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Public reason secularism : a defense of liberal democracy

Zhang, T.

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Author: Zhang, T.

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Chapter Four: Challenges from the Fact of Reasonable Pluralism

I. Introduction

In contrast to the consensus approach which argues for a shareable public reason, an alternative convergence approach believes that citizens shall be capable of considering and supporting the laws and political institutions from their own standpoints. Regarding the consensus approach's requirement of shareable public reason, I will summarize four major critiques raised by the convergence approach, which concern the *plausibility* and *desirability* of the requirement. In this chapter, my focus will be the two critiques of the first aspect, the *plausibility* of shareable public reason. The two critiques are both based on the fact of reasonable pluralism. The examinations of the two critiques intend to show that the consensus approach will not be rendered implausible due to the fact of reasonable pluralism. More significantly, I will claim that the fact of reasonable pluralism has to concede to a boundary of the value of justice, which is the foundation that the consensus approach is established upon. This concession is, however, compatible with, rather than in conflict with the undertaking of political liberalism.

The first critique, on the basis of the appreciation of the fact of reasonable pluralism, claims that the convergence approach does not believe that public reason can be shared at all, as reasons and beliefs are relative or subjective to each individual.¹ The second critique specifically questions the plausibility of the content of public reason, namely the possibility of reaching an overlapping consensus on a family of conceptions of justice. They argue that besides reasonable disagreements about comprehensive doctrines, there are also profound and fundamentally reasonable disagreements about justice. Hence, citizens are just as much divided by reasonable disagreements about justice as divided by reasonable pluralism of comprehensive doctrines. Therefore, it is unlikely such a consensus on conceptions of justice can be reached.

I argue that these two objections cannot survive further scrutiny. The convergence approach has pushed the fact of reasonable pluralism too far to destroy the objectivity of public justification. Regarding the second objection, granted that reasonable disagreements about justice are as profound as reasonable disagreements about comprehensive doctrines, the former disagreements nonetheless do not plague liberalism as much as the latter one. I will point out that reasonable disagreements about justice are

¹ This point is mainly illustrated in Gerald Gaus's works. For instance, "Subjective Value and Justificatory Political Theory", in *Justification Nomos XXVIII* (Roland J. Pennock and John W. Chapman ed., New York University Press, 1986); *Justificatory Liberalism: an essay on epistemology and political theory*, (Oxford University Press, 1996); *The Order of Public Reason: a theory of freedom and morality in a diverse and bounded world* (Cambridge University Press, 2011).

already presupposed and even encouraged by the project of political liberalism. It is precisely our reasonable disagreements about the interpretations of ‘what justice is’ that push the understanding and realization of social justice forward. Furthermore, the former disagreements do not occupy the same level as the latter in that the disagreements about justice are still disagreements on the basis on the agreement of some basic assumptions. I will introduce a distinction between “justificatory disagreements” and “foundational disagreements” developed by Jonathan Quong to explain that.² Moreover, I will argue that the deeper reason that reasonable disagreements about justice are less foundational than reasonable disagreements about comprehensive doctrines is because we already share the foundational commitment to the value of justice, whose grounding values are freedom, equality, and fairness. In subscribing to the foundational value of justice, the fact of reasonable pluralism of comprehensive doctrines has also been limited by justice.

Here is how this chapter will proceed. In the next section, I’ll explain the convergence approach’s reasoning, including a standard account of the label of convergence and the religious critiques which also follow a convergence approach to public justification. The third section will begin with the convergence approach’s critiques of the plausibility of public reason’s shareability requirement, followed by the consensus account’s refutations of the subjectivism critique and the asymmetry critique in the fourth and fifth sections respectively. In the sixth and seventh sections, I will unfold my argument that the consensus approach is deeply committed to the value of justice.

II. The Argument for the Convergence Approach

2.1 Overview of the Contrast between the Consensus Approach and the Convergence Approach

As already illustrated in the previous chapter, in *Political Liberalism*, due to the fact of reasonable pluralism, John Rawls shifted his main purpose from the quest for a conception of justice to its public justification or legitimacy that a political conception should be justifiable to all reasonable citizens in a democratic regime. Once we accept the fact that in a democratic regime, reasonable people tend to disagree with each other with regard to their comprehensive doctrines, it is clear that no moral foundation is sufficiently agreed upon as a public basis of justification for political conceptions on

² Jonathan Quong, *Liberalism without Perfection* (Oxford University Press, 2011) 193.

fundamental political matters. Therefore, Rawls argues for a retreat from the discussions of comprehensive doctrines to look for a legitimate political conception's coercive exercise that is publically justifiable to all reasonable citizens, which together have divergent religious and moral beliefs.

With regard to the justificatory reasons for coercive political conceptions, political liberals divide according to two approaches. Political liberals such as Thomas Nagel, Charles Larmore, Stephen Macedo and Jonathan Quong adopt a *consensus approach* that public justification should be reached on the basis of public reasons that can be shared among reasonable citizens.³ The alternative camp, mainly led by Gerald Gaus, argues for a *convergence approach* of public justification.⁴ According to Gaus, public justification of certain laws or policies can be obtained as long as those laws are supported by all citizens who do not necessarily and do not need to share any common standpoint on supporting reasons. Fred D' Agostino nicely developed the contrast between these two approaches as⁵:

The consensus approach: A and B share the reason R or a set of reasons Rs to support the law L.

The convergence approach: A has a reason Ra to support the law L, B has a reason Rb to support the same law L.

Before I unfold the convergence approach's arguments further, two significant caveats need to be brought to attention. First, the public justification that the consensus approach puts forward at no point depends on actual endorsement but only needs to be

³ Their explicit endorsement of the consensus approach can be seen in Thomas Nagel, "Moral Conflict and Political Legitimacy", *Philosophy & Public Affairs* 16(1987): 215-240; Charles Larmore, "Political Liberalism", *Political Theory* 18(1990): 339-360; Stephen Macedo, "Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls" in *Ethics* 105 (1995): 468-496, "Why public reason? Citizens' reasons and the constitution of the public sphere", unpublished; Jonathan Quong, *Liberalism without Perfection* (New York: Oxford University Press, 2011).

⁴ I need to make it clear that the division of the consensus approach and the convergence approach is not merely a division inside political liberalism. Rather, the convergence approach is also favored by a wider range than those political liberals who are against the consensus approach. For instance, Christopher Eberle and Nicholas Wolterstorff opt for a convergence approach without necessarily accepting the conception of public justification itself. The details are illustrated in 2.2.

⁵ Fred D' Agostino, *Free Public Reason: making it up as we go along*. (New York: Oxford University Press 1996) 29.

The two approaches do not actually exclude each other. We can start with the convergence approach, but try to find more common ground in a society. While the convergence approach is a threshold approach, the consensus approach strives for a more ambitious ideal of living together. I thank Paul Cliteur for making this point so clearly.

endorsable. The criterion for public justification is not actual acceptance but acceptability.⁶ The first caveat is to say that the question of public justification is a normative one, and it aims to work out the content and structure of liberal political justification given the fact of reasonable pluralism in any democratic society. Second, it does not depend on beliefs from all actual citizens but provisionally reasonable citizens. Reasonable citizens accept the fact of reasonable pluralism and are willing to abide by fair terms of social cooperation. The essence of being reasonable for citizens who share a political life together simply is to take other people's interests or considerations into account. The limitation in reasonable citizens as the constituency of democratic societies responds to a naturally raised question about religious fundamentalists. As I've discussed previously in chapter three, those religious fundamentalists, who reject the fact of reasonable pluralism and who usually reject the notion that citizens are free and equal, necessarily reject the project of public justification. Therefore they are excluded from the constituency of public justifications despite their citizenship.⁷ The point of these two caveats is that if political conceptions cannot be publically justifiable to every reasonable citizen of a well-ordered society, it is not practically relevant at all.

In a nutshell, the consensus approach argues that given the respect for free and equal citizens and the fact of reasonable pluralism, in a democratic regime, it is unreasonable and wrong to use state power to coerce those who have disagreed with our comprehensive truth. The justification of coercive political conceptions, instead, must be based on the reasons that can be shared by most reasonable citizens. However, the convergence approach argues that what the consensus approach aspires to is implausible. Moreover, the consensus approach's insistence on shared public reason has imposed unnecessary burdens on citizens, especially religious citizens. Why cannot citizens participate in public life according to their convictions? Would not the requirement or ideal of using shared public reason become a serious obstacle of citizens' democratic

⁶ A popular misunderstanding of the consensus approach confuses the task of public justification with actual popular acceptance whereas popular acceptance is such a foundational assumption or starting point of political liberalism that liberalism will be unstable without it. See Jonathan Quong, *Liberalism without Perfection*, 159.

⁷ See *ibid.*, 298.

In a lecture on political liberalism, Burton Dreben said the following: "Too many philosophers, even today, spend too much of their time trying to argue in the abstract for political liberalism against, say, totalitarianism and so forth. This does not seem to me to be a worthy philosophical enterprise. If one cannot see the benefits of living in a liberal constitutional democracy, if one does not see the virtue of that ideal, then I do not know how to convince him. To be perfectly blunt, sometimes I am asked, when I go around speaking for Rawls, What do you say to an Adolf Hitler? The answer is [nothing.] You shoot him. You do not try to reason with him. Reason has no bearing on that question." Burton Dreben, "On Rawls and Political Liberalism," in *The Cambridge Companion to Rawls*. (Samuel Freeman ed., New York: Cambridge University Press, 2003) 329.

participation, or even worse, their religious freedom? The convergence approach thus advances a different conception of public justification to emancipate religious citizens from the burdens.

2.2 The Political Liberal Convergence Approach⁸

The most prominent argument for the convergence approach derives from Gerald Gaus's advocacy. As the leading figure of the convergence approach, Gaus has constructed an exquisite framework of the convergence approach to public justification. As a matter of fact, Gaus's convergence approach actually shares some basic assumptions and considerations with the consensus approach, which makes it a political liberal approach as well. However, it fundamentally departs from the consensus approach on the analysis of rational justification and the criterion of public justification. To start with, attributing Gaus's convergence approach advocacy to political liberalism is based on the fact that Gaus's convergence account also concedes the fact of reasonable pluralism. Moreover, the framework of Gaus's endorsement of the convergence approach of public justification is actually built upon the fact of reasonable pluralism. While the consensus approach asks citizens to refrain from invoking their comprehensive doctrines in public reason because of the fact of reasonable pluralism, Gaus understands the fact of reasonable pluralism as a basis for encouraging citizens to bring their comprehensive doctrines into public reason. Gaus believes that the fact of reasonable pluralism entails a subjectivism of reasons and beliefs. Consequently, he regards the law as publicly justified so long as it is justified for every individual regardless of what grounds they have.

