

2004

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Recommended Citation

Michael Baur, *On Actualizing Public Reason*, 72 Fordham L. Rev. 2153 (2004).

Available at: <https://ir.lawnet.fordham.edu/flr/vol72/iss5/33>

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ON ACTUALIZING PUBLIC REASON

*Michael Baur**

In this Essay, I examine some apparent difficulties with what I call the “actualization criterion” connected to Rawls’s notion of public reason, that is, the criterion for determining when Rawlsian public reason is concretely actualized by citizens in their deliberating and deciding about constitutional essentials and matters of basic justice. While these apparent difficulties have led some commentators to reject Rawlsian public reason altogether, I offer an interpretation that might allow Rawlsian public reason to escape the difficulties. My reading involves the claim that Rawlsian public reason is to be understood essentially as an imperative or an ideal, and as not necessarily grounded in any stock of existing beliefs or opinions. I make this claim on the basis of the seemingly counterintuitive observation that it is possible for citizen-interlocutors to know that public reason has been violated without necessarily knowing who the violator is (and thus without being able to foreclose the possibility that the violator may even be oneself). This observation is based in turn on my analysis of the necessary reciprocity and self-referentiality built in to the very concept of public reason as such.

I. THE APPARENT PARADOXES OF PUBLIC REASON

In Lecture VI of *Political Liberalism*, Rawls tells us that his notion of “public reason” is suggested by Immanuel Kant’s distinction between public and private reason in the 1784 essay, *What Is Enlightenment?*, and is related to Kant’s discussion in the *Critique of Pure Reason* regarding “The Discipline of Reason with Regard to Its Polemical Use.”¹ But Rawls’s overt reference to Kant in this regard immediately raises some questions, since the Rawlsian notion of public reason seems to be at odds with what Kant actually says. This is because the Rawlsian notion of public reason focuses on the *limits* that are to be placed on the kinds of reasons to which citizens may legitimately appeal when deliberating and making decisions publicly about constitutional essentials and matters of basic justice. By contrast, Kant seems to argue that reason itself is essentially public

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1. John Rawls, *Political Liberalism* 213 n.2 (1996).

and unrestricted and that *no limits* whatsoever should be placed on what might be debated and decided by free citizens. In *An Answer to the Question: What is Enlightenment?*, Kant clearly states that citizens should be free to discuss and deliberate about anything, provided only that they remain obedient to existing law.² For Kant, the proper imperative for citizens should be: “Argue as much as you will, and about whatever you will, *but obey!*”³

Furthermore, in the section of Kant’s *Critique of Pure Reason* to which Rawls refers, Kant explains that reason consists essentially in the freedom to subject all things whatsoever to unrestricted critique, and that such critique allows no room for any prohibited topics or sacred cows, even if personal sensitivities or social utility might seem to be threatened by such far-reaching critique.⁴ Kant writes:

Reason must subject itself to critique in all its undertakings, and cannot restrict the freedom of critique through any prohibition without damaging itself and drawing upon itself a disadvantageous suspicion. Now there is nothing so important because of its utility, nothing so holy, that it may be exempted from this searching review and inspection, which knows no respect for persons. The very existence of reason depends upon this freedom, which has no dictatorial authority, but whose claim is never anything more than the agreement of free citizens, each of whom must be able to express his reservations, indeed even his *veto*, without holding back.⁵

In an earlier and parallel passage found in the Preface to the 1781 edition of *The Critique of Pure Reason*, Kant makes a similar point about the right—and even the duty—of reason to subject all things (including those pertaining to religion and public legislation) to unrestricted critical scrutiny:

Our age is the genuine age of criticism, to which everything must submit. *Religion* through its *holiness* and *legislation* through its *majesty* commonly seek to exempt themselves from it. But in this way they excite a just suspicion against themselves, and cannot lay claim to that unfeigned respect that reason grants only to that which has been able to withstand its free and public examination.⁶

Thus we have here what might be called a textual or bibliographical paradox, since the Kantian passages to which Rawls refers seem to contradict the spirit of Rawls’s own notion of “public reason.” But the Rawlsian account of public reason seems to involve more than just

2. Immanuel Kant, *An Answer to the Question: What is Enlightenment?*, Berlinische Monatsschrift, Dec. 1784, reprinted in Immanuel Kant: Practical Philosophy 15, 18 (Mary J. Gregor trans. & ed., 1996).

3. *Id.*

4. Immanuel Kant, *Critique of Pure Reason* 643 (Paul Guyer & Allen W. Wood trans. & eds., Cambridge University Press, 1997) (1781 & 1787).

5. *Id.*

6. *Id.* at 100 n.*.

this textual paradox. As Rawls himself recognizes, there also seems to be a theoretical paradox surrounding his notion of public reason. How can it be reasonable or rational, Rawls asks, to say that citizens should appeal “only to a public conception of justice and not to the whole truth as they see it”⁷ when they discuss and decide on matters as important as constitutional essentials and basic questions of justice? “Surely,” Rawls writes rhetorically, “the most fundamental questions should be settled by appealing to the most important truths”⁸—and yet it is these most important truths that apparently must be declared off limits or taken off the table because of the requirements of public reason.

In addressing the paradox, Rawls reminds us that the exercise of public reason has to do with the reason of free and equal citizens who, as a collective body, deliberate about and decide on constitutional essentials and matters of basic justice. And it is through such deliberation and decision making (e.g., in enacting laws and in amending their constitution) that such free and equal citizens “exercise *final* political and *coercive* power over one another.”⁹ The idea here is that, because the power being exercised is *final* and *coercive*, it should not be imposed on those subject to it in an external or dogmatic fashion, but instead should be exercised on the basis of principles and ideals that can be made justifiable to the persons who are subject to it. As Kent Greenawalt has written, the idea behind the requirement that the coercive power of the law should be based on public reason alone is “that people should not be compelled on the basis of reasons that are not persuasive for them.”¹⁰ Along these lines, Rawls holds that political power should be exercised in accordance with what he calls “the liberal principle of legitimacy,” which states: “[O]ur exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational.”¹¹ And to the extent that citizens are reasonable and rational, they “should be ready to explain the basis of their actions to one another [e.g., their decisions about constitutional essentials and

7. Rawls, Political Liberalism, *supra* note 1, at 216.

8. *Id.*

9. *Id.* at 214 (emphasis added).

