

# Convergence and Consensus in Public Reason

Kevin Vallier

Reasonable individuals often share a rationale for a decision but, in other cases, they make the same decision based on disparate and often incompatible rationales. The social contract tradition has been divided between these two methods of solving the problem of social cooperation: must social cooperation occur in terms of common reasoning or can individuals with different doctrines simply converge on shared institutions for their own reasons? For Hobbes, it is rational for all persons, regardless of their theological beliefs, to consent to the sovereign's power.<sup>1</sup> But for Locke, only Protestants with a shared theology could be party to the social contract.<sup>2</sup> Rousseau thought that private reasons are not part of the general will and in Kant's hypothetical contract, pure noumena reach common principles for the social order through the same reasoning process.<sup>3</sup> In *Theory of Justice*, John Rawls agreed with Rousseau and Kant: selecting the principles of justice requires modeling parties to the original position as having identical reasons.<sup>4</sup> But in *Political Liberalism*, he embraced the idea of an overlapping consensus, which accords distinct reasons justificatory force.

The social contract tradition recognized that political legitimacy could not rest on a comprehensive theology, as theology was subject to radical disagreement. The liberal political project arose as an attempt to locate an impartial method of political justification despite these differences. If only implicitly, all the social contract theorists grappled with what Rawls called "the fact of reasonable pluralism," i.e., that the free exercise of reason leads to pervasive and persistent disagreement about even life's most important questions.<sup>5</sup> Hobbes, Locke, Rousseau, Kant and Rawls (quite a group) sought agreement despite disagreement. They sought a common point of view in the face of disparate points of view.

When Rawls drew political theorists' attention to the challenge of reasonable pluralism, he inaugurated a new era of *public reason liberalism*, the tradition within liberal political theory that holds that coercion must be justified to all on terms they can reasonably be expected to endorse. This is to say that each and every reasonable member of the public must have good reasons to endorse the laws (or, for Rawls, constitutional essentials) of their society if they are to be treated as free and

---

<sup>1</sup> Hobbes 1994, p. 90.

<sup>2</sup> Locke 2003, p. 245. [1688 reference]

<sup>3</sup> Rousseau 1997, p. 60; Kant [1797] 2009, pp. 24-26.

<sup>4</sup> Rawls 1971, p. 12.

<sup>5</sup> Rawls 2005, p. xvii.

equal.<sup>6</sup> But the public reason tradition, like the social contract tradition as a whole, remains ambiguous between shared and diverse conceptions of justificatory reasons, what I shall call *consensus* and *convergence* interpretations of public reasons. A consensus conception of reasons requires that public reasons have some common features, such as being shareable or accessible to all; convergence rejects such requirements. Hence public reason liberalism must decide whether public justification restricts justificatory reasons to the set of shared reasons or whether it can fully accommodate the disparate and inevitably divergent reasoning of all.

This essay asks public reason liberals to opt for convergence. For only by embracing convergence can public reason liberals truly respect reasonable pluralism and individual liberty. By restricting the set of permissible reasons, public reason liberals inevitably discriminate against some reasonable individuals by privileging the reasoning of others. These individuals are thereby partly excluded from being recognized as reasonable. Such citizens are also often asked to restrain themselves from employing their private reasons in public political advocacy; in so asking, public reason liberals insist that such citizens restrict their liberty and, implicitly or explicitly, threaten to blame them should they do otherwise (ft).

While consensus views have been criticized, positive defenses of convergence are limited to Jeffrey Stout and Gerald Gaus.<sup>7</sup> Criticisms of these defenses are rarer still, but several have appeared in the last several years. This essay aims to defend convergence by meeting these new criticisms in six steps. Section I situates the consensus-convergence distinction within the structure of public reason liberalism. Section II offers reasons to prefer convergence to consensus. Section III focuses rejects Rawls's attempt to combine consensus and convergence. The next two sections focus on criticisms advanced by Christopher Eberle and Stephen Macedo. Section VI concludes by reflecting on the benefits of convergence and its implications for the future of the public reason tradition. Convergence is an attractive and viable alternative to the standard consensus conception of public reasons. Or so we shall see.

## I: An Overview of Public Reason Liberalism

Public reason liberalism requires that coercive laws be justified from every reasonable point of view. As stated above, the view descends from the social contract tradition of Hobbes, Locke, Rousseau

---

<sup>6</sup> Ibid., p. 137.

<sup>7</sup> For explicit defenses, see Stout 2009; Gaus and Vallier 2009.

and Kant; in the late twentieth century, the tradition was revived by John Rawls and has been extended and developed by many others.<sup>8</sup> I take public reason liberalism to consist in two foundational principles:

*The Liberty Principle:* Liberty should be the norm ... coercion always needs some special justification.<sup>9</sup> Unjustified coercion is pro tanto wrong.

*The Public Justification Principle:* A coercive action C is justified if only if each and every member of the public P has (a) conclusive reason(s) R to endorse C.

The public reason tradition is grounded in the foundational assumption that all persons are free and equal, meaning that no one has a natural duty to obey the commands of any other. For this reason, there is a presumption against interfering with or coercing others, both physically and through moral and political demands. Many contemporary liberals, including Rawls, Joseph Feinberg, Stanley Benn and Gerald Gaus, endorse a liberty principle in order to represent this fundamental commitment to respecting and preserving individual liberty.<sup>10</sup>

The public reason liberal holds that coercive laws are justified only when they satisfy the public justification principle. Coercion is justified to others in terms of their rational commitments; citizens are bound to comply with coercive laws when their own reasoning and values commit them to it. While all members of the public are subjects of justification, individuals are often idealized in that they are modeled as having consistent and well-informed commitments, cleansed of what Christopher Eberle calls “epistemic pockmarks.”<sup>11</sup> Public reason liberals also emphasize the fact of reasonable pluralism or evaluative diversity. All public reason liberals agree with Rawls: the free exercise of reason will lead to the endorsement of a plurality of values. This will hold even for idealized citizens. Thus a fundamental value of public reason liberalism is respect for the diverse reasoning of all.

