulative ideal to guide that process. The difference lies, I think, in Rawls’s failure to recognize the necessarily self-reflexive and self-critical nature of the process of evolution. Once we see that the process of evolution involves political
liberalism continually revising its own presuppositions in light of encounters with comprehensive doctrines, we are forced to give up the goal of ever achieving a consensus with finality; any “final” consensus would risk permanently excluding some reasonable doctrines.

Finally, to further differentiate my view from Rawls’s, it is worth noting that while Rawls’s idea of “public reason” as a space of open-ended justificatory dialogue may seem to be fully dynamic, in fact it is stuck in a static frame of reference. To see this, notice that the core of the idea remained essentially unchanged throughout Rawls’s lifetime of work. In *Theory*, public reason was made of up justifications with respect to matters of basic justice that invoked the comprehensive theory of justice by which the society was well-ordered. In *Political Liberalism*, the role of a comprehensive theory of justice was simply replaced by a political conception of justice. Finally, in “The Idea of Public Reason Revisited,” the role previously held by a single political conception of justice was taken by a family of reasonable liberal political conceptions of justice. At each stage, the answers to particular questions of justice are left somewhat indeterminate by the idea of public reason—that idea merely specifies the kinds of reasons that can be given in constitutional contestation. But the presuppositions of that contestation are taken as given, rather than up for dispute and reformulation.¹²⁵

A Weaker Sense of “Freestanding”

¹²⁵ Actually, at times in reading “The Idea of Public Reason Revisited,” it seems that Rawls was frustratingly close to the more fully dynamic view I advocate; thus, all the strands of the evolutionary view that I point out above. Again, the crucial turn is recognizing that we may build comprehensive assumptions into our formulation of
Another revision to Rawls’s understanding of political liberalism becomes necessary once we start to take seriously the different reasons that comprehensive doctrines have for affirming cooperation, and start to consider these reasons in a dynamic context. Recall that, in “The Idea of Public Reason Revisited,” Rawls made the move to accepting multiple political conceptions of justice as reasonable. My argument is that once we make that move, and accept that each comprehensive doctrine affirms political liberalism from its own perspective, the next logical step is to acknowledge the possibility that any given political conception of justice may mesh better with some comprehensive doctrines than others. We should recognize the possibility of elective affinities between comprehensive doctrines and political conceptions of justice, as those affinities are an integral factor in the evolution of the content of justice in a pluralistic society.

An example I discussed earlier, in the context of utilitarian reasons for cooperation, might help clarify the sort of elective affinity I mean. In explaining the possibility of multiple reasonable political conceptions of justice, Rawls suggests that one possible area of variation is the principle of distributive justice included in each. Some such principle, designed to assure that all citizens have “adequate all purpose means to make intelligent and effective use of their liberties and opportunities,” is a necessary component of any reasonable political conception (PL xlvi). But the specifics can vary widely. One option is to replace the difference principle, which is an especially stringent egalitarian principle, with a welfare floor, which would ensure political liberalism in ways we do not fully recognize; hence the need for self-reflexivity.
that no one fell below the level of welfare required to make effective use of his or her liberties.

Utilitarians might be particularly attracted to a political conception that included a welfare floor rather than the difference principle, because they are inclined to think about the benefits of distribution in terms of aggregate welfare, once the minimum demands of justice have been met. Perhaps, in a society well-ordered on utilitarianism, no rigid welfare floor would exist at all; distribution would be adjusted case by case in order to maximize aggregate welfare. The inclusion of a welfare minimum, then, is a concession that utilitarians make to the demands of public justification in the face of pluralism. They recognize that a principle of utility maximization could be reasonably rejected by those (non-utilitarians) who suffer under such a regime, and who do not accept that aggregate utility is sufficiently important to outweigh the great hardships and sacrifices they must undergo. Yet the inclination to think of distribution in terms of maximization remains, and utilitarians are likely to find that a welfare floor meshes well with the background perspective and assumptions that they bring to the selection of a public political conception of justice.

A legitimate worry arises at this point that political conceptions of justice will become merely the puppets of comprehensive doctrines, manipulated from behind the scenes. We can see this worry by imagining a hypothetical disagreement between the advocates of two mutually exclusive proposed constitutional provisions. Advocates on each side are likely to make their arguments in terms of the political conceptions of justice that they hold, in accord with Rawls’s requirement that public justifications
be given in terms of complete conceptions of justice and not fragmentary values (PL 455). The disagreement, then, will naturally move to the level of a disagreement between conceptions of justice. If the reasons each side has for affirming their preferred political conception of justice are ultimately rooted in their respective comprehensive doctrines, then this apparently political disagreement would seem in reality to be a comprehensive one, insofar as the determining difference is comprehensive. In that case, those who vote for one provision over the other will in essence be voting to impose terms of social coordination drawn from their own comprehensive doctrine, precisely what political liberalism hopes to avoid.

We can answer this concern by insisting that political conceptions of justice remain “freestanding” in this (limited) sense: citizens are to favor a political conception of justice only if a) it can be worked out without reference to the contents of any comprehensive doctrine and b) they believe that they have adequate public reasons for affirming that conception over other options, apart from reasons drawn from their comprehensive doctrine. The arguments that citizens give for their political conceptions of justice will not be demonstrative, but rather will rely on a plausible weighting of different factors and evidence. In this process of argumentation for political conceptions, many factors including subjective experience and temperament will affect how the factors are weighed, and the web of understandings and assumptions built into a comprehensive doctrine will necessarily play a role. This is a consequence of the fact that political values are not self-interpreting, self-evaluating,

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126 It is this non-demonstrative aspect that leads me to say that the public reasons for a political conception of justice must be “adequate” rather than “sufficient.” “Sufficient” carries too many connotations of demonstrative proof.
or self-weighting—they must be embedded in a much richer perspective to be made
sense of. Of course, the self-critical aspect of the political liberal project demands that
we be sensitive to the ways in which our comprehensive understandings lead us to
frame political liberalism in unnecessarily exclusive ways. But the response to this
problem of interpreting political values, and the affinities between particular
interpretations and comprehensive views, cannot be to simply deny that it exists, or to
insist upon the impossible. Rather, it is to reemphasize the importance of the self-
critical aspect of the evolution toward an overlapping consensus. In this way, the
dynamic view of an overlapping consensus both points to the problem (it is dynamic
in part because of these affinities) and to the solution (continued evolution through
self-reflexive, self-critical analysis).

