Rawlsian Liberalism and Public Education

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Abstract

This thesis aims at giving a plausible account of education from the perspective of John Rawls' theory of political liberalism. Despite the fact that an immense amount of literature has been written on both Rawls' work in general and political liberal theory in particular, this still seems to be a worthwhile task, for two reasons. The first reason is that the current discussion of liberal neutrality in the philosophy of education frequently engages with Rawlsian liberalism, despite the actual lack of an adequately refined Rawlsian account of liberal education. The second reason is that political liberal theory itself leans more toward the side of ideal political theory, provoking the question whether it has any application value for real politics. A sufficiently developed account of political liberal education would demonstrate that practical guidelines can indeed be generated from political liberal principles.

After providing a comprehensive overview over the few explicit claims about education Rawls made himself, and over the parts of his theory indicating further educational requirements for citizens of a liberal society, the thesis splits into two parts. The first part analyses the relation between core concepts of political liberalism (political virtues, autonomy, and rights) and education. Next to engaging with objections against neutrality-based restrictions in the context of education, this part also highlights the shortcomings of political liberalism when faced with the concrete requirements of education and proposes suitable revisions. The second part of the thesis picks out a number of concrete topics of education that are discussed in contemporary liberal theory. It analyses the questions to what extent religious beliefs entitle parents to determine the education of their children, to what degree same-sex relations should be part of a liberal sex-education curriculum, and what challenges migration might pose for political liberal education. For each case, the account of political liberal education presented here can provide guidelines based on the insights gained in the first part of this thesis.

Together, the mainly theoretical first and the more practical second part shape the outlines for a political liberal account of education which, albeit sketchy, provides a useful contribution to the current debates about liberalism and education in a way which has not been done in the literature on political liberalism so far.

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1 Introduction

Education cannot be value-neutral. Even if it tried to be, the choices made in the design of a curriculum, of what to teach and what not, and by what means, are choices which involve evaluative judgements. These judgements about what to teach, and in which way, are also normative choices – each of us thinks that children ought to know *this*, they should be capable to doing *that*, they need to grow up to be persons of a certain kind. It is quite probable that each of us has different ideas about what exactly *this* and *that* are, as each of us will have slightly different ideas of what kind of persons children should grow up to be.

Our differing judgements about the right kind of education is one aspect of what John Rawls calls "the fact of pluralism" in modern liberal democratic societies. Citizens of the same nation-state have different ideas about what makes a life meaningful and which goods are necessary for human flourishing. For this reason, Rawls remade his political theory and turned to a "political" approach to liberalism, summarised in his *Political Liberalism*.[1] In contrast to other forms of liberalism which are resting on substantial ethical assumptions about the human good, political liberalism is supposed to rest only on values which can be equally shared by all reasonable citizens in a pluralist society. Decisions about constitutional essentials and the basic structure of society ought only to be based on values that are political, i.e., can be affirmed by all reasonable citizens, in contrast to particular ethical values that have the support of some, but not all reasonable citizens in a society.

School education is part of the basic structure of society. In a just society, the restraints of political liberalism apply to decisions about the education system of a society as well. On the one hand, this implies that a political liberal state cannot design its education system to teach children to become autonomous individualists in a Millian fashion, or Kantian moral rationalists. On the other hand, education is not completely up for grabs either. As Rawls himself notes, now and then, throughout his corpus of work, a just society, even a political liberal one, needs to bring up its future citizens in certain ways and inculcate a certain range of values and dispositions. Education is a necessary building block to secure the continuity of a just liberal society over generations.

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[1] Rawls 1993.

Neither Rawls' *Political Liberalism*, nor his other works provide much more detail about political liberal education beyond occasional claims about how just political institutions produce reasonable and cooperative citizens and that education is important to this end.

Other authors who see themselves in a Rawlsian tradition have written about education and the upbringing of children. However, my impression is that none of these approaches offers are systematic political liberal account of education. Stephen Macedo writes repeatedly about education, but his version of liberalism seems to be rather restrictive and it focuses on values that are closer to a comprehensive liberalism than they would need to.[2] Harry Brighouse's writing about philosophy of education often seem to presume a Rawlsian idea of distributive justice, but seems to assume that an actual majority consent is necessary for political legitimacy, placing him more in the field of comprehensive democrats.[3] Matthew Clayton's account of political education, while probably engaging most fully with the details of Rawls' theory, tends to overlook (in my view) relevant aspects of political liberalism when it employs notions of autonomy and political virtues that would meet more disagreement by reasonable citizens than necessary.[4]

I will return to and engage with the arguments of these authors in the chapters of this thesis, endorsing some parts of their positions while rejecting others. However, looking at the state of the debate so far, I want to claim that yet there is no such thing as a well-developed account of political liberal education that considers the various essential features of that theory, such as stability for the right reasons, an overlapping consensus on a common conception of justice (or a family of such conceptions), and ethical neutrality in terms of comprehensive world views.

The lack of a comprehensive Rawlsian account of education makes the findings of a quantitative study of the debate about liberal citizenship education even more surprising: in the two decades between 1990 and 2010, a majority of journal articles participating in this

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[2] See, e.g., Macedo 1990, Macedo 2000a.

[3] See, e.g., Brighouse 1998a, Brighouse 2000.

[4] See Clayton 2006.

debate were engaging with some form of "Rawlsian-style liberalism", with Rawls as the prioritised engagement partner (in 27 out of 55 articles), as well as the most referenced author.[5] A similar tendency to engage with Rawlsian political liberalism, and to dismiss it for reasons that draw at least part of their force from arguments grounded in matters of education, can be found in books published during the last 25 years.[6]

This combination of a lack of any halfway comprehensive account of Rawlsian education and the engagement of plenty of literature about education with Rawlsian liberalism are motivating this thesis. My aim is to give a more detailed account of education that grounds in Rawlsian liberalism, which I take to be political liberalism.[7] The key features of this account are:

- An analysis of the requirements on education, derivable from central elements of political liberal theory: political virtues, autonomy, and political rights.
- Updates of and changes in political liberal theory where tensions emerge, either internally or with empirical claims, in the course of developing an account of education.
- Examples of how the requirements of political liberal education work in applied cases: religion in education, same-sex relations as part of sex education, and the relation between political liberal education and migration.

Before I start, though, it is necessary to say more about the methodology, the scope, and the restrictions of the account of Rawlsian education I am going to present, followed by a brief preview of the content of the subsequent chapters of the thesis. The final section of this introduction will be about the terminology I decided to use.

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[5] See Fernández, Sundström 2011, pp. 378f.

[6] See Callan 1997, Levinson 1999, Winch 2006.

[7] There are nevertheless people who think that Rawls' turn toward political liberalism was unfortunate and that keeping his position closer to his claims from *A Theory of Justice* would have been the better choice (see, e.g., Taylor 2011). I do not share this view but will make no attempt to argue against it here.

1.1 An Exercise in Public Reason

One could describe this thesis as an exercise in public reason.

Public reason gained prominence in liberal political philosophy after Rawls introduced the idea in *Justice as Fairness: Political not Metaphysical*[8] and incorporated it into his political theory in *Political Liberalism.* It is commonly understood as a moral standard for deliberation about political decisions. Citizens of a well-ordered society are supposed to only endorse coercive laws and institutions if their reasons for doing so are acceptable to their fellow citizens, i.e., their reasons are public.[9] It is worth mentioning at this point that the citizens of a well-ordered society are idealised to a degree that strips them of any psychological biases their real-life counterparts might have (and that assumes that they comply with the principles of justice without further need for external incentives or sanctions).

This thesis can be understood as an attempt to provide reasons for endorsing a set of principles for a political liberal education system that would be acceptable to the rational and reasonable citizens of a well-ordered society. It takes into consideration the basic principles and values of a liberal conception of justice and extrapolates reasons for various details of public education which would be considered public by the citizens of this moderately idealised society.

One might be tempted to object that public reason is a deliberative framework for citizens, and not the forum for ideal (or semi-ideal) political philosophy of the kind found in this thesis. On this view, public reason should apply to what "normal" citizens think about political problems. However, this sort of deliberation would not necessarily exclude

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[8] Rawls 1985.

[9] The scope of public reason varies depending of the author defending it. Rawls; own conception of public reason applies only to constitutional essentials and matters of basic justice (see Rawls 1999a, p. 136) while Johnathan Quong argues for widening the scope to include any type of coercive law (see Quong 2011, Ch. 9). If public education counts as part of the basic structure of society, as I will assume and argue for in this thesis, it is already covered by the narrower scope.

engaging with ideal theory now and then. It seems quite plausible that even "normal" citizens have employ ideal theorising to some degree when thinking about normative political questions. Some of those citizens can be even political philosophers who are imagining idealised societies to find public reasons for their favoured principles of education.[10]

When we think of philosophical idealisation as a legitimate way of deliberation, the next relevant question must be to what extent we can plausibly idealise in matters of education which should offer useful guidelines for real-world educational policies. Finding a plausible degree of idealisation without losing sight of actual political challenges is therefore one of the concerns of this thesis.

1.2   Ideal vs. Non-Ideal Theory

This thesis is an attempt to build a bridge between the ideal theory that grounds Rawlsian liberalism, and what I call a semi-ideal view. For this reason, the first part of the thesis discusses the basic values and principles which belong to the ideal part of political liberal theory. These are, after all, the foundation on which a political liberal account of education needs to stand. In the second part of the thesis I propose ways of approaching matters that are often discussed in the context of liberal education, such as the standing of religious education, same-sex education, and what opportunities liberal education needs to provide for immigrants.

As my approach draws on the normative groundings from the previous chapters, which belong to the core ideas of Rawlsian liberalism, the discussion of more "applied" topics cannot be non-ideal theory. I try, however, to de-idealise enough to get a picture of a well-ordered society which is, if not a completely realistic, at least not so abstract that social phenomena like discrimination and immigration disappear.