The consensus-convergence distinction is specified by variable R in the public justification principle. Fred D’Agostino contrasts consensus and convergence as follows:

If both A and B share a reason R that makes a regime reasonable for them, then the justification of the regime is grounded in their *consensus* with respect to R. If A has a reason

---

<sup>8</sup> These public reason liberals include but are not limited to Thomas Nagel, Stephen Macedo, and Gerald Gaus and also include deliberative democrats like Jurgen Habermas and Joshua Cohen.

<sup>9</sup> Feinberg 1987, p. 9.

<sup>10</sup> Rawls 2005, p. xlvi; Feinberg 1987, p. 9; Benn 1988, p. 87; Gaus 2010, p. 21. Gaus has produced several versions of the principle.

<sup>11</sup> Eberle 2002, p. 200.

$R_a$  that makes the regime reasonable for him, *and*  $B$  has a reason  $R_b$  that makes the regime reasonable for her, then the justification of the regime is based on *convergence* on it from separate points of view.<sup>12</sup>

A convergence conception of reasons only requires that individuals accept laws and political proposals for their individual reasons, whereas consensus requires that laws and political proposals be accepted by reasons that have some common epistemic property like shareability. D'Agostino's definition of consensus requires that reasons be shareable, but the public justification principle is sometimes thought to merely require that public reasons be mutually accessible.<sup>13</sup>

There are therefore more than two conceptions of  $R$ , though they can be grouped under "consensus" and "convergence" headings. I shall call the conception of public reasons that includes a shareability requirement on reasons *strong* consensus. A *weak* consensus conception of reasons requires only that justificatory reasons be mutually accessible. A convergence conception of reasons rejects both shareability and accessibility. Public reason liberals often implicitly adopt a symmetry requirement on reasons.<sup>14</sup> The symmetry requirement holds that the standards that apply to reasons to propose coercive action are equivalent to reasons that reject or defeat coercive action. If we deny symmetry, one standard could apply to reasons to propose and another to reasons to reject. Thus the strong consensus, weak consensus and convergence views can be symmetric or asymmetric. This paper defends an *asymmetric convergence* standard but I shall not argue against symmetry here.

## II: Arguments for Convergence

Two arguments militate in favor of convergence: (1) convergence respects reasonable pluralism more than strong or weak consensus and (2) convergence places fewer restraints on individual liberty as explicated by the liberty principle. Public reason liberalism's fundamental values include respect for reasonable pluralism and the preservation of individual liberty. Convergence acquires a decisive advantage over the consensus alternatives if it promotes both values more effectively.

Consider argument (1). The public reason tradition holds that the proper response to reasonable pluralism is to publicly justify coercion to others in terms they can reasonably be expected to accept (or in terms of their rational commitments). Since reasonable pluralism lies at the heart of public reason, public reason liberals should assume that there is a presumption in favor of

---

<sup>12</sup> D'Agostino 1996, p. 30.

<sup>13</sup> For an extensive criticism of these standards, see Eberle 2002, pp. 234-293.

<sup>14</sup> Gaus and I argue against symmetry in Gaus and Vallier 2009, pp. 62-65.

less restrictive conceptions of reasons over more restrictive conceptions. The convergence conception of reasons *better expresses* a commitment to respecting a pluralism of values. Consensus theorists recommend norms that, when socially enforced, restrict the use of inaccessible or unshareable reasons, thereby denying citizens permission to appeal to some of their most compelling commitment considerations in their political lives. Convergence theorists agree with consensus liberals that coercive laws cannot be passed solely on the basis of one person or group's private reasons, though they place few if any restrictions on the use of reasons in political dialogue, activism or voting. In contrast, consensus theorists constrict the use of reasonable values from entering into public life; in doing so, they threaten to squelch, minimize and dismiss the full extent of reasonable pluralism. Convergence also respects reasonable pluralism by helping citizens recognize that others often have distinct reasons to endorse a proposal, and thus helps reinforce the public recognition of reasonable pluralism. By permitting a wide range of reasons into the public sphere, a constitutional democratic society *reminds its members* of the fact of reasonable pluralism. In a society concerned with public justification, reminding citizens of reasonable pluralism can promote stability, sincerity in political interactions, and increased respect for evaluative diversity, all benefits that public reason liberals value.

Argument (2) for convergence holds that it protects an extensive social domain within which individuals can live in accord with their own judgments. In short, convergence gives citizens greater freedom. Consensus restricts liberty in two ways: (i) by restricting the reasons that individuals may legitimately act upon in public political life and (ii) by restricting the range of reasons citizens may use to block the passage of coercive laws. Objection (i) is sometimes referred to as the “integrity objection” to public reason liberalism.<sup>15</sup> Consensus theorists, in requiring that public reasons be shareable or accessible, are often led to advocate principles of restraint that require one to limit the use of non-public bases of political justification and action. Citizens who violate these norms may be rightly blamed for being bad citizens. Such blame threatens ostracism from the moral community and can thereby alienate an individual from her political institutions and society as a whole.<sup>16</sup> The persistent threat of ostracism and blame counts as a significant impairment to individual liberty. Nicholas Wolterstorff (among others) has argued that public reason liberalism, in requiring restraint, requires citizens of faith to “privatize” their religious belief and to “split” their identities into public and private halves. Citizens of faith often think that they should “base their decisions concerning

---

<sup>15</sup> For an explanation, see Neal 2009, p. 159.