In some ways, once Rawls allowed for the possibility of multiple political
conceptions of justice, the possibility of elective affinities between conceptions of
justice and comprehensive doctrines seems like an obvious connection to make. We
have reason to think, then, that Rawls rejected this view in favor of a stronger sense in
which political conceptions of justice were to be “freestanding.” Why might he have
done this, and how can we respond to his concerns? Three possibilities come to mind.
First, he might have been worried that political conceptions would be mere puppets of
comprehensive doctrines, or “political in the wrong way.” As we have seen, a weaker
sense of “freestanding,” combined with a view of political liberalism as continually
self-critical and self-revising, is adequate to respond to this concern. Second, he may
have been concerned to keep the contents of justice determinate. This was a
motivating concern behind the rational choice framework of the original position: it
was designed to produce definite answers to questions of justice. However, this desire makes less sense once we have admitted multiple reasonable conceptions of justice, each with their own arguments in their favor, or their own devices of representation like the original position. In that case, we have given up the hope of a society governed by a single deterministic logic of justice, for something en less precise and predictable (TJ 122).

This also means giving up on the ambition to define a clear set of constitutional essentials to be taken off the table of political contestation once and for all. Rawls writes that, “faced with the fact of reasonable pluralism, a liberal view removes from the political agenda the most divisive issues, serious contention about which must undermine the bases of social cooperation” (PL 157). This aspiration is clearly central to the project of political liberalism, yet, once we take a dynamic view of an overlapping consensus, there can be no constitutional settlement that will hold once and for all; the content of the settlement is itself up for political contestation of its own sort. What exactly is off the table, and how it is to be understood, is always on the table, so to speak. Thus, it is not even appropriate to speak of a constitutional settlement here; there is only a constitutional project, realized—but never completed—through contestation and social processes of learning and dialogue. To those who object that this undermines the essential point of constitutionalism, we

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127 Rawls suggests that one of the reasons for preferring a original position characterized by information constraints, rather than one in which the parties are characterized as motivated by benevolence, is that the former is more likely to produce determinate results than the latter.

128 See my introduction for more discussion of how Rawls’s ambition to provide definite answers to questions of justice sometimes overwhelmed the pragmatic impulse in his thought.
might respond that blurred lines can nevertheless be useful ones, and that the dream of a set of (non-exclusive) rights and constitutional guarantees defined and implemented independently of political contestation was a chimera in the first place. Let me be clear, however, that I support the project of constitutionalism: taking certain matters of basic justice off the table so that citizens can feel the security and trust required to profitably engage in democratic contestation. I simply argue that the aspiration of political liberalism to frame those matters of basic justice in a way that does not exclude reasonable participants has the natural consequence that even the way we frame those matters of basic justice is up for (occasional) contestation and reformulation. Still, that contestation is always motivated by the goal of realizing a non-exclusionary constitutionalism.

Finally, Rawls’s strict understanding of “freestanding” may be a remnant of his Kantian roots. Kant insisted that the pure use of our reason, quite apart from any contingent cultural views, was the appropriate guide to action. This was reflected in his view that the right was prior to, and autonomous from, different particular goods (and views of the good). As I have shown, Rawls does not strictly follow Kant in his view about the priority of the right, but he does structurally model his theory after Kant’s by arguing that justice must be autonomous from any particular comprehensive doctrine. He likewise follows Kant in supposing that the possibility for this autonomous domain of justice arises out of the use of our “common human reason” (PL 55, 115, 137, 140). Perhaps Rawls’s concern is that the normativity of our autonomous use of reason will be undermined if it is revealed as the situated reason of adherents of this or that particular comprehensive doctrine. Yet the political
liberal project is surely does not depend on this rationalistic, Kantian view, for the very essence of the project is the possibility of embracing cooperation from very different perspectives and modes of reasoning.

To put this section in a wider perspective: Barry holds that each citizen must affirm the reasonable account of justice for the same reasons, based on their desire to cooperate and their skepticism about the good. Rawls took an important step in opening this process up to the participation of comprehensive doctrines, by allowing that each comprehensive doctrine affirm a political conception of justice from within its own perspective. My view here takes Rawls one step further, in that embedding political values from these different comprehensive perspectives leads naturally to different interpretations and weightings of these values. The process by which comprehensive doctrines become full participants in an overlapping consensus is necessarily one of citizens making sense of political values from their own perspective, and hence of giving them their own inflection and interpretation.

The looser sense of “freestanding” I advocate here accords with a dynamic view of an overlapping consensus in part because it explains the evolving content of public reason. Rawls sees quite clearly that the content of public reason must change over time to deal with developing political problems (PL li). He does not make the connection, however, that the dialogue between developing comprehensive views, and the contents of public reason, can be part of the impetus for this evolution. Similarly, he recognizes in The Law of Peoples that different liberal societies are likely to have different conceptions of justice, but he does not make explicit that cultural differences between societies may explain those different conceptions.
Finally, the move to a more explicitly dynamic idea of an overlapping consensus suggests that we need to be careful about using the sort of militant language Rawls sometimes employs when discussing unreasonable comprehensive doctrines: for example, that they must be “contained like war and disease” (PL 64). Political liberalism aims to remain open to different cultural forms, and different conceptions of agency, as embedded in a wide variety of social practices. While political liberalism must rule out some forms of life, as incompatible with social cooperation in the face of reasonable difference, it should not seek to harden itself in the face of these intolerable differences, nor should it adopt a crusading or militant attitude toward them. Rather, it should continually listen to new points of view, and to critically examine its own presuppositions. Political liberalism does this with an eye to an evolving, more inclusive and more robust overlapping consensus. Militancy makes a certain amount of sense under a static view of an overlapping consensus, where unreasonable doctrines are unreasonable once and for all. But once we adopt an evolving view, then the doctrines we must exclude today are candidates for inclusion tomorrow, under some form or interpretation.

Conclusion

Here we come to the end of my two chapters engaging with Brian Barry’s theory of justificatory neutrality, *Justice as Impartiality*. I think it has been a fruitful engagement. I started out in my last chapter by criticizing Barry for excluding many important comprehensive views with his endorsement of skepticism as a condition of reasonableness, and for failing to adequately engage with the problem of prioritizing cooperation over conflicting values in the face of reasonable pluralism. In a sense,
this discussion served as a bookend to my first two chapters, which encouraged political liberalism to be more inclusive of a variety of accounts of reasonable pluralism and to engage with the resources that specific comprehensive doctrines have for prioritizing cooperation. By criticizing parallel errors in Barry’s account—where they are more pronounced than in Rawlsian political liberalism—I hope I have reinforced my case for a more inclusive political liberalism, more engaged with the specifics of comprehensive doctrines.

In this chapter, I took as my starting point Barry’s criticisms of the idea of an overlapping consensus as redundant or “otiose.” I argued that political liberalism ought to embrace the redundancy of an overlapping consensus, and that this does not threaten the project of political liberalism once we think of it in an appropriately dynamic and self-critical way. As part of this dynamic view of political liberalism, I suggested the possibility of elective affinities between comprehensive doctrines and political conceptions of justice, and responded to some concerns that might arise about this possibility.

