On political legitimacy, reasonableness, and perfectionism

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1.
One of the ongoing disputes about Rawls-type political liberalism concerns the nature of political justification – that is, of that kind of justification that, political liberals argue, political principles need to have in their favor in order to be able to ground a legitimate exercise of political power. One issue at the heart of this theme will be central to the following discussion. As critics have often observed, political liberalism accords a fundamental role to an idea of reasonableness. On the one hand, political liberals regard political justification as a function of reasonable acceptability and insist that such justification must respect reasonable disagreement. On the other hand, political liberalism restricts the scope of such justification to reasonable people. Yet it is notoriously unclear what exact role and content this idea has, what role and content it should have, and how we can determine in non-arbitrary ways what idea of reasonableness political justification may employ in the first place. How, we may wonder, can premising legitimacy on some idea of reasonableness be consistent with paying due respect to the (allegedly) unreasonable? And by what view of reasonableness, if any, may we restrict the scope of political justification? This issue, of course, is central to any understanding and appraisal of political liberalism; it is also of great importance if we are attracted to political liberalism's acceptability-based view of political legitimacy, but do not want to follow its view of the content of reasonableness or its limited view of the scope of public justification.

To add a voice to the many attempts that have been made to shed light on this complex issue, I shall in what follows pursue four tasks. First, I shall outline a reading of political legitimacy in Rawls-type political liberalism that identifies the role that the idea of reasonableness plays in its view of political justification and makes suggestions as to the content of this idea. As I shall argue, political liberalism is incoherent unless it supposes an idea of reasonableness that is strikingly rich in content (and richer in content than has often seen been seen) and that is accordingly limited in its scope of positive application. As we shall see, this renders political liberalism both dogmatic and unacceptably exclusivist in justificatory scope, and thus suggest that political liberalism secures substantive liberalism at the expense of justificatory liberalism. I shall address these issues in sections 2-5 and 7. Against this background, second, sections 6 and 8 suggest a plausible modification of political liberalism's view of political legitimacy. At least in part, it seems, we can hold on to political liberalism's conception of the conditions that any theory of justice must meet in order to provide a public basis of justification *and* escape the problem of dogmatic exclusivism if political justification is premised on a more inclusive idea of reasonableness. This suggests we enrich political liberalism's view of political justification by adding a suitably inclusive level of argument at which we identify and vindicate the idea of reasonableness that is to serve as politically basic.

However, third, this call for more inclusiveness can *itself* avoid dogmatic exclusivism only if an inclusive view of the scope of political justification is properly established in the first place. Now, there are reasons to doubt that this scope can be established on constructivist grounds alone. Thus, I want to suggest that the search for a plausibly inclusive, politically basic idea of reasonableness should take refuge in non-constructivist, perfectionist assumptions about the good of what I shall call discursive respect. This case I sketch in section 8. Fourth, sections 9 and 10 finally explore what content an inclusive idea of reasonableness may suppose. There is a suitably inclusive idea which, however, seems too thin in content to

provide much help for the purposes of a justification of liberal content. By way of conclusion, then, I shall address one way in which more content might be added to it to render it more fruitful for those purposes. (My discussion will be followed by an Appendix on some structural aspects and kinds of practical constructivism.)

2.

Let us begin with Rawls's "liberal principle of legitimacy":

> LPL The exercise of political power "is proper and hence justifiable" only if it is exercised in accordance with a constitution the essential content of which can be endorsed in the light of reasonably acceptable political principles.[1]

To fix ideas, let us ask in what sense of the notion LPL is a *liberal* view. Evidently, it is liberal not in the substantive sense of the notion, according to which theories of justice are liberal if they prescribe that people be accorded basic rights, liberties, and opportunities of special priority, as well as all-purpose means to make use of these rights, liberties and opportunities.[2] LPL does not directly prescribe such content, and not all views that prescribe such content allow us to meet LPL. LPL is liberal in a different, justificatory sense. This sense is amply captured by Waldron's remark that the "fundamentally liberal" idea is the view that "a social and political order is illegitimate unless it is rooted in the consent of all those who have to live under it".[3] LPL reflects the idea of legitimacy as grounded in acceptability in a two-fold way. First, it goes some way toward adapting it to the realities of a modern constitutional regime. Second, and more importantly, it construes of the kind of acceptability that yields legitimacy at the same time as something that constitutes justification. This is reflected in the view of public justification at the core of Rawls's political liberalism, namely, the view that political principles, seen as a subset of moral principles, have all the authority that they need only if they are equally acceptable by all reasonable people to whom they apply. The search for an overlapping consensus springs from the aim of public justifiability. It is not easy to determine exactly how the ideas of overlapping consensus and public justification are systematically related in Rawls, but at least on one reading he takes an overlapping consensus between reasonable comprehensive doctrines to be empirically necessary for public justification.[4] Now, as not all substantively liberal theories of justice are capable of an overlapping consensus, not all of them are publicly justifiable; and where they fail to be so justifiable, they fail to provide a basis for a legitimate exercise of political power – for Rawls, this is the fate of the views of Locke, Kant and Mill, amongst many others. Accordingly, he argues that justice as fairness, i.e., his own theory of justice, if it was not designed to gain such an overlapping consensus, would not be liberal.[5]

Two comments are in place. First, that there is a difference between the substantive and the justificatory ideas of liberalism does not mean that the latter does not mark a morally rich stand in its own right. To the contrary: justificatory liberalism is a morally rich stand, and, at least if premised on political liberalism's idea of reasonableness, too rich a stand to be unproblematic – or so I shall argue later. Second, it is tempting, though would be inaccurate, to

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[1] See Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 217.

[2] This follows Rawls: see his *Political Liberalism*, p. 223.

[3] Jeremy Waldron, "Theoretical Foundations of Liberalism", *Philosophical Quarterly* 37 (1987), p. 140.

[4] For more on the relationship between overlapping consensus and public justifiability in Rawls, see my *Über John Rawls's politischen Liberalismus* (Frankfurt: Lang 1998), esp. chaps. II, III.

[5] See, e.g., Rawls, *Political Liberalism*, pp. 143f.

see LPL as an applicative view of legitimacy – a view, that is, that supposes principles of political justice and merely regulates how justice as specified by those principles is to be administered. LPL's role is more complex than this, even though it can be fulfilled fully only where suitable political principles are at hand. Placed in the systematic context that gives it its meaning, it integrates a view of the moral permissibility of exercises of political power with a higher-order conception of the justificatory requirements a reasonable theory of political justice would have to meet in the first place. LPL, then, is not properly an applicative view of legitimacy; it plays a more fundamental role. This becomes clear once we unpack the kind of justification it calls for, to which I shall now turn.

3.

LPL requires exercises of political power to be justifiable at two levels: exercises of political power must be justifiable by the light of constitutional principles (level 1) which must be justifiable by the light of reasonably acceptable political principles (level 2). What political principles are reasonably acceptable? And on what grounds may we identify whether they have that quality? This brings in a third level of justification. Political principles may come in at the second level, and so may serve as authoritative standards by which to morally assess a constitution (or, in Rawls's terms, its "essentials"), only if they can be shown to be reasonably acceptable by a theory of justice that qualifies as a "public basis of justification".[6]

It is this third level of political justification, and especially the constraints Rawls and others associate with the requirement of publicness, that matters now. What, then, constitutes a public basis of justification? At first sight, Rawls replies that a theory of justice is a public basis of justification only if it is the subject of an overlapping consensus between reasonable comprehensive doctrines.[7] However, this conceals the underlying point. Compatibility with such doctrines matters as equal acceptability from the perspective of the *reasonable people* endorsing such doctrines matters. And a theory's incompatibility with any of the doctrines reasonable people endorse marks one way in which that theory can fail to be properly acceptable by these people. But equal acceptability by the reasonable in essence is what constitutes public justifiability. Thus, a theory of justice is a public basis of justification only if it is publicly justifiable, or equally acceptable by the reasonable people to whom it applies.[8]

Now, to ensure public justifiability, Rawls and others have argued, a substantively liberal theory of justice must be "political" in nature, or meet several constraints:

Respect. It must a whole be consistent with what it takes to respect reasonable people as free and equal persons.

Toleration. It must at all levels of argument respect reasonable disagreement about comprehensive moral, metaphysical, religious and other issues, and it should interpret this as requiring that reasonable disagreement be avoided at all levels of political justification.

Constructivism. It must take equal acceptability by reasonable people, or some kind of equal acceptability by reasonable people, to be something that genuinely justifies political principles, or their reasons.

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[6] Rawls, *Political Liberalism*, pp. 100f.

[7] Rawls, *Political Liberalism*, pp. 100f, 143f, 192.

[8] For a more detailed argument for this conclusion: see Besch, *Über John Rawls's politischen Liberalismus*, pp. 56–68.