10. Kent Greenawalt, *Natural Law and Public Reasons*, 47 Vill. L. Rev. 531, 535 (2002).

11. Rawls, Political Liberalism, *supra* note 1, at 217. *But see id.* at 137 (stating a slightly different formulation of the liberal principle of legitimacy: “[O]ur exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in light of principles and ideals acceptable to their common human reason”).

basic issues of justice] in terms each could reasonably expect that others might endorse as consistent with their freedom and equality."¹²

In addition to the liberal principle of legitimacy, the ideal of democratic citizenship implied by the notion of public reason entails a (moral) duty of civility among citizens. This duty of civility includes not only the duty to "to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason"; it also includes the duty to be willing to listen to others and to be fair-minded "in deciding when accommodations to their views should reasonably be made."¹³ Rawls goes on to explain how the apparent theoretical paradox concerning public reason can be resolved, once one understands what is meant by an overlapping consensus of reasonable comprehensive doctrines. An overlapping consensus is not a mere *modus vivendi*; that is to say, it is not a mere compromise that is struck on the basis of self- or group-interest.¹⁴ Rather, an overlapping consensus remains stable—in spite of changing compromises and shifts in the distribution of political power—because the political conception of justice that belongs to an overlapping consensus is genuinely supported by the individual citizens themselves, and the citizens endorse such a conception "on moral grounds" in spite of their differing and even conflicting comprehensive views.¹⁵

For Rawls, then, an overlapping consensus exists when "citizens who affirm reasonable but opposing comprehensive doctrines" endorse a properly political "conception of justice as giving the content of their political judgments on basic institutions" and when "unreasonable comprehensive doctrines... do not gain enough currency to undermine society's essential justice."¹⁶ If there exists an overlapping consensus of reasonable comprehensive doctrines and if each of these reasonable comprehensive doctrines can support and include within itself (as a kind of "module") a properly political conception of justice, then there is nothing odd or paradoxical about public reason and the limits prescribed by it. Indeed, the idea of an overlapping consensus—when properly understood—entails that public reason must place certain limits on the kind of principles to which citizens may appeal in deliberating and deciding on constitutional essentials and matters of basic justice. Thus Rawls writes:

[W]hen the political conception [of justice] is supported by an overlapping consensus of reasonable comprehensive doctrines, the

12. *Id.* at 218.

13. *Id.* at 217.

14. *Id.* at 147.

15. *Id.*

16. *Id.* at 39.

paradox of public reason disappears. The union of the duty of civility with the great values of the political yields the ideal of citizens governing themselves in ways that each thinks the others might reasonably be expected to accept; and this ideal in turn is supported by the comprehensive doctrines reasonable persons affirm.¹⁷

Given the normative significance of the idea of an overlapping consensus, there is nothing strange about holding that the most fundamental matters affecting citizens in a liberal democracy (e.g., matters pertaining to constitutional essentials and basic justice) should not be decided on the basis of “the most important truths” or “the whole truth” as citizens might see it from the differing perspectives of their comprehensive doctrines. Rawls seeks to illustrate why the “paradox of public reason” disappears by referring to familiar political and legal situations in which “we recognize a duty not to decide in view of the whole truth” and which show “how it is often perfectly reasonable to forswear the whole truth” in some instances.¹⁸ For example, the rules of evidence place limits on the kinds of testimony that may be introduced at a criminal trial—and thus place limits on our otherwise acceptable urge to know and to act on the basis of the whole truth.¹⁹ As Rawls puts the point in his 1997 essay, *The Idea of Public Reason Revisited*: “I propose that in public reason comprehensive doctrines of truth or right be replaced by an idea of the politically reasonable addressed to citizens as citizens. . . . The zeal to embody the whole truth in politics is incompatible with an idea of public reason that belongs with democratic citizenship.”²⁰

II. IS THE RAWLSIAN “ACTUALIZATION CRITERION” INTERNAL/SUBJECTIVE OR EXTERNAL/OBJECTIVE?

The preceding part displayed how a cluster of inter-related concepts is integral to a proper understanding of Rawls’s account of public reason. This cluster of concepts included: a political conception of justice, an overlapping consensus of reasonable comprehensive doctrines, the liberal principle of legitimacy, the duty of civility, and the ideal of democratic citizenship. Even without delving further into

17. *Id.* at 218.

18. *Id.* at 219.

19. *Id.* at 218. There are some commentators who would reject this analogy between public reason and the rules of evidence. Leif Wenar, for example, argues that Rawlsian public reason does more than simply require that citizens appeal in public to only part of what they believe. For Wenar, Rawlsian public reason also requires (even if implicitly) that citizens appeal in public to reasons that in some cases actually *contradict* their comprehensive doctrines. Leif Wenar, *Political Liberalism: An Internal Critique*, 106 *Ethics* 32, 62 (1995).

20. John Rawls, *The Idea of Public Reason Revisited*, 64 *U. Chi. L. Rev.* 765 (1997), *reprinted in* John Rawls: *Collected Papers* 573, 574 (Samuel Freeman ed., 1999).

the meaning and inter-relations of these concepts, it is possible to raise some illuminating questions about the notion of Rawlsian public reason. I wish to raise such questions by asking about the Rawlsian criterion for determining whether or not in any particular concrete situation public reason is being properly actualized in the deliberations and decision making of the citizens (I shall call this the “actualization criterion”). In *The Idea of Public Reason Revisited*, Rawls seems to provide a relatively clear and straightforward statement of the actualization criterion. He writes:

[a] A citizen engages in public reason, then, when he or she deliberates within a framework of what he or she sincerely regards as the most reasonable political conception of justice, [b] a conception that expresses political values that others, as free and equal citizens might also reasonably be expected reasonably to endorse.²¹

Now we can ask a number of important questions about this criterion. For example, under the criterion, is it sufficient that a citizen deliberate within a framework that he or she *sincerely regards* as the most reasonable political conception of justice? Or is sincere belief insufficient, and must it also be the case that the citizen deliberate within a framework that *as a matter of fact* is the most reasonable, or that at least is *a* reasonable conception of justice? The first part of the criterion given above (starting at the letter [a]) seems to support what we might call the “internal” or “subjective” reading of the actualization criterion: According to this reading, the idea of public reason requires only that the citizen deliberate within a framework of what he or she internally (or subjectively) and sincerely regards as reasonable. But the second, appositional part of the criterion given above (starting at the letter [b]) seems to support what we might call an “external” or “objective” reading of the criterion: According to this reading, it is not sufficient that the citizen deliberate within a framework of what he or she sincerely regards as reasonable; the proper exercise of public reason also requires that this framework *actually be* a reasonable and properly political conception of justice, one that expresses political values that others might *reasonably* (and not just sincerely) be expected reasonably to endorse.

The ambiguity indicated above, it seems, cannot be resolved on strictly textual grounds alone, since Rawls’s various statements on the matter are not univocal. Some passages in Rawls seem to support an internal/subjective reading of the actualization criterion, while others seem to support an external/objective reading. For example, in support of the internal/subjective reading, one can turn to the following passage in *Political Liberalism*:

21. *Id.* at 581.