While I label this a semi-ideal view, I am aware that from the perspective of non-ideal theory, it still might appear far too idealised. On many occasions I will try to give at least a sketchy discussion of what problems might occur in particular real-life contexts and what

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[10] For an argument in favour of these two points see Neufeld 2017.

options we have considering our political liberal account of education as normative background. Nevertheless, this account remains mainly an ideal one, although hopefully clearly less ideal in important respects than Rawls' original theories.

The step of de-idealising to derive normative guidelines for somewhat more applied problems in educational politics also brings into focus that such a project is necessarily limited. I should therefore also say a few words about the scope of this thesis.

1.3 Scope

The scope of this thesis is limited in various ways, so it seems helpful to make these limitations explicit and give at least a short justification for them.

Cultural and Geographical Limits

The idealised well-ordered society that is in my focus is a political liberal one and therefore modelled after western liberal democratic societies.[11] This is the restriction of political liberalism, and therefore also the restriction of my account of political liberal education.

This limit of scope is reflected in the application cases discussed in the second part of the thesis. The tension between liberalism and religion discussed in Chapter 6 seems to be one that is mainly found in western states, most characteristically in the USA. Similarly,

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[11] Rawls' own theory is leading the way here. The historical developments that Rawls described in the introduction to *Political Liberalism* and his identification of the "third feature of a political conception of justice [being such] that its content is expressed in terms of certain fundamentals ideas seen as implicit in the public political culture of a democratic society" (Rawls 1993, p. 13) both indicate that the subject of his political theory is a liberal society with a representative democratic government, an ideal version of the democracies in the Western world.

This modest aim of political liberalism is made explicit by Johnathan Quong, who sees political liberal theory as aiming at understanding what arguments persons "in modern societies", who are "*already committed* to certain basic liberal norms can legitimately offer to one another." See Quong 2011, p. 5, emphasis in the original.

Chapter 7 focuses on topics such as homosexual identity and homophobia as it is found and discussed in Western European and Northern American societies. For societies with different historical backgrounds, even though political liberalism might be an ideal for them as well, an approach to gender and sexual equality might need different approaches. These not typically Western approaches could be derived from the basic requirements of political liberal education as well, although they are not discussed in this thesis.[12] Chapter 8 is concerned with the kind of immigration as it typically happens in western democracies, be it the United States or European countries.

Some aspects of political liberalism, and thereby probably also some of the more practical implications I draw in this thesis, might be transferable to other types of societies.[13] A proper analysis of which elements would be portable and what this would require from the theory as well as the society in question, is obviously beyond the scope of my project.

Liberal Sectarian Limits

Another way in which this thesis is limited is by its acceptance of political liberal basic concepts and aims as given. I am certainly critical of some of the ideas of political liberalism as Rawls develops them, especially in regard to political virtues and autonomy (as will be seen in Chapters 3 and 4) but my attempts at improvement aim to remain inside the tolerance limits of the political liberal framework. Insofar, in the context of this thesis I am not critical of the political liberal project itself.

Whether, e.g., political liberalism is indeed a liberal theory that distinguishes itself from other liberal theories by its neutral approach to various world views, or just another form of liberal sectarianism,[14] is not discussed here (my hunch is that it is sectarian – but still less so than most other forms of liberalism). Independent of this discussion, this work will

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[12] See, e.g., Dankmeijer 2007.

[13] A current example would be Sungmoon Kim's work on the integration of public reason with Confucianist East Asian societies (Kim 2017).

[14] See Gaus 2012.

focus on political liberalism's need to say something about education. The position of the framework among other liberal theories makes no difference for this task.

Limits of Justice

The scope of this thesis is restricted in a different sense as well – it is compatible only with a restricted range of conceptions of justice. Political liberalism, as it is presented by Rawls, takes Justice as Fairness as the central conception of justice which is supported by citizens in a well-ordered society. Justice as Fairness, of course, is the label of the theory of justice that Rawls himself develops in *A Theory of Justice*.[15] It is supposed to outline the just arrangements of what he calls the *basic structure* of society, including a nation state's constitution and political, legal, and economic institutions, according to egalitarian principles of justice.

Rawls thinks that in the context of his political liberal theory, Justice as Fairness is the most reasonable liberal conception of justice, although he concedes that other conceptions would also satisfy his definition of a liberal conception of justice.[16] Later, Rawls repeats the concession that a political liberal society would not necessarily find a consensus based on one particular theory of justice. Instead, a range of acceptable theories of justice would sustain the overlapping consensus in a political liberal society.[17]

The various conceptions of justice which are acceptable for a political liberal society differ in their details. At the same time, they all need to have enough in common to satisfy basic liberal requirements. The suitability of a conception of justice for political liberalism can be determined by "three main features:"

- They must sustain basic rights and liberties that are taken for granted in a constitutional regime,

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[15] Rawls 1971.

[16] Rawls 1993, p. xlvii.

[17] See Rawls 1999a, p. 137.

- assign priorities to those rights and liberties over other political considerations, and

- they need to ensure that citizens have the means to make effective use of those rights and liberties, as well as of the opportunities those rights and liberties open up for them.[18]

In this thesis I take Justice as Fairness to be the relevant conception of justice. My account of education is nevertheless compatible with different reasonable conceptions of justice, as they all have to satisfy the above criteria and provide sufficiently similar principles from political liberal requirements for education can be derived. Therefore, this thesis is not limited to making claims about a society governed by the principles of Justice as Fairness, although it is limited by the range of reasonable conceptions of justice.

So much for the main limitations of this thesis. What is still needed is a brief overview over its aims.

1.4 Aims

The aim of this thesis is to present an account of political liberal education. But it could do so in different ways, therefore it seems helpful to give an indication of what this account wants to achieve.

This thesis is meant to be is one of a range of possible political liberal accounts of education. It is a plausible and reasonable account that attempts to solve some of the problems that have been brought up at the intersection between political liberal theory and philosophy of education. It is also meant to demonstrate how ideal political theory can generate less abstract normative guidelines that might be applicable, modified by context, to real-world political questions about education. This characterisation is, however, open to various interpretations and might lead to expectations that I will not meet. For this reason, it is important to clarify what are not aims of the thesis.

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[18] See Rawls 1999a, pp. 140f, also Rawls 1993, p. xlvi for an earlier version of these conditions.

It is not meant to be faithful Rawls exegesis that tries to conserve Rawls' view of the project of political liberalism in every detail. Some of the ideas about autonomy and political virtues in Rawls' version of political liberalism appear to be at odds with basic ideas of education, so that especially in Chapters 3 and 4, I suggest modifications of Rawls' account of autonomy and of political virtues. Hence, next to the aim to develop a political account of education this thesis also aims at adapting political liberal theory to meet basic requirements of education.

These revisions will perhaps be controversial for some political liberals. The claim made in Chapter 3, that Rawls' Aristotelian account of virtues should be replaced with a Humean one, might seem superfluous or even harmful to political liberals who think that Rawls' Aristotelian Principle still has a relevant function after his political turn. The introduction of what I call weak autonomy in Chapter 4, deriving from the canonical idea that only the "political" autonomy of individuals is relevant for political liberalism, might seem unacceptable to those who think that political liberalism needs to be as neutral as possible in matters of autonomy. Some political liberals may also disagree with my approach of the role of religion in education in Chapter 6, and the claim that private and religious schools are (mostly) unproblematic from the perspective of political liberal education. I am well aware that not every reader will agree with me on the claims I make in those chapters (and probably on a few other claims as well) but it seems to me that there are good reasons for these changes, as I will argue in the respective chapters.

This thesis is also not meant to provide the only definite and correct political liberal account of education. This is not only impossible under the limitations given for a doctoral thesis, but generally impossible. Depending on what modifications and revisions of political liberal theory we think of as acceptable, and what requirements education can or must make on the state, on parents, and on children, we will end up with a broad range of different accounts of political liberal education. Political philosophers, even those committed mainly to political liberalism, are subject to reasonable disagreement just like citizens of a well-ordered society.

To conclude this introduction, I provide a short preview of the thesis chapters and their main arguments.

1.5 Preview

In Chapter 2, I start approaching political liberal education by giving an overview over the sparse material about education that can be found in Rawls' work. While this thesis focuses on a political liberal account of education, I also assess works prior to Rawls' political turn, as views developed in Rawls early work can be (and often are in regard to other matters) still relevant to his political liberalism. These findings give a first impression of what Rawls thought would be relevant for liberal democratic education and point to the direction in which a more robust account of political liberal education should be developed.

The next three chapters constitute what I call the theoretical part of the thesis. It includes political virtues, autonomy, and the political rights and liberties of actors in a political liberal society. Any more detailed claims about how political liberal education ought to work must take into account these concepts and their implications.

The topic of Chapter 3 is the political virtues which citizens in a political liberal society need to cultivate. The responsibility for the cultivation of political virtues falls at least partly to the education system of a society. However, as I will show, the conception of virtues and what motivates virtuous behaviour in Rawls' political liberalism, the Aristotelian Principle, looks very much like a leftover from his pre-political theory and would imply a range of comprehensive and/or perfectionist policies. Furthermore, justifying educational policies on the grounds of the Aristotelian Principle would rest the justification for basic policies on an idea of human flourishing that reasonable citizens can disagree about and reject. As a solution to this problem I propose to adopt a Humean account of virtues instead, which remains mainly neutral about the exact nature of political virtues and thus provides a more innocuous justification for education that fosters a range of political virtues.