Along with the consensus approach, Gaus also believes that a personal justified belief need not be epistemically true or objectively justified for every individual. The consensus approach argues for the abstinence from referring to the idea of truth in political justification, while it leaves the exploration of moral truth to every reasonable citizen individually. Yet, Gaus argues for the "divorce the idea of a good reason from the idea of truth" in the whole sphere of moral justification, on the basis of a subjectivism of reasons and rational justification, which also entails the fact of reasonable pluralism.⁹ Gaus proposes an idea of "open justification", whose core idea is that an openly justified belief system is "stable in the face of acute and sustained criticism by others and of new information."¹⁰ It is possible that there may be "multiple and conflicting belief systems

⁸ The arguments I am going to discuss in this subsection are mainly made by Gerald Gaus, while some other scholars also follow this line of convergence approach, such as Kevin Vallier.

⁹ See Gerald Gaus, *Justificatory Liberalism: an essay on epistemology and political theory*, 63.

¹⁰ *Ibid.*, 31.

that are openly justifiable for the persons holding them.”¹¹ This open justification therefore inescapably leads to subjectivism in relation to reasons. Gaus believes it is better to analyze a rational belief system in terms of the relations between its members instead of referring to the idea of truth. He believes that this line of analyzing rational beliefs “allows us to proceed while putting aside divisive metaphysical issues.”¹² Since the burden of judgments has played a significant role in political liberalism, by loosening the link between justified rational belief and the idea of truth, Gaus believes that two routes lead to a subjectivism or pluralism of reasons. First, everyone’s basic belief differs, therefore even if different people use the same inferential or “logical operations” on their basic beliefs, they would not agree with each other in the conclusions.¹³ Moreover, the fact of reasonable pluralism is not just that pluralism restricted to normative ethics but also that it applies to moral epistemological views, which means that different people may employ different evaluative standards, and even various logical or inferential connectives to arrive at their conclusions. After all, the fact of reasonable pluralism signifies that people can still recognize others’ belief systems as rational even if they differ both on their substantive beliefs and their theories of justification.¹⁴

The point of searching for a public justification of certain beliefs derives from the justification of issuing moral demands on others, which is “a requirement of moral life”.¹⁵ Generally speaking, Gaus believes that a free moral person has an interest in living in ways that are in accordance with their own standards of what is right or what is good. At least, a free moral person is “bound only by moral requirements that can be validated from his own point of view”.¹⁶ The crux of morality according to Gaus is a way for us to “relate to each other as rational agents who can give each other reasons” for actions.¹⁷ Morality thus requires us to reason from the standpoint of others. And “to treat another as free and equal moral person is to accept that moral claims must be validated from their perspectives when they employ their rational faculties” with due reflection.¹⁸ Hence, to justify a moral belief to someone is to make such a moral belief justifiable from that person’s perspective, namely, “there must be a reason for her.”¹⁹ The justified reason is thus sensitive to the specific moral agents in certain interpersonal

¹¹ Jonathan Quong, *Liberalism without Perfection*, 269.

¹² Gerald Gaus, *Justificatory Liberalism: an essay on epistemology and political theory*, 43.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid., 129.

¹⁶ Gerald Gaus, “The Moral Foundations of Liberal Neutrality,” in *Contemporary Debates in Political Philosophy* (Thomas Christiano and John Christman ed., Wiley-Blackwell Publishing, 2009) 84.

¹⁷ Ibid., 86.

¹⁸ Ibid., 85.

¹⁹ Ibid., 86.

relations. In addition, the fact of reasonable pluralism suggests that the reason I have to justify my moral demands on her is not expected to be valid to others, but particularly on her. Due to the subjectivism of reasons for each individual, Gaus understands the standard of public justification as sufficient reasons sensitive to specific subjects: “a proffered justificatory argument must provide everybody who is to be subject to the [proposed] arrangement with sufficient reasons”.²⁰ Accordingly, to publicly justify a moral or political conception requires that the conception be validated from the perspective of every free and equal moral person.

The most significant characteristic that differentiates Gaus’s convergence approach from the consensus approach concerns the sorts of justificatory reasons. Gaus classifies justificatory reasons into three kinds, ranging from the loosest one to the most stringent kind as intelligible reasons, accessible reasons, and shareable reasons. His convergence approach argues that the intelligible reasons suffice, while the latter two requirements of accessibility and shareability are unnecessary and too rigid.²¹ The intelligibility requirement only demands that the reasons can figure in a justification for a certain political arrangement, such as a coercive law, so long as the members of the public can see those reasons as reasons for them, “as opposed to mere utterances, expressions of emotions or other irrational demands.”²² Departing from the approach claimed by the consensus liberals, Gaus argues that the validation of the political conception does not require a strong “publicness” in the sense that the reasons must be based on beliefs actually *shared* by all as long as it has given good reasons *intelligible* to everybody that they subscribe to the political arrangement.²³ Therefore, the consensus in supporting reasons is not necessary to expect; a convergence upon the moral demand suffices.

Let me sum up Gaus’s arguments in approximately four steps. First of all, given the open justification, you and I are both justified in holding our different belief systems. The most crucial step Gaus takes is that secondly, the reasons and rational justifications of evaluating your and my belief systems are not truth, rather, they are analyzed in terms of the relations among us. Therefore it is rational for you to hold a certain belief α which is within your belief system, even if belief α is not justified for me. Consequently, thirdly, public justification requires that my moral demands can be imposed on you on the

²⁰ Gerald Gaus, “Subjective Value and Justificatory Political Theory”, 255.

²¹ Gerald Gaus and Kevin Vallier, “The Roles of Religious Conviction in a Publicly Justified Polity: the implications of convergence, asymmetry and political institutions,” *Philosophy & Social Criticism* 35 (2009): 51-76.

²² Vallier, Kevin, “Public Justification”, *The Stanford Encyclopedia of Philosophy* (Spring 2018 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2018/entries/justification-public/>>.

²³ See Gerald Gaus, “Subjective Value and Justificatory Political Theory”, 256. Italic added by me.

condition that my moral demands are justified, not from mine or anyone else's, but from your point of view. The rejection of truth and a justified reason that is sensitive to particular interlocutors in relations together produce the inevitable outcome of reasonable pluralism, a subjectivism of justifications. In other words, justified reasons are subjective to differing standpoints occupied by different members of the public. Fourthly, the fact of reasonable pluralism implies that no one's reason is hence likely to be widely endorsed by every member of the public. That is to say, according to Gaus, the consensus approach's shared public reason requirement is unattainable by virtue of the very fact of reasonable pluralism. Therefore, the prevalent version of the convergence approach is as follows:

- (1) A believes that, at the level of public deliberation in the public discourse, he has a sufficient reason R_a to endorse the law L .
B believes that, at the level of public deliberation in the public discourse, she has a sufficient reason R_b to endorse the law L .
- (2) Reason R_a and R_b are both reasons from A's and B's comprehensive belief systems. That is to say, given reasonable pluralism, they are neither the same nor can be categorized to the same evaluative set, for instance, political values.
- (3) A does not hold the same comprehensive doctrines as B does. B does not hold the same comprehensive doctrines as A does either.
- (4) However, Gaus argues, on the basis of his theory of justification, a rational belief system is determined according to its members' belief system instead of the idea of truth.
- (5) Therefore, it is possible that A regards B's comprehensive belief system as rational for B to believe. B also regards A's comprehensive doctrines as rational for A to believe.
- (6) A and B are both sincere in public deliberation.
- (7) A believes that B is justified in endorsing the law L . B also believes that A is justified in endorsing the law L .

Therefore,

- (8) Given that A believes that, at the level of public deliberation in the public discourse, he has a sufficient reason R_a to endorse the law L .
B believes that, at the level of public deliberation in the public discourse, she has a sufficient reason R_b to endorse the law L .
C believes that, at the level of public deliberation in the public discourse, she has a sufficient reason R_c to endorse the law L .

...

N believes that, at the level of public deliberation in the public discourse, he has a sufficient reason R_n to endorse the law L.

- (9) $R_a, R_b, R_c \dots R_n$ are not public in the sense that the consensus approach adopts. They are not the same, nor can they be attributed to the same evaluative set, for instance, political values. They can be any reason as A, B, C...N sees fit.

2.3 A Broader Version of the Convergence Approach: Religious Critics

For my purpose, the convergence approach in contrast with the consensus approach is a broader approach compared to the political liberal convergence approach that Gaus has adopted and developed. What brings religious critics into alignment with the political liberal convergence approach is their objection to the consensus approach's insistence on the shareable public reason requirement. The adoption of such a requirement would exclude religious reasons and arguments from the public sphere, since they are not shareable with all citizens. This is something that religious critics fundamentally oppose. Contrariwise, the convergence approach essentially maintains that citizens will be able to introduce any reason they fit into public reason and justification. They believe that a more generous approach to religion not only better honors citizens' freedom but also greatly benefits our political society. Some religious critics, as will be shown later, who do not adopt the name of the convergence approach or who do not regard themselves as belonging with this approach do advocate a similar strategy. That is to say, insofar as there is a convergence on a certain institution or laws from individuals, a public shared reason underlying such a convergence is not enlisted whatsoever. Their specific viewpoints and arguments differ from each other to some extent and also from the standard account of Gaus's convergence account; nonetheless, contra the consensus approach regarding the place of religious reasons and arguments, they do generally support a convergence claim that "citizens should be uninhibited in giving expression to their particular conceptions of truth and value and, indeed, inviting such expression in all deliberative settings makes for a better politics."²⁴

Michael Perry believes that it is unfair to exclude religious doctrines for three reasons. First of all, controversial religious beliefs are not necessarily more problematic than controversial nonreligious beliefs.²⁵ Secondly, speaking from the perspective of an

²⁴ Stephen Macedo, "Why Public Reason? Cooperation, Law, and Mutual Assurance", working paper in progress.

²⁵ Michael J. Perry, "Religious Morality and Political Choice: Further Thoughts—and Second

American, he argues that religious beliefs are not necessarily divisive or destabilizing for a still highly religious American society. On the contrary, religious arguments to some degree promote good political decisions.²⁶ Thirdly, religious beliefs are not epistemologically inferior to other beliefs; hence their epistemic status cannot be held against them when it comes to public justification.²⁷ Therefore, Perry proposes a model of “ecumenical political dialogue” that was meant to be inclusive of the religions so that reasonable religious believers can effectively participate.²⁸ Similarly, Jeremy Waldron believes that there are actual benefits to be gained from a more inclusive ideal of public justification to the extent that more reasons than shareable reasons should be permitted, because shareable public reason seems too conservative with regard to the human capacity to reason and adds too little to our public debates.²⁹ Nicholas Wolterstorff³⁰ and Jeffery Stout³¹ both raise a serious issue engendered by the consensus approach. They argue that the shareability requirement of public reason has imposed excessive burdens on religious citizens. Religious citizens either have to suffer from abstaining from fully expressing their deepest convictions along with their pursuit of integrity, or they have to face the provision of being ostracized from their community. Christopher Eberle also adopts a convergence approach even though he explicitly criticizes the “standard” convergence approach in Gaus’s sense. He believes that “a defensible conception of public justification must permit each citizen to rely on a fund of considerations that is sufficiently rich as to enable him to articulate a public justification not only for characteristic liberal commitments, but also for a wide range of the

Thoughts—on Love and Power.” *San Diego Law Review* 30 (1993): 714.