> *Limited scope*. The political principles it advocates may only apply to the domain of the political, or the basic structure of society, widely conceived.

These things do not mark the only defining features of political liberalism, but they stand out as distinctive (or, less favorably, notorious). Political liberals place special importance on the first three features. Very roughly, they argue along the following lines: reasonable people are properly respected as free and equal persons only if the political principles that apply to them are equally acceptable by them. But to ensure due acceptability, these principles and their justifying reasons may not be the subject of reasonable disagreement, and consequently may not depend for their justification (or reasonableness) on any of the comprehensive doctrines that reasonable people endorse, but disagree about. Principles can meet these requirements, not least, only if they are suitably limited in applicative scope.[9]

If we stand back a little, we can see that this allocates a two-fold task to the third level of political justification: a task to work out a theory of political justice that is suitable acceptable by reasonable people, and a task to identify political principles as reasonably acceptable principles by working from within that theory. Political liberalism, then, quite fundamentally ties political legitimacy to an idea of reasonableness: in essence, it construes political legitimacy as equal acceptability by reasonable people. Important for our purposes, the idea of reasonableness that is invoked here comes in at a higher-order, *meta-theoretical* level. Reasonableness is here regarded as a virtue that marks the very deliberative standpoint from which to accept or reject theories of justice and the principles they advocate. To meaningfully guide the search for a public basis of justification, however, the content of reasonableness must be available as authoritative prior to the selection of any of these theories or principles, and so before we know what theory of justice to endorse and which political principles to abide by. Thus, we arrive at the issue that the rest of the following will focuses on. What idea of reasonableness – or, as Macedo puts it, what "threshold tests of reasonableness"[10] – does all this suppose? Is this the idea of reasonableness that we should suppose? It is best to approach the issue indirectly. Thus, let me elaborate first on the role and then on the content of this idea of reasonableness.

4.

One role is suggested by the above already. If political legitimacy in essence is equal acceptability by the reasonable, its substantive profile depends on, and varies with, the content built into the idea of reasonableness that we suppose. And, of course, there are many such ideas. E.g., we might see people as reasonable only if they are committed to maximizing overall utility, or if they promote human perfection, or if they act and reason in ways all relevant others can follow, or only if they follow god's true commands, and so forth. Each of these ideas is likely to nominate a different theory of justice and a different set of political principles as authoritative.

Another, more fundamental role concerns matters of moral status and justificatory inclusion. Political liberalism only includes reasonable people in the scope of political justification – or, as Friedman puts it, the "legitimation pool".[11] The equal respect it claims to take seriously does not extent to the unreasonable. To unpack this, let us distinguish between

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[9] This line of thought comes to the fore quite clearly in chapters 6 and 7 of Larmore's *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996).

[10] Macedo, *Liberal Virtues* (Oxford: Clarendon Press, 1991), p. 47.

[11] See Marilyn Friedman, "John Rawls and the Political Coercion of Unreasonable People" in Victoria Davion, Clark Wolf (eds.), *The Idea of a Political Liberalism* (Oxford: Rowman & Littlefield, 2000), p. 23.

two familiar types of moral standing. Consider, then, the difference between the claim (i) that a being, X, has moral significance, and the claim (ii) that the grounds (reasons, principles, standards, and so on) that we act on in responding to X's moral significance should be acceptable by X. Evidently, there are different kinds of moral status in play here. If we accord a status that corresponds to (i), we include others in the scope of what is sometimes called moral concern.[12] To invest moral concern in a being involves a non-instrumental willingness to protect or support it, or its good. If we accord a standing that corresponds to (ii), we accord a more demanding form of moral status; this is the form of moral status that matters now. We might call it discursive standing. To accord to X discursive standing involves the commitment that activities that affect X be governed by grounds that X could accept.

Now, we can accord to others different kinds of discursive standing, depending on the relationship we take to hold between the goodness and the acceptability of our grounds. Put bluntly, we can identify our grounds as good depending on their acceptability, or else identify our grounds as good on some acceptability-independent basis. Thus, there are *constitutive* and *consequential* forms of discursive standing. Where we accord constitutive standing, we believe not only that actions that affect others should be based on grounds they could accept (or share, or follow), but take it, too, that the authority of these grounds at least partly depends on, or is constituted by, their acceptability by these others. Where we accord consequential standing, by contrast, we in effect reverse the order of dependence: rather than seeing the goodness of our grounds as depending on their acceptability, we take the acceptability of our grounds to (at least ideally) flow from, or be a consequence of, the proper appreciation of their goodness.[13] To mark this difference, let me speak of discursive respect where we accord the stronger, constitutive form of discursive standing.

The phenomenology of discursive standing is complex, but many people seem to accord both forms of discursive standing to others. E.g., we might accord consequential standing to others whose judgment we take to be impaired, while showing discursive respect to our trusted peers. At the level of theory, many, if not all, forms of practical constructivism require that discursive respect be accorded to (some) people in (some) important moral or political matters. Accordingly, constructivist views of justice build on ideas of justification that construe (some form of) acceptability as something that constitutes the epistemic-practical authority of principles of justice. The idea that people should be accorded discursive respect does not commit us to liberalism, but it can be an important reason to accept justificatory liberalism's idea that a social and political order must be rooted in the consent of those living under it. To mark a contrast, if we require political principles to be based on non-constructivist, e.g., perfectionist or realist grounds – grounds, that is, that claim an authority that is not rooted in their acceptability – we can still place value on the acceptability of these principles. E.g., we might hold that it is a key element of the good of people that they be able to accept the political principles that apply to them, or we might believe that their free support is necessary for the stability of a just regime. Still, we would not include others in the scope of discursive respect in relation to the grounds of these principles.

To return to political liberalism. Political liberals accord discursive respect to the reasonable. As we have seen, for Rawls, theories of justice and political principles have proper

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[12] What I refer to as moral concern is what Darwall calls (moral) recognition respect. Warren simply calls it moral status. See Stephen R. Darwall, "Two Kinds of Respect", *Ethics* 88 (1977), p. 40; Marry A. Warren, *Moral Status* (Oxford: Oxford University Press, 1997), p. 5.

[13] This is what Thomas Nagel refers to as hypothetical or ideal unanimity: see his *Equality and Partiality* (Oxford: Oxford University Press, 1991), pp. 33f.

authority only if they are equally acceptable by the reasonable. Thus, if such theories or principles fails to be acceptable by some reasonable people (in ways that do not impugn their reasonableness), this is a reason to doubt that these theories or principles meet the relevant requirements. Things are quite different in the case of the unreasonable. In political liberalism, the unreasonable at most enjoy consequential discursive standing. Thus, if the unreasonable reject reasonably acceptable theories or principles, this does not constitute reasons to doubt these theories or principles; rather, it confirms their unreasonableness.

Accordingly, Rawls insists that the unreasonable should be addressed, but by arguing from conjecture. We argue from conjecture if "we argue from what we believe, or conjecture, are other people's basic doctrines, religious or secular, and try to show them that, despite what they might think, they can still endorse a reasonable political conception that can provide a basis for public reason."[14] Now, such arguments are not integral to the political justification of political principles. Rawls does not argue that these principles have authority only if they are equally acceptable by the reasonable *and* are justifiable to the unreasonable by arguing from conjecture. He argues that a political conception of justice has all the authority that it needs if it is equally acceptable by the reasonable. If unreasonable people do not accept reasonable principles, this does not constitute reasons to doubt these principles. Instead, it confirms the unreasonableness of these people. Arguments from conjecture thus are attempts to persuade the unreasonable to not reject principles that claim authority *whether or not* they can accept them.[15] Macedo, in turn, wants political liberalism to address, or "re-engage", the unreasonable, but only *after* the framework of public justification is in place and political principles have been established.[16] In re-engaging the unreasonable, then, the authority of these principles is not called into question: re-engaging them thus is introducing them to principles that claim authority *whether or not* they can accept them. Again, if the unreasonable reject these principles, this confirms their unreasonableness. Larmore, not least, suggests that political principles should be justifiable to the unreasonable, but with the justification premised on the counterfactual supposition that they are reasonable.[17] Yet this does accord discursive respect to them. There is a difference between (i) seeing Betty as reasonable and assessing political principles by the light of reasons that she can accept, and (ii) seeing her as unreasonable, but imagining what *would* be acceptable by her *if* she was reasonable. In the case of (ii), it is not Betty who is accorded discursive respect, but an imagined, *idealized* person, Betty*, that differs from Betty in only endorsing views that are not unreasonable. Accordingly, if Betty rejects principles that Betty* accepts, this underlines her unreasonableness.

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[14] Rawls, "The Idea of Public Reason Revisited", in *The University of Chicago Law Review* 64 (1997), p. 786.