We are now in a position to articulate a more unified portrait of the reconstructed version of political liberalism I have drawn out through contrast with Barry’s justice as impartiality. Justice as impartiality does not concern itself with the specific content of comprehensive doctrines. It takes all citizens to have the same reasons for accepting impartial justice, and therefore a duty of public justification: skepticism about the good, and their desire to justify themselves in ways that others cannot reasonably reject. My reconstructed political liberalism, by contrast, engages in earnest with the doctrinal specifics of its citizens’ comprehensive beliefs. It takes
seriously the variety of ways in which these doctrines can understand the fact of reasonable pluralism, and prioritize a value of cooperation in light of that fact. It is a vision of liberalism that is open, engaged, and sensitive to difference. Similarly, Barry’s account of neutral justice describes it as static and universal, insofar as both the content of justice and the reasons for affirming it are the same across both different societies and different times.\textsuperscript{129} My reconstructed political liberalism, on the other hand, emphasizes the dynamic and evolving nature of an overlapping consensus, and takes this to be in accord with its project of constructively engaging with the specifics of comprehensive doctrines.

As I suggest in this chapter, that engagement has somewhat the character of a research program. In the next chapter, I will take up the work of a scholar, Andrew March, who has begun to fulfill the promise of that program, specifically by investigating the resources provided by Islam for believing Muslims to affirm liberal terms of cooperation.

\textsuperscript{129} In this regard, Barry’s invective against relativism in his introduction, and his framing of his project as a universal case for liberal egalitarianism, is instructive. See particularly \textit{Justice as Impartiality}, p. 6.
5. On Andrew March: Taking Cross-Cultural Inquiry Seriously From a Political Liberal Perspective

In my last chapter, I argued that justice in a pluralistic society is not only political and freestanding, but also dynamic and evolving over time in response to processes of social learning and dialogue, as comprehensive doctrines develop, embedding political values within their own perspective. I further argued that this view of an overlapping consensus as a dynamic project naturally gives rise to a research program of investigating the resources of particular comprehensive doctrines for embracing political liberalism. This research agenda would realize political liberalism’s latent potential for taking cross cultural inquiry seriously. Though political liberalism is chiefly motivated by the fact of reasonable pluralism, Rawls devotes very little attention to investigating the range of actually existing beliefs. This leaves him vulnerable to an interpretation of political liberalism which suggests that political liberals should not particularly care about the content of the specific comprehensive doctrines in their society. On this sterile reading, political liberals should simply remove the metaphysical baggage from liberal institutions and get out of the way, allowing reasonable comprehensive doctrines to sign on as they will; thus Rawls writes that political liberalism puts “no doctrinal obstacles” in the way of a political conception of justice “winning allegiance to itself” (PL 40).

Though this reading captures a critical and important element of political liberalism, it is mistaken in two ways: first, the advent of an overlapping consensus does not happen spontaneously, but is an achievement of the public political culture. It results from the social and cultural engagement of real people. Second, political liberals cannot afford to be too confident that their understanding of justice really is
properly “political,” for the only way to check that they are not excluding reasonable comprehensive doctrines is through a dialogical process of engagement with those doctrines. In addition to stripping away such obstacles, the political liberal project should be one of active engagement with diverse comprehensive doctrines, in their doctrinal specificity.

In this chapter, I will take up the work of Andrew March on *Islam and Liberal Citizenship*, which is an attempt to operationalize this research program, and to apply it to a specific comprehensive doctrine. In doing so, I hope to show two things. On the one hand, March’s work is an exemplar of the kind of cross-cultural inquiry political liberalism properly gives rise to. On the other, March’s research points to, and would benefit from, the reconstructed version of political liberalism I offer in this thesis. Adhering too closely to Rawls’s formulation of political liberalism sometimes prevents him from grasping the full significance of his project.

March understands his project as an attempt to answer the question, “is there an interpretation of Islamic moral commitments, one not in great conflict with orthodox, Sunni Islam, by which Islam may be considered among the doctrines that understand the wider realm of values to be congruent with, or supportive of, or else not in conflict with, political values as these are specified by a political conception of justice for a democratic regime?” While his work specifically concerns Islamic minorities in liberal democratic countries, he is quite clear that the project is a general one that could be reproduced for any number of comprehensive doctrines. March takes himself to be engaged with Islamic thinkers who are interested in the same
problem of how this process of embedding is possible. As he says, “it is clear that the concern with the deep, principled congruence between liberal and Islamic conceptions of justice, the good, and social solidarity is in absolutely equal measure an endogenous Islamic and liberal concern.”

March, then, is trying to realize the sort of dialogue between political liberals and comprehensive doctrines that I valorize in my previous chapters. Where my attempts to explore the variety of ways that different comprehensive doctrines can affirm the requirements of political liberalism have been provisional and programmatic, March gives this project some real “empirical” heft. Of course, March is far from the first to do comparative political theory in a sustained and serious way. But his is still a useful example of an inquiry done explicitly within the framework of Rawlsian political liberalism, as the search for an overlapping consensus.

**Overlapping Consensus as Equilibrium**

Following Rawls, March begins with the distinction between a moral social order based on consent and a mere balance of power. This distinction guides his inquiry into doctrinal specifics, and his evaluation of what he finds. Thus, March writes that “because political liberalism leaves the determination of the rational or the true to comprehensive doctrines, it cannot say what reasons each individual comprehensive doctrine will produce for affirming the reasonable.” But while political liberalism should not dictate such reasons to doctrines, it “can say that certain reasons or arguments for abiding by liberal principles, while rational from the

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131 Ibid., p. 10.
perspective of the comprehensive doctrine, are not sufficiently reasonable in that they do not imply a principled, moral affirmation of liberal principles but rather a tactical or a strategic one.” Moreover, political liberals “can suggest… what types of formulation *would be* reasonable from a liberal standpoint while preserving the language and fundamental concerns of the comprehensive doctrine.”¹³² For March, an essential part of any principled affirmation of liberal terms of cooperation must be that the liberal demands are themselves taken as reasonable, so that their acceptance is not merely a tactical or strategic response, but in part a affirmation of their reasonableness.¹³³

March correctly perceives that this search for a principled consensus is best understood as a search for an equilibrium in the face of the competing demands of orthodox Islam and liberal justice. In this search, neither side is taken as given, and both are up for reevaluation. In my last chapter, I pointed out that the search for an overlapping consensus resembles Rawls’s idea of the pursuit of reflective equilibrium, and that this idea arises naturally from a dynamic view of an overlapping consensus. As I have argued, political liberals ought to engage with important and enduring comprehensive doctrines with the presumption that they provide resources for affirming political liberalism. The possibility of an overlapping consensus, then, provides a check against framing political liberalism in a way that smuggles in controversial comprehensive assumptions. Political liberals come to the study of any particular comprehensive doctrine with an understanding of what that doctrine must be able to affirm to count as reasonable. We then look to see if it can, in fact, affirm

¹³² Ibid., pp. 78-9.
that particular formulation of political liberalism. If it cannot, then we have reason to turn back and reevaluate our understanding of the requirements of political liberalism. Note, however, that this is not necessarily an instance of the search for reflective equilibrium as a process of justification. In Rawls’s doctrine of reflective equilibrium as a method of justification, the disparity between our general theory and our particular considered convictions itself gives reason for adjusting both sides. In this case, however, the fact that a comprehensive doctrine cannot affirm political liberalism serves only as an epistemic indicator that the formulation of political liberalism may be unnecessarily exclusive. Some comprehensive doctrines may be unreasonable, and political liberalism does not cater to the lowest common denominator. To put this differently, the existence of unreasonable comprehensive doctrines has no bearing on the content of an overlapping consensus. The sense in which this process is modeled by Rawls’s idea of reflective equilibrium is in the gradual adjustment of a general theory through specific challenges over time.