²⁶ See *ibid.*, 714-715.

²⁷ See *ibid.*, 715.

²⁸ See Michael J. Perry, “Toward an Ecumenical Politics,” *George Washington Law Review* 60 (1992): 599-619. Philip Quinn considers Perry’s picture to be very attractive as well. See Philip Quinn, “Political Liberalisms and Their Exclusions of the Religious,” *Proceedings and Addresses of the American Philosophical Association* 69 ((1995): 35-56.

²⁹ See Jeremy Waldron, “Religious Contribution in Public Deliberation,” *San Diego Law Review* 30 (1993): 817-848. Waldron is also very keen on stressing the positive influence of Christian conceptions on secular life. Since we are looking at what religion could contribute to the political domain, I am not discussing his point of how religion contributes to our ethical life, which belongs to another persistent struggle between Divine Command Theory and secular ethics.

³⁰ See Nicholas Wolterstorff, “The Role of Religion in Decision and Discussion of Political Issues”, in Robert Audi & Nicholas Wolterstorff, *Religion in the Public Square: the place of religious convictions in political debate.* (Maryland: Rowman & Littlefield Publishers Inc.1997).

³¹ See Jeffrey Stout, *Democracy and Tradition* (Princeton: Princeton University Press 2004). Robert M. Adams also shares this worry. See Robert M. Adams, “Religious Ethics in a Pluralistic Society,” in *Prospects for a Common Morality* (Gene Outka and John P. Reeder, Jr. ed., Princeton: Princeton University Press, 1993).

important political decisions he faces.”³² And clearly the consensus approach fails to supply such a sufficient and tenable account of public justification. Additionally, along with Perry’s claim, Eberle believes that shareable reasons are not necessarily epistemically better than religious reasons as grounds for political decisions.³³

All these above religious critics have more detailed and deep considerations for including religious arguments and adopting a convergence approach of public justification, but I can only manage to give a sketch of their core claims here. It is certainly impossible to fully survey them all, but I believe my sketch suffices to show how those critics align with the idea of the convergence approach, even without claiming the name. In light of the instances above, the convergence approach I am referring to from this point on, as opposed to the consensus approach of public reason, is a wider version which incorporates religious critics with or without identifying themselves explicitly with “the convergence approach”.

2.4 Summary of the Convergence Approach’s Critiques of the Consensus Approach

I believe that my explications of both the convergence approach in the wider sense and in its prototype sense have illustrated one fundamental point for my purpose. While the consensus approach requires members of the public to share the justificatory reasons of the law, the convergence approach is open to all the reasons that members of the public adopt. They can bring in any reason that they deem as justified for themselves. This variation of shareability of reasons significantly influences their account of public reason and subsequently of public justification, especially for the debate of religion’s place in politics. With shareable public reason, reasonable citizens would be able to “explain the basis of their actions” mainly their voting “to one another in terms each could reasonably be expected to endorse.”³⁴ Citizens thus refrain from deploying comprehensive doctrines which are not shareable by all members of the public in democratic discussion of political issues in the public forum. This shareable public reason requirement essentially influences the place of religious reasons and arguments in the public forum. We cannot reasonably expect all members of the public, including religious and nonreligious citizens, to actually endorse religious reasons as valid reasons; therefore public reasoning in political life has excluded personal comprehensive doctrines including religious doctrines. By contrast, for the convergence approach, the genuine

³² Christopher Eberle, *Religious Conviction in Liberal Politics* (Cambridge University Press, 2002) 206.

³³ See Christopher Eberle, “Consensus, Convergence, and Religiously Justified Coercion”, *Public Affairs Quarterly* 25 (2011): 281-303.

³⁴ John Rawls, *Political Liberalism* (Columbia University Press, 1996) 218.

public reason is plainly all the reasons held by every individual of the public. They are free to refer to any conviction or argument including religious reasons for public justification.

According to the convergence approach, there are four major problems with the consensus approach questioning two things: the plausibility and desirability of the shareability requirement of public reason. One, the shareability requirement of public reason is unfeasible if not entirely impossible to satisfy. From the point of view of theoretical reason, the convergence approach argues that the fact of reasonable pluralism already presupposes that human reasons are too divisive to assume that we can reason in the same fashion. Specifically, the practical implication of the fact of reasonable pluralism is that since we tend to diverge and disagree with each other on basically every aspect, the fact of reasonable pluralism also implies a pluralistic understanding of justice, which makes an overlapping consensus on political conceptions of justice implausible. Hence, the content of shareable public reason is rendered void. I call these two critiques on the implausibility of the shareability requirement of public reason ‘the subjectivism critique’ and ‘the asymmetry critique’, representing these two critical claims:

The Subjectivism Critique: the shareability requirement of public reason is self-defeating, for the fact of reasonable pluralism already supposes the unshareability of human reasons;

The Asymmetry Critique: the fact of reasonable pluralism also entails reasonable pluralism of justice, which narrows the likelihood of an overlapping consensus on political conceptions of justice; the content of shareable public reason is thus susceptible to being rendered empty.

Two, in accordance with the convergence approach, the shareability requirement is also undesirable as it tends to destabilize our political society. The consensus approach’s so-called lack of capacity of stabilizing the society consists in two aspects: one is its inability to give an individual citizen sufficient moral motivation to comply with the shareability requirement of public reason; and the other is its further inability to assure that everyone else would also actually comply with such a requirement. From the individual’s point of view, the shareability requirement is too demanding to be desirable, since it has imposed too strenuous burdens on religious citizens to follow. Moreover, it is even more difficult to be sure that all citizens would not only agree to such a requirement but would actually comply with it. Therefore, laws cannot be successfully publicly justified in the same vein as the consensus approach. Likewise, I call the critiques on the shareability requirement’s undesirability “the integrity critique” and “the assurance

critique”, which are illustrated as:

The Integrity Critique: the shareability of public reason exerts too demanding burdens for citizens to follow as it hurts their integrity;

The Assurance Critique: the shareability of public reason cannot ensure that all citizens will honor such a fair, cooperative society.

Furthermore, an opposite claim imbedded in the integrity critique is that, on the contrary, the convergence approach protects citizens’ integrated existence. This is:

The Claim of Integrity: the convergence approach is more attractive to citizens as it protects their integrity and freedom.

The convergence approach’s claim of integrity shows that the convergence approach’s ambition is more than bankrupting the consensus approach; it also aims to establish its superiority by claiming that it has offered a better alternative account of political conceptions’ public justification. Such a claim implies that the convergence approach is a less demanding approach for citizens, since a convergence on the laws from each individual’s differing standpoints suffices, while it places no other burdens on citizens. A complete defense of the consensus approach not only needs to combat all of the critiques the convergence approach raised, it also needs to expound why the consensus approach is superior to the convergence approach.

The rest of the sections in this chapter will engage in the detailed explication and assessment of “the subjectivism critique” and “the asymmetry critique”, while “the integrity critique” and “the claim of integrity”, will be the focus in the next chapter. As for the refutation of the assurance critique, which answers the question why the convergence approach fundamentally fails to supply a sufficient account of public justification, it will be discussed in the sixth chapter.

III. The elucidation of “The Subjectivism critique” and “The Asymmetry Critique”

As shown previously, the convergence approach asserts that the shareable public reason requirement maintained by the consensus approach is unfeasible if not entirely impossible to follow. For one thing, the convergence approach deems that the fact of reasonable pluralism already presumes the implausibility of shareable reasons among citizens in a political society. Specifically, there is no reason to argue that the fact of reasonable pluralism has excluded reasonable disagreements about justice, which is

assumed by the consensus approach.

3.1 The Subjectivism Critique

As pointed out previously, the contrast between the convergence approach and the consensus approach is primarily manifested in the requirement of justificatory reason's shareability. The political liberal convergence approach led by Gaus accepts the fact of reasonable pluralism, and argues that it is precisely because of reasonable pluralism that we can understand each other's reasons but cannot share them.

Gaus claims that the requirement of consensus on foundational reasons is a reasonable but superfluous requirement. A publicly justificatory argument will succeed even if it has no actual consent or consensus, provided that it has good reasons for each individual to submit. The point of publicly justified political arrangements for Gaus is for everybody to submit or subscribe to it, while whether there is a consent or consensus is beside the point. In other words, as long as everybody finds good reasons to accept such political arrangements, consensus is superfluous.³⁵ Not only is consensus not desirable for publicly justified laws, but it is also implausible given the fact of reasonable pluralism. Both the "cognitive limitations" of humans in general and a discrepancy in their limitations among different people result in subjectivism of reasons for different people.³⁶

With respect to the extent of the shareability of citizens' reasons, Gaus distinguishes them into three versions from the weakest to the strongest (and he translates the idea of reasons into evaluative standards): 1) "identical evaluative sets": members of the public share the same evaluative standard, for instance, economic gains.³⁷ 2) "Shared ordering": members of the public do not share the identical standard but a set of standards, and order them in the same way.³⁸ For example, citizens consider a law's legitimacy from the perspective in the exact order of public safety, human rights, and fairness of opportunities. And 3) "shared standards": members of the public reason from a common set of evaluative standards but they may disagree about their order.³⁹ They may consider a law's legitimacy from the order of public safety, human rights and fairness of opportunities, or they may do that according to the order of fairness of opportunities, human rights, public safety. As we can see now, the weakest one is the

³⁵ See Gerald Gaus, "Subjective Value and Justificatory Political Theory," 255-257.

³⁶ Gerald Gaus, *The Order of Public Reason: a theory of freedom and morality in a diverse and bounded world*, 286-290.

³⁷ *Ibid.*, 284.

³⁸ *Ibid.*

³⁹ *Ibid.*

shared standards requirement, which corresponds to the consensus conception of shareable public reasons for public justification, designating that citizens shall reason from a common set of evaluative standards.

Gaus believes that even the weakest shared reason is too strong to impose a significant restraint on public reasons for public justification.⁴⁰ According to Gaus, the impossibility of shared public reason is due to real cognitive limitations which are also fundamentally rooted in reasonable pluralism. As a result of the cognitive limitations of humans, humans have no basis upon which to claim we have grounds to confirm our view as correct in absolute confidence, even after rational reflection.⁴¹ Recall that for Gaus, the justification of a moral or political conception concerns each member of the public and therefore it depends on whether it can be valid from every individual's perspective. That is why Gaus argues that to reach a public justification for a moral or political conception, a convergence of public reasons incorporating different comprehensive conceptions of the good suffices, while there is no need for shared reasons. A convergence conception of public justification is thus believed to be public and impartial, since it converges and rests on everyone's reasons.