In Chapter 4 I discuss the role of autonomy for political liberal education. From the brief digression on education that can be found in the context of Rawls' political liberal theory it seems to follow that in his view, only political autonomy should be relevant for education. Throughout this chapter I argue that this would leave an incomplete picture of political liberal education. In order for citizens to develop the moral powers associated with citizenship in a liberal democratic society, and to develop some of the political virtues, they need more than just political autonomy. The central claim of Chapter 4 is that an account of

autonomy of individuals as self-determined agents is necessary to achieve these ends, and that political liberal education has to include an account of this type of autonomy.

Chapter 5 looks at the relations between the political liberal state, parents, and children in terms of rights and liberties. I propose casting political rights and duties in a Hohfeldian manner for a better understanding of the relations between those actors. Doing so enables me to show in which regards demands of justice generate duties for parents, but also the state, to ensure a sufficient education for children so they can make adequate use of a range of basic goods. The interests of children also generate certain claim-rights of the state against parents, should these not be able or willing to fulfil their duties toward their children.

Chapters 6 to 8 constitute the second, applied part of the thesis. Each of these chapters addresses a particular set of topics and problems that occur in educational context.

The role of religion in education, together with the question whether a political liberal education system has room for private schools, is discussed in Chapter 6. One main focus of this chapter is on Kevin Vallier's recent claim that public reason liberalism (of which political liberalism is one form), properly understood, would necessarily imply that a public education system is illegitimate and political justification can only be achieved for a privatised education system. I argue against this view that it does not apply to political liberalism, despite being a type of public reason liberalism. However, I concede that in a political liberal society there would be no prima facie reason against a mixed school system that allows private schools, under the right social conditions and the necessary political standards and checks.

Chapter 7 picks up on the discussion of same-sex relations that takes place in philosophy of education and education science to see how principles of political liberal education apply to it. In this chapter I argue that political liberal education needs to include same-sex relations in its sex education curricula, as it is an important building block for self-respect of future citizens. In less ideal societies, where inequality between opposite-sex and same-sex couples exists, e.g., in terms of access to the institution of marriage, an inclusive sex education is also a step towards a more equal society, or so I argue.

The last of the three applied chapters, Chapter 8, attempts an analysis of whether a political liberal education needs to make additional offers to the children of immigrants, and what these offers would have to be. This is the applied case that is furthest away from the idealised well-ordered society of Rawlsian political liberal theory, as it de-idealised to a degree where exchange with other societies and immigration occur. My main claim in this chapter is that the political liberal state has indeed an obligation to provide additional educational resources to immigrant children, which are generated out of considerations for distributive justice as well as for long-term stability of society for the right reasons.

Chapter 9 summarises the main findings of the previous chapters and explains what makes the account of political liberal education I develop in this thesis a plausible and reasonable one. Furthermore, I suggest that the project of developing a political account of education highlights the circumstance that ideal political theory sometimes needs adjustments if it turns out to address real-world problems only insufficiently. Finding out whether such adjustments are a required is a necessary step in constructing semi-ideal applications, like I attempt to do over the remaining chapters.

1.6 Terminology

I am going use the term "public school" frequently throughout the thesis. Depending on the region it is used, this term denotes different kind of schools. In England and Wales, public schools are actually part of the private sector that charge fees for the attendance of students. In Scotland and the United States, the term denotes state schools funded by taxation. In this thesis, I will adopt the latter usage for the term "public school." I will refer to schools charging fees as "private schools."

2 Rawlsian Education: Preliminary Observations

Of course, it must start with Rawls – first, by summarizing the main characteristics of his political liberalism, as these set the stage on which a corresponding theory of education can be acted out (2.1). Second, by unearthing what little explicit material on this topic Rawls himself wrote, the probably most obvious one being a short paragraph in *Political Liberalism* where he sketches a very brief concept of political liberal civic education (2.2 and 2.3). Third, by analysing what kind of implicit assumptions about education can be found in central parts of his work (2.4 to 2.5). In a last step, I will argue that principles and regulations concerning education can reasonably be viewed as objects of public reason and must be justified according to its standards (2.6).

Whenever education is mentioned in Rawls' work, it is often in its role as a resource in contexts of distributive justice but also in the context of the development of a sense of justice. It is the latter that will be relevant in regard to political liberal education, as I will argue, because the sense of justice is one of several political virtues that persons have to develop in order to become proper democratic citizens of a well-ordered society. Because of my focus on the political and moral requirements of political liberalism, education as a matter of the distribution of resources will not be considered here. This does not mean that the place of education in a fair distributive scheme would not matter. Rather, it is a different aspect of education than the one I am analysing in this thesis.

Despite Rawls writing close to nothing on the topic of education explicitly, many passages in his work imply some form of political education for the citizens of a well-ordered society which is ordered by principles of justice that all citizens can agree on. It becomes obvious that Rawls is aware of the influence of political structure on citizens' lives when he, e.g., writes:

> [T]he institutional form of society affects its members and determines in large part the kind of persons they want to be as well as the kind of persons they are. The social structure also limits people's ambitions and hopes in different ways; for they will with reason view themselves in part according to their position in it and take account of the means and opportunities they can realistically expect.[19]

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[19] Rawls 1993, p. 269.

It is obvious that the institutions of education in Western liberal democratic societies influence citizens immensely in their development of the kind of persons they become. Although those are certainly not the only institutions doing so, they might be the major influence for a large part of the population; and even though Rawls never stated this explicitly, schools (and perhaps other institutions of education as well) therefore count as part of the basic structure of society and should be considered as such when modelling an idealised well-ordered society in order to see how a political conception of justice works out.

2.1 Core Concepts of Political Liberalism

Political liberalism was developed by Rawls[20] to meet the requirements of a society characterised by reasonable pluralism – a pluralism of ethical, philosophical, and religious world views whose adherents on the one hand are interested in cooperation with each other but who on the other hand have diverging conceptions of what makes a good life and what moral standpoints are to be taken as true (and for which reasons). As Rawls himself notes, the way he presents his conception of Justice as Fairness in his earlier works, most famously in *A Theory of Justice*, assumes that citizens endorse this conception because they think of it as true or right by its own virtue. This will not be the case in a pluralistic society, and without citizens endorsing the conceptions that defines their basic political structures, the pressing question arises: "How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?"[21]

The answer to this question is a "political" conception of justice, "a moral conception worked out for a specific kind of subject, namely, for political, social, and economic institutions."[22] This political conception of justice needs to be "freestanding", "a module,

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[20] Although not exclusively by him, one might say. Similar ideas to those that Rawls develops can be found in works by Bruce Ackermann (Ackerman 1980) and Thomas Nagel (Nagel 1987), and some of the ideas presented in *Political Liberalism* find their echo in writings of, e.g., Kenneth Strike (Strike 1994) and Charles Larmore (Larmore 1990), which themselves are based on Rawls' earlier articles.

[21] Rawls 1993, p. xviii.

[22] Rawls 1993, p. 11.

an essential constituent part that fits into and can be supported by"[23] the various reasonable world views that citizens in a pluralistic society hold.

It is important to bear in mind that the "well-ordered" society populated by reasonable citizens" is itself an abstraction. It is what Rawls sees as a necessary intermediate step from his famous thought experiment of the original position, in which highly abstracted parties determine the principles of justice,[24] to the acceptance of those principles by concrete people. The model of the well-ordered society aims to show whether and how the conception of justice from the original position can be accepted by moderately idealised citizens in a pluralistic society. Unlike the parties in the original position, they are much closer to representing actual persons, including their commitments to different world views with different sets of ethical values. The main difference to actual citizens is that these moderately idealised citizens will be a bit more reasonable than their real-life counterparts (where "reasonable" for Rawls is a complex conception that I will describe in more detail below). This is a necessary second step in the process of justifying a conception of justice that provides for the structures of basic political institutions: if it can be shown that the principles of justice that can be derived from the original position are acceptable to the idealised citizens of the well-ordered society, then they are finally justified to "you and me who are elaborating Justice as Fairness and examining it as a political conception of justice."[25]

The mechanisms that Rawls envisions in order to make this political conception of justice work in the well-ordered society are complex. I will introduce its central parts and their functions here, as all of them will have an influence on a political liberal theory of education.

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[23] Rawls 1993, p. 12.

[24] See Rawls 1971, pp. 11-17.

[25] Rawls 1993, p. 28.

2.1.1 Comprehensive Doctrines

Rawls calls it the "fact of pluralism"[26] that citizens of modern societies will adhere to a diversity of comprehensive religious, philosophical, and moral world views, all of which are often simply referred to as "comprehensive doctrines." Central to any comprehensive doctrine is that "it covers the major religious, philosophical, and moral aspects of human life in a more or less consistent and coherent manner", "it organizes and characterizes recognized values so that they are compatible with one another and express an intelligible view of the world", and it is "singling out which values to count as especially significant."[27]

Paradigmatic examples for comprehensive doctrines are religions. However, they include other metaphysical doctrines as well, such as utilitarianism or forms of classical liberalism as they have been promoted by Kant or Mill. Aside from these examples given by Rawls himself throughout *Political Liberalism,* we can also classify certain secularist views as comprehensive.[28] Such doctrines will emphasise an atheist, scientifically oriented perspective on life and see religion as mere superstition or even as dangerous to humanity.[29]

The fact that citizens in a pluralistic society will sustain a variety of different comprehensive doctrines which emphasise different values, some of which will likely disagree with each other, leads to problems for social and political stability, as Rawls observes.

2.1.2 The Challenge of Stability

In light of a pluralism of comprehensive doctrines, Rawls claims that the following three facts should make us concerned about the stability of such a pluralistic society:

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[26] Rawls 1993, p. xxv.

[27] Rawls 1993, p. 59.

[28] See, e.g., Laborde 2013, in particular p. 74 for a distinction between secular and secularist views.

[29] Take, e.g., Richard Dawkins as a contemporary example for a popular comprehensive secularist.