[15] That arguments from conjecture are not part of public justification is one reason why the method of avoidance does not apply to them. In fact, it is part of the point of such arguments that they may invoke reasonably controversial views: for, in arguing from conjecture, the reasonable appeal to the comprehensive ideas of the unreasonable in order to establish that these doctrines do not require the rejection of reasonable views. But this falls short of giving the unreasonable positive reasons to accept such views. All that such arguments can establish is that if the unreasonable were to uphold their rejection of reasonable views, this is cannot be on grounds of their comprehensive doctrines. Yet public justification seeks to provide positive reasons to accept things – reasons, moreover, that seek to be equally acceptable by the relevant others and that therefore need to avoid reasonable disagreements. Arguments from conjecture, then, might be part of what enables public justification, but do not provide it.

[16] See Macedo, *Liberal Virtues*, pp. 61ff.

[17] See Larmore, *The Morals of Modernity*, p. 142. He puts matters here in terms of the counterfactual supposition that the relevant others accept the norms of rational dialogue and equal respect. Arguably, though, he takes an acceptance of these norms to be a condition of reasonableness.

5.

To some extent, the above merges what appears to be unavoidable structure with problematic content. As to structure, all justification must start from somewhere, and constructivist justification cannot start unless two things are (provisionally) in place. First, a view distinguishing between discursively authoritative and discursively non-authoritative ways to accept and reject stretches of thought – that is, a view that marks a *threshold of authoritative acceptability* (TAA). Second, a view of what constitutes membership in the group of people by whom the relevant stretches of thought must be authoritatively acceptable – that is, a view that marks a *threshold of discursive respect* (TDR). As a constructivist view, then, political liberalism needs TAAs and TDRs of some kind, and its idea of reasonableness seems to serve in both roles: political liberals seek reasonable acceptability (TAAs), and they accord discursive respect to reasonable people *only*, thus adopting a special, *bounded* type of TDRs.

If some such thresholds are inevitable, much hinges on adopting the right ones. This brings me to the issue of the content of political liberalism's idea of reasonableness. As many critics have observed, this idea is rich in content. But it is not quite clear just how rich in content it actually is. There is, of course, content that Rawls and other political liberals openly state. E.g., reasonable people are able to form and revise a conception of the good, they have a sense of justice, and they are interested to protect and develop these capacities.[18] They are committed to being able to justify their actions or institutions to others on grounds they and others like them cannot reasonably reject, and they are willing to propose fair terms of cooperation and to abide by them if others do. [19] Not least, they are committed to an idea of toleration and so seek to avoid reasonable disagreement in political justification.[20]

More interesting now is content that political liberals do *not* openly state. Take again Rawls. Much of what he says is governed by the idea that reasonable disagreement rules out equal acceptability by reasonable people. And he insists that only a political liberalism can be equally acceptable by reasonable people. But if we suppose this, we need to assume, too, that the ideas that characterize a political liberalism are not the subject of reasonable disagreement. For if these ideas were the subject of such disagreement, political liberalism could not rely on them, and so would be *self-defeating*:

1. We should respect and thus avoid reasonable disagreement at all levels of political argument or justification.
2. Acceptability, or some kind of acceptability, by the relevant others justifies.
3. Political principles should apply to the domain of the political only.
4. Political principles ought to accord to all relevant others basic liberties, rights and opportunities of special priority, as well as means to make use of these liberties, rights and opportunities.

Now, there is much disagreement about these ideas. Perfectionist and metaphysical liberals often disagree with the first two ideas, comprehensive liberals dispute the third idea, and anti-liberals take issue with the fourth idea. Political liberals cannot deny that this is so. Thus, they are committed to suppose that disagreement about these views does not count as *reasonable* disagreement. Only if reasonable people are construed as being equally committed to (1)-(4) can a political liberalism be coherently claimed to be uniquely suitable as a public basis of

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[18] Rawls, *Political Liberalism*, pp. 18ff., 29-35, 48-53.
[19] Rawls, *Political Liberalism*, p. 48f.
[20] Rawls, *Political Liberalism*, p. 54.

justification. As far as I can see, this is tantamount to building a commitment to these ideas into the idea of reasonableness from which political liberalism starts.[21]

For one example, consider Larmore and the issue of reconciling the avoidance of reasonable disagreement with liberal content. At first sight, he premises his political liberalism on a thin idea of reasonableness. His approach, he writes, supposes that "reasonableness" refers to no more than "the free and open exercise of the basic capacities of reason."[22] Evidently, though, there is a sense in which anti-liberals (e.g., Nazis, racists, religious fundamentalists, but also act-utilitarians) can freely and openly exercise the basic capacities of reason, if by that we do not mean anything that smuggles in liberal purposes and commitments, but, say, a voluntary, more or less informed and locally coherent exercise of inferential reasoning and judgment. Political justification would thus have to avoid all premises informed and locally coherent anti-liberals would reject. Thus, it would be mysterious how it could lead to substantively liberal principles, or any widely sharable moral conclusions. Political liberalism's idea of reasonableness, then, must be richer in content. Rawls gives us a clue as to what additional content is needed. On the lines of the conclusion reached in the last paragraph, he concedes that political liberalism "*supposes* that a reasonable comprehensive doctrine does not reject the essentials of a democratic regime."[23] He never specifies what exactly these essentials are, but they seem to include core *liberal* ideas: namely, the views that citizens should enjoy basic rights, liberties, and opportunities of special status, and means to make use of these things. In supposing that reasonable doctrines do not reject these essentials, however, Rawls supposes that reasonable people endorsing such doctrines do not reject them: this is why the search for an overlapping consensus points toward, rather than away from, substantively liberal principles of justice.

It does not end here. Even if a suitably rich idea of reasonableness is supposed, a problem of self-defeat still looms. The content and role of this idea must also be *reflexively stable*: that is, building the relevant content into this idea and using it for the purposes of TAAs and TDRs may not be the subject of reasonable disagreement. Thus, political liberalism needs to be supposed, too, that reasonable people do not disagree with two additional views: first, the view that equal acceptability by people *who are reasonable in political liberalism's rich sense* justifies; second, the view that only people *who are reasonable in this rich sense* need to be accorded discursive respect. In this two-fold sense, therefore, reasonableness must not only be rich in content but also, as Estlund puts it, "insular." [24]

6.

All this is striking. What we have here is a higher-order, substantive virtue of reasonableness that is to govern our selection of theories of justice and principles of political justice. And while that virtue is not to depend for its content or authority on any of these theories or principles, it is contested even by liberals, while many conscientious citizens, it seems, are not reasonable in the sense of this virtue (say, the sense of reasonableness*). Absent a justification

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[21] David M. Estlund notes a related problem of self-defeat, see his *Democratic Authority* (Princeton: Princeton University Press, 2008), p. 54. For a discussion of how a problem of a similar type arises for Kantian constructivism, see Besch, "Constructing Practical Reason: O'Neill on the Grounds of Kantian Constructivism", *Journal of Value Inquiry* 42/1 (2008).

[22] Larmore, *The Autonomy of Morality* (Cambridge: Cambridge University Press, 2008), p. 143; Larmore, "The Moral Basis of Political Liberalism", *The Journal of Philosophy* 96 (1999), pp. 602f.

[23] Rawls, *Political Liberalism*, xvi. Italics are mine.

[24] Estlund, *Democratic Authority*, pp. 55f.

of reasonableness*, then, political liberalism's view of political justification, and with it its idea of political legitimacy, seems both dogmatic and unacceptably exclusivist.

Unfortunately, political liberals offer notoriously little in the way of positive, justifying reasons for reasonableness* – in fact, they sometimes seem to have more to say on why they do *not* need to offer such reasons (I shall return to this below). And what they offer often supports the idea of reasonableness* only from the perspective of people who already are reasonable*. Two examples might suffice to substantiate this. Rawls, then, anchors the values political liberalism supposes in the political culture of a Western democratic regime.[25] Of course, it is doubtful that there is any actual political culture that entails the idea of reasonableness* – an idea, moreover, according to which only the reasonable* are owed discursive respect. To claim the contrary is to subject political culture to a philosophically charged rendering that would be no less controversial than political liberalism itself. But even if this was not so, appealing to political culture in order to support that idea gets things back to front. Our endorsement of that culture flows from, and depends on, our allegiance to its constitutive values, or what we see as such values. And such allegiances are reversible. In fact, the criticality that enables citizens to question such allegiances is one of the values of a democratic political culture.[26] Even if it is part of that culture, then, this lends little support to that idea unless we already embrace being reasonable*.