Moreover, due to the "cognitive limitations" among reasonable citizens, these citizens also face unmanageable disputes between themselves.⁴² The cognitive limitations among reasonable citizens mean two things. One, every member of the public has their own evaluative systems with different reasons or orders.⁴³ A's reason Ra as ground for law L is likely to be absent from person B's evaluative system since B might also support law L for a different reason, Rb. Therefore, it should not be an obstruction for A to conclude that B is justified in appealing to reason Rb to ground L, irrespective of A's own rejection of Rb. And second, we have to admit that there is not only cognitive limitation but also cognitive discrepancy in terms of the level of moral sophistication among reasonable citizens in light of Lawrence Kohlberg's theory, which divides adults' moral reflection ability into six stages (stage 1 to 6, ranging from the least sophisticated to the most sophisticated).⁴⁴ Gaus points out that some people who are at stage 1 may even have difficulty in identifying basic right and wrong, whereas some others who have

⁴⁰ Ibid., 286.

⁴¹ Gaus sides with Rawls (in his *Political Liberalism* stage) that "questions of the truth or falsity of our moral judgments can be left to one side, and we should instead focus on whether they are reasonable and justified". In other words, we should focus more on questions about moral epistemology. And he believes the exploration of liberalism's justification cannot be answered by theories of justifications; political liberalism cannot go as far as to be independent from moral epistemology. See Gerald Gaus, *Justificatory Liberalism: an essay on epistemology and political theory*, 3-7.

⁴² Gerald Gaus, *The Order of Public Reason: a theory of freedom and morality in a diverse and bounded world*, 286.

⁴³ Ibid., 287-288.

⁴⁴ Ibid., 214-216, 256-257, 277-278, 290.

sophisticated moral reasons cannot only see complicated moral problems clearly, but they can even assist less sophisticated people to understand intricate moral problems.⁴⁵ It follows that it is unfair and implausible to ask people who, for instance, are only at stage 1 to reason similarly to someone at stage 6. Recall that according to Gaus, the fact of reasonable pluralism is the starting point of the convergence approach. Reasonable pluralism presupposes the mutual intelligibility of reasonable citizens' reasons for public justification in the public discourse. However, due to the cognitive limitations *of* moral persons and also the cognitive diversity and discrepancy *among* moral persons, Gaus concludes that "shared standards" have to be rejected.⁴⁶

The convergence approach therefore believes that the shareability requirement falls short of the subjectivism of reasons. That is to say, such a requirement is inconsistent with public reasoning by pluralistic standards contingent on different members of society. Gaus and Vallier once argued that if we embrace the consensus approach's shareability requirement, we must presume that everyone reasons in the same way, which raises a quandary: "why would justificatory liberals, starting out with a strong commitment to reasonable pluralism as the outcome of the free use of human reason, embrace a conception of public justification that assumes we reason identically?"⁴⁷ This question implies that the fact of reasonable pluralism assumes the mutual intelligibility and divisiveness of reasons that every reasonable member of the public reasons differently. Since it is assumed that every member of the public is reasonable, we are all justified in holding our own divergent belief systems. That is to say, in a well-ordered society, for instance, although a certain belief α is absent from my belief system, I would understand that it is justified for you to believe α . And we are all entitled to have different beliefs or conceptions of the good; therefore it is wrong and unreasonable for me to coerce you into forsaking α out of my belief system. Nor can I accuse you of being epistemically defective in any way in believing α . In that sense we can say that our reasons are mutually intelligible but not shareable.

3.2 The Asymmetry Critique

The subjectivism critique concludes that the fact of reasonable pluralism presumes the difficulty of shareable public reason for reasonable citizens in a democratic society. By virtue of the subjectivism critique, which signifies that there are pervasive and reasonable

⁴⁵ Ibid., 256-257, 277-278.

⁴⁶ See *ibid.*, 283-287.

⁴⁷ Gerald Gaus & Kevin Vallier, "The Roles of Religious Conviction in a Publicly Justified Polity: The implications of convergence, asymmetry and political institutions," 58.

disagreements between reasonable citizens on so many subjects, it is also unreasonable to expect citizens to agree on the content of public reason, namely the formation of an overlapping consensus.

The fact of reasonable pluralism so far encapsulates reasonable citizens' disagreements about comprehensive doctrines, which are not invoked in public reason for public justification. However, it has been pointed out that citizens' reasonable disagreements about justice are just as profound as their disagreements about comprehensive doctrines.⁴⁸ In the realm of normative political philosophy, political philosophers also always disagree sharply about conceptions of justice, including on issues of "the nature and extent of rights", the exact meaning of fairness of opportunity, the definition of equality of resource distribution, among many other things.⁴⁹ For instance, the debates about abortion, same-sex marriage, and tax regulations are typical arguments reflecting reasonable disagreements about justice. Therefore, it is hard to explain why only comprehensive doctrines are excluded from public reason. The convergence approach believes that there is an "apparent asymmetry" in the consensus approach's treatment of the disagreements about justice and the disagreements about comprehensive doctrines.⁵⁰ Moreover, the consensus approach's insistence on shared public reason might collapse too, as there will probably not be any political conception of justice that is supported by shareable public reasons.

The convergence approach's asymmetry critique has two layers. First of all, they argue that in contrast with the claim that reasonable citizens tend to differ in their comprehensive doctrines, citizens do inevitably share many comprehensive doctrines too, such as friendship, family, love and integrity.⁵¹ Furthermore, numerous historical examples and contemporary political debates have shown that reasonable persons disagree over matters of justice just as fundamentally and profoundly as they do over

⁴⁸ In real every day politics, "All we need to do is look at current political debates over issues like abortion, taxation, capital punishment, health care, or freedom of expression to see that many reasonable people disagree in deep and seemingly intractable ways about justice." Jonathan Quong, *Liberalism without Perfection*, 192.

⁴⁹ Ibid.

⁵⁰ Both political liberalism's critics (e.g., Joseph Raz, Gerald Gaus) and its defenders (e.g., Charles Larmore, Jonathan Quong) tend to refer to "conceptions of the good" instead of "comprehensive doctrines" for the sake of simplifying the relationship between conceptions of justice and the good. However, the notion of comprehensive doctrines has a much wider scope, content-wise, than the term "conceptions of the good" can cover—for instance the philosophical issue of ontology—so I follow Rawls in sticking with the term "comprehensive doctrines" even when their original texts use "conceptions of the good". I thank Steve Macedo for pointing this out to me.

⁵¹ See Joseph Chan, "Legitimacy, Unanimity and Perfectionism," *Philosophy & Public Affairs* 29(2000): 11-12.

matters of comprehensive doctrines.⁵² Combining those two points, they argue that the disagreements about justice do not substantially differ from disagreements about comprehensive doctrines. Therefore, they argue that should the former disagreements be part of public reason and justification, there is no reason to exclude comprehensive doctrines.

On the first point, Joseph Chan has offered a general description of what constitutes a conception of the good life. To him, a good life includes the following constituents: “virtues or dispositions as practical wisdom, courage, temperance, integrity and sincerity; goods or values including aesthetic experiences, human relationship, amusement, play and knowledge...and a particular way of realizing them.”⁵³ Chan believes that although people may “differ about the weights of these goods” respectively, these goods are “generally regarded as desirable”.⁵⁴ Therefore, it seems that it is too presumptuous to exclude comprehensive doctrines from constituting part of public reason.

Regarding disagreements about justice, Simon Clarke points out that many people are willing to sacrifice their lives for the cause of justice, such as in the American Civil War, the French Revolution, and the conflicts in Eastern Europe around the 1980s to 1990s.⁵⁵ In those conflicts, constitutional issues over fundamental justice regarding citizens’ rights, the balance of power or the institutional arrangements of the polity were the central concern. Simon Caney has expressed similar concerns. Sidetracking the historical illustrations and focusing on contemporary liberal democratic systems, analogous empirical observations emerge as well.⁵⁶ People disagree tremendously in their views about many issues related to justice. For example, in the United States, democrats and republicans’ disagreements about distributive justice and tax policies differ profoundly. Likewise, they argue heatedly over their positions on women’s right to abortion, citizens’ right to guns, the aims of punishment, and the legitimacy of death penalty, which are all fundamental constitutional concerns. The defense of the legitimacy of the death penalty is one of the reasons keeping Turkey from becoming a member of the European Union. In that sense, those disagreements about justice, just like disagreements about comprehensive doctrines, fundamentally set citizens in a liberal democratic polity apart from each other, and it is those fundamental disagreements about

⁵² See Simon Clarke, “Contractarianism, Liberal Neutrality, and Epistemology,” *Political Studies* 47(1999): 636

⁵³ Joseph Chan, “Legitimacy, Unanimity and Perfectionism,” 11.

⁵⁴ *Ibid.*, 12.

⁵⁵ Simon Clarke, “Contractarianism, Liberal Neutrality, and Epistemology,” 636.

⁵⁶ See Simon Caney, “Liberal legitimacy, reasonable disagreement and justice,” *Critical Review of International Social and Political Philosophy* 1:3(2007): 22.

justice that render the overlapping consensus of political principles implausible. Hence, the account of the liberal principle of legitimacy cannot be established and the content of shared public reason is implausible as well.

Moreover, a further question arises: do the disagreements about justice derive from the disagreements about comprehensive doctrines? If the two sorts of disagreements are independent from one another, the fundamental disagreements about justice already render the political liberal account of legitimacy unjustified since citizens are just as much divided by the disagreements about justice as they are by the disagreements about comprehensive doctrines. However, some do believe that the disagreements about justice must be derivations of our disagreements about comprehensive doctrines, as normative reflections on the issues of justice are essentially boiled down to “reflection on the values and principles that are implicated in these processes of deliberation and decision-making.”⁵⁷ That is to say, our distinct comprehensive doctrines are bound to affect our view of politics and therefore it is impossible to insulate political views about justice from other comprehensive doctrines.