1. "The diversity of reasonable comprehensive religious, philosophical, and moral doctrines found in modern democratic societies [...] is a permanent feature of the public culture of democracy."[30]

2. "[A] continuing shared understanding of one comprehensive religious, philosophical, or moral doctrine can be maintained only by the oppressive use of state power."[31]

3. "[A]n enduring and secure democratic regime, one not divided into contending doctrinal confessions and hostile social classes, must be willingly and freely supported by at least a substantial majority of its politically active citizens."[32]

From these premises Rawls concludes that a liberal democratic society must be centred around a political conception of justice which cannot be derived from the values or truths of a single comprehensive doctrine. The reason for this is that there will be reasonable disagreement about those values, and at least some values of one particular doctrine will likely not be acceptable from the perspective of another comprehensive doctrine. It is therefore important that a shared conception of justice can be affirmed from the various perspectives these doctrines hold. Only if a shared conception of justice can be accepted on moral grounds shared by all reasonable comprehensive doctrines, there can be continuous social stability.

Of course, persons can cooperate without endorsing a political conception of justice. They can do so for prudential reasons alone, the result of which will be some sort of "mere modus vivendi" arrangement in which people tolerate each other because of the advantages this social constellation has for them. But as these kinds of arrangements are only based on self- or group-interests, Rawls thinks that they are not reliable enough in terms of stability, "as [their] stability is contingent on circumstances remaining such as not to upset the

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[30] Rawls 1993, p. 36.

[31] Rawls 1993, p. 37.

[32] Rawls 1993, p. 38.

fortunate convergence of interests."[33] Therefore it is important for political liberalism to reach stability for the right reasons, which will lead to something that Rawls calls the "overlapping consensus."

2.1.3 Overlapping Consensus

"[W]e suppose a constitutional democratic regime to be reasonably just and workable, and worth defending. Yet given the fact of reasonable pluralism, how can we frame our defense of it so that it can win sufficiently wide support to achieve stability?"[34] Rawls' answer to this question is a consensus on a political conception of justice. This conception of justice is (despite the label "political") a moral one, as it includes a range of values such as "the values of equal political and civil liberty; fair equality of opportunity; the values of economic reciprocity; the social bases of mutual respect between citizens", as well as the values of public reason, the latter of which will be explained in more detail further down.[35]

The principles and values at the focus of this consensus are not rooted in one particular comprehensive doctrine but can be affirmed from the perspective of all doctrines that are considered reasonable (I will explain in the next section what it means to be reasonable in Rawls' terms). Hence, the Rawlsian term for this shared affirmation is "overlapping consensus," as the content of the consensus will be an intersection of the value sets of reasonable comprehensive doctrines. Establishing the overlapping consensus will contribute to political stability, as the conception of justice that is its object, is a moral conception, and it is affirmed on moral grounds: "[a]ll those, who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides."[36] This moral endorsement of the political conception of justice and the values and procedures connected to it lead to stability for the

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[33] Rawls 1993, p. 147. It can be questioned whether modus vivendi arrangements are really that unstable (see, e g., Gray 2000, Horton 2011, Wendt 2016). For now, I will assume that Rawls' worries about the instability of modus vivendi arrangements are plausible.

[34] Rawls 1993, p. 49.

[35] Rawls 1993, p. 139.

[36] Rawls 1993. p. 147.

right reasons, without the risk of losing it as soon as the balance of political power and influence changes. Citizens who participate in the overlapping consensus will, so Rawls' conviction, not abandon the principles of justice and re-negotiate the terms of social cooperation in case they find themselves in a better bargaining position one day.

As mentioned above, one of the conditions of participation in the overlapping consensus is that citizens, and the comprehensive doctrines from which citizens draw their reasons to participate, are reasonable. The reasonable is a rather complex concept for Rawls and plays an important role in determining to whom justification for political coercion is owed. I will therefore give a more detailed description what it means to be reasonable in the following section.

2.1.4 The Reasonable

A central term in political liberalism is "reasonable," used in many different contexts to refer to various things.[37] The most important applications of it are in regard to persons and in regard to comprehensive doctrines. In these two cases the term is used in slightly different ways.

The shortest Rawlsian definition of what qualifies a person as reasonable that can probably be found says that being reasonable is associated "with the willingness to propose and honor fair terms of cooperation [and] with the willingness to recognize the burdens of judgment and to accept their consequences."[38] This definition can be split into two parts, of which the first is a moral (partial) definition and the second an epistemic one.

Honouring fair terms of cooperation means that citizens are not merely motivated by their own, self-directed interests to cooperate with their compatriots but also by the acknowledgement of cooperation as the mechanism which advances those interests. They "desire for its own sake a world in which they […] can cooperate with others on terms all

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[37] For what seems an exhaustive list of the various uses of the term "reasonable" in *Political Liberalism* see Wenar 1995.

[38] Rawls 1993, pp. 48f, n. 1.

can accept."[39] Still, they are no altruists and "not moved by the general good as such."[40] The interests of the idealised citizens in a well-ordered society to engage in fair cooperation seems to be a moral motivation of medium strength, so to speak.

The epistemic part of this definition refers to what Rawls calls "the burdens of judgement," a set of considerations about the sources of disagreement. The burdens of judgement include considerations of conflicting and hard to assess evidence, different weighting of evidence in persons' individual evidential sets, the vagueness of (some) concepts, perceptual and psychological biases, diverging normative considerations regarding particular states of affairs, and the potential incommensurability of values.[41] If disagreement in society originates from one or more of these sources, reasonable citizens need to tolerate it, as there is no rational way to end this kind of disagreement. Recognising and accepting these limitations "leads to a form of toleration and supports the idea of public reason,"[42] which I will say more about in the next sub-section.

The second way in which "reasonable" is used is as a potential property of comprehensive doctrines. This is important in so far as only reasonable comprehensive doctrines can partake in the overlapping consensus. Therefore, it will be good to know how to identify them. Although Rawls assumes "that reasonable persons only affirm reasonable comprehensive doctrines,"[43] this alone is not sufficient description of what makes a doctrine reasonable. Beyond the affirmation by reasonable persons, reasonable doctrines are characterised by three main features:

- It "is an exercise of theoretical reason: it covers the major religious, philosophical, and moral aspects of human life in a more or less consistent and coherent manner."

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[39] Rawls 1993, p. 50.

[40] Rawls 1993, p. 50.

[41] Rawls 1993, pp. 56f.

[42] Rawls 1993, p. 59.

[43] Rawls 1993, p. 59.

- "It organizes and characterizes recognized values so that they are compatible with one another and express an intelligible view of the world."

- It "belongs to, or draws upon, a tradition of thought and doctrine [but a]lthough stable over time […] it tends to evolve slowly in the light of what, from its point of view, it sees as good and sufficient reasons."[44]

In contrast to the moral notion that is included in the Rawlsian concept of a reasonable person, the concept of the reasonable applied to comprehensive doctrines includes the notions of consistency and coherence, as expressed in the first two parts of the characterisation. It is useful to keep the difference between these two applications of the concept of the reasonable in mind, because some of the problems I will describe later are rooted here. For now, let us focus again on reasonable persons and how their acceptance of the burdens of judgement pave the way to public reason.

2.1.5 Public Reason

The way a democratic political society ideally should make plans and decisions, as well as order its values, is by its reason, as Rawls writes, which "is an intellectual and moral power, rooted in the capacities of its human members."[45] Rawls calls it public reason, as he claims that this kind of political deliberation is "public in three ways:" it is the reason of persons in their role as citizens, it is concerned with the public good on "matters of fundamental justice" and "its nature and content is public, being given by the ideals and principles expressed by society's conception of political justice, and conducted open to view on that basis."[46]

Why public reason? The answer is that the exercise of political power results in coercion, usually by limiting the freedom of persons. If one of the basic intuitions that political

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[44] Rawls 1993, p. 59.

[45] Rawls 1993, pp. 212f.

[46] Rawls 1993, p. 213.

liberalism appeals to is that citizens are free and equal, political coercion needs to be justified to them. Rawls expresses this in his principle of liberal legitimacy:

> [O]ur exercise of political power if 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 the light of principles and ideals acceptable to their common human reason.[47]

In order for political coercion to be legitimate, it must be justifiable to citizens who are affected by it.[48]

For Rawls, as clearly stated in the quoted passage, justification needs to be given for what he calls "constitutional essentials" and "questions of basic justice,"[49] but not for a wide range of other political questions that are less fundamental. Although he does not go into more detail, Rawls suggests that there might be a difference between political questions that concern fundamental matters and those that do not. At the same time, he admits that his aim is "to consider first the strongest case" of coercive political power, "[s]hould it hold there, we can then proceed to other cases."[50] Rawls remains vague regarding whether public reason is necessarily restricted to fundamental matters or whether this restriction is merely due to more pragmatic reasons. It seems at least possible to interpret public reasons in a way that allows its application to a broader range of political questions.[51] I will return to this question about the scope of public reason in later chapters, as it will turn out to be important in the context of child raising and education.

The justification for coercive political measures, however, must be of a certain kind. Rawls speaks of a moral duty, "the duty of civility," which is imposed upon citizens by the principle of liberal legitimacy and requires of citizens

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[47] Rawls 1993, p. 137.

[48] Unless otherwise noted I will use the terms "legitimised" and "justified" synonymously and not distinguish between them in a sense in which, e.g., John Simmons does. See Simmons 1999.

[49] Rawls 1993, p. 214.

[50] Rawls 1993, p. 215.