[P]ublic reason does not ask us to accept the very same principles of justice, but rather to conduct our fundamental discussions in terms of what *we regard* as a political conception. We should *sincerely think* that our view of the matter is based on political values everyone can reasonably be expected to endorse. For an electorate thus to conduct itself is a high ideal the following of which realizes fundamental democratic values not to be abandoned simply because full agreement does not obtain. A vote can be held on a fundamental question as on any other; and if the question is debated by appeal to political values and citizens vote their *sincere opinion*, the ideal is sustained.²²

For further support in favor of an internal/subjective reading, one can refer also to *The Idea of Public Reason Revisited*, in which Rawls states that the ideal of public reason

is realized, or satisfied, whenever judges, legislators, chief executives, and other government officials, as well as candidates for public office [and also citizens acting and thinking of themselves as legislators], act from and follow the idea of public reason and explain to other citizens their reasons for supporting fundamental political positions in terms of the political conception of justice *they regard* as the most reasonable.²³

But several other passages in Rawls's work seem to support an external/objective reading of the actualization criterion. For example, in a subsequent passage from *The Idea of Public Reason Revisited*, Rawls states that the proper exercise of political power supported by public reason requires not just *subjectively sincere* belief, but also *objectively reasonable* belief insofar as the reasons offered by one citizen can also be reasonably endorsed by other citizens: "Our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions—were we to state them as government officials—are sufficient, and we also *reasonably think* that other citizens might also reasonably accept those reasons."²⁴ In spite of the textual ambiguity on the matter, there are good systemic and theoretical reasons to opt for an external/objective reading of the actualization criterion. After all, a merely internal/subjective criterion would seem to entail the utter privatization or subjectivization of public reason. For under a merely internal/subjective reading of the actualization criterion, citizens could be said to meet the requirements of public reason just so long as they *sincerely believed* that they were operating with a conception of justice that expressed political values that others might also reasonably be

22. Rawls, *Political Liberalism*, *supra* note 1, at 241 (emphasis added).

23. Rawls, *The Idea of Public Reason Revisited*, *supra* note 20, at 576 (emphasis added).

24. *Id.* at 578 (emphasis added).

expected reasonably to endorse (even if such sincere belief were not, as a matter of fact, “objectively” reasonable).

But even if one were to opt for an external/objective reading of the actualization criterion, further problems remain. As we have seen, under the external/objective reading of the actualization criterion, it is not sufficient that the citizen deliberate within a framework of what he or she sincerely regards as the most reasonable political conception of justice. The proper exercise of public reason also requires that this framework *actually be* a properly political conception of justice, one which expresses political values that others might *reasonably* (and not just sincerely) be expected reasonably to endorse. When is a citizen being not only sincere, but also “objectively reasonable” in his or her expectation that others will endorse the values expressed by his or her own political conception of justice? In *The Idea of Public Reason Revisited*, Rawls provides what we—at least for our present purposes—might regard as a “reasonableness criterion.” Rawls writes:

Citizens are reasonable when, viewing one another as free and equal in a system of social cooperation over generations, *they are prepared* to offer one another fair terms of cooperation *according to what they consider* the most reasonable conception of political justice; and when they agree to act on those terms, even at the cost of their own interests in particular situations, provided that other citizens also accept those terms.²⁵

Notice that the central condition specified in this criterion (namely, that citizens be “prepared to offer one another fair terms of cooperation according to what they consider the most reasonable conception of political justice”)²⁶ is a merely subjective or internal condition. But furthermore, the seemingly “external” or “objective” condition specified in this criterion (“provided that other citizens also accept those terms”) qualifies only the requirement that citizens “agree to act” on the terms of cooperation that they themselves have offered.²⁷ In other words, Rawls adds this qualifying requirement in order to make clear that citizens are obligated to act on the terms that they themselves have offered as “fair terms of cooperation,”²⁸ but that they are thus obligated only so long as other citizens also accept those terms. Accordingly, this seemingly “external” or “objective” condition (that other citizens also accept the terms offered) does not yield the position that a citizen is being “reasonable” only if other citizens actually accept the terms of cooperation offered by him or her. (Even if it did yield this position, this position would be problematic for yet other reasons: Why should one citizen’s

25. *Id.* (emphasis added).

26. *Id.*

27. *Id.*

28. *Id.*

reasonableness depend on the fact that other citizens happen to agree with the terms of cooperation offered by him or her?) Thus, when all is said and done, this Rawlsian reasonableness criterion seems to require little more than sincere, subjective belief.

What might have initially appeared to be an external/objective requirement within the reasonableness criterion given above is shown upon further analysis to be reducible to a merely internal/subjective requirement. And the same sort of difficulty seems to threaten even Rawls's criterion of reciprocity. Explaining the criterion of reciprocity, Rawls writes:

The criterion of reciprocity requires that when those terms are proposed [by citizens] as the most reasonable terms of fair cooperation, those proposing them *must also think* it at least reasonable for others to accept them, as free and equal citizens, and not as dominated and manipulated, or under the pressure of an inferior political or social position.²⁹

As Rawls later observes, “the criterion of reciprocity is an essential ingredient specifying public reason and its content.”³⁰ But while the criterion of reciprocity is crucial to public reason, it nevertheless seems to depend ultimately on a merely “internal” or “subjective” requirement, namely that a citizen “must also think it at least reasonable” for others to accept the terms of cooperation which he or she has offered them.³¹ In light of the preceding observations, it is not clear how the Rawlsian actualization criterion, reasonableness criterion, or criterion of reciprocity can really provide more than essentially “internal” or “subjective” requirements.

Samuel Freeman, in his contribution to this issue of the *Fordham Law Review*, correctly notes that, in Rawlsian political liberalism, the notion of reasonableness “stands in for” or takes the place of the notion of truth.³² But as we have just seen, Rawls's account of public reason seems to come dangerously close to allowing the notion of “subjective sincerity” to stand in for the notion of “publicness” or “reasonableness.” Freeman goes on to assert that for Rawls, “reasonable principles” are those principles that “are generally acceptable to conscientious, informed, and morally motivated moral agents.”³³ But this seemingly external/objective set of requirements for reasonableness does not address the problem at hand. First of all, the generic requirement that “reasonable principles” be “generally acceptable” cannot—on its own—provide any grounds for distinguishing principles that a broad majority happens to find

29. *Id.* (emphasis added).

30. *Id.* at 609.

31. *Id.* at 578.