If we take this the search for an overlapping consensus to be a search for equilibrium, then political liberals must eschew a rigid idea of what principled acceptance of political liberalism entails—e.g., that it requires acceptance of the burdens of judgment—and come to comprehensive doctrines with a degree of flexibility about how they could embed political liberalism within their own scheme of values.\textsuperscript{134} If political liberalism tries to specify ahead of time what sorts of reasons

\textsuperscript{133} Ibid., p. 93.
\textsuperscript{134} In considering Islamic resources for affirming the fact of reasonable pluralism, March is led to consider the problem in much the same terms: “the question then is whether all citizens—to be reasonable—must have this \textit{specific} account of the fact of reasonable pluralism (based on the burdens of judgment) or whether other accounts of
count as moral reasons, then it may end up barring—out of arrogance or a lack of imagination—certain principled affirmations of political liberalism. As March insists, “we do not know before engaging dialectically with Islamic ethics just what the minimal demands of liberalism are and thus just how traditional or conservative a formulation of Islamic doctrine can be included in an overlapping consensus.”

To clarify this idea of the search for a reasonable overlapping consensus as a search for equilibrium, we should distinguish between two ways of understanding it. On the one hand, we have a search for reflective equilibrium on the Rawlsian model, where our understandings of political liberalism are continually challenged with specific cases of comprehensive doctrines that have difficulty with this or that aspect of the formulation, but are open to finding fair terms of cooperation with reasonable others. On the other hand, equilibrium could be understood as a compromise between the demands of political liberalism and specific comprehensive doctrines. Clearly, the latter sense would be “political in the wrong way.” As March puts it, no doctrine has a “veto over the reasonable.” The former, on the other hand, is essential if we are to try to avoid excluding reasonable comprehensive views.

March adds a methodological innovation to this search for equilibrium, which is essential to applying the idea to the rich polyvalence of an actual religious

Why humans disagree (read: why some fail to accept truth) can result in an acceptance not only of toleration but also of neutrality and public reason” (273). One resource for explaining reasonable pluralism that March briefly treats is the doctrine of predestination, that God’s will determines who comes to accept Islam, and hence that moral pluralism is a divine injunction. He rightly notes, however, that this idea alone does not guarantee recognition of the reasonableness of that pluralism (215). March hopes to investigate deeper Islamic foundations for explaining reasonable disagreement in future work, work that political liberals should eagerly anticipate.

135 Ibid., p. 96.
comprehensive doctrine. He insists that we begin our search for equilibrium by taking up the more mainstream perspectives within a given tradition, and only if we fail to find grounds for an overlapping consensus there do we move on to more liberal or revisionist sources; he likens this process to peeling back the layers of an onion.\textsuperscript{137}

This is an essential insight, because without it is hard to even make sense of the idea of searching for equilibrium with a polyvalent tradition. If we were not committed to beginning with more mainstream sources, then we could simply rush to a compatible revisionist or liberal interpretation of the tradition, without significantly challenging our received views. For example, March cites the line of thought stemming from Sudanese theologian Mahmoud Mohamed Taha, including the prominent Abdullahi Ahmed An-Na'im.\textsuperscript{138} Taha provides a radical reinterpretation of the Islamic canon, relying on principles of abrogation that differ dramatically from those commonly accepted within more mainstream circles. While this approach has the potential to powerfully endorse liberal institutions, “it would be unfortunate if a believing Muslim had to adopt the metaphysical views of Taha and An-Na’im in order to be part of an overlapping consensus,” because those views are so controversial.\textsuperscript{139} Taha was, in fact, hanged for apostasy.

This preference for mainstream or dominant interpretations presumes an understanding of comprehensive doctrines as heterogeneous and internally

\textsuperscript{136} Ibid., p. 32.
\textsuperscript{137} Ibid., p. 75.
\textsuperscript{138} Rawls, in fact, cites An-Na’im as evidence that an overlapping consensus with Islam is possible. See \textit{Political Liberalism}, p. 461.
\textsuperscript{139} Andrew March, \textit{Islam and Liberal Citizenship}, p. 291.
As March puts it, his approach “resists essentializing, or ossification, of cultural and intellectual traditions by refusing to believe, in this case study, that there is ‘one Islam’ any more than there is one liberalism defined once and for all in the 17th century.” While March does well to capture the heterogeneous and contested nature of comprehensive doctrines, his research sometimes loses sight of the dynamic and evolving nature of those doctrines. Such an understanding would help ensure that the idea of searching for equilibrium would not be understood as a compromise. If we hope comprehensive doctrines will develop to embrace the reasonable, then debasing political liberalism’s commitment to the reasonable in order to immediately achieve a consensus loses its appeal. Similarly, where March is primarily concerned with pointing out existing grounds for a consensus, he sometimes neglects to consider resources for future development.

Related to this neglect of the dynamic aspect of political liberalism, March sometimes undersells the importance of his own project, as when he suggests that the Rawlsian concern with stability is merely a sociological or instrumental one: “to be quite clear then: The interest on the part of liberal political philosophers in the endorsement of a liberal conception of justice by any particular doctrine (such as Islam)—that is, in the possibility for a ‘full justification’ from within a particular doctrine—is of political, not philosophical, interest. The mere fact of Islamic rejection

\[140\] A note to clarify the sense in which we should prefer mainstream interpretations: Political liberalism emphatically does not prefer orthodoxy in the sense of taking it to be more legitimate. Rather, starting with more orthodox sources is a pragmatic response to the problem of cooperation with actual historical communities. In part, this is because, if a more orthodox source can accept a given liberal demand as reasonable, it is likely that less orthodox sources could do so as well. See Ibid., p. 85.

\[141\] Ibid., p. 59.
of this or that liberal principle is not alone evidence that we might have gotten that principle wrong.” But, if we take the idea of searching for equilibrium seriously, then this project cannot be merely instrumental. We cannot be merely investigating the actual social support principles determined rigidly in advance, for the appropriate principles are discovered in part through this process of dialogue.