[51] As does, e.g., Jonathan Quong, see Quong 2011, pp. 273-289.

to be able to explain to one another on those fundamental questions [i.e., such concerning constitutional essentials and the basic structure] how the principles and policies they advocate and vote for can be supported by the political values of public reason. This duty also involves a willingness to listen to others and a fairmindedness in deciding when accommodations to their views should reasonably be made.[52]

Effectively, this means that justifications for supporting some coercive political measure can eventually only invoke values that are agreed upon by all reasonable comprehensive doctrines in society as part of the overlapping consensus. Only for these values acceptance can be expected from reasonable citizens, and only political coercion justified on the grounds of these values will be endorsed for certain by reasonable citizens. Obviously, persons can have other reasons for supporting a particular political measure as well, but these are classified as "nonpublic reasons," which have their place in the "background culture" of civil society. Many of them are social, as they are valid in all kinds of non-political associations like churches or universities, therefore Rawls refrains from calling them "private" reasons.[53]

When it comes to justification of state policies, the concept of the reasonable person defines the set of persons whose reasons must be considered when justifying state coercion. Only the reasons of reasonable persons have justificatory force in political deliberation. Furthermore, public reason liberals generally assume that the reasons of reasonable citizens against a particular implementation of coercive policies effectively block that policy.[54]

It is worth mentioning that Rawls later modifies his account of public reason and introduces something called "the wide view of public political culture."[55] It allows for

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[52] Rawls 1993, p. 217.

[53] See Rawls 1993, p 220.

[54] The notion of defeater reasons does not occur in Rawls' own writings and is, to my knowledge, introduced into public reason liberalism by Gerald Gaus (Gaus 2011, pp. 244-251), who adopts the idea from John Pollock (Pollock 1996). More about justificatory and defeater reasons and what this means for public justification of educational policies will be said in Chapter 6.

[55] Rawls 1999a, p. 152.

reasons originating from the values of reasonable comprehensive doctrines to be employed in political discourse, "provided that in due course proper political reasons […] are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support."[56] Nevertheless, a restriction of political reasoning imposed by the duty of civility remains in place and I will return to it later in the context of education and religion.[57]

This does not mean, though, that the standards of public reason apply to reasoning about political issues anywhere and anytime. Citizens are expected to meet the requirements of public reasons in specific contexts – when voting, because engaging in this act they "exercise their final and coercive political power over one another,"[58] and also "when they engage in political advocacy in the public forum, and thus for members of political parties and for candidates in their campaigns and for other groups who support them."[59] The requirements of public reason also apply to official forums of legislation, i.e., "to legislators when they speak on the floor of parliament, and to the executive in its public acts and pronouncements."[60] When instances of the judiciary have to engage in review of legislative decisions, standards of public reason apply to those as well.[61] In private contexts or social contexts belonging to the background culture, persons are free of the constraints set by public reason.

2.1.6 Political, Comprehensive, and Perfectionist Theories

Political liberalism aims toward neutrality in matters of substantive ethical world views. No moral values should be used to justify political structures and institutions unless it can be taken for granted that these values are indeed morally acceptable from all reasonable

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[56] Rawls 1999a, p. 152.

[57] See e. g. Eberle 2002, Vallier 2014.

[58] Rawls 1993, p. 215.

[59] Rawls 1993, p. 215.

[60] Rawls 1993, p. 216.

[61] See Rawls 1993, p. 216.

perspectives. In that case, they are part of the "political" morality of political liberalism. Political liberalism therefore does not qualify as another comprehensive doctrine (as characterised in 2.1.1) in contrast to forms of liberalism who do declare central intrinsic values as, e.g., autonomy.[62]

The distinction between comprehensive and political liberalism is not the only distinction that matters in this context, though. Another distinction that is relevant in the context of political liberal education is the one between perfectionism and anti-perfectionism. For a perfectionist kind of liberal theory, it is permissible to promote or to discourage a range of ways of life due to some assumed intrinsic values or other metaphysical claims, while an anti-perfectionist liberal theory would regard such strategies as impermissible.[63]

Unquestionable political liberalism is not intended to be a comprehensive form of liberalism, but whether the same is true in regard to perfectionism is still open for discussion. Jonathan Quong argues that political liberalism is anti-perfectionist,[64] while others like, e.g., Steven Wall think that political liberalism leaves room for perfectionist justificatory reasons.[65] To my knowledge, no conclusive argument has been made in regard which of these two positions is the more plausible. Whether we accept Quong's position or Wall's, though, will make a difference in the range of educational policies that would be permissible in a well-ordered society, and a difference in their justification (something which will be discussed in more depth in Chapter 3).

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[62] At least from the point of view of most political liberals. Criticism of this claim of neutrality comes, e.g., from Gerald Gaus, who argues that political liberalism of a Rawlsian kind remains another sectarian liberal doctrine (and therefore no different from comprehensive liberal theories), see Gaus 2012.

[63] I follow the distinction of comprehensiveness and perfectionism used by Jonathan Quong here, see Quong 2011, pp. 15-21.

[64] See Quong 2011, pp. 15-21.

[65] See Wall 2013. I will discuss Wall's argument in more detail in Chapter 3.

2.1.7 Conclusion

So far, I have given a summary of what I take to be the key concepts of political liberalism. They will be referred to repeatedly in the following discussion about the role of education in Rawls' political theory and I will argue that some of them create problems in educational contexts that are worth examining further.

2.2 Education in Rawls' Work

Before starting the discussion about how the core concepts of political liberalism relate to education, we need to a look at what Rawls himself wrote about education. Ideally, this could provide us at least with a lead about how a complex matter like education fits best into his philosophical framework and what kind of approach to education Rawls himself would have favoured or avoided. In fact, though, very little is written about education in Rawls' corpus of work, and even less of it seems relevant for this project. What follows is a collection of, to my knowledge, all references to education that can be found in Rawls' major writings. It turns out that wherever education is mentioned in his papers and articles, the same claims and arguments have been repeated in his major works. For the sake of completeness, in these cases references to earlier occurrences will be given together with the main references.

2.2.1 A Theory of Justice

In *A Theory of Justice* education is explicitly mentioned mainly in the context of distributional justice. It is used as an example of the application of the difference principle. (In a nutshell, the difference principle tells us that an unequal distribution of goods and welfare in a society is just as long as the position of the least well-off member of this society would not be better under a different pattern of distribution.) A just educational policy has, according to Rawls, not to aim at equalising the various possible disadvantages of citizens completely but at improving "the long-term expectation of the least favored."[66] Regarding the fairness of the distribution of resources of education, the criterion of allocation should not only be the expected return of a person's productivity but also the

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[66] Rawls 1971, p. 101.

amount of enrichment for those whom it will not turn into highly productive individuals. This will increase those person's sense of their own worth, which for Rawls is an important primary good and needs to be factored into any just distributive scheme for educational resources.[67]

The only explicit mention of education not in the context of resources but rather mentioning education as an institution can be found in a short discussion of paternalism in a liberal society:

> Paternalistic principles are a protection against our own irrationality, and must not be interpreted to license assaults on one's convictions and character by any means so long as these offer the prospect of securing consent later on. More generally, methods of education must likewise honor these constraints.[68]

This can be read as the normative claim that schools (where "methods of education" supposedly are applied) have to adhere to some liberal principle of respecting the autonomy of children, as far as applicable.[69] It is not clear from this short passage whether the underlying value for this normative constraint would be political in the sense it is used in the yet-to-come *Political Liberalism* or whether it is used as a more comprehensive ethical notion here. But even if it is intended in the latter way at the time of writing, one could try to make a similar argument based solely on political values.

Another question concerning this passage which turns up in light of later publications is whether honouring one's convictions and character also includes methods of education in familial settings. When the late Rawls states that the family counts as part of the basic structure of society (see the section about *The Idea of Public Reason Revisited* below), one can be tempted to argue that that constraints of political liberalism indeed apply to the family as well.

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[67] See Rawls 1971, p. 107. The same argument can also be found earlier in Rawls 1968, p. 166.

[68] Rawls 1971, p. 250.

[69] It seems obvious that children, depending on their age, cannot be treated as fully autonomous agents, but that they develop autonomy gradually. Also, children might be considered autonomous regarding some limited areas of their life earlier than regarding others. See e. g. Archard 1993, Ch. 5 and 6.

Finally, as an institution of education, schools are mentioned as one kind of association in which children develop their sense of morality of association, i.e., they learn that different roles in different social contexts have position-dependent moral standards. But the school is only one association of many in which children realise this stage of moral development (one of three according to Rawls' moral psychology), next to, e.g., the family, the neighbourhood, and more temporary forms of cooperation like playing games with peers.[70]

Later, in a more detailed discussion about the development of the sense of justice I will argue that the role of schools in the development of political virtues is quite an important one (see 2.2.3).

2.2.2 Political Liberalism

The idea that the resources of education ought to be distributed according to the difference principle also finds a short mention in *Political Liberalism*,[71] where apart from that brief passage nothing more is said about education in relation to the basic institutions of society.

The more interesting claim (from the perspective of the present thesis) Rawls makes about education can be found in the context of the question if political liberalism is unfair in its treatment of very reclusive comprehensive doctrines.[72] Here he gives a brief account of minimal education, which does to some extent refer to the normative requirements a political liberal education would have to meet.

This brief part can be considered the main source of conditions for political liberal education given by Rawls himself. If it were only for these, it would be only a very minimal set of normative criteria the education of citizens in a well-ordered society would

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[70] See Rawls 1971, pp. 467f. This account of moral development already appears in a less sophisticated version in Rawls 1963, pp. 102-105, where it is called "the generation of association guilt."

[71] See Rawls 1993, p. 184.

[72] See Rawls 1993, pp. 199f. As with many elements found in *Political Liberalism*, Rawls developed this argument in an earlier article. The same account of minimal education an already be found in Rawls 1988, pp. 464f and in the lectures collected in Rawls 2001, pp. 156f.

have to meet. I will discuss this minimal account of education in one of the forthcoming sections (see 2.3).