Rawls also invokes the idea of reflective equilibrium to point out how political liberalism and its suppositions can be supported. He distinguishes between various points of view that matter for a theory of justice, and singles out one as especially important:

> The third point of view – that of you and me – is that from which justice as fairness, and indeed any other political conception, is to be assessed. Here the test is that of reflective equilibrium: how well the view as a whole articulates out more firm considered convictions of political justice, at all levels of generality, after due examination, once all adjustments and revisions that seem compelling have been made. A conception of justice that meets this criterion is the conception of justice that, so far as we can now ascertain, is the most reasonable for us.[27]

This, like many other passages in Rawls, oscillates between a plausible, inclusive reading that undermines political liberalism, and a less plausible, exclusivist reading that suits political liberalism's systematic needs. If "you and me" and "us" refer to truly everyone who is subjected to the relevant political principles, including anti-liberals and anti-constructivists, there is no reason to believe that a political liberalism will be the most reasonable conception for "us". But if "you and me" and "us" refer to reasonable* people, political liberalism is likely (and trivially) to qualify as the most reasonable* conception. Charity thus suggests we read this passage as supposing, rather than vindicating, the standpoint of reasonableness*: it is from the point of view of the reasonable* that reflective equilibrium is sought.

If all this is so, political liberalism fails to plausibly mediate between substantive and justificatory liberalism. In essence, it secures liberal content by sacrificing the inclusive aspirations of justificatory liberalism: namely, by dogmatically denying discursive respect to people who do not endorse suitable liberal commitments (amongst other things). But this seems morally unacceptable itself: political justification should be more inclusive. What the above suggests, then, is this. Rather than dogmatically denying discursive respect to the

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[25] Rawls, *Political Liberalism*, pp. 13ff.
[26] See, e.g., Macedo, *Liberal Virtues*, chapter 7.
[27] Rawls, *Political Liberalism*, p. 28.

unreasonable*, we need to enrich political justification by a more inclusive, fourth level of argument at which it is determined what idea of reasonableness (if any) we may rely on at lower levels of argument. Structurally, this allows us to hold on to many of political liberalism's other meta-theoretical views, such as the view that a theory of justice and political principles must be reasonably acceptable, or that political justification must avoid reasonable disagreement, or that reasonable acceptability justifies, or, not least, that we should accord discursive respect only to the reasonable. Prior to level-four arguments, though, it would need to remain open whether we are construe these things in terms of reasonableness* or some other, more inclusive idea of reasonableness. Of course, more inclusiveness does little to ease the tension between substantive and justificatory liberalism. In fact, it pushes in the *opposite* direction. Political justification might be unable to arrive at substantively liberal conclusions if it avoids reasonable disagreement and seeks equal acceptability by reasonable people – if "reasonable" is not tilted toward liberal content. Yet this problem cannot be resolved by dogmatically denying discursive respect to people who do not endorse suitable liberal commitments. Legitimacy for liberals only, it seems, is no liberal legitimacy at all.

7.

Before I turn to the more constructive, second part of my argument, let me return to an issue that just came up in passing. Some political liberals have a story to tell as to why they do *not* need to justify the content of reasonableness*. Elaborating on this now sheds more light on the depth of the problem at hand and helps to orientate the way in which a case for more inclusiveness might proceed.

Let us ask, then, what, at the level of discursive interactions, political liberalism's restriction of the scope of discursive respect to the reasonable* comes down to. It is not easy to see what that actually is. But Rorty gives us a clue. Like Rawls, he takes it that political principles do not need to be justifiable to everyone to whom they apply, but only to people who endorse ideas that support a liberal democratic regime. As to people who reject such ideas – Rorty calls them "enemies of liberal democracy" – he frankly tells that we should see them as "mad" or "crazy": "[t]hey are crazy because the limits of sanity are set by what we can take seriously. This, in turn, is determined by our upbringing, our historical situation."[28] What does this mean? It is unclear who Rorty's "we" refers to. But let me take it to refer to the reasonable*. Suppose, then, that I am reasonable* and you do not pass my threshold tests of reasonableness* as you (say, knowingly) reject what cannot reasonably* be rejected. From my perspective, therefore, you are crazy, or mad. Rather than casting doubt on the views you reject, your rejection of them reveals a profound flaw in your outlook: it does not put these views in need of justification, but discredits you. Thus, I do not need to justify these views to you. In fact, I do not even need to justify to you why I do not need to justify them to you. Instead, I may ignore your rejection and browbeat you.

Beyond Rorty's pathologizing terms, Larmore's contextualist view of justified belief (or "rational belief", as he puts it) systematically embeds browbeating the unreasonable*. This view, which supports his brand of public justification, is complex, and here is not the proper place to discuss it in due detail. For what is relevant now, however, its gist is this. At its core is the idea that no existing belief stands as such in need of justification (refer to this as L1).[29] To

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[28] See Richard Rorty, *Objectivity, Relativism and Truth* (Cambridge: Cambridge University Press, 1989), 187f.

[29] Larmore, *The Morals of Modernity*, p. 11 and 39.

this "key principle" of his view, Larmore adds two "cognitive norms."[30] First, any existing belief is in need of justification "only if we uncovered some positive reason, based on other things we believe, for thinking that the belief might be false" (L2); and second, to justify a proposition "is not simply to give some true premises from which the proposition follows, but instead to give reasons that dispel doubt to the effect that the proposition may be false" (L3). By itself, L1 seems innocuous enough: unless we favor a more Cartesian approach by which beliefs are taken to be in need of justification so long as they have not been established to be true – which, it seems, would effectively render almost all of us dogmatic almost all of the time – it seems quite plausible to claim that our beliefs are not in doubt, or in need of justification, just because we endorse them. However, what puts them in this need? And what does it take to answer this need, or, as L3 puts it, to "dispel doubt"? Drawing out an implication of L2, Larmore writes:

> A good reason for us to doubt, and so to raise the question of justification, must be one that is good by our own light, for it must be supported by other beliefs of ours.[31]

> [I]n asserting something as true, we do not mean that it is true only for us or for those who share our standards. We presume that the assertion is true for everyone universally. Nonetheless, we can still claim that someone has missed a truth without our having to suppose that we must be able to justify to him the change of perspective that would make this truth accessible to him. In such situations, we then take for granted simply that we have no positive reason (and that is something we ought to judge by the light of our own perspective) to question our standards and take seriously his contrary ones.[32]

That is, if you object to (or reject, attack, and so on) my belief, *S*, then from my point of view this puts *S* in need of justification only if your reasons to do so are good by *my* standards, or from *my* point of view, or are supported by *my* other beliefs. Otherwise, I may, it seems, ignore your reasons and browbeat you. Now, for Larmore, this applies to all beliefs, or to "knowledge in general."[33] Hence, it also applies to beliefs about the nature of justification. Thus, even if you object to my policy on browbeating, I may browbeat you if your reasons are not suitably supported by what I already believe. Suppose, however, your rejection of *S* happens to be supported by my other beliefs. According to Larmore, I still do not need to examine whether *S* is justifiable *to you*. Instead, I need to examine whether *S* is suitably supported by, again, *my* other beliefs.[34] Of course, one of my other beliefs might be that I owe discursive respect to you in matters regarding *S* – say, I might believe that beliefs like *S* need to be publicly justifiable to others, including you. If I do believe this, I have reason to respond to your rejection of *S* by examining whether *S* is justifiable to you. If I do not believe this, though, then even if the need to justify *S* has arisen through your rejection of *S*, I do not need to examine whether *S* is justifiable to you. Instead, I may, again, ignore your objection and browbeat you.

 Structurally, this contextualism relativizes an agent's epistemic commitments, including reasons to doubt existing beliefs, to the doxastic context of the beliefs held by the agent at a given time. If we predicate this on the perspective of reasonable* people, the

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[30] For this and the following two quotations: see Larmore, *The Morals of Modernity*, pp. 59f.
[31] Larmore, *The Morals of Modernity*, p. 63.
[32] Larmore, *The Morals of Modernity*, p. 208.
[33] Larmore, *The Morals of Modernity*, p. 11.
[34] Larmore, *The Morals of Modernity*, p. 62.

implication seems plain. Unless objections to reasonable* views pass the threshold tests of reasonableness*, these objections do not constitute reasons to doubt these views, and so will not put them in need of justification – including, as it were, views that cannot reasonably* be rejected, and including, too, views specifying the content and the justificatory role of reasonableness* itself. Where the need to justify reasonable* views does arise, reasonable* people do not need to justify these views on grounds and by means that are (equally) acceptable by the unreasonable* – even where it is through their objections that this need has arisen in the first place. Evidently, all this compounds the problem of dogmatism and exclusiveness. In conjunction with the insularity of reasonableness*, Larmore's contextualism effectively seals off political justification: it renders political justification *immune* to objections – including objections to the content and the role of reasonableness* – that do not already comply with the requirements of reasonableness*. We might dub this the problem of the *hermeticality of political justification*.