Take the example of the disagreements about women’s right to abortion. The debate about whether women should be granted the constitutional right to have an abortion mainly relates to two competing comprehensive doctrines. One believes that the utmost value of life outweighs anything else, while the other believes that women’s right to making choices about their own bodies and lives prevails over the fetus’s life. Although this discussion involves a key biological issue of whether a fetus should be seen as a person, it is still a principal disagreement between two different comprehensive doctrines. According to this view, if the disagreements about justice are the result of the disagreements about comprehensive doctrines, Jeremy Waldron argues that the so-called overlapping consensus, in the sense of the consensus approach, would be essentially denigrated as a *modus vivendi*, which is precisely what Rawlsian liberals aim to distinguish themselves from. Waldron’s argument is that as long as each comprehensive doctrine generates its own conception of justice, these conceptions of justice become rivals of each other, and hence they cannot offer sincere moral support for the overlapping consensus without compromising their own claims about justice.⁵⁸ Therefore, it is impossible for competing comprehensive doctrines to be related to a single conception of justice in a strong moral relationship such as an overlapping consensus but only in a *modus vivendi*. Furthermore, Gaus argues that due to the inexorable connection between the disagreements about justice and comprehensive doctrines, the prospect of a consensus emerging on justice in a society that disagrees on comprehensive doctrines is

⁵⁷ Jeremy Waldron, *Law and Disagreements* (Oxford University Press, 1999) 160.

⁵⁸ *Ibid.*, 161-163.

relatively slim.⁵⁹

IV. The Consensus Approach's Rebuttal of the Subjectivism critique: Objectivity in Public Justification

A proper judgment about the subjectivism critique and the asymmetry critique calls for the answer to a question like this one: is it possible for reasonable citizens to engage in public reasoning with shareable public reason? I would give a positive answer for the consensus approach. And such an answer consists in two parts: one thing is that justificatory reasons in the public sphere are not necessarily subjective but can be objective for reason holders, hence they are likely to be shareable; and the other part concerns whether there can be an overlapping consensus on a political conception of justice, which will be addressed in the next section.

This section is going to present the first part of the positive answer, namely why a subjectivism of justificatory reasons is wrongfully suggested. For the moment, my proposal consists in three steps. Firstly, I will argue that the fact of reasonable pluralism by no means entails a subjectivism of reasons or rational belief systems. Secondly, even if we concede that the fact of reasonable pluralism can be the result of subjectivism of reasons, it is still conceivable to have objective reasons and beliefs in the *political* domain; therefore we can still have shareable public reason. Thirdly, the consensus approach believes that such an objectivity of justificatory reasons is given rise to by the standard of reasonableness.

4.1 Step 1: Cutting off Subjectivism of Reasons and the Fact of Reasonable Pluralism

Unlike Gaus, I believe that the fact of reasonable pluralism in Rawls's sense cannot be stretched as far as to entail subjectivism of reasons and beliefs. Reasonable pluralism is the idea that reasonable people tend to disagree with each other about comprehensive religious, moral and metaphysical doctrines. Because citizens exercise their human reason to their best ability, which simply presents the fact that reasonable citizens are bound to disagree with each other on comprehensive doctrines, yet it does not entail that reasonable citizens can accept others' comprehensive doctrines as justified.⁶⁰

The key to reasonable pluralism consists in the recognition of disagreements about

⁵⁹ Gerald Gaus, "Reason, Justification, and Consensus: Why Democracy Can't Have It All", in *Deliberative Democracy: Essays on Reason and Politics* (James Bohman and William Rehg ed., Cambridge: The MIT Press, 1997) 222.

⁶⁰ See Jonathan Quong, *Liberalism without Perfection*, 271.

comprehensive doctrines among citizens as reasonable, so that we cannot coerce those who disagree with us. For example, the conviction that an omnipotent god exists is a vitally important part of religious belief for many religious citizens. Nevertheless, atheists believe that no such god exists. As reasonable citizens, the fact of reasonable pluralism implies that religious citizens would understand that it is reasonable for atheists to have such a belief regardless of how much they disagree with them. There is no way for religious citizens to coerce atheists into upholding their own claims. However, religious citizens' understanding of the disagreements they have with atheists does not amount to them recognizing atheists' belief as justified or right. By the same token, the fact of reasonable pluralism by no means implies subjectivism of reasons and rational beliefs. The fact of reasonable pluralism avows a moderate but nonetheless non-compromising statement like: we are not skeptical about our beliefs or reckon that others' beliefs or reasons as justified, since the fact of reasonable pluralism intends to be reticent about this; instead, we only recognize that it is unreasonable for us to coerce others into accepting our beliefs. Therefore, subjectivism of reasons has stretched way further than the fact of reasonable pluralism.

4.2 Step 2: Public Justification Can Be Objective

Nonetheless, Gaus could claim that granted that the subjectivism of reasons and justifications is not necessarily entailed by the fact of reasonable pluralism; subjectivism of reasons could still lead to reasonable disagreements about comprehensive doctrines. Subjectivism of reasons is nevertheless not excluded, which still is capable of inducing all kinds of reasonable disagreements about justice. Confronting this claim would require us to consider that, given the possibility of subjectivism of reasons, the reasonable disagreement about justice is not boundless, and hence public reason in the pursuit of public justification can still be *conceptually* but not only *contingently* shareable. In other words, even if subjectivism of reasons is not a necessary condition of the fact of reasonable pluralism, it could still play a role as a sufficient condition. And sufficient scrutiny of the relationship between subjectivism of reasons and reasonable disagreements about justice calls for an explanation of why reasonable disagreements about justice are not rampant and hence public reason is still shareable. My conjecture is that, while the consensus approach confirms the fact of reasonable pluralism, it nevertheless understands public reason as being *objectively* approachable.

The baseline of my conjecture rests upon a comprehension that differs from Gaus's convergence approach of the idea of justification itself. On the one hand, "to claim that a belief or judgment is justified is to say that it is justified based on good and sufficient

reasons.”⁶¹ On the other hand, a person can be justified in holding a certain belief which is nevertheless not sufficiently justified by good reasons.⁶² It could be the result of some factors that this person is not aware of, or some knowledge that is beyond this person’s comprehension. However, this person is justified in holding such a view based on the considerations he takes to be reasons given his existential education, information, and knowledge. For instance, a citizen, Derek, decides to vote for the political candidate Claire since he believes that she is competent, honest, and she would do everything to bridge the expanding gap between the rich and the poor, judging from her past work experience and possibly her campaign speech. However, Derek does not know that Claire is not who she claims to be, and she was severely corrupt in her previous occupation, for which the evidence has not yet fully surfaced. Derek is justified in believing that Claire is an honest candidate, though the belief itself that Claire is an honest candidate is not necessarily justified.

The difference between the two justifications comes down to the different goals of the justifications of the consensus approach and Gaus’s argument respectively. In rejecting the reference to the truth of reasons, Gaus argues for a public justification based on convergent results of one-to-one reasoning. In that case, every reason in one-to-one relations can be particular to each individual, as long as everyone converges on certain laws or policies as their results. And due to the fact of reasonable pluralism, hardly anyone uses the same reason to reach their decision about the law or policy. In Gaus’s argument, the goal of justification lies in the second sense, which is to make a certain belief justified for someone, irrespective of whether such a belief *itself* is justified. Contrariwise, the consensus approach denounces the account of justification in the second sense and adopts the justification in the first sense. That is to say, the goal of public justification for the consensus approach is the justification of principles of justice itself. In other words, the purpose of public justification for the consensus approach is an objective standard of justification. The consensus approach argues that in the domain of the political, the political decisions shall be endorsed by all reasonable citizens on grounds of shareable public reasons, which is possible considering the fact of reasonable pluralism. The basis of public reason, namely the political conceptions of justice can be objective enough for all reasonable citizens to share in a well-ordered society.

I need to clarify that in addressing objectivity here, I am talking about a practical or political objectivity, which needs to be distinguished from the objectivity in meta-ethical discourse. Ronald Dworkin’s idiosyncratic analyses of objectivity maybe of some help

⁶¹ T.M. Scanlon, “Rawls on Justification,” in *The Cambridge Companion to Rawls*, (Samuel Freeman ed., Cambridge University Press, 2003) 140.

⁶² Ibid.

here. Generally speaking, Dworkin does not believe that meta-ethical studies contribute much to our understanding of normal ethical issues, and any metaethical statement is a normative ethical judgment.⁶³ He argues for a different way of comprehending objectivity apart from the objectivity discussed in the metaethical discourse. He objects to understanding an ethical life from an “Archimedean point” which is a standpoint outside of the ethical life (Just as Archimedes is outside of the earth in his famous quote “give me a place to stand, and I can move the earth.”). He believes that one cannot genuinely rationally understand ethical issues from a meta point of view, namely, a position that is not placed within the sphere of ethical life. Dworkin believes that ethics research is an interpretive project, and we can only truly understand ethics as people who are committed to it as rational agents. Although Rawls does not hold such a view of meta-ethics, his advancement of political constructivism, in the same vein as Dworkin, claims a different standard of objectivity apart from the one in meta-ethics. It is just that Rawls’s departure from the meta-ethical discourse, unlike Dworkin’s divergence, is motivated by the fact that meta-ethical debates are too contentious for political purposes. The whole starting point of the project of political liberalism, which is the fact of reasonable pluralism, is to unbolt the justification of liberalism from the shackle of metaphysical standards of evaluation. Nevertheless, political liberalism’s departure does not mean that it commits to ethical subjectivism; rather, it can still politically construe an objective standard for its purpose in the political domain.⁶⁴

4.3 Step 3: Reasonableness as the Standard of Objectivity

⁶³ For Dworkin’s detailed explication on his objections of meta-ethics see Ronald Dworkin, “Objectivity and Truth: You’d Better Believe It,” *Philosophy & Public Affairs* 25 (1996): 87-139; *Justice for Hedgehogs* (Harvard University Press, 2011) Chapter 2-4.

⁶⁴ For the sake of proving political constructivism’s eligibility of producing objectivity, Rawls reviews six widely recognized essential elements of a conception of objectivity and argues that political constructivism covers all of them. See Rawls’s detailed explication in *Political Liberalism*, 110-112.

The plausibility of constructing a practical or political objectivity as a separate evaluative standard from metaphysical objectivity nevertheless faces a severe challenge. Leif Wenar argues that although political constructivism avoids controversy about the truth of moral judgments, it cannot avoid controversy about the sources of normativity. The epistemic question of “what is true or correct” is decided by the comprehensive doctrines all the way down, which leaves no room for any other epistemology in the political domain. For instance, a moral realist will never recognize a political standard shaped by political constructivism. And a Catholic not only would think that “God’s word is authoritative on matters of justice”, she would also believe that “there is no other source of authority on such matters.” See Leif Wenar, “Political Liberalism: An Internal Critique,” *Ethics* 106 (1995): 55.

In the same vein, Samuel Scheffler also argues that Rawls’s insistence on preferring the politically constructed objectivity to moral truth has negated his aim of bringing out political constructivism, which is to gain as many consensuses that have been excluded by the idea of moral truth. See Samuel Scheffler, “The Appeal of Political Liberalism,” *Ethics* 105 (1994): 20.