In fact, March quickly adds a caveat to the bold statement above: “the fact that there may be a more reasonable, an equally reasonable, or another sufficiently reasonable political principle or institution may be brought to our attention by the challenge from within a comprehensive doctrine such as Islam, but this is quite different from any such doctrine having a veto over the reasonable.” This suggests that March, in the end, agrees that the reasonable cannot be defined by the views of any group which is determined in advance, but does need to be checked against the resources of diverse cultural and doctrinal traditions. If this is the case, however, it is hard to see how the interest in comparative theory is merely political or sociological: as political liberals, we should be quite concerned to discover whether we are unnecessarily excluding some reasonable traditions, for we are morally committed to justifying ourselves to all reasonable people. Ultimately, I think March’s portrayal of his investigation as of merely sociological interest is a consequence of his failure to recognize that the full implications of his project require a willingness to break from, or modify Rawls’s views in some ways. Specifically, they require a more dynamic view of political liberalism, and a looser view of the sense in which political justice is

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142 Ibid., p. 32.
143 Ibid.
freestanding, such that dialogue between political liberals and comprehensive doctrines can substantively modify our understanding of the requirements of justice.

It might help to give a pair of examples of this search for equilibrium drawn from March’s research, one where liberal demands should be modified or nuanced to make room for the principled affirmation by Muslims, and one where what might have appeared to be ground for principled cooperation turns out to be impermissibly strategic. Bear in mind that March’s work focuses on terms of citizenship, rather than justice or liberal legitimacy, so that some of the issues he addresses are rather different from those I have dealt with so far; I will address his focus on citizenship, and its relation to political liberalism, at length below. He also deals with specific points of doctrine raised by specific historical texts. For now, the point is to get a sense of the way in which the search for equilibrium proceeds in his study.

The first example concerns the religious obligations Muslims are under to avoid killing other Muslims, and to avoid risking their lives in defense of non-Muslims. These duties are proclaimed straightforwardly by authoritative texts in the Islamic cannon. The question March takes up is whether these duties imply contempt for the liberal project of cooperation instantiated in the particular non-Muslim state in which the Muslim resides. If these duties are understood as aspects of the Islamic ambition to bring the whole world under Muslim rule, then they likely indicate an unwillingness to acknowledge the right of the liberal state to exist and

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144 Ibid., pp. 147-149.
145 From the Qur’an: “Never should a believer kill a believer… Whosoever slays a believer intentionally his reward is Hell forever, and the wrath and curse of God are upon him, and a dreadful penalty is prepared for him.” [4:92-93]. Quoted and translated in March, *Islam and Liberal Citizenship*, p. 114.
defend itself. If, however, they are understood in light of an explicit acknowledgment of the right of the liberal state to exist, then political liberals ought to take them as grounds for religious exemption from military duty, much as we give exemptions to Quakers on religious grounds. For a Muslim, holding such a position is likely to involve a “defensive” reading of the key concept of Jihad, denying that wars of aggression for the sole purpose of expanding Muslim rule are permissible, which accords better with contemporary just war theory and international law.\footnote{146} Additionally, such a position allows Muslims to contribute to the defense of their non-Muslim state of citizenship, at least against non-Muslims, so long as they are not in mortal danger.\footnote{147}

Second, a major theme in March’s book is the role of da’wa, roughly translated as a call to proselytize, in providing Muslims with principled reasons for citizenship in a non-Muslim state. On its face, a strong value of proselytizing seems to accord well with liberal citizenship, insofar as liberalism emphasizes the rights of cultural groups to win adherents. On further examination, however, this motivation could be too strategic if it is understood in a certain way. It could involve a rejection of the fact of reasonable pluralism, insofar as others are seen as valuable only as potential converts. Any cooperation on this basis would be too unstable; were attempts at proselytism to fail over sufficient period of time, cooperation would begin to lose its appeal.

\footnote{146} This is a point, March says, where the classical tradition does not allow for principled cooperation, and hence it is important to bring in less mainstream or accepted sources. See March, \textit{Islam and Liberal Citizenship}, 125. \footnote{147} Ibid., p. 151.
Therefore, one of March’s conclusions is that Muslim participation in non-Muslim societies cannot be based solely on the hope of converting the society to Islam over time. This, however, is not the only way that da’wa can be understood, nor the only way it bears on the problem of cooperation. For instance, some jurists have argued that “da’wa is not merely motivated by the aim of winning adherents to one’s way of life but rather by a desire to extend to the other a good (perhaps the greatest good) unconditionally,” that good being the chance to adopt Islam. Understood in this way, da’wa “reflects a very authentic and deeply sincere form of recognition of the moral status and importance of the other.” Similarly, there is an emphasis on exercising da’wa, or calling to Islam, with proper wisdom and awareness of one’s context. Insofar as da’wa can be read to require an openness and emotional sensitivity towards the other, and genuine relations of good will, it can provide a grounding or source for attitudes of recognition that go beyond the merely instrumental. That da’wa often connotes a commitment to rational debate, implying a sort of discursive equality between participants, strengthens this case.

At times March worries too much about proselytism as an unreasonable motivation for citizenship. He finds proselytism so problematic, I think, because he is still working within the Rawlsian view in which accepting political liberalism requires accepting the permanence of reasonable pluralism. As I have previously argued, political liberals should give up this commitment to the permanence of reasonable pluralism, and accept that citizens can legitimately hope to bring about a

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148 Ibid., p. 224.
149 Ibid.
150 Ibid., p. 222.
society well-ordered on their common good conceptions of justice. Indeed, this goal helps make the practice of proselytism intelligible, though it may not be required on some understandings of *da’wa*. Once we accept this revision, we should keep March’s requirement that the goal of Islamicizing a society not be the only reason for citizenship—but we are apt to see proselytism as more compatible with the recognition of reasonable pluralism.\footnote{In fact, on closer examination of March’s account, he elides between Rawls’s understanding of the permanence of reasonable pluralism and the more modest version I propose, as when he insists that Muslims recognize reasonable pluralism as a “potentially permanent” fact—implying that there is nothing necessary about this permanence, but that cooperation should not be predicated on the successful conversion of others.}

Methodological Issues

Since March’s project is in some ways an original one, at least insofar as he is explicitly conducting it within the theoretical framework of political liberalism, he has to do some work in developing and justifying a workable methodology for conducting this kind of study. He frames this task as one of ‘operationalizing’ Rawls’s brief hints about reasoning from the perspective of another’s comprehensive doctrine, which Rawls calls “conjecture.”\footnote{Ibid., 67. For Rawls on “conjecture,” see *Political Liberalism*, p. 465.} Understanding his methodology in this way may be a mistake, since Rawls does not conceive of the practice of conjecture as having important consequences for the content of justice itself. Hence, as I have argued above, adopting Rawls’s perspective wholesale prevents March from fully acknowledging the implications of his own project. Still, the work March does on developing a research methodology is important, and helps us to see how political
liberalism could actually engage with complex and internally conflicted historical traditions.