      Not least, let us observe that Larmore's egocentric contextualism compounds the problem at hand once it is predicated on reasonableness*. It might not compound the problem if it is predicated on a different, perhaps more inclusive idea of reasonableness. For suppose we replace all references to reasonableness* in this section with references to the best, correct, or true idea of reasonableness – or, say, that idea that, from our point of view, truly should be supposed in political justification (whichever this might be). In this case, it would be far from obvious what, if anything, is wrong with the view that only reasonable objections constitute reasons to doubt reasonable views, or that we may respond to objections by examining whether doubtful views are reasonably acceptable, or justifiable to the reasonable, or that reasonable people may browbeat unreasonable objections, and so on. Correspondingly, it is it not clear whether the hermeticality of political justification *as such* constitutes a problem. That is to say, even if political justification is hermetic – say, at least if it is constructivist and hence bound to deploy TAAs and TDRs of some kind or other – this might not constitute a problem if it is premised on an idea of reasonableness that we should endorse. Again, therefore, the culprit seems to be the idea of reasonableness*, rather than the structure of Larmore's egocentric contextualism.

8.

As suggested earlier, political liberalism's view of political justification needs to be enriched by a more inclusive, fourth level of argument at which it is determined what idea of reasonableness, if any, may govern political justification at lower levels of argument. In this second part of my discussion, let me make some initial moves at this fourth level of argument. To begin with, then, what idea of reasonableness may political justification start from? One plausible, partial answer, I take it, would be this (call it the *cosmopolitan response*):

> CR   Political justification should suppose an idea of reasonableness that is equally acceptable by everyone to whom our political principles apply – as determined not by the bounds of states, nations, cultures, and so on, but by the applicative scope of these principles and, derivatively, the effects of activity prescribed by them.

I hasten to add two things. First, there is of course no shortage of ideas of reasonableness. This has surfaced already, and it is evident, too, from many recent contractualist attempts to ground views of justice in ideas of what people cannot reasonably reject, or the various ways in which reasonableness has been appealed to in deliberative views of democracy. However, it is not

enough to single out one idea that you and I find plausible; rather, what is needed is an idea that all relevant others can accept. And, as Moore notes, such ideas are contested, and the more deeply so the more important their role is in political justification.[35] Thus, there might not be an idea of reasonableness that suits the purpose – one, that is, that is not at the same time trivial, or unhelpfully devoid of content, or too formal. I shall return to this serious worry in the next section.

Second, and more important now, what we have seen so far leaves the case for more inclusiveness in a slightly awkward position (inclusiveness, that is, as measured by CR). Evidently, we may not simply browbeat political liberals, or, for that matter, other exclusivists. If the case for more inclusiveness relates to them like the reasonable* relate to the unreasonable*, then whatever is wrong with political liberalism's dogmatic exclusiveness will be wrong with that case. But for all that we have seen so far, the objection from dogmatic exclusivism simply supposes what political liberals deny. For instance, it suppose that (at least some) unreasonable* people should be accorded discursive respect. This, in turn, arguably commits it to suppose, too, that reasonably* unrejectable views are in need of justification, and that unreasonable* objections can put them in this need, and, not least, that reasonable* views that are in this need should be justifiable to (at least some) unreasonable* people as well. These things are plausible – and this forms part of the appeal of that objection. Still, we cannot simply suppose the truth of the view that more inclusiveness is needed: an inclusive view of scope may not be taken to be the default position, but is in need of justification *itself*. The task at hand, then, is two-fold. We need to establish within what scope ideas of reasonableness need to be acceptable. Once this is done, the systematic context is in place to work out an inclusive idea of reasonableness – hoping, as it were, that such an idea can still be useful for the purposes of political justification.

Now, there is a catch. Can an inclusive view of scope like CR be established on constructivist grounds alone? It is doubtful that such grounds suffice. Accordingly, we have reasons to defend CR on non-constructivist, perfectionist grounds. Let me use this section to support the plausibility of this view. Suppose, then, that we construe CR's authority in constructivist terms, and so take it that its authority depends on its acceptability *within the right scope*. This complicates matters. For now we cannot defend an inclusive view of scope without supposing a view of scope. A first problem, then, is this. If we take it that a view of scope such as CR needs to be equally acceptable within a scope *as prescribed by CR*, we seem to be back to begging the question against exclusivists. Let us assume, however, that we may take it that CR must be equally acceptable within that inclusive scope. This leads to another problem. The relevant political principles apply also to exclusivists, and some exclusivists, notably political liberals, endorse views that quite deeply reject inclusivism. Such exclusivists cannot coherently accept CR – or, rather, they cannot coherently accept CR prior to abandoning the commitments that make CR unavailable to them. But if CR is not equally acceptable within its own scope, it fails the constructivist acceptability requirement. Thus, what constitutes the need to justify CR in the first place, namely, the existence of exclusivism, seems to at the same time undermine meeting that need on constructivist grounds.

This conclusion might seem hasty. There are ways to tweak the constructivist acceptability requirement so that a view like CR can be claimed to be equally acceptable by the relevant others despite the fact that exclusivists cannot coherently accept it. One way has surfaced just now: CR can be claimed to be accept*able* even by sophisticated exclusivists in the

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[35] Margaret Moore, "On Reasonableness", *Journal for Applied Philosophy* 13/2 (1996).

hypothetical (or counter-factual) sense that they could accept it, or at least would not be committed to reject it, if they abandoned whatever commitments make CR unavailable to them. But such tweaking cannot provide much comfort here. On the one hand, it cuts both ways. If CR can count as suitably acceptable despite there being relevant others who cannot coherently accept it, then the same holds for exclusivist views of scope. Yet if both CR *and* non-CR meet the constructivist acceptability requirement, it cannot be that requirement that grounds CR's authority. On the other hand, tweaking that requirement is either *itself* reasonable or it is not. If it is *not* reasonable, then the fact that CR meets the tweaked requirement cannot confer authority on CR. If it *is* reasonable, then it will be the reasons we have in the first place to secure CR's status by tweaking that requirement, rather than the successful application of the tweaked requirement to CR, that grounds the authority of CR. Again, this authority would need to be based on other, non-constructivist grounds.

To deepen these doubts, let us consider a recent constructivist case for inclusivism – namely, O'Neill's case for a cosmopolitan view of the scope of moral status, or, as she often calls it, of "ethical standing", or of "reason or of ethical consideration" (O'Neill does not distinguish between moral concern, consequential discursive standing, and discursive respect; for our purposes, though, we may take her case to be a case about the scope of discursive respect).[36] O'Neill observes that a constructivist case for inclusivism itself needs to be followable, or coherently acceptable, within an inclusive scope. She argues, however, that most, if not all, major attempts to determine the grounds and boundaries of moral status do not meet that requirement. Neither Platonist appeals to a metaphysically grounded, objective value of people or their inclusion in the scope of discursive respect will do, nor will particularist appeals to the norms and practices of 'our' form of life, or "our" political, social, or other traditions suffice, nor, not least, will it be enough to appeal to the instrumental value that the inclusion of people in the relevant scope might have for some people or other. In one way or other, such appeals, O'Neill argues, instantiate thinking that some relevant others cannot coherently accept, or cannot follow, and that hence do not meet the constructivist acceptability requirement.[37] Similar reasons disqualify attempts to ground moral status in ideas of recognition:

> [I]t seems unlikely, despite the phenomenologically convincing and sociologically well-explored links between recognition and effective agency, that these approaches will escape the pull of the difficulties of other approaches. If *appropriate recognition* by others is the issue, the problem of fixing the scope of ethics is named rather than resolved: its resolution will still hinge on showing which characteristics call for recognition (…). If *actual recognition* by others is to define the scope of ethics, we return to some variety of particularism, by which certain actual exclusions from and inclusions within the domain of ethical consideration are tendentiously endorsed.[38]

As an alternative, O'Neill offers a "practical" approach: in her view, the presuppositions we inevitably make about others whom we take to be on the receiving end of our intellectual and

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non-intellectual activity, widely conceived, render it incoherent for us not to accord moral status, or discursive respect, to them. Arguably, this would entail that agents must accord that status to everyone on the receiving end of their activity, including discursive and political activity. Thus, we would in effect have arrived at a constructivist case for an inclusive view of scope like CR.

Alas, this case fails. O'Neill plausibly argues that where we take others to be on the receiving end of our activity, we make assumptions of "plurality", "connection" and "finitude" about them: that is, we take them to be independent sources of activity that are connected and vulnerable to us.[39] She argues, as well, that we cannot coherently deny these assumptions where we presuppose them. Now, as far as this goes, it leaves open how we ought to relate to others about whom we make these assumptions. And this is as it should be: to be reconstructively adequate, O'Neill's view of the presuppositions of other-regarding activity needs to be true of a wide range of activity, including activity that discursively excludes others, and activity that seeks to demean, hurt, or even destroy others. Thus, this view should seek to be ethically neutral – and this it is.[40] And yet, it is on this basis that she infers that we must accord moral status to all others whom we take to be on the receiving end of our activity. But this does not follow. What follows is that we must accord that status to the relevant others *if* we already suppose some view to the effect that moral status must be accorded to all vulnerable and connected sources of activity – that is to say, to all real people who are, or whom we take to be, exposed to our activity. Yet *this* is the sort of view that O'Neill would need to establish. And it is also the sort of view that exclusivists cannot coherently accept. Thus, rather than vindicating an inclusive view of scope, O'Neill's case in effect supposes such a view – a view, moreover, that, if it has authority, cannot have that authority on constructivist grounds as some relevant others cannot coherently accept it.