32. Samuel Freeman, *Public Reason and Political Justifications*, 72 *Fordham L. Rev.* 2021, 2023 (2004).

33. *Id.*

acceptable, and those that are genuinely reasonable. And as we know from the history of slavery and racial discrimination in our own country, what may be “generally acceptable” is not co-extensive—or at least should not be co-extensive—with what we take to be “reasonable.” Indeed, if the “generally acceptable” were supposed to be co-extensive with “the reasonable,” then a political liberalism based on such a view of “reasonable principles” would be virtually indistinguishable from sheer majoritarianism: The majority’s will would always determine “the reasonable.” Freeman’s further requirement that reasonable principles be generally acceptable to persons who are “morally motivated”³⁴ does not offer any helpful new content beyond a mere “subjective sincerity” requirement. Finally, the additional requirement that reasonable principles be generally acceptable to “informed” persons remains normatively vacuous as long as it is not tied to some normatively significant “truths” or “facts” by means of which persons could be said to be “informed” in the relevant respects. But as Freeman has correctly noted, Rawls aims to provide a political conception of justice and an account of public reason that does not rely on any comprehensive doctrines or normatively significant “truths.”³⁵ In summary, the attempt to identify a plausible “actualization criterion” for Rawlsian public reason seems doomed to founder between two unpalatable options: the requirement of mere “subjective sincerity” (on the one hand) and the requirement of some sort of normative “truth” (on the other hand).³⁶

III. FURTHER QUESTIONS ABOUT DETERMINING WHEN PUBLIC REASON HAS BEEN VIOLATED

The preceding part raised some critical questions about identifying a criterion for determining whether, in any particular concrete situation, Rawlsian public reason is being properly actualized by the deliberations and decision-making of the citizens (the “actualization criterion”). In this part, I intend to raise some further and related questions. My ultimate aim is not to reject Rawlsian public reason as such, but rather to suggest a different way of understanding it, a way that may render Rawlsian public reason more plausible and defensible, even in light of the critical questions being raised here.

34. *Id.*

35. *See id.* at 2038-43.

36. This critical conclusion about the “actualization criterion” roughly echoes Onora O’Neill’s observation that Rawlsian constructivism in general seems uncomfortably trapped “[b]etween realism and relativism.” *See* Onora O’Neill, *Constructions of Reason: Explorations of Kant’s Practical Philosophy* 218 (1989). O’Neill writes: “Rawlsian constructivism has ended up on an uncomfortable knife edge, and teeters between idealizing and relativized conceptions of ethics. The idealized readings demand proofs of a moral reality Rawls does not discern; the relativized readings can only offer an internal critique of the justice of [existing] modern liberal societies.” *Id.*

The two questions with which I would like to begin in this part are related to the questions already raised about the actualization criterion. The two inter-related questions are as follows:

1) If the Rawlsian actualization criterion is indeed problematic for the reasons discussed above, then on what grounds—if ever—may one legitimately complain that another citizen's attempts to persuade or influence others within a public forum (and on matters pertaining to constitutional essentials or basic justice) are unreasonable or exceed the limits of public reason, if that citizen (let us call him "George" henceforth) subjectively and sincerely believes that he is being reasonable and is operating within the limits prescribed by Rawlsian public reason?

2) Conversely, if the Rawlsian actualization criterion is problematic for the reasons discussed above, then on what grounds—if ever—may one legitimately complain that another citizen's refusal to be open to persuasion within a public forum (and on matters pertaining to constitutional essentials or basic justice) is unreasonable or violates the duty of civility, if that citizen (let us call her "Judith" henceforth) subjectively and sincerely believes that she is being open and honoring the duty of civility, as prescribed by Rawlsian public reason?

The questions sketched above help to highlight one of the central difficulties of Rawlsian public reason: Just as two or more citizen-interlocutors can debate and disagree on constitutional essentials and matters of basic justice, so too can they debate and disagree on the question of whether any particular citizen (either oneself or another) is genuinely living up to the requirements of public reason. In other words, citizen-interlocutors can debate and disagree not only about fundamental political matters, but also about the very terms of their debating and disagreeing (*qua* citizens). More specifically, they can debate and disagree on whether the terms of discourse presupposed by one or another citizen-interlocutor do or do not satisfy the requirements of public reason. Now, it is obvious that the question of whether a particular citizen's discursive practices do or do not satisfy the requirements of public reason cannot be settled simply on the basis of whether a certain critical mass of other citizens happens to agree or disagree with that citizen (either on basic political matters or on the meaning of "public reason" itself). For the notion of "public reason" is a normative notion: Instead of simply mirroring actual agreements or disagreements among citizens, the notion of public reason is supposed to specify normatively significant guidelines for determining how agreement and/or disagreement among citizens (*qua* citizens) ought to take place to begin with.

The issue is complicated by the fact that an individual's own understanding of public reason (and in turn, his or her sincere belief that he or she is satisfying the requirements of public reason) may depend indirectly on some portion of his or her comprehensive view.

Consider the following analysis involving George and Judith. George's sincere, subjective beliefs about whether he is being reasonable and is operating within the limits prescribed by public reason seem to depend in part on his views regarding whether he really can reasonably expect others reasonably to endorse the positions that he himself holds on constitutional essentials and matters of basic justice (let us refer to these views as his views on the "reasonable endorsability" of his basic political positions). In turn, George's sincere, subjective beliefs about the reasonable endorsability of his basic political positions seem to depend in part on his views regarding the nature and general accessibility of the evidence that might lead another person to accept George's basic political positions (let us refer to these views as his views on the "evidentiary grounds" of his basic political positions). Finally, George's sincere, subjective beliefs about the evidentiary grounds of his basic political positions seem to depend in part on his beliefs about matters such as the nature and capacity of human reason, the possible objectivity or "knowability" of moral truth, the normative significance and value of certain facts of nature, and so forth. But beliefs about these matters are philosophical, epistemological, and/or axiological in nature, and would be placed by Rawls "outside" the scope of public reason, insofar as they belong to a (fully or partially) comprehensive doctrine.³⁷

To summarize this analysis: George's sincere, subjective beliefs about whether he is being reasonable and operating within the limits prescribed by public reason seem to depend on his views regarding "reasonable endorsability," which seem to depend in turn on his views regarding "evidentiary grounds," which seem to depend in turn on his comprehensive view.³⁸ Thus George's comprehensive view seems (at least in part) to determine his sincere, subjective beliefs about whether he is or is not being reasonable and operating within the limits prescribed by public reason when he attempts to persuade