Political constructivism is not an epistemic model that starts its construction from scratch. Instead, for political constructivism, “not everything is constructed, we must have some material... from which to begin.”⁶⁵ Political constructivism relies on certain existing social presumptions as the structure and form with which to start the construction. The principles of political justice are the outcome of the procedure of construction, which is essentially based on practical reason. The structure and form from which political constructivism begins its construction is “a rather complex conception of person and society”.⁶⁶ The person is seen as someone belonging to a political society as a fair system of social cooperation, and is said to possess two moral powers, “a sense of justice” and “a sense of a conception of the good”, namely, being both reasonable and rational.⁶⁷ If we accept the original position as “a procedural device of representation” which is simply “laid out”, it follows that, reasonable and rational persons under reasonable, or fair, conditions, will select certain principles of justice.⁶⁸ “Political constructivism specifies [the] idea of the reasonable and applies this idea,” instead of the concept of truth, “to its subjects: conceptions and principles, judgments and grounds, persons and institutions.”⁶⁹ Therefore, according to Rawls, the idea of reasonableness is such a criterion which is fundamental, compelling and objective enough for us as the benchmark in the political domain.

For Rawls, the term reasonableness “refers to the fair terms of social cooperation, and involves a notion of reciprocity and mutuality among people.”⁷⁰ Reasonableness is defined by Rawls from two aspects of what counts as a reasonable person. The first basic aspect, Rawls argues, is the “willingness to propose principles and standards as fair terms of cooperation and to abide by them” given the assurance that others will likewise do so.⁷¹ The second basic aspect is “the willingness to recognize the burdens of judgment and to accept their consequences for the use of public reason in directing the legitimate exercise of political power in a constitutional regime.”⁷²

The public characteristic of the reasonable or reasonableness is clear now. By being reasonable, “we enter the public world as equals of others and stand ready to propose, or

⁶⁵ John Rawls, *Political Liberalism*, 104.

⁶⁶ See *ibid.*, 93.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, 103.

⁶⁹ See *ibid.*, 94.

⁷⁰ Samuel Freeman, *Rawls* (Routledge collection, 2007) 296.

⁷¹ John Rawls, *Political Liberalism*, 54.

⁷² *Ibid.*

accept” fair terms of cooperation with others.⁷³ In as much as we are reasonable, we are ready to work out the framework, which is “reasonable to expect everyone to endorse and act on provided others can be relied on, to do the same,”⁷⁴ for the public social world. An expectation of reasonableness, being able to justify our actions to others, is therefore, the necessary condition for striving for a public basis of justification.

Religious disagreements are, to a certain extent, not public in the way I have presented above. Debates about religious doctrines, religious rules and religious rituals within each religion or among different religions belong to the domain of comprehensive doctrines’ discussion. It is also not always the case that a society is organized on fair terms of social cooperation among participants, since religious communities can function in a variety of ways. Nevertheless, unless we are talking about a closed or a semi-closed religious community like the Amish community, which rarely interacts with or is affected by the outside world, we can say that if a religious believer is also a citizen or a society member of a constitutional democratic society and would like to associate with the society, he or she enters the public world just like everyone else. The expectation of taking others’ interests into account, namely being reasonable, also applies. As a matter of fact, such an expectation of being reasonable or reasonableness is the prerequisite for them to share a public world with others who have differing religious and moral convictions. As an active participant in the society, a religious believer needs to go further than just tolerating others; she also needs to be able to justify political principles to others. A reasonable religious believer, who lives in a constitutional regime, is someone willing to propose and abide by fair terms of social cooperation, to accept the fact of reasonable pluralism (the fact that different people tend to form different religious and moral convictions), and to find a public basis of justification in terms of the legitimate exercise of political power.

To summarize the three steps above, firstly, the basic assumption of the fact of reasonable pluralism does not constitute a subjectivism of reasons. Secondly, even if we concede that subjectivism of reasons has the propensity to partially contribute to the reasonable disagreements about comprehensive doctrines, the goals of public justification are not then susceptible to subjectivism of reasons; rather, the public justification the consensus approach aims for can be “objective”. The third step is that the objective standard of the consensus approach of public justification is a notion of reasonableness, which relies on the notion of a reasonable person. And this notion of reasonableness is shareable among reasonable citizens in a democratic society. Therefore,

⁷³ Ibid., 114.

⁷⁴ Ibid., 53-54.

Gaus's conceptual link between subjective human reasons and reasonable disagreements about justice is untenable, and reasonable disagreements about justice are not as boundless as Gaus suggests. The next question is: to what degree can the reasonable disagreements about justice be extended? Can reasonable disagreements about justice be categorically differentiated from reasonable disagreements about comprehensive doctrines? And if so, on what basis?

V. The Relationship between Reasonable Disagreements about Justice and Comprehensive Doctrines

In this section, I am going to show that reasonable disagreements about justice are not as fundamental as reasonable disagreements about comprehensive doctrines. I shall make two major arguments in this section. First of all, I argue that, in contrast with what many have alleged, the consensus approach does not neglect, let alone deny the possibility of reasonable pluralism of justice. The challenge engendered by reasonable disagreements about justice, however, does not upset the provision of forming an overlapping consensus and depleting the content of public reason. As a matter of fact, the whole project of political liberalism is built upon the awareness of reasonable pluralism of justice and also the aspiration of evolving it. Secondly, I shall introduce a distinction between reasonable disagreements about justice and reasonable disagreements about comprehensive doctrines advanced by Jonathan Quong, responding to the claim that the equivalent fundamental reasonable pluralism of justice as reasonable pluralism of comprehensive doctrines unravels the consensus approach's project. In short, reasonable disagreements about justice are not as fundamental as disagreements about comprehensive doctrines after all.

5.1 Reasonable Disagreements about Justice: Presupposed by the Consensus Approach

As shown previously, given *A Theory of Justice (TJ)*'s failure in solving the congruence of justice and the good, *Political Liberalism (PL)* revised the theory due to the fact of reasonable disagreements about comprehensive doctrines; nevertheless, it does not mean that *PL* presumes no such reasonable pluralism about justice. In fact, Rawls has been aware of the reasonable disagreements about conceptions of justice since the beginning of the project of political liberalism.⁷⁵ As a matter of fact, he understands that it is

⁷⁵ "In addition to conflicting comprehensive doctrines, *PL* does recognize that in any actual political society a number of differing liberal political conceptions of justice compete with one another in society's political debates." John Rawls, *Political Liberalism*, lvi.

precisely the reasonable pluralism of comprehensive doctrines that shows that the conception of justice as fairness is “unrealistic”.⁷⁶ It is impossible in a well-ordered society’s for all of its’ citizens to endorse this conception of justice as fairness as a comprehensive doctrine. It is exactly this awareness that inspires the project of political liberalism. Rawls contends that *PL*’s main aim is to show “how a well-ordered society can be formulated given not only the fact of reasonable pluralism of comprehensive doctrines but also a *family* of reasonable political conceptions of justice.”⁷⁷ Besides justice as fairness, Rawls believes that there are other reasonable political conceptions that can be part of an overlapping consensus of reasonable comprehensive doctrines, so long as they are reasonable and accept the fact of reasonable pluralism. Therefore, public reasoning can be conducted on the basis of reasons specified by a family of reasonable political conceptions of justice which can be endorsed by all reasonable citizens. Additionally, as public reason is specified not by one conception but a family of political conceptions of justice, which are bound to evolve over time and over debates, the content of public reason is by no means “fixed”.⁷⁸ Reasonable disagreements about conceptions of justice along with their evolvments, are thus actually to be expected as the subject matter of public reason.

5.2 Reasonable Disagreements about Justice: Justificatory but Not Foundational

Jonathan Quong has introduced a distinction between two different types of reasonable disagreements to illustrate that reasonable pluralism about justice is not the type that poses a serious challenge to the consensus approach’s main claim. Quong distinguishes what he calls *foundational disagreement* from *justificatory disagreement*. The former is “characterized by the fact that the participants do not share any premises serving as a mutually acceptable standard of justification.”⁷⁹ The reasonable disagreements about comprehensive doctrines are foundational disagreements. The latter one, on the contrary, is the type that participants “do share premises which can serve as a mutually acceptable standard of justification,” yet “they still disagree about some substantive conclusions.”⁸⁰ And the reasonable pluralism about justice belongs to this type of justificatory disagreement. Quong argues that a political conception’s public justification can still be met “when the state imposes a view that arises out of a justificatory disagreement”⁸¹ as

⁷⁶ Ibid., xix.

⁷⁷ Ibid., xlviii.

⁷⁸ See *ibid.*, lii-liii.

⁷⁹ Jonathan Quong, *Liberalism without Perfection*, 193.

⁸⁰ Ibid.

⁸¹ Ibid., 204.

long as it is free from foundational disagreement. Therefore, the so-called reasonable pluralism about justice shall not pose too much of a challenge to the consensus approach's account of public justification. Quong makes an analogy between a justificatory disagreement and a filter, which "ensures that any values or arguments in public debate will be at least mutually acceptable" if they are reasonable, but "it does not guarantee that all the participants will agree on the exact weight or ranking of those values or principles."⁸²

Let me illustrate the difference between foundational disagreement and justificatory disagreement by a scenario of a debate among three friends regarding the issue of same-sex marriage. Say, hypothetically, three students Allan, Brian, and Carrie are discussing the legality of same-sex marriage.⁸³ Allan says, setting aside the legal question, from the perspective of morality, I believe that gay marriage is immoral, as according to the Bible, marriage is only between a man and a woman. Since the moral authority derives from God's command, only a marriage that takes place between a man and woman can be morally good. Carrie disagrees. Carrie rejects the idea that the Bible or God's commandments can be valid sources of morality. Rather, a same-sex marriage is two people's private affair which does not affect or hurt anyone; thus, it is not immoral at all. At this moment, Brian joins this debate too. Brian's point is not about the morality of gay marriage, but about the justice of legalizing gay marriage. Brian says, I believe it is unwise to legalize same-sex marriage. Firstly, some empirical studies have shown that children do less well when they are raised by same-sex parents than by heterosexual parents. Besides, the legalization might require some members of the clergy to perform ceremonies that violate their religious freedom, the fundamental constitutional right guaranteed in the first amendment of constitution. Carrie still disagrees. Carrie believes that the exclusion of gay couples from marriage hurts their equal dignity, and hence same-sex couples should not be discriminated against. The function of "religious freedom" articles should be the benchmark for exemptions to general laws, rather than a set of rules for a certain group of people. Also, Carrie says that permitting same-sex marriage would actually benefit children as more homeless children could be adopted.

In the debate between Allan and Carrie, the disagreement they have is a foundational disagreement about the morality of same-sex marriage. They disagree with each other at the level of ultimate convictions of human life and there is no common standard of justification as the basis for evaluating their debate. That is precisely why

⁸² Ibid., 207.