2.2.3 The Idea of Public Reason Revisited

Although not as voluminous as the two titles listed before, this late essay contains some important clarifications and modifications of the concept of public reason presented in *Political Liberalism*. During his "final statement of political liberalism,"[73] Rawls briefly discusses the relation between public education and religion. To show that public reason does not strictly determine the outcome of debates about political issues in advance, he refers to the debate between Patrick Henry and James Madison about the question whether school prayers should be established in public schools. I will examine this passage in more detail later to see how public reason can be applied to educational matters for Rawls (see 2.7).

Apart from this, Rawls emphasises fairly *en passant* the importance of education for public reason, one of political liberalism's core elements (at this point in his career, he takes public reason to be a necessary part democratic deliberation in a well-ordered society):

> [W]ithout widespread education in the basic aspects of constitutional democratic government for all citizens, and without a public informed about pressing problems, crucial political and social decisions simply cannot be made. Even should farsighted political leaders wish to make sound changes and reforms, they cannot convince a misinformed and cynical public to accept and follow them.[74]

Although the implications are not spelled out, in this short passage it becomes more than clear that in a political liberal society with its claim to justify political decisions to all reasonable citizens, education is a necessary condition to achieve this goal.

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[73] Freeman 2007, p. xxi.

[74] Rawls 1999a, pp. 139f.

2.2.4 Conclusion

Rawls does not tell us explicitly that schools themselves are part of the basic structure of society, i.e., that they are institutions to the organisation of which the principles of justice and the restraints of public reason apply. The passages in his works that relate to educational matters indicate, though, that it is highly plausible to conceive of schools as part of the basic structure of society and therefore to ask how they fit into the justificatory model of political liberalism.

2.3 Minimal Civic Education

The most direct and explicit account of education that Rawls gives is a minimal one. As mentioned before, it appears in the context of the question whether a political conception of justice is unfair to people holding certain conceptions of the good and will struggle to maintain their ethical integrity in a just constitutional regime:

> [Political liberalism] will ask that children's education include such things as knowledge of their constitutional and civic rights so that, for example, they know that liberty of conscience exists in their society and that apostasy is not a legal crime, all this to insure that their continued membership when they come of age is not based simply on ignorance of their basic rights or fear of punishment for offenses that do not exist. Moreover, their education should also encourage them to be fully cooperating members of society and enable them to be self-supporting; it should also encourage the political virtues so that they want to honor the fair terms of social cooperation in their relations with the rest of society.[75]

Rawls emphasises that in comparison with comprehensive liberalism, political liberalism does require less in terms of education. There is no requirement for a comprehensive (or "ethical," in Rawls' own terms) conception of autonomy which would presume that the active development of one's capacities or individualist forms of life as inherently valuable, as it would be with Kantian or Millian forms of liberalism. In general, no values are supposed to be taught as part of a political liberal education which are not shared by all reasonable citizens.[76]

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[75] Rawls 1993, p. 199.

[76] Although Rawls restricts his examples to autonomy, it seems possible that a liberal state could promote
different values, such as knowledge or certain aesthetic values (see, e.g., Sher 1997, esp. Ch. 9), or the

However, Rawls agrees that even this minimal education could lead in consequence to some people endorsing a more comprehensive liberal view, as "there is some resemblance between the values of political liberalism and the values of the comprehensive liberalisms of Kant and Mill."[77] The important difference is the justification that political liberalism provides: political values are supposed to be valid justificatory reasons for all reasonable people, not just those who share a comprehensive liberal conception of the good.

The brief account of education quoted above has two distinct parts. The first one remains neutral regarding citizens' values because it is about the legal facts of constitutional and civic rights. The knowledge of these facts can be taught without the inculcation of any values and without any incentive to endorse any moral values that might be associated with these rights.

The second part of the above statement is about normative educational requirements, as it includes values that are fundamental for political liberalism:

- being a fully cooperating member of society
- being self-supporting
- having a particular set of political virtues

These normative requirements can be understood as moral, or ethical, requirements in a broad sense. Nevertheless, from the perspective of political liberalism these are requirements of a political morality that is supported by all reasonable citizens, in contrast to what Rawls calls "comprehensive" or "ethical" moral requirements which are only supported by the normative world-view of a specific subset of all reasonable citizens.

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development of human nature according to some particular definition (see e. g. Hurka 1993), or valuable forms of life (see e. g. Raz 1986). For an argument against the objection that comprehensive liberalism rules out ways of life that do not consider autonomy as valuable see e. g. Colburn 2008. A more detailed discussion of the status of autonomy will appear in one of the following chapters.

[77] Rawls 1993, p. 200.

To understand the full extension of the normative requirements of this "minimal" account, it is helpful to expand the normative content of those three items that originally have been so innocently summarised in one sentence.

2.3.1 Cooperation

When talking about cooperation in the context of political liberalism, we need to keep in mind that in Rawlsian theory society is assumed to be "a fair system of cooperation", an idea that he takes "to be implicit in the public culture of a democratic society."[78] It is not cooperation for prudential reasons, as Rawls assumes it would be under a modus vivendi or under some kind of purely rational Hobbesian scheme where citizens cooperate because potential sanctions imposed by the state increase the opportunity costs of defection, thereby making it an unattractive choice. Instead, in the well-ordered society, cooperation is supported by moral considerations on the side of the participants. Three elements define this notion of cooperation more clearly: (a) it is guided by public, mutually accepted rules, (b) it involves an idea of fairness, and (c) it also takes into account each participant's personal motivations. Let us look at each of these elements more closely.

(a) Cooperation is guided "by publicly recognized rules and procedures that those cooperating accept and regard as properly regulating their conduct."[79] Rawls remains vague on where and in which way the cooperating members of society gain their knowledge of these rules and procedures, and, perhaps more importantly, what makes them accept and regard them as adequate. He acknowledges indeed that

> if citizens of a well-ordered society are to recognize one another as free and equal, basic institutions must educate them to this conception of themselves, as well as publicly exhibit and encourage this ideal of political justice. This task of education belongs to what we may call the wide role of a political conception. In this role such a conception is part of the public political culture: its first principles are embodied in the institutions of the basic structure and appealed to in their interpretation. Acquaintance with and participation in that public culture is one way citizens learn to conceive of themselves as free and equal, a

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[78] Rawls 1993, p. 15.

[79] Rawls 1993, p. 16.

conception which, if left to their own reflections, they would most likely never form, much less accept and desire to realize.[80]

Yet, Rawls does not specify how citizens get acquainted with their public culture, so we will have to fill the gaps left by this passage ourselves. One possible way doing so could be to assume that citizens just observe and learn by example, and that merely growing up and living under a political system functioning according to principles of justice is enough to make them proper citizens. To the extent that children learn to obey the law and follow social rules as a matter of practice, this is plausible, as long as their parents do it likewise. When it comes to understand the reasons why the political structure of a well-ordered society and its principles are justified and appropriate, though, I am sceptical whether this is knowledge that is sufficiently conveyed by most parents.

Although Rawls idealises the citizens of a well-ordered society in regard to the degree that they act according to certain principles of social and political morality, he certainly does not assume them to be more idealised than their real-life counterparts when it comes to their ability to know about the world they live in. To keep the well-ordered society of his theory realistic enough to be of any justificatory value for applied politics, the rational capacities of idealised citizens will have to be modelled as bound by processing limits as those of their real-life counterparts. Like real-life citizens, idealised citizens will have to evaluate the properties of their society under a certain level of uncertainty that is determined by the costs of acquiring and processing it.

This way of reading Rawls would also mean that something like the burdens of judgement (see 2.1.4) would apply to the knowledge about the appropriateness of rules of social cooperation in the same way as they would to various conceptions of the good, at least initially.[81] It is not to say that it is absolutely impossible for citizens to realise "just like

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[80] Rawls 1999a, p. 56. This account of how society forms the ambitions and expectations of its citizens is repeated in in Rawls 1993, pp. 269f, but without the focus on the mutual recognition as free and equal citizens. I think the quote given here expresses more clearly than the later version that the basic structure does not only influence the realisation of talents and abilities of individuals (and thus needs to be shaped in regard to these aspects) but also that the basic structure has to provide persons with knowledge of the basic political concepts and procedures of their society.

[81] For a detailed critique of this kind see Gaus 1999.

that" the appropriateness of the social institutions they live under. It seems unlikely, though, that a majority of them will do so to an extent that makes them the kind of satisfactorily self-motivated cooperators they ought to be. It seems also unlikely that in a majority of cases parents would past this knowledge on to their children.[82] Therefore, most citizens would need a more explicit introduction to the just political institutions they live under, and one way to familiarise them with basic political concepts and procedures would be in the context of school education.

I think that in this regard, political liberal education should be understood being similar to the sort of democratic education proposed by Amy Gutmann, who claims that institutions of education are the means of reproducing citizens.[83] This certainly is a thought that can be found in *Political Liberalism* as well:

> [T]he basic structure shapes the way the social system produces and reproduces over time a certain form of culture shared by persons with certain conceptions of their good.[84]

It appears that already the first element characterising Rawls' conception of cooperation, the recognitions of rules and procedures that matter for understanding and participating in the political system, must be learned by children who will become citizens.[85] It would be too idealistic to assume that this happens as a side-effect of being part of a well-ordered society and a more plausible reading of Rawls would lead to the conclusion that

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[82] We can assume that children of well-educated parents with a genuine interest in politics might actually learn about the appropriateness of the political system and the justification of rules of cooperation in their society. It is likely, though, that this type of parents remains a minority, even in a well-ordered society.

[83] See Gutmann 1987. Gutmann's account of democratic education differs insofar, as it has a tendency towards a more comprehensive (in Rawlsian terms) view on democratic values. Nevertheless, many of her considerations apply to a political liberal account of education as well.