37. See Rawls, *Political Liberalism*, *supra* note 1, at 175.

38. Against Rawls, it is tempting to argue along the following lines: "If a person happens to believe some proposition (let's call it *X*), then it is obvious that he also believes in the reasonable endorsability of *X* (since he clearly considers himself to be reasonable in endorsing *X* – if he did not consider himself reasonable in doing so, then he would cease to endorse *X*!). And if the person believes in the reasonable endorsability of *X*, then he must also believe that it is reasonable for him to try to convince others of *X*." My claims here have not been based on this sort of argument, and my notion of "reasonable endorsability" here pertains to the question of what can be reasonably endorsed, not just by myself or by some generic, imaginary substitute for myself, but by persons who may actually be quite different from myself. It seems to me that the sort of argument given above does not make an adequate case against Rawls. After all, a person may very well consider himself to be reasonable in endorsing *X*, even though he might also hold (for any number of other reasons, e.g., for reasons connected to his views on the "evidentiary grounds" of his belief in *X*) that he would be unreasonable if he tried to persuade others of *X*.

others (on matters pertaining to constitutional essentials or basic justice) within a public forum.³⁹ This sort of analysis has led some thinkers to conclude that Rawls's notion of public reason is ultimately untenable and must be rejected in favor of a position that more overtly allows—or perhaps even encourages—comprehensive doctrines to play a determining role in public deliberation and decision making on constitutional essentials and matters of basic justice.⁴⁰ But for now at least, I would like to steer this analysis in a slightly different direction. And in order to do this, I would like to begin by considering matters from the perspective of Judith as well.

According to a corollary requirement of public reason, Judith has a duty of civility, a duty to listen and be open to George's attempts at persuasion, provided that George himself is being reasonable and observing the limits prescribed by public reason. Now Judith's sincere, subjective beliefs about whether or not she is being genuinely open and honoring the duty of civility—even if it turns out that she is not persuaded by George—seem to depend in part on her own views regarding the reasonable endorsability of George's basic political positions (i.e., his positions on constitutional essentials and matters of basic justice). In turn, Judith's sincere, subjective beliefs about the reasonable endorsability of George's basic political positions seem to depend in part on her views regarding the "evidentiary grounds" of George's basic political positions. And finally, Judith's sincere, subjective beliefs about the evidentiary grounds of George's basic political positions seem to depend in part on her own (fully or partially) comprehensive (i.e., philosophical, epistemological, and/or axiological) views. Thus we see that *Judith's* position on the question of whether *she* is being reasonable and honoring the duty of civility is the mirror image of *George's* position on the question of whether *he* is being reasonable and operating within the limits prescribed by public reason. Each person's answer to the question at hand (regarding whether he or she is himself or herself living up to the requirements of public reason) seemingly depends (at least in part) on his or her own comprehensive view. But there is an additional symmetry here: Judith's beliefs about whether *George* is being reasonable and honoring the requirements of public reason seem to depend (at least in part) on *her* own comprehensive view; and George's beliefs about whether *Judith* is being reasonable and honoring the requirements of public reason seem to depend at least in part on *his* own

39. In a somewhat similar vein, Kent Greenawalt has argued that "comprehensive views can influence someone's sense of the application of fundamental values"; thus comprehensive views can influence a person's ideas regarding which sorts of issues actually do (or don't) belong to what Rawls calls "constitutional essentials." Kent Greenawalt, *Private Consciences and Public Reasons* 117 (1995).

40. See, e.g., Robert George, In *Defense of Natural Law* 196-227 (1999); see also John Finnis, *Abortion, Natural Law, and Public Reason*, in *Natural Law and Public Reason* 75 (Robert P. George & Christopher Wolfe eds., 2000).

comprehensive view. In short, George's judgments about whether public reason is properly being actualized by himself and/or by Judith apparently depend (at least in part) on his own comprehensive views; and Judith's judgments about whether public reason is being properly actualized by herself and/or by George apparently depend (at least in part) on her own comprehensive view.

Now let us suppose that George and Judith not only disagree about some fundamental political issue (e.g., abortion), but also disagree about the nature, scope, and limits of public reason. What ought to happen if George and Judith start to suspect that their disagreement about the very terms of their disagreement (their disagreement about public reason itself) depends on the different and even opposing comprehensive views that they each hold? It is clear that the two cannot simply "agree to disagree," since that would reduce their relationship to a mere *modus vivendi*, which—as we have already seen—is excluded by the Rawlsian account of public reason as sustained by an overlapping consensus of reasonable comprehensive views. But it also seems that the two cannot simply agree (e.g., through a common moral commitment to ongoing civil discourse) that certain topics defy reasonable agreement and thus should be excluded from what counts as "public reason" for them. For the disagreement in which the two are *already* engaged is itself precisely about the nature, scope, and limits of "public reason"!

Let us further suppose that in his further attempts to persuade Judith, George begins to "dig deeper" into his repertoire of comprehensive views, hoping to give a more complete and compelling account of his positions, and hoping to demonstrate the sincerity of his commitment to these positions. In the midst of his "deeper digging," George remains convinced that he is successfully translating the lessons of his comprehensive views into properly political reasons; and so George remains convinced that he has satisfied "the proviso" requirement of Rawlsian public reason.⁴¹ Now, at what point in George's ongoing attempts can Judith legitimately complain that George is not being reasonable and is overstepping the limits prescribed by public reason? And conversely, at what point in this interchange can George legitimately complain that Judith—in spite of George's sincere attempts to satisfy the proviso—is not being open-minded and thus is not honoring the duty of civility required by public reason?

Before going further, it will be helpful to reinforce the point that George and Judith are to be understood as ideal types. They represent the situation of any citizen insofar as he or she—qua

41. Rawls, *The Idea of Public Reason Revisited*, *supra* note 20, at 591-94. For more on Rawls's "inclusive view" of public reason (according to which citizens may sometimes introduce their own comprehensive views into public reason), see Rawls, *Political Liberalism*, *supra* note 1, at 247-54.

citizen—seeks to live up to the requirements of public reason while attempting (like George) to persuade others, or while being (like Judith) at the receiving end of such attempts at persuasion. George and Judith should not be understood individualistically, but may refer to entire groups of citizens who are bound together insofar as they are participants (speakers or listeners) in a broad public conversation about constitutional essentials and matters of basic justice, and perhaps even about public reason itself. Finally, this broad public conversation should not even be understood as if it were unidirectional; for as we all know from our own experience, it is quite possible to be a George and a Judith at once, even in the midst of a single conversation.

In applying these ideal types, we have seen that a major difficulty arises in connection with George's ongoing attempts to persuade Judith. George may continue trying to persuade Judith about his basic political positions; he may also continue trying to persuade her about the limits and scope of public reason itself (about the very terms of their discursive practice). Indeed, George's very commitment to public reason may lead him quite reasonably to hold that he may not legitimately give up on his attempts to persuade Judith regarding the proper meaning of public reason; for—he may reasonably believe—to renounce the imperative to reach agreement on the meaning of public reason itself is to allow his relationship with Judith to devolve into a mere *modus vivendi* whereby the two simply "agree to disagree" for external, utilitarian reasons. But if George and Judith already disagree about the limits and scope of public reason, then is it not the case that George's ongoing attempts at persuasion (especially if they involve any "deeper digging" into his own comprehensive views) will appear to Judith as themselves a violation of public reason (the very opposite of what George takes them to be)? At what point can Judith legitimately complain that George is overstepping the limits of public reason; at what point can George legitimately complain that Judith is not genuinely open and is thus violating her duty of civility?