⁸³ The form of illustrating foundational disagreement and justificatory disagreement by means of a hypothetical conversation between Allan and Carrie and the later conversation between Brian and Carrie is inspired by Quong's two separate examples in *Liberalism without Perfection*, 204-206. Except, I deploy the form in one consistent instance relating to a more recent debating issue.

reasonable disagreement of comprehensive doctrines is foundational; there is no shared justificatory framework for assessing the disagreement. Their fundamental divergence lies in whether God's divine command or scripture could serve as a moral basis. Allan agrees whereas Carrie disagrees with such a fundamental moral presumption. It is impossible to decide whether Allan or Carrie is right in this debate, and their argument will require us to reflect on the issue of whether God exists and whether his commands should be the fundamental moral authority. However, the standard of evaluating these issues is certainly under serious dispute. The disagreement between Brian and Carrie, however, is a justificatory disagreement about marriage justice. In their debate, we can see that they both accept the fact of reasonable pluralism. Neither of them appeals to their comprehensive doctrines in their debate. Besides, they both aim to find the best answer to this question which is accessible and shareable for everyone. Brian believes the protection of religious liberty should take priority in this issue, while Carrie insists on the primacy of the values of equality and anti-discrimination. And they both believe their positions are the best interpretation of the ideal or concept of marriage justice.

VI. Political Liberalism as an Interpretive Project

Thus far, the two arguments in section five have illustrated two points. Firstly, the extent of reasonable disagreements about justice are not as deep as critics reckoned; reasonable disagreements about justice only exist at the level of justificatory disagreements, differing from reasonable disagreements about comprehensive doctrines that occupy the fundamental level in terms of ultimate convictions and human purposes. And secondly, reasonable disagreements about justice are presupposed by the project of political liberalism, and as a matter of fact, they encourage and propel interpretations of justice. However, Quong's arguments have not provided sufficient justification for these two points. In the previous subsection, I introduced Quong's argument of distinguishing reasonable pluralism of justice from reasonable pluralism of comprehensive doctrines by differentiating justificatory disagreements and foundational disagreements. While foundational disagreements are disagreements about ultimate convictions and human purposes all the way down with no agreements anywhere at all, justificatory disagreements are actually disagreements on the basis of foundational agreement. Then the question becomes, what is the foundational agreement? Similarly, why can we be sure that differing interpretations of justice encourage us to understand the idea of justice better, rather than further diverting us from it?

For Quong, in the previous example, in spite of Brian and Carrie's reasonable disagreements about justice, they still share the fundamental normative framework

insofar as they both abstain from engaging in comprehensive doctrines for solving political problems. In other words, they share a commitment to finding a political solution to political problems.⁸⁴ First of all, Brian and Carrie as social participants both believe that the society should be a fair system of social cooperation between free and equal citizens. Secondly, they both agree that their effort in finding the best interpretation of justice should be done based on setting aside the reasonable pluralism of their comprehensive doctrines. In other words, they believe that their argument should appeal to political values that are independent of any comprehensive doctrine. Such a foundational agreement manifests the minimal ideal of reasonableness, which according to Quong, consists of three basic premises of the project of political liberalism: (1) a fair, social, cooperative society constituted by (2) free and equal citizens who recognize (3) the fact of foundational reasonable pluralism.⁸⁵ It is the shared understanding of these premises that precludes reasonable citizens from relying on sectarian comprehensive doctrines and that makes them accept the freestanding character of principles of justice. For Quong, these premises are conceived as constituents of a reasonable citizen.⁸⁶ Likewise, in replying to Habermas's question of whether political liberalism uses the reasonable to express the truth or validity of moral judgments, Rawls expresses a similar view:

“Political liberalism does not use the concept of moral truth applied to its own political judgments...political liberalism uses reasonable or unreasonable to make political judgments...It lays out political ideals, principles, and standards as criteria of the reasonable, which in turn is connected with the two basic aspects of reasonable persons as citizens...For the political purpose of discussing questions of constitutional essentials and basic justice, the idea of the reasonable is sufficient.”⁸⁷

However, the ideal of reasonableness as such seems severely insufficient to me. Instead

⁸⁴ Ibid., 205.

⁸⁵ See *ibid.*, 214. Quong's statements about the foundation of justificatory disagreements are: “It is the commitment to society as a fair system of social cooperation between free and equal citizens, and the acceptance of the burdens of judgment that provides a shared foundation or normative framework necessary to defuse the asymmetry objection.”

⁸⁶ See *ibid.*, 291. Quong says that, “Unreasonable citizens reject at least one, but usually several of the following: (a) that political society should be a fair system of social cooperation for mutual benefit, (b) that citizens are free and equal, and (c) the fact of reasonable pluralism. In rejecting any of the three ideas above or their deliberative priority, unreasonable citizens necessarily reject the project of publicly justifying political power.”

⁸⁷ John Rawls, *Political Liberalism*, 394-395.

of treating those three points as premises of reasonableness as the moral foundation of political liberalism, my answer to those two questions proposed in the beginning of this section takes a different path.

As far as I am concerned, the deficiency of Quong's plan, and also of Rawls's construction of objectivity standard in *PL*, is the incapability of reasonableness adequately to serve as a moral foundation for political liberalism. If we ask why reasonable citizens share those premises as reasonable people, the only way to answer would be that otherwise they are being unreasonable, which to some extent ends the pursuit of an answer to that question. Moreover, the ideal of reasonableness works as a reflective second-order notion rather than a substantive first-order notion, in that reasonableness denotes the attitude (or willingness, as Rawls puts it) which sets a restriction on how reasonable citizens decide on the principles of justice, while it articulates no substantive political values or makes no claims pertaining to our constructions or propositions of conceptions of justice. The problem is, under the guidance of a reflective second-order notion, it is hard to fathom how reasonable disagreements about justice are anticipated by political liberalism and even would be able to promote our understanding of justice. Additionally, it is also unclear exactly how a *family* of conceptions of justice in the overlapping consensus comes about. The reflective second-order notion of reasonableness, however, is insufficient to serve as such a substantive moral ideal. The appreciation of reasonableness as a shared constraint on reasonable citizens contributes little to explaining away the instability brought by reasonable disagreements about justice, not to mention illuminating the prospect of an overlapping consensus on political principles of justice.

Therefore, I believe that the response to the asymmetry objection calls for a morally more robust foundation than the notion of reasonableness or a reasonable person. Such a notion should, on the one hand, be compatible with the fact of reasonable pluralism, and on the other hand be able to fit the liberal political practices and also lead the development of conceptions of justice along with social changes. Dworkin's suggestion of launching the project of political liberalism as an interpretive project seems like a promising candidate for directing the way toward such a notion,⁸⁸ for two reasons: for one thing, an interpretive light corresponds with the practical sensitivity of political liberalism; moreover, considering political liberalism as an interpretive project precisely explains Rawls's vision that a family of reasonable political conceptions of justice is bound to evolve along with social and institutional practices.

According to Dworkin, a successful interpretation of the concept of justice in a

⁸⁸ See Ronald Dworkin, *Justice for Hedgehogs*, 63-66.

liberal democratic society includes two dimensions: one, it should fit the contemporary liberal institutional and social practices, and two, the interpreted conception should also put the practices in the best light, that is to say, it should also manifest the values that the practices serves.⁸⁹ On the basis of Rawls's distinction of "concept" and "conception" in *TJ*, Dworkin has elaborated them further in *Law's Empire*.⁹⁰ For concepts like justice (concepts like democracy, liberty, equality, law and so on are all the same kind), we in general "agree about the most general and abstract propositions" about it and we share a practice of "judging acts and institutions as just and unjust", but we "disagree about more concrete refinements or interpretations of these abstract propositions."⁹¹ People can share the concept of justice in spite of sharp disagreements about, for instance, both the criteria for identifying justice and about which institutions are unjust. Concepts like justice actually encourage us to reflect on and contest its practice. We can share such a concept while we do not have to share their instances. On the one hand, we "share the concept of justice in complex political practices" which require us to "interpret these practices in order to decide how best to continue them."⁹² On the other hand, the concept of justice is elaborated by us "assigning value and purpose to the political practice", so that we form views of the particular conceptions of justice "in light of the purpose and values".⁹³ An illuminating analysis of the concept of justice "must deploy... the value that the practice [of justice] should be taken to serve and of the conceptions of the concepts in play that best serve those values."⁹⁴ It is also the reason that a useful analysis of the concept of justice cannot be entirely value neutral. The argument we are having over reasonable disagreements about conceptions of justice is an effort to find the best interpretation of the concept of justice. The subject matter that we are arguing about when it comes to public reason and trying to reach a public justification for is about a family of conceptions of justice, whilst it is the basic and also relatively general concept of justice that supplies the standard for our public reason. Therefore, the distinction between concept and conception helps us understand that firstly, a compelling theory of justice is in itself very likely to be controversial. Moreover, the controversies of interpretive concepts such as justice are not random controversies, but are guided by the underlying values of the concept. In this sense, it is solid to argue

⁸⁹ See Ronald Dworkin, *Justice in Robes* (Cambridge: Harvard University Press, 2006) 15.

⁹⁰ John Rawls made the distinction in *A Theory of Justice* (Harvard University Press, 1971) 5, while this pair of distinctions was wielded to a more prominent extent in *Law's Empire's* first chapter.

⁹¹ Ronald Dworkin, *Law's Empire* (Cambridge: Harvard University Press, 1986) 70. Ronald Dworkin, *Justice in Robes*, 224.

⁹² Ronald Dworkin, *Justice in Robes*, 12.

⁹³ See *ibid.*

⁹⁴ *Ibid.*, 225.

that reasonable disagreements about conceptions of justice are rather encouraged, and they promote our understanding of the concept of justice in our political practices.

VII. The Moral Foundation of Political Liberalism

In putting political liberalism under the light of interpretivism, it is important to note that an interpretive project cannot be a morally trivial one. Any interpretation of a political tradition must choose among very different conceptions of what that tradition embodies and “take some to be superior and hence to provide a more satisfactory justification than others.”⁹⁵ Accordingly, the political constructivism adopted by political liberals must “construct” toward some substantive moral ideals “that provide the best account and justification of the liberal traditions of law and political practices.”⁹⁶ Political liberalism understood as an interpretive project requires us to identify these ideals or values underlying its political and legal practice. Inasmuch as the fundamental commitment to the ideal of justice is shared, the interpretations of justice will steadily progress under the guidance of its core values.