[84] Rawls 1993, p. 269. The same thought, although in a slightly different context, can also be found on p. 18: "[S]ociety is [...] conceived as existing in perpetuity it produces and reproduces itself and its institutions and culture over generations and there is no time at which it is expected to wind up its affairs."

[85] Certainly, there will be cases in which recognising the appropriate rules will have to be learned by adults as well, e.g., in the case of immigrants from sufficiently non-democratic societies. Unfortunately, the education of adults is beyond the scope of the present thesis, although special considerations of immigrant children will be addressed in Chapter 8.

fundamental knowledge about these matters can and should be imparted to future citizens in schools. Otherwise it is by no means certain that citizens will acquire a shared knowledge about the rules of cooperation, less so can they judge whether these are adequate.

(b) Furthermore, "[c]ooperation involves the idea of fair terms of cooperation: these are terms that each participant may reasonably accept, provided that everyone else likewise accepts them."[86] The fair terms of cooperation are specified by the conception of political justice that structures society's institutions. Rawls develops his particular conception of justice – Justice as Fairness – in *A Theory of Justice*. It could, however, also be a different one, as he admitted in later writings.[87] In any case, the chosen conception of justice (whichever it is) is one of the subjects of the overlapping consensus that all reasonable citizens agree upon. However, it does not seem necessary that children are required to learn every detail and every entailment of the prevailing conception of justice in school. It should be sufficient that they learn the basics of it already in private contexts, and that most will learn more details about why and how this conception of justice manifests itself in the political structure during formal education. The latter knowledge acquired in school supposedly forms the broader basis for children to become well-informed, politically participating citizens.

(c) The third element is the requirement of "an idea of each participant's rational advantage, or good. This idea of good specifies what those who are engaged in cooperation […] are trying to achieve, when the scheme is viewed from their own standpoint."[88] To engage successfully in cooperation, members of society will have to understand that their cooperation partners have their own motivating reason which might be different from their own but still of similar validity. While Rawls does not give much more details on this topic, I would like to go further and claim that to realise this understanding, they will also need to be able to make some good inferences about the nature of the motivating reasons of

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[86] Rawls 1993, p. 16.

[87] See Rawls 1999a, p. 142.

[88] Rawls 1993, p. 16.

their cooperating partners. Therefore, we should take a look at how these processes can be expected to work and what the psychological mechanisms involved would mean for the requirement above.

The ability to infer the motives of others, the capacity to view a matter of fact from other perspectives than one's own is not learned at school in the first place. Human beings usually develop an ability to adopt other persons perspective in a very early stage of life.[89] It can be assumed that in everyday situations citizens will be able to get an idea of their fellow cooperators' standpoint even without ever having visited a school – as long as they are sufficiently familiar with them, know their circumstances, and maybe can clarify things by directly communicating with them. In a modern mass society this is often not the case; citizens of a pluralistic society will every so often meet others with a very different cultural background, believing in a very different comprehensive doctrine. Many of them will never meet each other at all, still all of them are participating in the process of voting, supporting laws and policies, having political influence on each other.

One way to enable at least some insight into the more remote perspectives of fellow citizens is education. This can happen in at least two ways: first by providing a pluralistic environment in which children will have contact with other children from cultural and social background other than their own. For some, this might be the first, or even the only, contact to people from different backgrounds than theirs.[90] A second way would be to provide a curriculum that conveys perspectives of minorities and remote social groups as well as the unique problems they have faced or still face in society, e.g., in the context of literature lessons, but also by other pedagogical means.[91]

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[89] Children by the age of 18 months seem to be able to infer intended acts by adults already (see Meltzoff 1995) and at the age of five children can adopt others' perspectives in order to refer to others' beliefs and desires (Atance et al. 2010).

[90] This is, e.g., what Harry Brighouse sees as an important part of schools' contribution to citizenship in a pluralist society, see Brighouse 2006, pp. 129f.

[91] See Nussbaum 1997 for a more extensive take of this argument. Even though Nussbaum discusses specifically the topic of higher education at universities, similar approaches (with adequate literature and other media) seem feasible in primary and secondary education.

In any case, the capacities for the kind of fair cooperation required by political liberalism can be facilitated by an appropriate kind of education. This is not to say that without it citizens would not be able to form these capacities, but in a society characterised by value pluralism and cultural diversity, education can be an important additional factor contributing to their development.

2.3.2 Being Self-Supporting

The claim that education should "enable [future citizens] to be self-supporting" is least well-explained in comparison with the rest of Rawls' minimal account of civic education. In contrast to the previous two normative claims, there is neither another place in Rawls' *Political Liberalism*, nor elsewhere in his work (as far as I am aware), that provides more information about the notion of self-support. This could be problematic, because the original aim of this minimalistic approach to education for Rawls is to argue that political liberalism differs from comprehensive liberalism. Leaving the concept of being self-supporting wide open for a range of interpretations seems to weaken the strength of the claim that political liberalism is different in this regard. Critics might suspect that comprehensive values like autonomy and individuality are lurking behind the concept of self-support.

If political liberalism wants to avoid wandering off into comprehensive terrain, the notion of self-support involved here can only be a very shallow one. We can acknowledge that part of being a cooperating member of a modern democratic society is to be able to pay for one's own expenses and find one's way through the administrative structures of daily life (to a certain degree at least) by oneself. Average citizens can be supposed to pay their own rent (or afford other modes of housing), to be able to open a bank account by themselves, to file their taxes (or find accountants to do this for them) and to register for voting, to name just a few challenges of modern life. I believe we can safely assume that these and other rather mundane tasks that will be part of a citizens' role in the cooperation with other citizens will have to be mastered if that citizen should count as self-supporting. At least partially these skills of self-support will be based on children's school education. In addition to this I assume basic literacy, numeracy etc. to be essential for being self-supporting in a modern society, as they are necessary to ensure minimal employability.

To demand of citizens to be self-supporting in this sense is, I think, innocuous when viewed from the perspective of political liberalism.[92] It is a mainly pragmatic concept of self-support that does not promote any values that are not part of the overlapping consensus, and as such acceptable from the perspective of all reasonable doctrines.[93] Even in the case of, e.g., learning about ways of political participation (at least in the form of voting, perhaps also in the form of getting involved in political parties) the only values involved are political, as ideas of citizens as free and equal, with equal opportunities to participate in politics and to run for offices, is supposed to be shared by all reasonable citizens. Any comprehensive doctrine would have to be considered unreasonable that insists that even this pragmatic version of being self-supporting constitutes an unfair interference with its values.

Furthermore, persons refusing to acquire those minimal capacities for self-support would stunt their capacity for fair cooperation and contribution for a fair share to the social product. These persons could be causing an unjust distribution of resources, as they would require support from society that would otherwise not be needed. A minimum of self-supporting skills seems to be a requirement of distributive justice.

The question remains to what degree these self-supporting capabilities are required, and at which point this would unfairly discriminate against, e.g., religious doctrines that perceive this kind of education as endangering for their way of living or opposing their fundamental believes about what is right. The court cases *Wisconsin v. Yoder* and *Mozert v. Hawkins* are often cited examples here, both of which I will briefly summarise as they will be referred to repeatedly throughout the rest of the thesis.

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[92] That is, as long as we accept the current structure of a given society as just. Citizens who do not accept their political system could object that teaching everyday skills of self-support is nothing more than unjust indoctrination. Yet, as the well-ordered society of our model is considered just, these citizens would have to be classified as unreasonable for Rawls.

[93] One might argue that this presumes a capitalist society with a market for labour and is therefore already no longer neutral towards various forms of social organisation. While true, I do not think that the ambitions of political liberalism are to be neutral about various forms of social organisation. Indeed, the conceptions of justice as fairness with its famous difference principle presumes a form of market-based social organisation. While presumably not as focused on free markets as, e.g., classical liberalism, political liberalism remains a market-oriented form of liberalism, although with a strong 'socialist' flavour.

The decision of *Wisconsin v. Yoder* established (for the United States) that members of the Old Order Amish could rightfully withdraw their children from public schooling after they completed the eighth grade. This means that their children can finish school after the eights grade, between the age of 14 and 15, while the law of the state of Wisconsin required compulsory schooling until the age of 16. Staying in the public education system after completing the eighth grade would mean for Amish children to attend high school, which the Old Order Amish perceives as problematic. The high school curriculum with its increased focus on competition and intellectual accomplishments becomes less compatible with Amish religious values of leading a simple life characterised to a large extent by physical labour. In addition, this would interfere with a stage in Amish children's lives where they are introduced into the daily routines of their community by an informal learning process of "learning through doing." Taking into consideration expert testimony that public high schools indeed cannot impart values promoted by the Amish world view, and that enforcing compulsory school attendance until the age of 16 would interfere with children's integration into the Amish community, the U.S. Supreme Court decided that an exemption was justified in this case.[94]

In the case of *Mozert v. Hawkins*, conservative Christian parents objected to the use of an English textbook that was mandated by the Hawkins County, Tennessee, school board. The objection was based on the fact that the textbook covered a diversity of world views and included content which contradicted their religious belief. Furthermore, it encouraged their children to make critical judgement in cases where the Bible was supposed to provide definite guidelines. After their request to opt out their children from the classes using the textbook and substituting a different textbook for reading exercises was declined by the school board, the parents sued against this decision. While the responsible District Court decided in favour of the parents,[95] the decision was later overturned by a United States Appeals Court,[96] not permitting an opt out for children from parts of the curriculum that parents perceived as incompatible with their religious beliefs.

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[94] See U.S. Supreme Court.

[95] See U.S. District Court for the Eastern District of Tennessee.

[96] See United States Court of Appeals, Sixth Circuit.

In the debate about the relation between liberal democratic education and religious communities, these two cases are often used to illustrate the application of important basic values like toleration, freedom, autonomy, respect, or the unfortunate ignorance thereof.[97] In this regard the present thesis is no exception, and I will refer to these cases in the following chapters when appropriate.