<sup>16</sup> I pass over the complex issue of whether consensus *in fact* implies principles of restraint. I have addressed this matter elsewhere.

fundamental issues of justice on their religious convictions” and that they will often want to “strive for wholeness, integrity, integration, in their lives.” As such, their religion is “about their social and political existence.” Thus, “to require of them that they not base their decisions and discussions concerning political issues on their religion is to infringe, inequitably, on the *free exercise* of their religion.”<sup>17</sup> To ask citizens of faith to sideline their religious convictions may therefore be a substantial restriction of their liberty. Objection (ii) holds that by restricting the range of reasons that may enter into public political life, consensus theorists deprive citizens of the power to object to coercive laws on the basis of their private values. Consequently, consensus theorists may have difficulty justifying the traditional liberal practice of religious accommodation. Public reason liberals frequently regard religious reasons as paradigmatic private reasons.<sup>18</sup> While consensus theorists defend a general right to liberty of conscience, they bar people of faith from drawing on their theological reasons to object to, say, being drafted into fighting a war. Similarly, if citizens of faith object on private grounds to having their children taught only shared and accessible values in public school, consensus theorists leave these parents with little recourse. Consensus politics is thus more invasive than convergence politics. It limits citizens’ political resources to protect their freedom.

These considerations do not, by themselves, vindicate convergence. Nevertheless, they create a strong presumption on its behalf. If the arguments against convergence can be defeated, the case for convergence is sound.

### III: Rawls’s Synthesis

Convergence seems presumptively superior to consensus, so what can the consensus liberal say in response? Given the pervasive influence of Rawls’s conception of public reason, I suggest we begin by criticizing his consensus-convergence hybrid view. To illustrate, recall the two-step structure of political justification in Rawls’s *Political Liberalism*.<sup>19</sup> (1) The first stage, the original position, generates a freestanding political conception of justice, a module that can fit within the comprehensive doctrines of all reasonable persons. In this stage of justification, the parties to the original position reason identically due to the stringent restrictions on information and reasoning behind the veil of ignorance, for “the veil of ignorance makes possible a unanimous choice of a particular conception

---

<sup>17</sup> See Wolterstorff 1997, p. 105. Emphasis mine.

<sup>18</sup> See Swaine 2008, p. 121-2 for some discussion.

<sup>19</sup> Rawls endorses three conceptions of political justification—the two above and “public justification”. See Rawls 1995, Rawls 2005, pp. 385-394. For Habermas’s critical remarks see Habermas 1995, pp. 119-122. 109-131, esp. 119-122.

of justice.”<sup>20</sup> The parties’ reasoning does not draw on their comprehensive doctrines. This “pro tanto” stage of justification might be understood as an extreme consensus stage of justification, where parties to the original position reason on precisely the same basis. (2) In the next stage, full justification, citizens of the well-ordered society test the political conception to see if it can fit within each reasonable comprehensive doctrine. In the full justification stage “it is left to each citizen ... to say how the claims of political justice are to be ordered, or weighed, against nonpolitical values. The political conception gives no guidance in such questions....”<sup>21</sup> Citizens of a well-ordered society must complete full justification themselves given their own private reasons. We might understand full justification as the convergence stage of justification.

While Rawls thinks that the first two stages of political justification are necessary to publicly justify a political conception of justice, the convergence theorist disagrees. She maintains that full justification—convergence—is the only normatively significant stage of political justification. Political institutions are justified to each person solely on the basis of her own reasons. The convergence theorist maintains that while pro tanto justification can serve as a heuristic for locating a set of potentially justified principles, it lacks its own normative force. Heuristic can arguably serve this function, since convergence reasons are a superset of consensus reasons. The convergence theorist can draw on *all* of the resources available to the consensus theorist.

Rawls might reply that the consensus or the free-standing justification is required to avoid indeterminacy in determining a conception of justice. As Rawls notes,

The veil of ignorance makes possible a unanimous choice of a particular conception of justice. Without these limitations on knowledge the bargaining problem of the original position would be *hopelessly* complicated. Even if theoretically a solution were to exist, we would not, at present anyway, be able to determine it.<sup>22</sup>

Members of the public cannot settle on clear principles of justice unless they begin political justification with a focus on developing a free-standing conception of justice. The original position helps locate a determinate set of principles.<sup>23</sup> To reduce the set of potentially justified principles to a

---

<sup>20</sup> Rawls 1971, p. 121.

<sup>21</sup> Ibid.

<sup>22</sup> Rawls 1971, p. 121. Emphasis mine.

<sup>23</sup> In his early work, Rawls wants the parties to the original position to hear complaints until everyone is “roughly of one mind” as to how complaints are to be judged. See Rawls 1957, p.656.

manageable level, Rawls builds substantive constraints into the original position. Why should anyone think that the set of potential political principles would be very large? A Rawlsian can argue that members of the public have an interest in securing the gains of social cooperation. But many sets of principles allow citizens to capture these benefits; thus the set of potential rules may vary as much as the institutional rules that have prevailed throughout recent human history. Rawls wants to identify which of these many potential principles is best. Mere convergence cannot differentiate among these many principles. While all have an interest in *some* solution to the problem of social cooperation, they may not be able to agree which is best.

The convergence theorist can reply that parties selecting a conception of justice can publicly justify a decision procedure to select political principles. Parties can do so in two steps. First, they gather potential convergence points into a set and rank them according to what citizens have most reason to endorse. The list is comprised of all political principles citizens regard as an improvement over no principle. Next, parties select a decision procedure to choose a member of the set. As long as the decision procedure is publicly justified, parties can select principles. Consider the following illustration. Suppose citizens of Alpha Centauri want to adopt a principle of distributive justice. Leaders of three political factions agree that care should be given to the least advantaged, but they disagree about how much. Senator John believes that distributive justice requires providing sufficient resources so that the least advantaged never have to work to make their way through life. Senator Reba believes that sufficient resources should be provided to the least advantaged until they reach adulthood and then distribution should be sensitive to their attempts to find employment. Senator Sarah believes that sufficient resources should only be guaranteed to those who fall into poverty through no fault of their own. All three faction leaders think agree that any of their proposals are superior to their present circumstances. Thus, any of these principles can be publicly justified in two steps. First, the three factions list their preferred principles. After extended debate no faction can convince the others that their principle is best. So parties select a majority-voting rule to decide among the three principles. In this way, all three factions on Alpha Centauri can use convergence reasoning and use a justified voting rule to arbitrate among (even voluminous) convergence points.