All this suggests we attempt to defend an inclusive view of scope on perfectionist grounds.[41] That is, we have reasons to argue that we should accept an inclusivist view such as CR because discursive respect is a good that does *not* depend for its authority on its equal acceptability by the relevant others. This combines two standard components of perfectionism: namely, the *alethic* idea that there are practical views that have authority, but do not depend for

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[39] O'Neill, *Toward Justice and Virtue*, pp. 97-106.

[40] Note that if O'Neill's view of relevant presuppositions entailed inclusivism, her case would face a more general problem of presuppositional arguments. Suppose R is a view of the presuppositions of a given practice, P, and that P has two (alleged) sub-types, P1 and P2, and that we want to defend P1 against P2. E.g., let P be other-regarding discursive activity, and P1 a form of that activity that accords discursive respect to all its addresses, and P2 an exclusivist form of discursive activity that accords that standing only to some of its addressees. Presuppositional arguments, then, often take a form such as: (i) P commits us to R, and (ii) R, duly understood, commits us to P1 – by pain of incoherence, "performative" self-contradiction, or some other, allegedly authoritative kind of unreasonableness – so that (iii) P2-adherents must change their ways to become P1-adherents. Thus, the argument might be that other-regarding activity has presuppositions such that it is incoherent for exclusivists not to accord discursive respect to all relevant others. Yet such arguments are of questionable force. To initially arrive at an adequate reconstruction of the presuppositions of P, equal charity must be accorded to all participants of P. Thus, if R commits to P1 rather than P2, thereby rendering P2-adherents incoherent or wrong about P, we have reason to believe that R does *not* accurately reconstruct the presuppositions of P. That is, on the one hand, equal charity asks us to reconstruct the practices of adherents of P1 *and* P2 in ways that maximize, rather than selectively decrease, their overall coherence. Prior to further argument, then, the entrenched existence of P1 and P2 asks us to reconstruct P in terms that are neutral between P1 and P2. On the other hand, any supposition to the effect that P2-adherents are incoherent or wrong about P needs an error theory explaining why this is so – a theory, though, that does not suppose that R is accurate, or that R, if it is accurate, commits to P1. It is hard to see how such a theory can be had without already supposing a view of the presuppositions of P.

[41] See Besch, "Kantian Constructivism, the Issue of Scope, and Perfectionism".

that authority on their equal acceptability by the relevant others, and the *axiological* idea that conceptions of the good (or more or less elaborate, structured sets of value judgments) are amongst such views. Of course, this only gestures toward perfectionism (and at a rather thin version at that), and it leaves open what it is about discursive respect that makes it such a good. But this is all that is needed now. Note, though, that even if an inclusive view of scope can be salvaged by defending discursive respect on perfectionist grounds, a puzzling issue remains. A perfectionist case for discursive respect will draw on reasoning that does *not* accord to all relevant others discursive respect. To some others, such a case accords at most consequential discursive standing. And it is an open question whether this is a coherent stand to take.

Two additional remarks are in place. First, the above did not argue that there cannot be a constructivist case for a view like CR. Instead, I argued that if a case for CR must be as inclusive as prescribed by CR, then it is doubtful that it can be made on constructivist grounds alone. Accordingly, second, my aim was not to establish that we *must* defend discursive respect on perfectionist grounds. As I see it, a vindication of perfectionism about discursive respect cannot be had *a priori*, or by way of a simple knock-down argument against constructivism, but should proceed in an indirect and piecemeal fashion: it needs to show why suggested non-perfectionist cases for inclusive views of scope achieve their aims only if perfectionist assumptions are made. The arguments necessary for this, of course, were beyond what could be done here. More modestly, therefore, my aim was to support the plausibility of looking to perfectionism for a defense of an inclusive view of scope.

9.

But let me now suppose that a perfectionist case for CR can be made, and hence that the systematic context is in place to identify a suitably inclusive idea of reasonableness. What content might such an idea have? This issue is crucial. If inclusiveness requires triviality, near-emptiness, or, say, unhelpful formalism, then the inclusivist aspirations of justificatory liberalism would come at a very high cost – at least, that is, if we require political justification to avoid reasonable disagreement and to treat reasonable acceptability as justifying. In the remainder of my discussion, then, let me address the issue of content.

To start with, a suitably inclusive idea of reasonableness may, I take it, involve the content associated with the meaning of the word "reasonable" (as it is used in relation to a virtue of people in their capacity as political or moral agents). Moore, it seems to me, gets that meaning approximately right when she writes:

> The idea of being reasonable, at least in ordinary discourse, involves the idea of offering reasons for one's actions and being prepared to listen to and be persuaded by the reasons of others. This practice of reason-giving, which defines the reasonable person, presupposes that others are worthy of reason-giving and some minimum consideration, but it is also compatible with highly partial reasons.[42]

On this picture, reasonableness involves a commitment to *some* practice of reason-giving, or justification, and reasonable people take it that at least *some* other people are, as Moore puts it here, worthy of reason-giving and minimum consideration. Note, though, that this implies very little. The commitment to a practice of reason-giving does not as such entail a commitment to a *constructivist* practice of reason-giving, or justification, as it leaves open how we are to think

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[42] Moore, "On Reasonableness", p. 171.

of the nature of justification and the goodness of reasons. As to a commitment to according to other people at least minimal moral consideration, this leaves open within what scope other people are to be accorded discursive respect. In fact, it even leaves open whether others are to be accorded any discursive respect in the first place. As such, that commitment is consistent with a practice of according to others mere moral concern, or, alternatively, moral concern and what I called earlier consequential discursive standing. As far as this goes, then, reasonableness commits us neither to a constructivist view of public justification nor to an inclusive view of discursive respect.

There are other obvious elements of reasonableness that may or may not be entailed by the meaning of the word "reasonable", but mark features that are typically present where the term applies. For instance, reasonable people are at least to some extent capable and willing to exercise "the basic capacities of reason" (as Larmore puts it) – understood as a commitment to (some degree of) reasonability and criticality.[43] And they possess basic "executive virtues" (as Macedo calls them) that normally enable us to do as we say and to act in accordance with our moral and non-moral beliefs.[44] Perhaps less trivial is another element. Reasonable people, I submit, place positive value on agreement, or some form of agreement. It is not easy to capture this element without making it more controversial than it actually is, but perhaps we may say that reasonable people place positive value on what they take to be reasoned convergence in judgment between what they regard as relevant other people. Other things being equal, then, they prefer solutions that are the subject of such convergence over relevantly similar solutions that are not. Again, this entails very little. Even in conjunction with the other elements of reasonableness, it leaves open what justificatory or moral rank reasonable people accord to agreement, whose agreement they value, how deep the agreement is that they value, and, importantly, what sort of considerations they take to trump or even nullify that value.

All this leaves the pursuit of a political justification of substantively liberal principles in a tight spot. True, the sketched idea of reasonableness seems to both be acceptable and to positively apply within an inclusive scope. Thus, this idea will go some way to perhaps not resolve, but at least *defuse*, the problem of what I called earlier the hermeticality of political justification. On this idea, it seems less problematic to claim that objections must be reasonable to constitute reasons to doubt reasonable views, or that such reasons to doubt may be responded to by justifying doubtful views on reasonable grounds and by reasonable standards to reasonable people. By the same token, it seems less problematic to construe justification as equal acceptability by reasonable people, or to accord discursive respect to the reasonable only. However, it is likely that some people who are reasonable in these minimalist terms cannot coherently accept at least some of the ideas at the heart of political liberalism, such as the idea that we should avoid reasonable disagreement, or that some kind of acceptability by the relevant others justifies, or that political principles should apply to the domain of the political only, or, not least, that these principles should be substantively liberal. In fact, even if all reasonable people can accept the first three of these ideas, there is no reason to believe that there will not be reasonable disagreement about the fourth idea, or about whatever considerations we need to invoke to link the first three ideas with the fourth. Thus, it would follow that if we are to avoid reasonable disagreement in political justification and construe of equal acceptability by the reasonable as justifying, then a substantively liberal theory of justice cannot be a suitably inclusive public basis of political justification.

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[43] Larmore, *The Autonomy of Morality*, p. 143.
[44] Macedo, *Liberal Virtues*, p. 275.