It is obvious that there must be at least *some* point at which either George or Judith may legitimately complain that the other is not living up to what is required by public reason. For if Judith could not legitimately complain that George is exceeding the proper limits of public reason, or if George could not legitimately complain that Judith is not honoring the duty of civility (e.g., if it were Judith's unreasonable close-mindedness that led her to accuse George of exceeding the limits of public reason), then public reason would be devoid of all meaningful normative content for George and Judith. In order to have meaningful normative content for them, the notion of public reason (and its corollary principles) must disallow both George and Judith from acting in certain ways. Furthermore, if the notion of public reason is to have any meaningful normative content for them,

then it must be possible for George and Judith to *disagree* on which of the two of them is failing to live up to what is required by the ideal of public reason and yet nevertheless—in the midst of such disagreement—for one of them to be correct. For if it were not possible for them to disagree on which of the two of them is failing to live up to the requirements of public reason, then the need to appeal to the notion of public reason (in order to settle such a disagreement) would never arise for them in the first place; in that case, the notion of public reason would be normatively meaningless, superfluous, and useless for them. Furthermore, if it were not possible for one of them to be *correct* in this disagreement, then—once again—the notion of public reason would be devoid of meaningful normative content for them; for if it were not possible for one of them to be *correct* in saying that the other has violated the requirements of public reason (i.e., if it were not possible for one of them *actually* to have violated the requirements of public reason), then once again the notion of public reason would not disallow them from acting in certain ways, in which case it would be normatively vacuous for them.

IV. SELF-REFERENTIALITY, RECIPROCITY, AND HOW ONE CAN KNOW ON IMMANENT GROUNDS THAT PUBLIC REASON HAS BEEN VIOLATED

In the preceding part we began to see that the notion of public reason can involve a certain kind of self-referentiality: citizen-interlocutors may debate and disagree not only about constitutional essentials and matters of basic justice, but also about the very terms of their debate and disagreement. That is, in the midst of their attempts to discuss fundamental political issues within the limits prescribed by public reason, they can also debate and disagree about the very nature, scope, and limits of public reason itself. But public reason can also involve a further, related kind of self-referentiality: If citizens (represented here by George and Judith) happen to disagree about the nature, scope, and limits of public reason, then one citizen's sincere commitment to living up to the requirements of public reason may lead him or her to engage in discursive behavior that, from the perspective of another citizen, will count as evidence that he or she is precisely *not* committed to public reason but indeed acting in violation of it. For example, if George and Judith disagree fundamentally about the nature and requirements of public reason, then George's subjectively sincere commitment to public reason and his ongoing attempts to prevent his relationship with Judith from devolving into a mere *modus vivendi* (i.e., his ongoing attempts to persuade Judith, either about political issues or about public reason itself) may appear to Judith as evidence that George is being unreasonable and precisely *not* living up to the requirements of public reason. Conversely, Judith's subjectively sincere commitment to public reason and her

insistence that George should be disallowed from making certain kinds of arguments in a public forum may appear to George as evidence that Judith is being uncivil and precisely *not* living up to the requirements of public reason.

But there is a further issue here, connected to the traditional problem of ideology or the apparently self-validating character of the views or stances that a citizen adopts: A citizen's existing stance will incline him or her to regard new evidence (including evidence presented by sincere others that could potentially disconfirm one's existing stance) as evidence that confirms the rightness of the stance that one has taken. So in the context of their ongoing disagreement, George's existing stance regarding public reason will incline him to regard Judith's attempts to limit his public arguments as evidence of her incivility, and thus as confirming his view that he is justified in dismissing her protestations as unreasonable. Conversely, Judith's existing stance regarding public reason will incline her to regard George's ongoing attempts at persuading her as evidence that he is unreasonable, and thus confirming her view that she is justified in dismissing his ongoing attempts at persuasion as unreasonable. Or to state the matter the other way around: Judith's discursive behavior will tend to confirm for George the rightness of his own position on public reason, but only because George himself has already taken the particular stance that he has; and George's discursive behavior will tend to confirm for Judith the rightness of her own view on public reason, but only because Judith herself has already taken the particular stance that she has.⁴² Is there a way to give a fair and non-prejudicial answer to the question of which of the two is failing to live up to the requirements of public reason, given the apparently self-validating character of the stances adopted by George and Judith (and the citizens represented by them)?

42. With these observations about the seemingly self-validating character of the particular stances that one takes, we are—interestingly enough—echoing Immanuel Kant. For Kant showed in his *Critique of Pure Reason* that the difficulties to which human reason falls prey will continue to seem irresolvable only if one persists in adhering to the pre-critical stance or view that human reason is passive in relation to the things it knows. For Kant, the fact that human reason continually falls into such difficulties leads reason to think that it is confirmed in its view that it is, indeed, the passive “victim” of mysterious forces and causes beyond itself; but reason regards such difficulties as confirmatory evidence only because of the particular stance or view that it has already taken with regard to itself. As Kant argues, if one were to take an altogether different stance and initiate a shift in one's thinking (i.e., if one were to perform a “Copernican revolution”), then the seemingly irresolvable difficulties and thus the seemingly confirmatory evidence about reason's passivity would altogether disappear. For Kant, things appear as they do to the pre-critical mind, precisely because of the stance that the pre-critical mind takes in relation to things; if one were to adopt a different (critical) stance regarding things, then things would also appear differently to the mind. Kant, *supra* note 4, at 106-24.

We saw in the preceding part that if public reason is to have any normatively significant content for George and Judith there must be some point at which Judith could legitimately complain that George is exceeding the proper limits of public reason, and some point at which George could legitimately complain that Judith is not honoring the duty of civility, as required by public reason. Now in the light of the issues just addressed, it is tempting to think that the disagreement between George and Judith (on the question of who is in violation of public reason) would have to be settled by reference to some standard or criterion external to their own interchange on the issue. For example, it is tempting to think that the disagreement has to be settled by reference to some stock of existing beliefs or opinions that can “externally” or “objectively” determine whose view and which person (i.e., George or Judith) should be regarded as “reasonable” (and “unreasonable”) in the interchange.