This two-step strategy is the social contract tradition's solution to indeterminacy—governmental institutions are justified to the extent that they can resolve disputes about rankings. Hobbes pursues this strategy by defending the use of a sovereign power and it is on this basis that



Locke and Rousseau recommend democracy.<sup>24</sup> For the convergence theorist, as long as citizens have some conclusive reason of their own to regard a decision procedure as justified the problems Rawls could raise for convergence liberals can be solved.<sup>25</sup>

#### IV: Eberle and the Agapic Pacifist

Rawls's combination of consensus and convergence is motivated by the fear that a convergence conception of public justification will yield indeterminate results. Political theory will turn up too many justifiable principles and leave citizens with no rational method of selecting among them. Christopher Eberle has advanced precisely the opposite objection: convergence justifications threaten to leave citizens without *any* principles or proposals that can be justified to all. In a recent article, Eberle points out that convergence promises to be friendlier to citizens of faith than consensus views. Eberle writes, "[I]f a citizen or public official has what she regards as decisive religious objection to some coercive measure, then that coercive measure cannot be justified to her, in which case it would be disrespectful ... to impose it on her."<sup>26</sup> Accordingly, convergence "accords to religious citizens a *potentially decisive role* in determining the legitimacy of state coercion."<sup>27</sup> Conversely, secular citizens can undermine the justifiability of coercion as well, for if a secular citizen has a decisive secular objection to some coercive measure, then it is similarly defeated. Eberle worries that as a result convergence enables secular and religious citizens (or differing groups generally) to undermine *all* reasonable proposals with respect to some key issue. Admittedly, this is the troubling dark side of convergence. If we permit a diversity of reasons, the number of points of overlapping consensus may decrease dramatically. Now this concern is mitigated by the fact that convergence permits more reasons to endorse *and* more reasons to reject coercive proposals. Nonetheless, Eberle argues that convergence "retains an exceedingly demanding conception of what makes for justified coercion"; on convergence, coercion required for liberal democracy itself may

---

<sup>24</sup> Hobbes 1994, pp. 76-77; Locke 2003, p. 160; Rousseau 1997, pp. 90-92.

<sup>25</sup> It is worth noting that in "The Idea of Public Reason Revisited" Rawls discusses "reasoning from conjecture" and "witnessing" where citizens may appeal only to comprehensive reasons in public discourse. He seems to have been increasingly open to comprehensive reasons playing a role in public discourse. See Rawls 2002, pp. 154, 156.

<sup>26</sup> Eberle 2011, p. 12. Emphasis mine.

<sup>27</sup> Ibid.

not be able to be justified.<sup>28</sup> And so, Eberle concludes, it is “better to jettison the conception of justified coercion” than “to deny the legitimacy of those necessary measures.”<sup>29</sup>

Eberle illustrates his point with the role that an “Agapic Pacifist” plays within public reasoning about national foreign policy. An Agapic Pacifist is one who thinks that Jesus’ command to Love Thy Neighbor bars the lethal use of violence; on Christian grounds, she opposes war. The Agapic Pacifist takes herself to have “compelling theological reasons” to reject the coercion required to protect rights. If we allow great diversity of reasons into public justification, the Agapic Pacifist can threaten the legitimacy of “any and all wars.”<sup>30</sup> Eberle concludes that “liberalism cannot survive the convergence conception of justified coercion.”<sup>31</sup> Let us assume for the sake of discussion that the Agapic Pacifist is reasonable and rational, that is, she is generally willing to compromise with others (though not in this case, given what is at stake) and that she has coherent and sound epistemic commitments. The Agapic Pacifist threatens to make liberalism impossible because she defeats the justification for war, which is sometimes essential to maintaining a stable social order.

Perhaps the convergence theorist could offer the Agapic Pacifist an exemption in response to her complaint: not only will she not be required to serve in any war, she will not be forced to finance any war. Eberle contends that this reply fails to give “due weight to the Agapic Pacifist’s concerns.”<sup>32</sup> The Agapic pacifist objects not merely to her killing anyone but to *anyone* killing anyone. Her government cannot be allowed to kill the innocent insofar as it is her government. Eberle claims that it is reasonable for the Agapic Pacifist “to insist ... that [her] government’s agents may not kill.”<sup>33</sup> Second, Eberle reminds us that the Agapic Pacifist is objecting to non-trivial policy, policy that might massively affect the Agapic Pacifist’s life. Thus, no matter the accommodation, “the liberal state’s employment of lethal violence will unavoidably and powerfully affect their well-being.”<sup>34</sup>

Eberle’s response can be taken in two ways depending upon the reasons we have to worry that the Agapic Pacifist’s well-being is affected. (1) On one interpretation, publicly justifying war to the Agapic Pacifist may be required simply because her well-being is affected. (2) Alternatively, publicly justifying war could be required because some principle of concern for well-being is already

---

<sup>28</sup> Ibid.

<sup>29</sup> Ibid., p. 13.

<sup>30</sup> Ibid., p. 14.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid., p. 24, ft. 28.

<sup>33</sup> Ibid. We might deny the assumption that the Agapic Pacifist is reasonable to demand that her government not kill but I shall not pursue this line here.