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Can we go beyond this content? There is no *a priori* reason to confine ourselves to content we associate with the meaning of the word "reasonable". And, we have seen, we have reasons to go beyond such content if we hope to arrive at a substantively liberal theory of justice. However, adding more content adds more concerns about equal acceptability – concerns, of course, that are raised already by the content we associate with the meaning of that word: after all, our conception of that meaning is likely to reflect our more substantive views of what is or is not reasonable. And, if Moore is right, any non-trivial view of reasonableness is likely to be contested by some relevant others. But then the attempt to add further needed content runs into a dead end – unless, that is to say, we find a suitably unpresuming, widely acceptable way to identify additional content despite expectable disagreements about the nature of reasonableness.

Now, there is a self-suggesting and often followed way in which disagreement about a subject matter can help to bring out common ground on that subject matter. This leads me back to O'Neill. Consider her notion of abstraction.[45] Her views on the topic are not always straightforward, but a simple example helps to illustrate the core point:

5. All objects in the garage are green Volkswagen.
6. All objects in the garage are green cars.
7. All objects in the garage are coloured vehicles.

(5) to (7) mark increasingly abstract claims. Roughly, (6) is more abstract that (5) in the two-fold sense that (6) is entailed by (5), but does not contain information (or 'brackets predicates', as O'Neill puts it) that (5) contains – i.e., it leaves open the brand of the car in question. Similarly, (7) is more abstract than (6) as (7) is entailed by (6), but leaves open both the colour and the kind of the vehicle in question. As O'Neill observes, there is nothing unusual about reasoning that engages in abstraction – it is an ordinary feature of everyday discourse, and often serves as a useful way of identify what people must agree on in virtue of what they disagree about. To put things in terms of our example, if you claim that all objects in the garage are green cars, and I claim that they are all yellow cars, then once we see in what respect we disagree, namely, matters of colour, we know that we are both committed to agree that these objects are coloured vehicles.

Suppose we apply this rather straightforward approach to disagreement more systematically – say, as a method of inclusive abstraction – to disagreements about the content of reasonableness that exist between reasonable people (people that are reasonable, that is, in terms of the minimal notion sketched above). There is no *a priori* reason to believe that inclusive abstraction cannot help to identify substantive common ground amidst such disagreement. Of course, this would be very hard to do at any larger scale – e.g., consider the complexities it would involve to set up widely accessible deliberative forums that would allow us to actually identify, map, and systematically relate the ways in which reasonable people disagree about ideas of reasonableness.[46] And whatever content emerges as abstract common

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[45] See her *Toward Justice and Virtue*, pp. 38ff. See also O'Neill, "Abstraction, Idealization and Ideology in Ethics", in J. G. D. Evans (ed.), *Moral Philosophy and Contemporary Problems* (Cambridge: Cambridge University Press, 1988).

[46] Still, recent deliberative democratic theory has suggested ingenious ways in which it could be attempted. E.g., see Bruce Ackerman, James Fishkin, "Deliberation Day", in Fishkin, Peter Haslett (eds), *Debating Deliberative Democracy* (Oxford: Blackwell Publishing, 2005), and Fishkin, *When the People Speak* (Oxford: Oxford University Press, 2009).

ground might, yet again, be less than what is needed. But there is plenty of material to work from and good reason to try if indeed we are to expect that ideas of reasonableness tend to be the more controversial the more important their role is in political justification.

By way of conclusion, let me add two comments. First, the search for content that an inclusive, politically basic idea of reasonableness may contain, I conjectured, is not confined to content we associate with the meaning of the word "reasonable". But neither is it confined to content associated with ideas that their proponents identify *as* ideas of reasonableness. This search, I submit, may (minimally) also focus on views that play a similar normative role in the moral and political outlooks that reasonable people endorse. Ideas of reasonableness often reflect what we might think of as proto-ideals. Proto-ideals do not amount to substantive ideals of what it means to do right or be good in their own right. Rather, they reflect conceptions of qualities and capacities that, we take it, enable people to competently participate in the pursuit of doing right and being good – on at least *some* conception of what that pursuit requires that might not be our own, and whether or not they actually excel in that pursuit. At the same time, they reflect conceptions of the standpoint from which, we believe, more substantive moral or political conceptions should be assessed. Ideas of reasonableness, I take it, often give expression to proto-ideals, and might quite typically do so (to say the least, this seems plain in the case of the idea of reasonableness* and the minimalist idea sketched in the last section). However, reasonable people might endorse proto-ideals without identifying them as ideas of reasonableness. I submit, then, that we may rule in views that play the part of proto-ideals for the purposes of the attempt to abstract toward content that a duly inclusive, politically basic idea of reasonableness may contain.

The second comment is this. A method of inclusive abstraction might help us to identify common ground, but that this ground is common does not by itself ensure its justificatory relevance. Consider an example. Betty claims that reasonableness asks us to be prepared to give others reasons that are good by their standards (call this R1). Paul argues that it requires us to be prepared to give others reasons that are good by our standards (R2). Peter, not least, claims that it involves a commitment to being able to justify ourselves to others on grounds they cannot coherently reject (R3). Each of them is committed to Moore's more abstract view that reasonableness involves a commitment to a practice of reason-giving (R*). Thus, they cannot coherently reject R*. But this does not mean that they cannot coherently reject that R*, rather than R1, R2, or R3, be adopted as a politically basic idea of reasonableness. True, the fact that they cannot coherently reject R* commits them to accept that R*, rather than R1, R2, or R3, be adopted as such an idea *if* they place sufficiently high value on equal acceptability in the first place. Without this additional factor, however, that fact seems to remain irrelevant to their dispute. Thus, the relevance of a method of inclusive abstraction is limited. Perhaps its application to disagreement about reasonableness (or, I have suggested, proto-ideals more generally) brings to the fore much needed content that reasonable people cannot coherently reject. But that they cannot coherently reject that content does not entail that they can accept to construe a politically basic idea of reasonableness exclusively in its terms. It seems, then, that the relevance of inclusive abstraction for the task of identifying a duly inclusive, usefully substantive and politically basic idea of reasonableness depends on the value reasonable people place on equal acceptability in the first place.

Appendix
On constructivism

I have referred to political liberalism's view of public justification as a constructivist view, and so it might be useful to add notes on what I have taken constructivism to be.

To begin with, while there are many different forms of constructivism in practical philosophy, at a very general level constructivism is often associated with two main ideas. First, constructivists are *antirealists*. As O'Neill puts it, constructivists

> doubt or deny that there are distinctively moral facts or properties, whether natural or nonnatural, which can be *discovered* or *intuited* and will provide foundations for ethics. John Rawls put the point succinctly in 1989 in "Themes in Kant's Moral Philosophy" where he denied that ethical "first principles, as statements about good reasons, are regarded as true or false in virtue of a moral order of values that is prior to and independent of our conceptions of person and society and of the public and social role of moral doctrines."[47]

Second, constructivists take it that practical thought can *genuinely be reasoned*, and so assume that at least some practical views, such as value judgments and moral principles, are justifiable as views that have epistemic or practical authority. However, given their anti-realism, constructivists do not see the justification of such views to consist in showing that these views are true of, cohere with, or somehow correspond to, an 'independent moral order of values'. Rather, they take the justification of such views to be a matter of establishing that they are *acceptable* (or followable, or shareable) in some (allegedly) authoritative way. This second, intersubjectivist view of the nature of reasoned thought seems to be especially important in constructivism. Some constructivists endorse a version of the second idea but attempt to remain uncommitted at the level of the first idea (such as Rawls-type political liberals), while other constructivist insist that the requirement of acceptability can suitably be met only if we construe of the grounds of the reasonableness of the relevant stretches of practical thought in anti-realist terms.[48] This suggests we put the second idea at the center of the attempt to characterize constructivism. Thus, I submit, we may call a view in moral or political philosophy constructivist in a *generic* sense if, in one way or other, it endorses a standard of the following form (for a given type of practical views, *A*):

> GS   *A*-type claims are φ if, and only if, they are authoritatively acceptable,

where 'φ' refers to an epistemic or practical merit such as *rightness*, *correctness*, *validity*, *truth*, or *objectivity* – to mention just some of the epistemic-practical merits that constructivists often take the acceptability to confer – while the phrase 'are authoritatively acceptable' refers to the sort of acceptability that is taken to confer that merit.