But there are problems with any such appeal to a stock of existing beliefs or opinions. First of all, if such appeal were made, then the person eventually judged to be unreasonable and in violation of public reason would be quite likely to reject that judgment (and reject the alleged normativity of the existing beliefs appealed to), just as he or she has already rejected the judgment of his or her opposing citizen-interlocutor. In other words, there is no reason to believe that George (or Judith) would willingly accept the judgment that he or she is being unreasonable, if that judgment is made on the basis of a stock of existing beliefs which themselves happen to contradict the beliefs held by George (or Judith). However, there is a further problem: On what basis is some set of existing beliefs to be taken as normative for determining who or what counts as “reasonable” in the context of a disagreement about public reason? It seems that such existing beliefs could be taken as normative for two possible reasons: either because these existing beliefs happen to be held by an identifiable majority of other persons (beyond George and Judith themselves), or else because these beliefs are deemed to be uncontentiously “true” in some sense. But as we have already seen, the nature, scope, and limits of Rawlsian public reason cannot be determined simply on the basis of “majority opinion” or on the basis of “truth.” Of course, one could respond here that the nature, scope, and limits of public reason may indeed be determined by appealing to the majority opinion, if this majority opinion is the opinion of *reasonable* people (and not just any people). Unfortunately, this response does not ultimately resolve the issue at hand, but only pushes it back one step further. For the very thing at issue is the question of who counts as a “reasonable person” (within the context of public reason), and—in the absence of any further qualifying conditions—it is normatively vacuous to say that the opinions of a majority of “reasonable” people can determine who (in the disagreement between George and Judith) is being “reasonable.”

In the remainder of this Essay, I would like to suggest a way in which it may be possible to think meaningfully about the requirements imposed by public reason, but without appealing (problematically or illicitly) to a stock of existing beliefs which are supposed to serve (because they are either “true” or held by a majority of people) as an external standard for determining who is actually correct when there is disagreement about who is or is not acting in violation of public reason. In other words, I would now like to suggest that a meaningful sense of public reason can be derived from what is *immanent* to the very interchange and disagreement between George and Judith themselves (and by implication, between any citizens represented by them). If one reflects further on the implications of the self-referentiality that (as we have begun to see) characterizes public reason, then an important inference can be drawn: *If there is actual disagreement between George and Judith on what is demanded of them by public reason, and if each claims that the other has violated the requirements of public reason, then—we can infer—the requirements of public reason really have been violated by at least one of them.* In other words, if each of them claims that the other has acted in violation of public reason, then at least one of them is correct and the other really has violated the requirements of public reason. (Of course, both can be correct about the other’s having violated the requirements of public reason, but they cannot both be correct about some *particular* alleged violation about which they disagree.)

The important point here is that it is possible to know on *immanent* grounds alone (i.e., simply through the fact that George and Judith disagree about which of them has violated public reason, and with no necessary reliance on an external standard such as “majority opinion” or “truth”) that there has indeed been a violation of public reason. The demonstration is as follows. If Judith accuses George of having violated public reason with respect to a particular discursive practice of his (e.g., she objects to his ongoing attempts to persuade her, since she believes that his arguments appeal to reasons that should be disallowed from the public sphere), then she is either right or wrong in that accusation. If she is right, then there has indeed been a violation of public reason, since (as she correctly claims) George has violated public reason. If, on the other hand, she is wrong in making that accusation, then her own discursive practice (i.e., her very own accusation) itself constitutes a violation of public reason, in which case—once again—there has indeed been a violation of public reason. This is because her accusation entails the claim that George should be disallowed from making certain arguments in the public sphere. But if George insists that his arguments do not violate public reason, and if he is correct in so insisting, then Judith’s claim that George should be disallowed from making such arguments in the public sphere is itself

unfair and a violation of the duty of civility, and thus it is contrary to the requirements of public reason (and reciprocally, George is correct to claim that it is Judith who has violated public reason). In short, if George and Judith disagree on which of the two of them is in violation of public reason, then Judith's accusation about George entails that there has actually been a violation of public reason (if not by George, then by Judith herself).

Since the stances taken by George and Judith are the mirror images of one another (each claims that the other is in violation of public reason), a similar analysis emerges if one focuses on George's claims about Judith. If George and Judith disagree on which of the two of them is in violation of public reason, then the very fact that George accuses Judith of violating public reason (and Judith disagrees and regards the accusation as unfair) entails that there actually has been a violation of public reason (if not by Judith, then by George himself).⁴³ Notice that—whether applied to George or to Judith—this analysis works because the concept of public reason is an intrinsically “intersubjective” or “reciprocal” concept. The concept simply has no normative significance if there are not two or more citizens who are able to disagree about the requirements of public reason and thus disagree about who is or is not living up to the requirements of public reason. Furthermore, as soon as there is any actual disagreement between citizens regarding who is or is not in violation of public reason, the very concept of public reason acquires a kind of self-referentiality. When such disagreement exists, the concept takes on a self-referential character because any actual claim that some other citizen has acted in violation of public reason is by its very nature a discursive practice that either (a) accurately describes some actual violation of public reason by another citizen, or (b) *itself* constitutes a violation of public reason. Because of the intersubjectivity and self-referentiality built into the very idea of public reason, it follows that if there is actual disagreement between citizens about what is required of them under public reason and if one citizen accuses another of violating public reason (in which case the accused citizen would claim that he or she is being unfairly accused), then—as a matter of fact—public reason has actually been violated. Stated differently, there is

43. In this analysis, I do not consider the possibility that George and Judith—in spite of their reciprocal charges against one another—are *both* completely misinformed about the nature and requirements of public reason. I do not consider this possibility here, because there is no need to do so. As I argued earlier, if the notion of public reason is to have any meaningful normative content for George and Judith, then it must be possible for them to disagree on which of the two of them is in violation of public reason and yet nevertheless—in the midst of such disagreement—for one of them to be correct. See *supra* Part III. But if one starts with the hypothesis that George and Judith are *both* completely misinformed about public reason, then—contrary to a necessary condition of our analysis here—it is no longer possible for one of them to be correct in the midst of their disagreement.

something self-confirming or self-validating about any accusation within the context of actual disagreement about public reason itself that some other citizen has violated the requirements of public reason.⁴⁴

The foregoing observations show that it is possible to claim meaningfully and correctly that there has been a violation of public reason, without having to justify this claim by showing that the violator's discursive practices contradict norms that have been gleaned from some stock of existing beliefs. In other words, the meaningfulness of public reason does not have to be determined by reference to some set of existing beliefs which somehow establish the terms of what counts as reasonable discourse (either because such beliefs are true or because they are held by a majority of people). Rather, the meaningfulness of public reason—and the possibility of its being violated—can be grounded in the simple fact of disagreement between citizens about the nature and requirements of public reason itself. Thus, the foregoing observations about public reason may help open the way towards an understanding of Rawlsian public reason that is not tied to any set of existing beliefs at all and that as a result is more genuinely sensitive to the fact of radical pluralism and disagreement.