March does not primarily work with the most authoritative texts in the Islamic canon, the Qur’an and the Hadith, but rather with more recent texts in the tradition of Islamic jurisprudence. Instead of producing original interpretations, March evaluates and synthesizes arguments in an already existing scholarly tradition of interpretation.153 For March, this approach is a necessary response to the “psycho-social reality” of the Islamic community, which like many religious communities has a degree of insularity and internal hierarchy.154 Addressing the body of jurisprudence gives March a relatively coherent set of texts, in conversation with one another, that he can usefully get a grasp on for the sake of comparison and investigation.155 Of course, while commenting on a body of existing interpretation mitigates the difficulty posed by March’s outsider status, that problem cannot be resolved entirely. In part in response to this problem, March insists that the comparative political theorists be guided in interpreting and evaluating these texts by norms of transparency, sympathy, and restraint.156

Additionally, whereas political liberalism tends to operate at extremely high level of abstraction, March engages these texts over specific points of doctrine, and about the permissibility of, or obligation to, particular acts or views. He does this, however, with an eye to accessing the underlying moral reasoning.157 As we have

153 March, Islam and Liberal Citizenship, p. 72.
154 Ibid., pp. 66-67.
155 Ibid., p. 13.
156 Ibid., pp. 76-77.
seen in the two examples above, he is primarily concerned with the kinds of reasons that can be given for particular Islamic views, and whether those reasons represent or imply a genuine commitment to cooperation. This is related to his unwillingness to put forward original interpretations of his own.

In part, March’s study takes up specific points of doctrine because he is primarily concerned with the possibility of a consensus on terms of liberal citizenship, rather than liberal justice more generally. While March writes on this topic at some length, it is not clear that he has himself fully worked out the relationship of one to the other. For our purposes, I think it is useful to understand the inquiry into citizenship as addressing questions that are prior to the possibility of a full overlapping consensus on the norms of public reason. These questions include the permissibility of residing in a non-Muslim state (and the reasons why a Muslim might be allowed to live in such a state), the permissibility of regarding such a state as legitimate or even just, including the related issue of whether participation in such a state is permissible, and whether non-Muslim fellow citizens are properly objects of moral concern, to whom one can owe duties of justice.

It should not be surprising to political liberals that there are a range of questions that have to be answered before the question of public justification even arises. How could Muslims take themselves to have an obligation to justify themselves to non-Muslims in terms that they can reasonably expect non-Muslims to accept, if they do not accept that they have obligations of justice to non-Muslims at
all, or only of certain very limited kinds? Indeed, the existence of these prior questions seems to follow from the idea of the evolution of an overlapping consensus from a *modus vivendi*. The ability to embrace liberal legitimacy (in the Rawlsian sense) exists on a continuum, rather than a binary. Perhaps the issues March investigates regarding Islamic perspectives on the legitimacy of a liberal state and the possibility of obligations to that state concern chiefly the possibility of a constitutional consensus—the intermediary stage Rawls identifies in the evolution of an overlapping consensus, which is characterized by a consensus on constitutional norms and a fundamental set of institutions—rather than a full overlapping consensus. And indeed, March is quite frank that the dominant existing opinion of the Islamic community is not adequate to support full participation in an overlapping consensus in the Rawlsian sense of bracketing one’s comprehensive views and offering public justifications. There is, instead, a broad though not universal agreement that Muslims, if they participate politically, should try to bring about

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158 Insofar as justice is only realizable in real historical and self-determining polities, the ability to be a fully participating member in such a polity is a prerequisite for the commitment to reasoning about justice, in the face of reasonable pluralism, in a freestanding or public way. In other words, public reason is always the reason of some actual political community. Along these lines, March writes that “an affirmation of citizenship, rather than a commitment to justice, is not just an affirmation of those principles in the abstract but an affirmation of a particular long-term project of realizing those principles. Moreover, political community, however intimately defined in terms of principles of justice, is also an exercise and a practice of pursuing many other things besides justice, such as welfare, solidarity, prosperity, and all of this in the real cauldron of history and through the actions of real people with the normal range of human motivations.” March, *Islam and Liberal Citizenship*, 145. Key to the importance of these issues is that at least some parts of the Islamic community see it as a polity with universal aspirations, in competition with other political communities. Thus, the expectation of loyalty to the Islamic community is analogous to—and potentially in conflict with—the western expectation of civic loyalty. See March, *Islam and Liberal Citizenship*, 114.
policies that enforce the morality of Islam.\textsuperscript{160} March, then, sees this particular work as the first step in wider and deeper inquiry regarding what Islamic reasons exist for affirming political liberalism more broadly.\textsuperscript{161}

The closest March comes to directly discussing Islamic affirmations of liberal justice is in his treatment of the permissibility of participation in liberal governments. He refers to this as a “hinge issue” between the two topics, because whether it is permissible to participate in a liberal government depends at least in part on whether liberal policies can be just, or at least legitimate.\textsuperscript{162} What we find in this area is in some ways encouraging for political liberal aspirations. In particular, influential Muslim opinions suggest that, while they would by and large prefer that their societies were governed along Islamic lines, they see participation in liberal governments as a legitimate response to a particular social and political context, namely that of a pluralistic society: they are “responding to existing conditions. One is finding benefits within certain known parameters.”\textsuperscript{163} By now, this should be familiar as a mode of reasoning that I have emphasized over the course of this thesis: a comprehensive doctrine would prefer a society well-ordered on its common good conception of justice, but recognizes the need for a different form of politics in the face of reasonable pluralism. This also draws on the importance of context-sensitivity in fulfilling the duty of \textit{da’wa} that I emphasized above. While acknowledging the

\textsuperscript{159} For Rawls on the idea of a constitutional consensus, see (PL 158).  
\textsuperscript{161} One possibility that March does not consider is that, once we turn to these more demanding affirmations of liberal legitimacy, Islamic reasons for accepting these demands would have to draw on the sort of radical hermeneutical approach that March dismissed in Taha and An Na’im.  
\textsuperscript{162} Ibid., p. 160.
legitimacy of participating in liberal politics is far from accepting the norms of public reason, we can see that the forms of reasoning are highly compatible, and that the one has the potential to develop into the other.\textsuperscript{164}