As it is worth adding, GS allows for many respects in which constructivist approaches can differ. For instance, they can differ in relation to (i) what they take to be the systematic status of GS (e.g., they might take that generic formula to mark a conceptual truth or a substantive standard (be it a requirement, or an ideal) of practical reasoning and justification); (ii) the range of practical views to which they apply that formula (they might apply it to all or

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[47] O'Neill, "Constructivism in Rawls and Kant", in Samuel Freeman (ed.), *The Cambridge Companion to Rawls* (Cambridge: Cambridge UP, 2003), 348. Rawls's "Themes in Kant's Moral Philosophy" is reprinted in his *Collected Papers*. Edited by Samuel Freeman (Cambridge (MA): Harvard UP, 1999); the quotation is from p. 511.
[48] See O'Neill, *Toward Justice and Virtue*, pp. 48ff.

only a sub-set of moral or political views); (iii) the level of thought at which GS is applied (e.g., they might apply it at the level of substantive, first-order practical thought only, or (also) at the level of higher-order reasoning about the nature of first-order reasoning); (iv)what they regard as the relevant merit (e.g., rightness, correctness, validity, and so forth); (v) what sort of acceptance they regard as authoritative (e.g., actual, possible, or hypothetical, rational or reasonable acceptance); (vi) their view of how and why the relevant sort of acceptance confers the relevant merit. Of course, this list does not exhaust the respects in which generically constructivist views can differ.[49]

Now, the above discussion mainly concerned views that are constructivist in a more specific sense, namely in the sense of tacitly or openly endorsing GS in the following form:

> GSr *A*-type claims are correct (or right, valid, or true) if, and only if, they are *reasonably* acceptable,

where GSr can be predicated on distinct views, or conceptions, of reasonableness. If we follow Rawls, we take something to be 'reasonably acceptable' if, and only if, it is 'acceptable by reasonable people' – we assume, that is to say, that, whatever conception of reasonableness we might adopt, reasonableness as a complex virtue of people has analytic priority over reasonableness as a virtue of claims of the relevant sort: on this view, the reasonableness of claims is a function of their acceptability by reasonable people.[50] Of course, this does not mark the only possible way to relate these two notions to each other. E.g., we could construe the reasonableness of claims as a matter of their internal properties, or their relation to other claims, or their relation to the world. If we follow Rawls, though, then the idea that claims that show the relevant properties qualify as *reasonable* (as opposed to something else) would have to derive from the view that *reasonable people* take it, or would take it, or tend to take it, that such claims *prima facie* are good claims to accept.

If this much is supposed, GSr yields something like this:

> C *A*-type claims are correct (or right, valid, or true) if, and only if, they are acceptable *by reasonable people*.

Writings that are constructivist in this more specific sense include the works of Rawls, Macedo, Larmore, Barry, Nagel, Scanlon and arguably O'Neill, amongst others. True, not all of these authors put things in terms of what can be *accepted* reasonably, but often put matters in terms of what cannot be *rejected* reasonably. But since views that cannot be rejected reasonably mark a sub-set of views that are reasonably acceptable, these authors do not deny C, but endorse a special, negative version of C.

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[49] Writings that are constructivist in this generic sense include the works of Rawls, Larmore, Macedo, and O'Neill cited already, but there are many others, such as Thomas Scanlon, *What We Owe to Each Other* (Cambridge (MA): Cambridge UP, 1998); Brian Barry, *Justice as Impartiality* (Oxford: Oxford UP, 1995); Thomas Nagel, *Equality and Partiality* (Oxford: Oxford UP, 1991); Christine Korsgaard, *The Sources of Normativity*. Edited by Onora O'Neill (Cambridge: Cambridge UP, 1996); David Gauthier, *Morals by Agreement* (Oxford: Oxford UP, 1986). Richard M. Hare construes moral objectivity in constructivist terms: see his *Moral Thinking* (Oxford: Oxford UP, 1981), and his "Rationalism", in Hare, *Sorting Out Ethics* (Oxford: Oxford UP, 1997). Crispin Wright and Jürgen Habermas put things not in terms of acceptance, but in terms of the deliberative or discursive context of acceptance. Yet privileging some form of the latter seems to be an indirect way to privilege some form of the former. If so, then they are constructivists in the generic sense: see, e.g., Wright, *Truth and Objectivity* (Cambridge (MA): Cambridge UP, 1992); Habermas, "Richtigkeit versus Wahrheit", in Habermas, *Wahrheit und Rechtfertigung* (Frankfurt am Main: Suhrkamp, 1999).

[50] For reasons why Rawls's usage of the word 'reasonable' may be construed in this way: see Besch, *Über John Rawls' politischen Liberalismus*, pp. 34ff.

Relevant to the above discussion, C helps us to distinguish between *universalist* and *particularist* forms of constructivism. Universalist constructivists combine (some version of) C with views that are sometimes associated with Kantian universalism in practical philosophy. They often adopt some version of *formal universalism*, i.e., the view that moral thought and action is (or should be) governed by precepts that are universal in (logical) form. They also endorse what we may call *applicative universalism* and *justificatory universalism*:

> AU At least some moral precepts (or, more generally, practical views) claim authority for every moral agent.

> JU Moral precepts (or, more generally, practical views) must be justifiable to everyone for whom they claim authority.

Moreover, universalist constructivists tend to predicate C on an idea of reasonableness that, they hope, is acceptable from the respective perspective of all agents to whom, given AU and JU, moral precepts are to be justifiable. Universalist constructivists might disagree as to what idea of reasonableness best serves this aim, and how much normative content may be built into such an idea before it itself becomes a reasonably controversial substantive moral ideal that may not simply be presupposed in practical justification. Still, universalist constructivists tend to converge on the view that C should be predicated on an idea of reasonableness that is *thin*, rather than thick, in normative content. Thus, they also endorse what we may call *normative minimalism*:

> NM Practical justification (i.e., C) should be predicated on a normatively thin, rather than a substantive, thick idea of reasonableness.

Universalism and particularism are often taken to mark contradictory stands in practical philosophy. On this view, we might construe a constructivist view as universalist only if it endorse all of the further claims just sketched, and as particularist if it rejects at least one of them. However, matters seem far less clear-cut than this. E.g., some constructivists seem to construe particularism in the first instance as a stand that rejects JU and AU.[51] And there can be constructivist views that reject JU and NM, but not also AU – e.g., Larmore's view seems to have this form (as outlined above). Thus, constructivist views can be particularist in some respects while in other respects endorsing claims that are often associated with universalism. However, it would seem that JU should be at the center of any attempt to distinguish between universalist and particularist forms of constructivism.[52]

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[51] See, for instance, O'Neill, *Toward Justice and Virtue*, p. 11.

[52] This view of constructivism is not uncontroversial. E.g., consider the view that O'Neill sketches in "Constructivism in Rawls and Kant." In that paper, she claims that 'ethical' constructivism – and she appears to take this to be representative for *all* forms of practical constructivism – opposes views of justification "which are too weak to support strong claims about objectivity in ethics (e.g., relativism, communitarianism, social constructionism applied to ethical beliefs)" (O'Neill, "Constructivism in Rawls and Kant", p. 348.) On the view suggested here, this either marks a *specific form* of constructivism, or builds something into the characterisation of constructivism that can be, and is, controversial amongst constructivists. While constructivists accept that practical views are justifiable, they typically reject that they can be 'objective' in any sense that goes beyond (intersubjective) justifiability; but they might adopt a weak *or* a strong view of justification. Accordingly, O'Neill implies that Rawls's political constructivism is not a form of 'ethical' constructivism – for, as she notes, Rawls works with a weak view of justification (and he adopts a correspondingly weak notion of objectivity): see *ibid*. p. 353, and Rawls, *Political Liberalism*, pp. 89-130. This suggests we construe 'ethical' constructivism as a specific form of constructivism. But O'Neill does not seem to leave conceptual space for views that are constructivist and adopt a weak view of justification that does not support 'strong claims about objectivity'. Thus, she seems to imply that Rawls's view is not *constructivist*. By contrast, I leave open how weak or strong a constructivist view

To bring all this back to the above discussion. I have in effect read political liberalism as advancing a form of particularist constructivism at the level of the selection of theories of political justice. Given the way political liberals employ their (meta-theoretical) idea of reasonableness, and given the content they build into this idea, they reject JU and NM, even though, as we have seen in Larmore's case, they might not also reject AU (whether or not they also endorse formal universalism). What I called above the "cosmopolitan response" – that is, the view that a politically basic idea of reasonableness should be equally acceptable to all those to whom the relevant political principles apply – in effect reiterates the constructivist acceptability and applies it to ideas of reasonableness. My discussion has attempted to bring out a substantive problem in the background of this otherwise plausible move, and I have conjectured that a good defense of the cosmopolitan response needs perfectionist considerations. Against this background I made a couple of suggestions as to what content an idea of reasonableness might have so that the resulting conception of political justification is somewhat more aligned with JU and NM, and conjectured that the usefulness of a method of inclusive abstraction – a method, that is, by which to add additional content to a politically basic idea of reasonableness – might depend on the value people actually accord to equal acceptability.

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of justification must be. I take this to be a *substantive* issue that can be (and is) controversial amongst constructivists.