But there is a further, perhaps more extraordinary implication to the preceding analysis. This analysis shows that in the midst of actual disagreement about public reason, it is possible for a citizen (e.g., George, Judith, or anyone represented by them) to be sure that there has indeed been a violation of public reason, yet without being sure that one's own discursive practice was not itself the cause of the violation. In other words, it is possible for a citizen to know that a violation of public reason has actually occurred, but without being able to foreclose the possibility that he (or she) himself (or herself) was not the violator. In turn, this result shows just how the ideal of public reason can remain a truly demanding *imperative* for every citizen, even in the midst of that citizen's being absolutely certain that a violation of public reason has occurred, and being firmly convinced that the violator was someone else. For if in the midst of actual disagreement a citizen could be certain not only that public reason had been violated but also that he or she was not the violator, then public reason—in this particular instance at least—would no longer specify a genuine *imperative* for that citizen. After all, this citizen would have already satisfied the imperative of public reason in this

44. In a similar vein, Michael Dummett observes that there is something self-confirming or self-validating about the belief that evil exists: if one believes in the existence of evil when in fact there is no evil, then this very belief is an illusion, in which case there is evil. Michael Dummett, *A Defence of McTaggart's Proof of the Unreality of Time*, 69 *Phil. Rev.* 497 (1960), reprinted in *Truth and Other Enigmas* 356 (1978).

particular instance and the only further action required of him or her would be to encourage or demand that some *other* person or persons stop acting in violation of public reason. But if the *spirit* of Rawlsian public reason teaches us anything, it teaches us that we should think of public reason as imposing a *constant* and *continuous* imperative on us, an imperative that calls for ongoing openness, even (and perhaps especially) in the midst of our certain knowledge that a violation of public reason has taken place and our firm conviction that we ourselves were not the violator.⁴⁵

What is meant by public reason, then, may not be fixed or determinate at all, but may be perpetually "in the making."⁴⁶ Thus it is perhaps best to think of public reason, not in terms of any already-existing set of beliefs or states of affairs, but simply as a task, an ideal, an imperative. Conversely, it is probably altogether wrong—or at least highly misleading—for Rawls to say (as he sometimes does) that the normative content of public reason must be determined in advance by reference to existing beliefs or "truths now widely accepted."⁴⁷

It should be clear by now that the interpretation suggested here would greatly expand the scope of public reason. But it would not do so by claiming that the stock of existing beliefs upon which public reason is grounded must be broadened so as to include beliefs that Rawls and Rawlsians have typically excluded. Rather, my interpretation would expand the scope of public reason by regarding

45. In some respects, then, the imperative imposed by the ideal of public reason is similar to Kant's notion of a categorical imperative. For as Kant makes clear, it is possible for me to know with assurance that the categorical imperative has been violated in a particular instance, but never possible for me to know with assurance that I myself have successfully lived up to what the categorical imperative requires of me. See Immanuel Kant, *Grounding for the Metaphysics of Morals* (1785), reprinted in *Immanuel Kant: Ethical Philosophy* 19 (James Ellington trans., 1983).

46. Rawls, *The Idea of Public Reason Revisited*, *supra* note 20, at 582 ("Political liberalism, then, does not try to fix public reason once and for all . . .").

47. Rawls, *Political Liberalism*, *supra* note 1, at 225.

As we have said, on matters of constitutional essentials and basic justice, the basic structure and its public policies are to be justifiable to all citizens, as the principle of political legitimacy requires. We add to this that in making these justifications *we are to appeal only to presently accepted general beliefs and forms of reasoning found in common sense*, and the methods and conclusions from science when these are not controversial. The liberal principle of legitimacy makes this the most appropriate, *if not the only*, way to specify the guidelines of public inquiry. . . . This means that in discussing constitutional essentials and matters of basic justice we are not to appeal to comprehensive religious and philosophical doctrines . . . nor to elaborate economic theories of general equilibrium, say, if these are in dispute. As far as possible, the knowledge and ways of reasoning that ground our affirming the principles of justice and their application to constitutional essentials and basic justice are to rest on the plain truths now widely accepted, or available, to citizens generally.

Id. at 224-25 (emphases added).

public reason as an essentially practical idea or imperative, and thus by asserting the radical primacy of the practical.⁴⁸ In so doing, my interpretation would altogether deny that the scope of public reason is to be established by reference to any antecedently determinable, theoretically ascertainable, or empirically observable state of affairs or set of existing beliefs. Following Aristotle—and following one of Rawls's own observations⁴⁹—my suggestion is that public reason is simply the imperative or ideal that properly governs the practical activity known as “civic friendship.” And as Aristotle indicates, civic friendship consists not in any already-established state of affairs, but in an activity; and ideally it is the activity of ruling and being ruled in turn⁵⁰ whereby no individual knows with assurance and in advance of actual enquiry and debate whether his or her own view should serve as the “measure or rule” for others or rather should be modified to conform to the “rule or measure” offered by others.

In conclusion, I would like to return to the discussion with which I began, namely Kant's discussion in the *Critique of Pure Reason* regarding “The Discipline of Reason With Regard to Its Polemical Use” (and it is this discussion to which Rawls refers when he first introduces his account of public reason in *Political Liberalism*).⁵¹ In this discussion, Kant argues that reason is essentially dialogical, and as a result “it is quite absurd to expect enlightenment from reason and yet to prescribe to it in advance on which side it must come out.”⁵² If there is a lesson to be extracted from this Kantian passage, then perhaps it is that Rawlsian public reason—like Kantian reason—is not tied to any stock of existing beliefs, but is essentially an ideal, an imperative, a task that cannot be pre-determined in advance of its own self-unfolding. And in one of his more powerful statements on the matter, Rawls seems to agree: “As an ideal conception of citizenship for a constitutional democratic regime, [public reason] presents how things might be, taking people as a just and well-ordered society would encourage them to be. It describes what is possible and can be, yet may never be, though no less fundamental for that.”⁵³

48. Elsewhere I have offered a reading of Rawlsian contractualism that similarly asserts the radical primacy of the practical. Michael Baur, *Reversing Rawls: Criteriology, Contractualism, and the Primacy of the Practical*, in *Phil. & Soc. Criticism*, May 2002, at 251-96.

49. Rawls, *Collected Papers*, *supra* note 20, at 579.

50. Aristotle, *The Politics* 92 (Carnes Lord trans., 1984) (n.p., n.d.).

51. See *supra* notes 1-6 and accompanying text.

52. Kant, *supra* note 4, at 647.

53. Rawls, *Political Liberalism*, *supra* note 1, at 213.

Notes & Observations