<sup>34</sup> Ibid. Also see Horton 2010.

publicly justified to the Agapic Pacifist and her political community. The first interpretation holds that the fact that the Agapic Pacifist's well-being is affected is a sufficient reason to require that a rule be publicly justified to her; the second interpretation holds that justification is owed to the Agapic Pacifist on the basis of already publicly justified rules against diminishing the well-being of others.

The two objections are importantly distinct. The first objection seems to fail, for a complaint of a loss of well-being is insufficient to trigger the requirement of public justification. Public reason liberalism is rooted in a presumption in favor of liberty that can only be met by a public justification. Thus, free and equal individuals have a duty to justify interfering with others. But why not think that the threat of a loss of well-being requires justification? Reba, for instance, may seem presumptively obligated to avoid causing John to lose well-being. We can understand this reply as suggesting two different modifications of the liberty principle: (i) count Reba's causing John to lose some well-being as a form of interference or (ii) replace the liberty principle with a presumption against a loss of well-being.<sup>35</sup> Reply (i) is implausible because if Reba causes John to lose well-being, she has not necessarily interfered with him. To give one example, if John adores Reba's character on his favorite TV show, and Reba decides to quit the show, John may well lose well-being in the process. Nonetheless, Reba does not *interfere* with John by quitting. Reply (ii) is implausible because it is excessively demanding. To illustrate, imagine that John and Reba are in an intimate relationship, one that gives John a high degree of well-being. Now suppose that Reba thinks it is best for her to leave the relationship. Given a presumption against causing others to lose well-being, Reba has to provide John with conclusive reasons *that he recognizes* to end the relationship.<sup>36</sup> In this case, then, John has a veto over whether Reba can end the relationship. This seems wrong because John can effectively trap Reba into a relationship she profoundly dislikes. Further, John may well impose upon Reba's well-being in demanding that she not end the relationship, which would trigger a similar requirement of justification. The idea of such a duty of justification on Reba's part (and John's) runs counter to our commonsense conception of the behavior we owe to each other.

We have considered Eberle's use of the Agapic Pacifist in the first sense, as suggesting that publicly justifying war is required simply due to effects on the well-being of citizens. But there is also a second version of his objection, which suggests that publicly justifying war is required by a publicly

---

<sup>35</sup> One might defend embracing both presumptions but I presume that this option is unusual enough to ignore for our purposes.

<sup>36</sup> To simplify the example, assume that Reba will not lose an equivalent amount of well-being by ending the relationship with John.

justified principle of concern for well-being. If such a principle is publicly justified in the Agapic Pacifist's society, she has a complaint against her government, but public reason liberalism has the conceptual resources to answer the complaint. I think it is fair to say that all modern liberal democratic societies embrace something close to a principle of concern for well-being. They arguably embrace a political harm principle: citizens have a claim against being harmed without justification. In cases where harm is imposed, governments are often required to provide compensation. If so, the Agapic Pacifist may well have a complaint should her society go to war, but it seems that a publicly justified polity can respond appropriately. The Agapic Pacifist's complaint is essentially that she has been forced to pay for a *negative externality* produced by her state; the state has imposed a welfare loss upon her without justification. As a cooperative member of her society, the Agapic Pacifist objects to war and maintains that not forcing her to fight or pay for others to fight will not offset the potential costs to her well-being. This is a valid objection, but it is far from clear that there is no way to off-set the costs. Various forms of compensation might be made available, and it would seem to be unreasonable for the Agapic Pacifist to rule out as unjust any form of compensation that the state could offer her in good faith.

The power in Eberle's criticism is that convergence may initially appear to so substantially reduce the opportunities for justified coercion that a society cannot morally perform its most basic functions. But Eberle's case of the Agapic Pacifist only demonstrates that convergence will sometimes reduce opportunities for justified coercion. But in other cases, convergence may increase (perhaps significantly) the number of eligible coercive proposals. Eberle's argument generalizes from a single case to determine the effect of convergence upon the vast network of rules that comprise the social order, yet a single case cannot do the job. Thus, it is unclear in the abstract whether convergence will produce unmanageable indeterminacy or a debilitating inability to coerce. Any publicly justified decision must occur with reference to a network of established laws and norms on either a consensus or a convergence view. The question of convergence is merely the question of whether private reasons may be used to thread the network.

#### V: Macedo and Common Rationales

The first two objections maintained that convergence renders political justification impossible. The third objection argues that while convergence is a viable form of public justification, it undermines

some of public reason's other foundational commitments.<sup>37</sup> Stephen Macedo has complained that convergence's rejection of the necessity of shared commitments entails abandoning public reason's traditional ideal of a shared commitment to justice. In contrast, consensus views have six benefits:

- (1) Promoting mutual assurance of our joint commitment to fair cooperation as a matter of common knowledge;
- (2) Helping us interpret and apply law and extend it to new circumstances;
- (3) Helping the community to fairly integrate new groups;
- (4) Helping the community to fairly integrate new generations;
- (5) Facilitating the accomplishment of the public agenda, and;
- (6) Doing all this most especially for the sake of the least well off;<sup>38</sup>

I will address Macedo's claims that convergence forgoes benefits (1) and (6). Most of the others can be addressed indirectly. Macedo's general concern is that support for shared principles of justice provides a number of social benefits that are otherwise threatened by "differences among citizens' ethical and religious conceptions."<sup>39</sup> The problem with evaluative diversity is that individuals might simply reason from their own point of view. As Macedo notes, "from the standpoint of individual rationality, I might prefer that the law conform to my own comprehensive conception of meaning and value...."<sup>40</sup> Thus if I act on my own comprehensive reasons, I can threaten social stability. For Macedo, public reasons must be shared in order to properly assure citizens of "sufficient support from our peers."<sup>41</sup> In contrast, convergence permits our common agreement to principles of justice,

... to be grounded in systems of ideas that I may find *baffling and subject to revision according to logics that are opaque* or alien to me.... How can I place confidence in my fellows' commitments to fair cooperation when their reasons and grounds for supporting shared principles are not only various but (as will seem to me) dubious?<sup>42</sup>

---

<sup>37</sup> Jonathan Quong argues that convergence deprives public reason of a foundational commitment to sincere engagement with others. See Quong 2011, pp. 265-273.