**Why Look At Islamic Doctrine? Responding to the Anthropological Critique**

One possible criticism of March’s project, and by extension much of this thesis, is that it is too cognitive or rationalist, and focuses too much on the doctrines or beliefs that people hold, and not enough on their actual lived practices. This emphasis on doctrine goes undefended by Rawls (in part, perhaps, because he was writing for an audience of political philosophers that did not include many cultural anthropologists, unlike March’s audience). Obviously, this is an immense topic that I cannot fully cover here, but it might be useful to explore March’s justification for the project of inquiring into Islamic reasons and doctrine in isolation, rather than (only) studying the actual lived practices of Muslims, in all their embodied complexity. He writes, “the response to the anthropologist’s exhortation to ‘look at lived practices’ is to insist that debating Islamic moral commitments in the context of a rich and long-standing tradition is a lived practice, one of many lived practices for actual Muslims.”\textsuperscript{165} This is to say, political liberals should not treat religious doctrine as an abstract set of axioms, somehow floating independently above the actual lives of believers, but rather look at the tradition of reasoning about Islamic doctrine as itself an influential practice. Indeed, outsiders are liable to distort the relevant religious

\textsuperscript{163} Ibid., p. 256.
\textsuperscript{164} Applying the idea of a common good conception of justice allows us to see these forms of reasoning as analogous, where March perhaps could not. Once again, the idea of a common good conception of justice proves its usefulness in clarifying matters in political liberalism.
doctrine if they completely decontextualize it. This problem is partly mitigated through analyzing a tradition of Islamic interpretation and commentary, rather than attempting an original interpretation of the Islamic canon; in this way, those doing the original interpretation are in fact embedded in Islamic practices in ways that outsiders—by definition—are not.

Moreover, while the Islamic reasons analyzed in the form of this “ideal-typical moral encounter” between a Muslim and political liberal cannot be assumed to fully capture the motivations of any particular Muslim, the compatibility of these traditions of reasoning nevertheless plays a critical role in enabling a social order based on consent.\(^{166}\) Though we should be concerned that studying doctrine in isolation may distort the meaning of Islamic practices, it is absurd to think that we cannot even begin to study the way Islamic doctrine bears on possibilities for liberal cooperation, for many Muslims take their religious doctrine to be relevant to their practical decision making. Reasoning about the compatibility of doctrine is a pragmatic response to the problem of political cooperation in the face of deep moral disagreements.\(^{167}\)

These criticisms of March’s project may arise in part out of a suspicion that the motivation for accessing Islamic doctrine in this way is a desire to pronounce

\(^{165}\) Ibid., p. 273.

\(^{166}\) Furthermore, March rightly sees his inquiry as compatible with more critical forms of investigation into the origins of these beliefs, and their contextualization in actual practices, their ideological components, hidden power structures, etc. See Ibid., p. 275.

\(^{167}\) Consider Rawls on the role of abstraction in political philosophy: “the work of abstraction, then, is not gratuitous: not abstraction for abstraction’s sake. Rather, it is a way of continuing public discussion when shared understandings of lesser generality have broken down” (PL 45-6).
judgment on some essentialized idea of Islam. This suspicion prompts the kneejerk response of pointing to actual Muslims living as minorities in liberal states, suggesting (tautologically) that clearly Islamic and liberal forms of life are compatible. For political liberals, this sets the bar for the proper sort of social stability far too low, for it fails to distinguish between a modus vivendi and an overlapping consensus. On the one hand, it would be deeply unfortunate if believing Muslims had no way to live in liberal states without either considering their membership purely strategic or considering themselves apostates. On the other hand, this low bar for evaluating stability puts no pressure on liberals to reconsider whether they are framing the demands of liberalism in a way that excludes reasonable religious beliefs. This response parallels March’s insistence that we start with mainstream sources in our search for consensus. Hopefully, the self-critical aspect of political liberal inquiry into Islamic doctrine diffuses some of the concern about the motivations of the inquiry.

Conclusion: Defense of Our Reasonable Faith

March suggests that his work should reinforce our confidence in political liberalism, and I agree. I have already commented, in my discussion of political participation, that the reasoning used by many jurists for legitimating political participation in a non-Muslim society structurally resembles the reasoning of bracketing one’s comprehensive views and offering public justifications in the face of reasonable pluralism. That political liberalism does not proclaim or depend upon metaphysical views contrary to their religious commitments makes the (second-best) option of cooperation in a pluralist society more palatable for Muslims. March
interprets a number of jurists as arguing that, on the one hand, “Islam would prefer to be expressed through a community where politics and metaphysics are fused. But given the reality of sharing political space with non-Muslims, it is preferable to limit solidarity and political power to that which all humans have in common.” In the search for practical grounds for political cooperation, Muslims are often more willing to compromise about specific policies and social practices than they are about their metaphysical or comprehensive commitments. Where they are willing to embrace political cooperation, it is because they “are able to describe these practices in exactly the way a Rawlsian liberal would: as necessary or reasonable demands of social cooperation, rather than duties arising from a shared conception of truth or virtue.” Of course, none of this is conclusive proof that the political liberal project is destined for success. Indeed, such proof is impossible. But provisional faith in this project stands justified, thus far.

168 Ibid., p. 272.
169 Ibid., p. 264.
170 Ibid., p. 265.
Conclusion: My Reformulation

Throughout this thesis I have engaged with Rawlsian political liberalism and various criticisms of it, and used those debates as a platform for my own formulation of political liberalism—one which I hope is in the best spirit of Rawls’s project, though I revise his work at times. To conclude, I will offer a unified statement of my account of political liberalism, drawing together the various strands I have articulated, as far as possible without using Rawls’s work as a touchstone. Here I attempt to kick aside the scaffolding of interpretation and detailed analysis of others’ arguments, to see what structure we are left with in the end.

We start by asking: how is political legitimacy possible in a society with a multitude of conflicting yet reasonable comprehensive doctrines, or “philosophies of life”—religions, moral and ethical philosophies, metaphysical systems, and so on? Each of these belief systems has implications for how our collective life should be structured, for the norms that should govern political power, and for the values or aspects of human excellence that politics can help to achieve. These political implications often conflict, leading adherents of different systems to disagree about what constitutes a just “basic structure” of society. If legitimacy is thought of as cooperation on terms that all reasonable people can accept, then the answer this thesis defends is that legitimacy is possible when constitutional essentials and matters of basic justice are justified in terms that cannot reasonably be rejected. Such a

171 The phrase “philosophies of life” is taken from Joshua Cohen, “Democracy and Liberty,” in Philosophy, Politics, Democracy: Selected Essays (Cambridge: Harvard University Press, 2009), p. 225. In using this phrase, or the phrase “comprehensive doctrine,” political liberalism does not imply that these are unitary, clearly
constitution can be achieved when reasonable citizens of a range of philosophies of life offer public justifications for their views on matters of basic justice. In this way, essential matters of justice are put outside the shifting whims of democratic politics and cultural majorities. No citizen need worry that a majority will redefine her fundamental rights according to alien philosophical or religious beliefs. Laws made within this constitutional framework of procedures and rights can be recognized as legitimate by all, because the constitution is itself recognized as legitimate across the full range of reasonable philosophical and moral perspectives. When the enduring and important reasonable comprehensive traditions in a society embrace public justification for constitutional essentials, we say that such a society enjoys an overlapping consensus.