It is a prevalent misunderstanding that *PL* recasts its commitment to justice in *TJ* as it has shifted its focus to the legitimacy of conceptions of justice. However, this does not mean that *PL*'s quest for legitimacy is irrelevant to *TJ*'s concern for justice. Contrariwise, the public justification of the legitimacy of political institutions cannot be achieved if it is fundamentally at odds with basic tenets of justice. The achievement of political conceptions' legitimacy must be conducted upon the fundamental aspiration of justice. The project of political liberalism is intrinsically committed to justice in spite of the reasonable pluralism about comprehensive doctrines. In the project of political liberalism, reasonable citizens still search for the most appropriate or the best conceptions of justice. Political liberalism has included more conceptions or interpretations of justice since legitimacy (its goal) is less stringent than only the truth of justice, which is what sets political liberalism apart from the undertaking of *TJ*.

As what I argued in the previous chapter, the fact of reasonable pluralism makes us consider that what essentially matters in politics is not *the truth of the comprehensive doctrines* ascribed to by the people, but *the people* who hold differing comprehensive doctrines. Therefore, that a liberal state should refrain from imposing the truth claim of any

⁹⁵ See Ronald Dworkin, *Justice for Hedgehogs*, 66. Jeremy Waldron also laments the notion that we are losing real open-ended public debate in exchange for a form of reasonableness consisting of “bland appeals to harmless nostrums that are accepted without question on all sides.” See Jeremy Waldron, “Religious Contribution in Public Deliberation,” *San Diego Law Review* 30 (1993): 842.

⁹⁶ See Ronald Dworkin, *Justice for Hedgehogs*, 66.

particular comprehensive doctrine is not because of the merit of any other comprehensive doctrine, but rather out of respect for those citizens who hold those doctrines. And Charles Larmore also suggests that the fundamental basis of public justification is the equal respect for persons.⁹⁷ Yet, the equal respect in Larmore's term is as inadequate as reasonableness for political liberalism, for it is also a second-order claim, thus it falls short of providing a first-order substantive moral basis for political liberalism.

By contrast, I conceive equal respect as a first-order substantive basis of justice in the domain of the political for political liberalism. Equal respect for people is shown as a vindication of three main pillars of political values: freedom, equality, and fairness, all of which are embodied in those three basic premises of a reasonable person. In contrast to what Quong and Rawls have argued, those basic premises of political liberalism are neither facts nor *ex ante* assumptions of political liberalism as a package deal. Instead, those premises have identified the most important political values of freedom, equality, and fairness that reasonable citizens accept as valuable, which constitute what counts as equal respect for people, the cornerstone of justice in the political domain. These values are so fundamental to liberal political practice that a better understanding of these values will help us better understand what is just and what is not.

Specifically, firstly, citizens are free and equal in the sense that each possesses these two moral powers: (1) "the capacity to form, revise, and rationally pursue a conception of one's rational good", and (2) "the capacity to understand, to apply, and act from a public conception of justice."⁹⁸ Furthermore, the value of fairness is embodied by fair terms of social cooperation and the requirement that every citizen understands that they cannot impose their comprehensive doctrines on others. As Samuel Freeman has made clear, reasonable people act in ways that can be justified to others and are willing to abide by fair terms of social cooperation for their own sake. If a person "takes advantage of every opportunity" to favor him and only himself, "but in doing so is insensitive to the interests of others and does not care about the adverse effects" inflicted upon them, then "he is acting unfairly and is being unreasonable."⁹⁹

Critics tend to confuse the consensus of "the consensus approach" with the consensus in the concept of "overlapping consensus" so that they believe the consensus approach pursues an actual consensus in public reasoning. At one point, Gaus claims that the consensus approach Rawls and Macedo advocate is a populist theory of public

⁹⁷ See Charles Larmore, "The Moral Basis of Political Liberalism," *The Journal of Philosophy* 96 (1999): 621.

⁹⁸ John Rawls, *Political Liberalism*, 19.

⁹⁹ Samuel Freeman, *Rawls*, 296.

justification which takes popular acceptance as its goal, hence is not a justificatory theory.¹⁰⁰ I believe that I have already shown that this is a misunderstanding of the consensus approach. The consensus approach is not concerned with a unanimous consensus about the conception of justice, but about the way reasonable citizens deliberate. The consensus that “the consensus approach” aims for is the manner of shareable public reason in public reasoning. Perhaps a minor adjustment of expression in *PL* would have been of some help to make this clearer. Rawls describes the endorsement of citizens of an overlapping consensus of comprehensive doctrines as something they were “expected to endorse”. Given the consensus approach’s insistence on distinguishing an overlapping consensus from a *modus vivendi* by sincere moral support, it is understandable that many critics take this endorsement as amounting to agreeing to the justification of such a consensus as morally right. Nevertheless, it is not how Rawls or other public reason liberals understand “expected to endorse”. Also, taking the endorsement as a fully moral agreement has overlooked the initiative of political liberalism. The more accurate understanding of such endorsement perhaps should be cast in light of a Scanlonian sense of “cannot reasonably reject”.¹⁰¹ After a public deliberation on a law’s legitimacy that is conducted by shareable public reasons, citizens would have no reason to reject the result even though they still do not believe that result is morally correct. Let us go back to the earlier hypothetical debate between Brian and Carrie about the justice of legalizing same-sex marriage. As a matter of fact, it is very likely that after serious debates Brian and Carrie will still disagree with each other. However, it would be acceptable for both of them if the state were to act on the basis of either of their arguments. That is to say, Brian cannot reasonably reject or he can reasonably be expected to endorse the state’s decision resting on Carrie’s reason even if he does not believe it is the best or even correct reason, and vice versa. This is because their reasons are mutually acceptable to each other because they both share the premise that the society is fair, citizens are free and equal, and everyone accepts the fact of reasonable disagreement of comprehensive doctrines. And they share those premises because they are morally correct. Plus, religious liberty, non-establishment and anti-discrimination are all important political values that both Brian and Carrie are committed to. The key point is that both Brian and Carrie’s decisions in that debate are different interpretations of justice that are both in accordance with equal respect for people, and thus are expected to be accepted by all reasonable citizens. Therefore, in a dispute regarding a certain law’s legitimacy, by offering such reasons to each other in

¹⁰⁰ See Gerald Gaus, *Justificatory Liberalism: an essay on epistemology and political theory*, 132.

¹⁰¹ See T. M. Scanlon, *What We Owe to Each Other* (Harvard University Press, 1998) 4-10, 33, 85, 106, etc.

public discussions, reasonable citizens can be expected to endorse the legitimacy of a family of conceptions of justice even when they have reasonable disagreements about them.

The consensus approach's retreat from committing to any comprehensive doctrine does not mean it loses its commitment to justice. The key to upholding the consensus approach's account of public justification is that reasonable citizens share these foundational premises, for they are the most fundamental values for understanding what equal respect is in a liberal society. The reason why citizens share foundational premises precisely lies in the common ground of their claim to shareable public reason for public justification. These political values are tied to the principles of political justice and facilitate fair social cooperation over time. Therefore, these political values are not, like their critics have implied, a coincidental overlapping consensus that happens to have emerged from the convergence of every citizen's comprehensive doctrines. Rather, they are the very values that manifest the equal respect people have for each other in a liberal democratic society that political liberalism stands for and the firm basis on which reasonable citizens can conduct public reasoning.¹⁰² Rawls and other political liberals advocate that a theory of justice must be presented in a way that is independent of any comprehensive doctrine. I still believe that they are absolutely right about that, but the only exception, the only particular comprehensive doctrine that we are committed to, is equal respect for people as the basis for a just political life, which appreciates the political values of freedom, equality and fairness. At the end of the day, I believe a political project of liberalism has made one truth claim that it has not given explicit voice to, which is the equal respect for people consolidated by fairly treating citizens as equal and free moral persons, certainly still confined in the domain of the political. It is this claim that sets political liberalism apart from populist politics.

One last point before concluding. Along with Dworkin, I also believe that political liberalism is better seen as an interpretive project, which fits with Rawls's claim of the evolvment of conceptions of justice along with social and institutional practice. And I also believe that political liberalism must call for a morally more substantive concept than the second-order notion of reasonableness for the purpose of interpretation. But I also think we need not go as far as Dworkin hopes for. Dworkin argues that "a useful analysis

¹⁰² In "The Idea of Public Reason Revisited", Rawls said that, "Political liberalism holds that even though our comprehensive doctrines are irreconcilable and cannot be compromised, nevertheless citizens who affirm reasonable doctrines may share reasons of another kind, namely, public reasons given in terms of political conceptions of justice...public reason is a way of reasoning about political values shared by free and equal citizens that does not trespass on citizens' comprehensive doctrines so long as those doctrines are consistent with a democratic polity." See John Rawls, "The Idea of Public Reason Revisited", 805, 807.

of an interpretive concept must join issue in the controversies it hopes to illuminate".¹⁰⁵ However, we do not need to get involved in controversies in comprehensive doctrines to grasp the understanding of justice. The only concession regarding truth claims that political liberalism has to concede is the respect for people, which consists in respecting them as free and equal moral persons, and treating them fairly.

VIII. Concluding Remarks

This chapter examines two major critiques of the consensus account of public reason from the alternative approach, the convergence approach. The convergence approach opposes liberals' consensus justification for secularism, established on the basis of shareable public reason, which inevitably excludes religious reasons and arguments from the public sphere. Instead, the convergence approach calls for a wide inclusion of all moral and religious points of view held by each citizen in public reason. In general, the convergence approach raises four major arguments against the consensus approach of public justification, targeting two aspects, with each aspect also generating two critiques. The general two aspects are the plausibility of having shareable public reason and the desirability of utilizing shareable public reason. This chapter mainly discusses the two critiques from the first perspective: shareable public reason's plausibility. The convergence approach points out that due to the fact of reasonable pluralism the consensus approach is wrong in presuming the shareability of human reason in general (the subjectivism critique), and because of this, the consensus approach's account of public justification also suffers from reasonable disagreements about justice (the asymmetry critique).

The realization of the fact of reasonable pluralism prompts Rawls's turning from *TJ* to *PL*. He realizes that, due to the fact of reasonable disagreement about comprehensive doctrines, it is unstable to insist on the conception of justice as fairness. Therefore, he advances the project of political liberalism to argue that in spite of reasonable pluralism, there can be a family of political conceptions of justice that are supported by political values which are expected to be endorsed by all reasonable citizens with common public reason that is shareable. A family of political conceptions of justice which have met such a condition can serve as a basis for public reason and justification. In this chapter, I have argued that, as an interpretive project, political liberalism ultimately is committed to and honors the equal respect we have for people manifested by the political values of freedom, equality and fairness, which is the baseline of justice in political life. The foundational commitment to equal respect in turn sets a limit to the fact of reasonable

¹⁰⁵ Ronald Dworkin, *Justice in Robes*, 225.

pluralism in the political sphere. The fact of reasonable pluralism does not frustrate the project of *TJ*; rather, the development of the project of political liberalism in its awakening also carries on *TJ*'s endeavor of justice, and furthermore, enriches it with more possibilities for our increasingly diverse liberal societies.