<sup>38</sup> Macedo 2011, p. 5.

<sup>39</sup> Ibid., p. 17.

<sup>40</sup> Ibid., p. 17.

<sup>41</sup> Ibid., p. 18.

<sup>42</sup> Ibid., p. 20-21. Emphasis author's.

Convergence, in other words, lets public justification proceed in terms that all cannot comprehend. As a result, no one can be sure that others affirm shared principles of justice for good reasons. Macedo argues that “agreements on rules without a shared rationale are inherently non-robust, representing a thin form of mutual intelligibility and a weak form of mutual assurance.”<sup>43</sup> Assurance is easier when rooted in a shared independent logic. When citizens speak in shared terms, their arguments can be easily evaluated by their interlocutors because they share evaluative standards and reasons with us. Information is more easily shared when it is expressed in a common political language. Convergence, in contrast, enervates the public sphere’s ability to generate common knowledge. Mutually intelligible shared commitments provide benefits that convergence-based societies fail to generate in adequate supply (specifically, benefits (2)-(6)). For Macedo, shared commitments are similar to public goods; without a civic guarantee that reasoning will occur on the basis of shared commitments, citizens will go their own private way and good norms will evaporate.

Macedo’s most forceful example of a shared commitment threatened by convergence concerns the protection of vulnerable minorities. If shared norms disappear the relatively powerful will have the resources and wealth necessary to protect themselves. Instead, it is the relatively weak and vulnerable “who most depend upon and benefit from a shared commitment to fair and shared terms of social cooperation.”<sup>44</sup> Those mostly likely harmed by the collapse of shared standards are those who lack social trust and the ability to cooperate. To put it another way, norms are upheld by shared beliefs and practices about what is right and good. If the powerful do not follow these norms in order to secure advantages for themselves, they undermine the joint basis of enforcement of these norms.

What should we think about Macedo’s general claim that convergence creates problems for common knowledge? It is not clear. Convergence doesn’t rule out common reasoning; it only allows diverse reasoning. To refute convergence, Macedo must argue that broadening permissible justifications leads to a paucity of shared norms needed to protect potentially marginalized citizens, but Macedo makes no such argument. For all we know, convergence reasoning may increase the opportunities to develop shared commitments and values. Convergence permits many forms of overlap that citizens could not form under consensus. Because convergence is less restrictive, citizens may be able to converge on common proposals and norms through a wider range of mechanisms and reasoning systems. On the whole, convergence increases the amount of

---

<sup>43</sup> Ibid., p. 20.

<sup>44</sup> Ibid., p. 33.

information available to the public. With more reasons on the table, citizens become aware of a broader range of considerations and have more resources from which to work out shared political principles and institutions. Unless the increase in information creates some sort of “noise” effect, where opportunities for public justification are obscured, it is hard to see why convergence should pose a problem for creating common commitments of the sort that Macedo wants. Macedo could reply that because convergence permits private reasons to defeat shared commitments and proposals, it will remove a wide range of opportunities to develop them. If so, convergence will take many options off the table relative to symmetric and consensus standards; what convergence gives in extra information and opportunities for overlap, it might take away. But as we saw at the end of Section IV, it simply is unclear whether convergence will unacceptably add or subtract from the number of coercive laws that can be justified. Convergence will increase opportunities for coercion with respect to some matters and reduce them with respect to others.

That said, the possibility of defeat is not a complaint against convergence, for without the ability to defeat unjustified coercion, laws and policies passed will often be unjust. On the convergence view, a conclusive private reason to reject a shared rationale or proposal will similarly show that the commitment or proposal on the table is unjustified. When the airing of unshared, inaccessible reasons removes opportunities for public justification, it does so by revealing citizens’ true reasons. A requirement of consensus obscures private reasons, preventing them from playing a justificatory role. If the ideal of public reason is to create a political society whose coercive institutions are justified, then citizens must be rationally committed to the coercion imposed upon them. Thus, they need not only be rationally committed by the “public” part of their reasoning but by their entire rational will.<sup>45</sup> One crucial part of public reason that consensus theorists miss is that by restricting the set of reasons relevant to public justification, they lose the ideal of justification to the full reason of the individual, which is the only way to preserve her dignity as a free and rational being.

Further, remember that Rawlsians reject political conceptions that cannot achieve an overlapping consensus (a fact Macedo is well aware of). A political conception is only justified if it is *fully* justified or shown to fit within all reasonable comprehensive doctrines in a society. Consequently, the Rawlsian view *cannot possibly* generate a thicker conception of politics—that is one with more shared norms—than a mere convergence view. The set of publicly justified principles on mere convergence is a superset of the principles recognized by Rawlsians and consensus theorists.

---

<sup>45</sup> For the original articulation of this ideal, see Rousseau 1997, p. 50.

The only way for convergence to generate more opportunities for defeat is if it is combined with a fine-grained individuation of coercive actions. It must be said that Rawls believes only constitutional essentials must be publicly justified: “on matters of constitutional essentials and basic justice, the basic structure and its public policies are to be justified to all citizens.”<sup>46</sup> But if convergence requires that each law be publicly justified, then perhaps more opportunities for defeat will present themselves. This objection fails, though. The set of coercive actions is an independent variable within the Public Justification Principle. If there are good reasons to finely individuate coercive actions on convergence, these same reasons should provide grounds to finely individual coercion on the Rawlsian dual conception or the consensus conception. There is no obvious reason to treat the convergence and consensus views differently.