What commitments must citizens have for this legitimate constitutional politics to be possible? Political liberals answer that they must be reasonable. When we say a citizen is reasonable, we mean two things: first, she is committed to justifying constitutional essentials to others in terms that they cannot reasonably reject, regardless of their reasonable moral, religious, or philosophical beliefs. I call this the duty of public justification. Second, she recognizes that adherents of other philosophies of life can be fully reasonable, in the sense of having both of the commitments articulated here, and being normally competent for political cooperation, which I call recognizing the fact of reasonable pluralism. Neither of these commitments is adequate alone; together, they ensure that a citizen confronted with a plurality of conflicting but reasonable belief systems will respond by offering distinguishable or well-defined. They are, of course, internally contested and
justifications—regarding constitutional issues—that do not invoke her particular philosophy of life.

Though reasonable citizens are committed to offering public justifications for constitutional essentials, this in no way requires that they abandon or dilute their reasonable metaphysical, religious, or philosophical beliefs. Each citizen affirms the essential components of the reasonable—the duty of public justification of constitutional essentials and the fact of reasonable pluralism—from within their own comprehensive perspective, in their own way. Most comprehensive belief systems come with their own ideas of justice, and the proper organization of society, and political liberalism does not say that these ideas are mistaken or untrue. The adherents of these doctrines can legitimately hope for a society without reasonable pluralism, with a sufficient consensus on their own comprehensive beliefs that they can order society on that basis without injustice. Nonetheless, the comprehensive beliefs that citizens hold provide ample resources for accounts that explain the existence of reasonable pluralism and allow citizens to make sense of the phenomenon, fitting it into their worldview and cultural practice. Similarly, reasonable citizens come to see cooperation in the face of reasonable pluralism as required of them by their comprehensive beliefs, and at least in general to prioritize public justification from within their comprehensive scheme over other values with which it may conflict. We say that a given comprehensive doctrine is reasonable to the extent that it provides the resources for citizens to develop an account of reasonable pluralism, and to prioritize public justification in light of that pluralism.
Of course, not all citizens or comprehensive doctrines are reasonable. Not all comprehensive doctrines have an account of reasonable pluralism or prioritize cooperation. But doctrines are not static or unitary entities—they are rife with internal conflict, and evolve over time, in part in response to their context, the practical demands placed on them, and external cultural influences. Political liberalism encourages these doctrines to cultivate the resources for reasonableness within their own perspective, so that they can develop over time to become full participants in an overlapping consensus. As they do, they come to embed an understanding of political liberalism within their own doctrine, giving it their own inflection and making sense of it from their own points of view. The content of the public political culture is subject to change over time as these new perspectives and inflections are added to it.

In their aim to promote the evolution of an overlapping consensus, political liberals are committed to a sustained social and intellectual project of cross-cultural inquiry and dialogue. This project is essentially indivisible, but can be seen under two aspects. First, it is a project of investigating the specific conceptual resources that doctrines offer for embracing the reasonable. Does a particular explanation of reasonable disagreement truly give an account of that disagreement that is compatible with political cooperation between free and equal citizens? Is a doctrine truly committed to cooperation, or does it have cynical or strategic motives for biding its time in seemingly peaceful toleration? In other words, political liberals try to give some guidance as to what would count as reasonable grounds for cooperation, as part of their commitment to distinguishing between stability for the right reasons and a mere *modus vivendi*.
Second, this project of cross-cultural engagement is also one of critical self-examination. Political liberalism aspires to be freestanding, in the sense that it is publicly justifiable without reference to the content of any particular comprehensive doctrine. Yet our comprehensive views often frame and inflect our political conceptions—even when they aspire to be freestanding—in ways that may not be transparent to us. To some extent this is inevitable and legitimate, and it helps to explain why a reasonable pluralism of political views about constitutional matters would be expected even in a society thoroughly committed to political liberalism.

Sometimes, however, our comprehensive views lead us to understand the requirements of the reasonable—or what doctrinal resources a tradition must have in order to count as reasonable—in an unnecessarily exclusive way. In these cases, our comprehensive views have infiltrated our formulation of our political values in precisely the way political liberalism attempts to avoid, and the result is that some reasonable comprehensive doctrines are excluded from public reason. Such a regime is illegitimate to the extent that it can no longer justify its formulation of basic rights and constitutional essentials in terms that cannot reasonably be rejected.

Political liberals are continually on guard for these exclusive formulations of the requirements of the reasonable. I have argued that requiring affirmation of either skepticism about the good or the burdens of judgment as the explanation for reasonable pluralism would be too exclusive in this way. Barry’s endorsement of skepticism is a particularly clear example of comprehensive assumptions incorporated into a standard of liberal neutrality leading to an overly exclusive formulation, insofar as it reflects an understanding of religions as theories and therefore subject to
skepticism like any other theory. Larmore’s suggestion that a reasonable affirmation of cooperation must be rooted in respect for persons is too exclusive in a similar way. These concerns are confirmed and resolved by engaging with the doctrinal resources of different traditions, and illustrating alternative comprehensive strategies for making these essential commitments. In doing so, we reframe our understandings of political liberalism to allow for these reasonable alternatives. Political liberalism begins with a commitment to cooperating on fair terms with all reasonable people, but it never settles on a final understanding of what that might mean; it is always open to revising its self-understanding as an overlapping consensus evolves.

Rawlsian political liberalism is a radically pragmatic turn in political philosophy, yet Rawls failed to fulfill the promise of the project he began. I have tried to complete that project, or at least carry it towards completion. The result is a more inclusive and dynamic vision of legitimacy in the face of reasonable pluralism. Where the brunt of Rawls’s work was concerned with legislating legitimate constitutional essentials for any liberal democracy, I have abandoned the attempt to do so once and for all. On my view, justice in a pluralistic society is crucially dynamic and evolving over time, through social processes of dialogue and cultural influence, especially as these prompt political liberals to critically examine their own presuppositions. Political liberalism becomes a project of sustained cultural engagement and dialogue, rather than a static consensus to be achieved, and the goal of a legitimate constitution setting matters of basic justice off the table of democratic politics is transformed into a continuing project of constitutional contestation.
Rawls’s views are here subject to significant revision, correcting his lapses into a more comprehensive or foundational mode of political philosophy, and yet I believe these revisions follow naturally from the pragmatic core of his idea of justice as social cooperation. Thus, the goal remains a society in which citizens of very different social practices and cultural forms are nevertheless committed to cooperating with one another in a constitutional democracy—for them to find ways of embedding a political project of public justification into their diverse forms of life. For some, this may require abandoning the hope of any complete reconciliation between our private and public perspectives. Many will experience the fact of reasonable pluralism as a deep and persistent loss, particularly in light of the demands it places on politics; they will find their public lives shallow and insignificant in contrast with their richer comprehensive practices. But such is the price of legitimacy in our challenging times.
Works Cited


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