Finally, convergence can defend the poor and marginalized. Consensus reasoning restricts public reason to shared and accessible reasons and values. By allowing private reasons into public justification, convergence permits considerations to enter public discourse developed by *poor and marginalized communities*. Consider the African-American community in the United States. Due to its shared history and experience, blacks developed several languages of empowerment that many whites had trouble understanding. From shared linguistic conventions, to shared historical documents, to shared interpretations of common values, the black communities developed traditions of reasoning that are more appropriately understood as private. This is true of the Black Power movement, which latched onto a necessarily private value in order to empower African-Americans. It is hard to square black communities’ use of private traditions of reasoning with a strong commitment to consensus reasoning. I submit that the same holds for the feminist community; in fact, many feminists have argued that women tend to appeal to different ethical concepts than men do and accordingly speak their own language of “the ethics of care.”<sup>47</sup> While care ethics need not be restricted to women, a convergence theorist can argue that as a matter of historical fact, care ethics has been a source of reasoning of particular import to women and has thereby acquired a non-public element.<sup>48</sup> Consensus may help protect the poor and marginalized but it appears that, in the end, consensus approaches threaten to close off many public paths to genuine protection of their interests. Convergence is a more active and empowering form of public reason because it is friendly to the private reasoning traditions of marginalized groups.

---

<sup>46</sup> Rawls 2005, p. 224.

<sup>47</sup> For one prominent example of such an argument, Noddings 2003.

<sup>48</sup> Rawls 2005, p. 37.



Macedo is aware that convergence theorists complain against consensus views that they pay little attention to the unique voices of those who have been marginalized and oppressed, especially those who are unable to engage in ideal deliberation. And he admits that we “owe it to minorities, including new groups, to attend carefully to complaints rooted in their distinctive beliefs.”<sup>49</sup> Nonetheless, he thinks consensus can take on these concerns, but only by substantially relaxing the restrictiveness of consensus. He claims “[The consensus view] requires judgment, flexibility, and a pragmatic openness to alternative argumentative strategies: it is a gold standard for public justification which allows that we sometimes do better to settle for silver or bronze, fostering support for just laws by other means.”<sup>50</sup> If consensus is merely “gold” to convergence’s “silver” then Macedo thus allows that convergence justifications are not only permitted but *good*. That said, weakening the consensus standard comes at a high price. Macedo effectively says that consensus has a non-absolute priority over convergence reasoning, yet he does not spell out how the priority rule works. I submit that when he does so, he will run into a dilemma. If the priority is strong, in the sense that in some circumstances only consensus justifications will do, then to that extent consensus cannot account for the benefits of convergence. Conversely, if the priority is weak, Macedo runs into two problems. First, the consensus view loses its putative benefits. For example, it is hard to see how a weak priority view can avoid the common knowledge problems Macedo raises against the convergence view. Second, permitting appeal to private reasons is part of *what it means* to embrace a convergence view. If we can go for silver whenever we’d like, how have we adopted a gold standard? Thus, it seems to me that by accommodating convergence, Macedo deprives consensus views either of their distinctive character or their putative advantages.

## VI: Convergence and the Future of Public Reason

Convergence has proven robust. It need not permit too many proposals to be manageable or too few to be feasible; it also need not forgo liberal values like a common allegiance to justice or protection of the marginalized. The convergence standard is therefore a viable conception of public justification. However, adopting convergence promises to alter the public reason tradition. Indeed, one important reason to examine objections to convergence is to see precisely how it will do so.

---

<sup>49</sup> Macedo 2011, p. 26.

<sup>50</sup> *Ibid.*, p. 5.

I believe that these objections stem from the implicit observation that convergence makes public justifying coercion harder and more complicated. Rawls tried to tame this unmanageability by creating a theoretical bottleneck that would permit only some of these reasons into the theory and practice of politics. Eberle sees the new information as a normative hailstorm, destroying many fruitful opportunities for social cooperation. Macedo worries that the flood of information unleashed by convergence will decimate shared norms and commitments. A consensus standard structures reasons in a more static and seemingly solid social edifice; convergence threatens shared institutions with reasons that could undermine them. Without these common structures, many valuable public institutions could collapse. Simply put, convergence presents public reason with *information problems*.

There are two information problems. The first holds that convergence makes it harder for citizens to determine how to publicly reason through dialogue alone. With the smaller set of symmetric, shared and accessible reasons provided by consensus, it is easier to discern how to treat others with respect: simply offer shared or accessible reasons in argument and act upon them in politics. But under convergence it is less clear what good citizenship requires. Consequently, it may prove difficult for citizens to form shared commitments and rationales. Thus excessive information presents a problem of indeterminacy in *the practice of citizenship*. Next, recall from Sections III and IV that Eberle and Rawls cite opposing problems for convergence. Consequently, the second information problem suggests that it is unclear at the level of political theory how convergence affects the number of eligible proposals within a political order. That is, it is difficult to predict from the resources of political theory alone whether convergence poses either problem. The political world of convergence is less determinate, less predictable and more dynamic, and so excessive information presents a problem of indeterminacy in *the theory of justice*.

These two challenges should excite public reason liberals, not intimidate them, as they both present the opportunity for theoretical development. The first information problem can be met by showing that convergence requires little of citizens and then outlining the benefits of a thinner conception of citizenship.<sup>51</sup> As we have seen above, convergence demotivates the principles of restraint common to the public reason literature. By abandoning principles of restraint, therefore, convergence poses less of a threat to citizens who wish to advance comprehensive (and often religious) reasons in the public sphere. Convergence conceptions of public reasons therefore need

---

<sup>51</sup> While citizens should be honest about their actions, honesty is far less burdensome than the restraints embraced by consensus liberals.

not alienate citizens of conviction from liberal democratic institutions. Asymmetric convergence is also friendlier to the centuries-old liberal practice of religious accommodation, as it permits religious and private reasons to play the role of defeaters. For these reasons, the convergence conception of public discourse is far more Millian than the consensus conception.

The second information problem is that political theory alone can say little about which norms are justified. Given that political theory often cannot determine which reasons are permissible, public reason liberals must appeal to actual social processes to achieve public justification. While public reason liberals are already sensitive to public justification through real-world dialogue, a world of convergence justifications must go beyond deliberation for the information problem will likely prove unmanageable at the level of explicit, conscious cognition.<sup>52</sup> The convergence model recognizes that citizens are in no position to discern which reasons are most important for public justification.<sup>53</sup> There is simply too much information to process. A turn toward richer forms of social cognition may eclipse the centrality of deliberation to the political process. Public reason liberals could instead focus on determining how political institutions can track the development of norms and reasons that arise from social processes like bargaining, adjudication, cultural evolution and the formation of conventions. Publicly justified institutions will be those that use the information revealed by these social processes to register the views of citizens as inputs and output publicly justified laws and policies. Thus public reason under convergence takes an institutional turn.

In conclusion, the institutional and social epistemological aspects of convergence also suggest a shift of importance within the public reason tradition from political philosophers to social scientists. If political theory alone cannot determine which norms are justified, then the political philosopher's job becomes more circumscribed, and if achieving public justification requires tracking complex forms of social cognition that do not always involve explicit, deliberative reasoning then the skill set of the philosopher—dialogue, deliberation and criticism—may not effectively track the reasoning of citizens. If political philosophers have reason to further emphasize institutional design and social cognition, they might also give more attention to those political philosophers who were themselves great social scientists, like Adam Smith, and to the largely ignored political economy of philosophers whose other work receives great attention, such as David Hume, John Stuart Mill and Henry Sidgwick.

---

<sup>52</sup> Jurgen Habermas has made perhaps the most significant attempt to integrate deliberative democracy with a theory of social cognition. See Habermas 1999, esp pp. 116-170.

<sup>53</sup> Gaus and Vallier 2009, p. 67.

## References

- Benn, Stanley I. *A Theory of Freedom*. New York: Cambridge University Press, 1988.
- D'Agostino, Fred. *Free Public Reason: Making It Up as We Go*. New York: Oxford University Press, 1996.
- Eberle, Christopher. *Religious Conviction in Liberal Politics*. New York: Cambridge University Press, 2002.
- (2011). *Religion, Conscientious Engagement and Respect*: forthcoming.
- Feinberg, Joel. *Harm To Others: The Moral Limits of the Criminal Law*. New York: Oxford University Press, 1987.
- Gaus, Gerald. "The Place of Religious Belief in Public Reason Liberalism." in *Multiculturalism and Moral Conflict*, edited by Maria; Stirk Dimovia-Cookson, P. M. R. London: Routledge: 19-37.
- Gaus, Gerald and Kevin Vallier. "The Roles of Religious Conviction in a Publicly Justified Polity: The Implications of Convergence, Asymmetry and Political Institutions." *Philosophy and Social Criticism*, vol. 35 (2009): 51-76.
- Habermas, Jurgen. "Reconciliation through the Public Use of Reason: Remarks on John Rawls's Political Liberalism." *The Journal of Philosophy*, vol. 92 (1995): 109-131.
- . *Moral Consciousness and Communicative Action*. Cambridge: MIT Press, 1999.
- Hobbes, Thomas. *Leviathan*, edited by Edwin Curley. Indianapolis: Hackett, 1994.
- Horton, John. "Reasonable Disagreement." in *Multiculturalism and Moral Conflict*, edited by Maria Dimovia-Cookson and P. M. R. Stirk. New York: Routledge: 58-74.
- Kant, Immanuel. *The Metaphysics of Morals*, edited by Mary Gregor. New York: Cambridge University Press, [1797] 2009.
- Locke, John. *Two Treatises of Government and A Letter Concerning Toleration*, edited by Ian Shapiro. New Haven: Yale University Press, 2003.
- Macedo, Stephen (2011). *Why Public Reason? Common Knowledge and Democratic Justice*: forthcoming.
- Neal, Patrick. "Is Political Liberalism Hostile to Religion?" in *Reflections on Rawls: An Assessment of His Legacy*, edited by Shaun P. Young. Burlington: Ashgate: 153-176.
- Noddings, Nel. *Caring: A Feminine Approach to Ethics and Moral Education*. Los Angeles: University of California Press, 2003.

Quong, Jonathan. *Liberalism without Perfection*. New York: Oxford University Press, 2011.

Rawls, John. "Justice as Fairness." *The Journal of Philosophy*, vol. 54 (1957): 653-662.

———. *A Theory of Justice*. New York: Oxford University Press, 1971.

———. "Political Liberalism: Reply to Habermas." *Journal of Philosophy*, vol. 92 (1995): 132-180.

———. *The Law of Peoples with "The Idea of Public Reason Revisited"*. Cambridge: Harvard University Press, 2002.

———. *Political Liberalism*. New York: Columbia University Press, 2005.

Rousseau, Jean-Jacques. *Rousseau: 'The Social Contract' and Other Later Political Writings*, edited by Victor Gourevitch. New York: Cambridge University Press, 1997.

Stout, Jeffrey. "Religious Reasons in Political Argument." in *The Ethics of Citizenship: Liberal Democracy and Religious Convictions*, edited by Caleb J. Stanton. Waco: Baylor University Press: 261-292.

Swaine, Lucas. *The Liberal Conscience: Politics and Principle in a World of Religious Pluralism*. New York: Columbia University Press, 2008.

Wolterstorff, Nicholas. "The Role of Religion in Decision and Discussion of Political Issues." in *Religion in the Public Square: The Place of Religious Convictions in Political Debate*. Lanham: Rowman and Littlefield: 67-120.