2.3.3 Political Virtues

Although not giving a unified and definitive list anywhere, throughout his work Rawls provides us with an idea of what political virtues are: they "characterize the ideal of a good citizen of a democratic state."[98] The political virtues mentioned in particular are a sense of justice,[99] "toleration, mutual respect, a sense of fairness and civility,"[100] "a spirit of compromise and a readiness to meet others halfway,"[101] "reasonableness and fairmindedness as shown in abiding by the criteria and procedures of commonsense knowledge and accepting the methods and conclusions of science when not controversial."[102] They are relevant for social cooperation because they "underwrite the willingness if not the desire to cooperate with others on terms that all can publicly accept as fair on a footing of equality and mutual respect."[103]

The talk of virtues and their specification highlight a substantial moral aspect of political liberalism. Citizens of a liberal democratic society ought to acquire these virtues at some point in their lives, and the two main resources from which they learn their political virtues

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[97] For academic discussion see, e.g., Michael 1987, Breyer 1991, Burtt 1994, Gutmann 1995, Macedo 1995, Arneson, Shapiro 1996, Burtt 1996, Eisgruber 2002, Gutmann 2002, Reich 2002, Tomasi 2002, Vojak 2003, Ramsay 2007, DeGroff 2009, Kessel 2015, to name just a few.

[98] Rawls 1993, pp. 195f.

[99] See Rawls 1993, p. 402.

[100] Rawls 1993, p. 122.

[101] Rawls 1993, p. 163.

[102] Rawls 1993, p. 139.

[103] Rawls 2001, p.116.

are the family[104] and the institutions of education. The main reason for Rawls to regard these virtues as necessary is the issue of stability, and one part of the content of the overlapping consensus contributing to stability is "an account of the political virtues through which [the principles of that conception] are embodied in human character and expressed in public life."[105]

One political virtue that has been Rawls' focus very early and ever since is the sense of justice that motivates persons to interact with others in fair cooperation. I will give a quick summary of how he thinks people develop their sense of justice to show the possible ways of how education can be involved here.

2.4   The Development of a Political Virtue: The Sense of Justice

The sense of justice has been central to Rawls' work before it became only one among several political virtues in *Political Liberalism*. How citizens develop a proper sense of justice is therefore a recurring topic throughout his writings.[106] Due to the repeated description of this process and its status as political virtue, it is worth determining the kind of moral learning that is involved in acquiring a sense of justice. This includes looking at what role school education has in this process and whether the same observations hold for other political virtues as well.

A summary of the development of a sense of justice can be found in Section 75 of *A Theory of Justice*. Here Rawls give a list of three "psychological laws:"

> First law: given that family institutions are just, and that the parents love the child and manifestly express their love by caring for his good, then the child, recognizing their evident love of him, come to love them.
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> Second Law: given that a person's capacity for fellow feeling has been realized by acquiring attachments in accordance with the first law, and given that a social arrangement is just and publicly known by all to be just, then this person develops ties of friendly

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[104] See Rawls 2001, p. 157.

[105] Rawls 1993, p. 147.

[106] Starting with Rawls 1963 and being discussed in more length in Rawls 1971.

> feeling and trust toward others in the association as they with evident intention comply with their duties and obligations, and live up to the ideals of their station.
>
> Third law: given that a person's capacity for fellow feeling has been realized by his forming attachments in accordance with the first two laws, and given that a society's institutions are just and are publicly known by all to be just, then this person acquires the corresponding sense of justice as he recognizes that he and those for whom he cares are the beneficiaries of these arrangements.[107]

Whether these "laws" are supposed to be descriptive accounts of human psychology or whether Rawls intends them to be normative claims remains undefined. In early versions of this account, they are "the stages of a development […] by which the sense of justice might arise from our primitive natural attitudes," although Rawls does "not claim that it represents what actually takes place."[108] Later, he seems to be content that, even if his account does not include all psychological details and sketches "at best only the main outlines," it aims "to be true and in accordance with existing knowledge."[109]

Be it as it may, central to Rawls' theory is the claim that the sense of justice is one of the basic moral capacities of citizens. This capacity needs some sort of plausible model to explain how and why persons would be motivated to act in accordance with just social institutions. Therefore, the three psychological laws or a similar explanation of the moral psychology of people is a necessary and important part of Rawlsian political philosophy. They can also tell us something about the role of moral education in a just society.

In the first law, we find reference to family institutions which have to be just, and indeed Rawls later identifies the family as part of the basic structure of society.[110] Because "one of [the family's] main roles is to be the basis of the orderly production and reproduction of society and culture from one generation to the next,"[111] the conception of justice applies to

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[107] Rawls 1971, pp. 490f.

[108] Rawls 1963, p. 100.

[109] Rawls 1971, p. 462. The three laws are inspired by the work of Jean Piaget about the moral development of children, as Rawls writes in Rawls 1963, p.100, n 5.

[110] See Rawls 1999a, §5.

[111] Rawls 1999a, p. 157.

the family in the same way as to other institutions of the basic structure. The sense of justice, and likely other political virtues too, is at least in part something that is fostered by the institution of the family in a well-ordered society. The family does not remain the only social environment for the moral education of citizens, though.

According to the second law, the next stage of moral development takes place in a variety of environments at the same time. An early definition characterises this stage as "a joint activity [that satisfies the principles of justice] – perhaps some scheme of economic cooperation – [where] the participants are bound by ties of friendship and mutual trust, and rely on one another to do their part."[112] Later Rawls uses the term "social arrangement" (see the quote about the three laws from *A Theory of Justice* above) to leave room for a variety of social environments in which a person interacts with others: this may include still the family itself, but also the school, the neighbourhood, cases of short-term cooperation such as games with peers. At this stage, the child has different roles in these different kinds of associations and learns that different virtues are related to each.[113]

Schools are another of many places which offer occasion for the kind of moral development mentioned in the context of the second law, yet they can have significant impact. At school, children are often confronted with an environment that is more diverse and varied than the one they usually experience. Schools differ in important ways from other moral learning environments like their own family or the neighbourhood, which might be more homogeneous in terms of race, income, and culture. They can provide an opportunity to develop the children's sense of justice to include people from different backgrounds than their own, whose beliefs and motivations differ significantly from familiar ones. Insofar the role of institutional education can be emphasised when stimulating moral learning of this second stage.[114]

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[112] Rawls 1963, p. 103.

[113] See Rawls 1971, pp. 467f.

[114] Contingently so, of course. Schools can be homogeneous too, even more so when they are private schools that are attended primarily by children from the same social, cultural, or religious background. In this case, of course, they do not differ significantly from the other forms of association that foster the development

The third law finally deals with society's institutions and the sense of justice that character-ises citizens of the well-ordered Rawlsian society, and schools might have a special role here again. The fact that society's institutions are just needs to be publicly known, and part of this knowledge includes at least some basic information about their workings. It does not suffice to only plainly tell adolescents who are growing into citizenship that their constitution, their supreme court, and other institutions of their political system are just and leave it at that. To have good reasons to hold these believes about their society, they will have to learn at least to a certain degree how these institutions work, which procedures are involved, and why they are considered just. Certainly, schools do not have to be the only place where this knowledge is conveyed, but for most people they are the first (and in many cases probably the only) source of knowledge about these things. Schools are not only just social arrangements in which fellow feelings can develop, but also crucial for the development of a sense of justice insofar this involves knowledge about the political institutions they live under.

In this brief discussion of the acquisition of a sense of justice, and by generalisation, of political virtues in general, it should have become clear that schools are important social institutions when it comes to the political moral education of citizens. Schools are therefore part of the basic structure of a well-ordered society, and their role for political society must be something that all reasonable citizens agree on (at least to a sufficient degree) as part of the overlapping consensus. However, apart from instilling political virtues there will be other content of political morality that reasonable citizens agree on and that needs to be addressed by schools in one way or other.

2.5 Remaining Content of the Overlapping Consensus

Political virtues are not the only aspect of political morality that needs to be part of political liberal education. The overlapping consensus has other normative elements as well which need to be taught to children in order to shape them into liberal democratic

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of the sense of justice. This does not mean that private schools are necessarily impermissible in a well-ordered society, although they might be impermissible under certain social conditions, as I argue in Chapter 6.

citizens.[115] Next to political virtues, the relevant normative content of the overlapping consensus consists in the principles of justice, which define the basic political structure of society, and the idea of public justification, including normative concepts like the principle of liberal legitimacy and the duty of civility.

2.5.1 The Conception of Justice

In which way the constitution, political institutions, and the political procedures of a society are designed is a matter of justice, therefore a common conception of justice is required to outline this basic structure. However, under the circumstance of pluralism only "a *political* conception of justice that can gain the support of an overlapping consensus"[116] will lead to a stable basic structure that can be legitimised to all citizens, regardless of the comprehensive doctrine they follow. And although a pro tanto justification of a conception of justice (which is supposedly acceptable to all rational persons) is given in the thought-experiment of the original position under conditions of high abstraction, a final justification of a conception of justice as political can only be achieved if that conception would be accepted by reasonable citizens of a well-ordered society as a part of the overlapping consensus.[117]

Throughout his work Rawls assumes his own conception of justice, Justice as Fairness, to be the one that the overlapping consensus agreed upon, but this must not be necessarily so. Instead, it could be one out of "a family of conceptions of justice […]. For instance,

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[115] Although I am focussing on children's education here, the same is to some extent true to every "new" member of society. Migrants with different socio-political backgrounds would most likely have to learn many of the things discussed in this chapter as well, provided we imagine the well-ordered society not as closed as Rawls did.

[116] Rawls 1993, p. 15. My emphasis.

[117] Justification in this way is considered final by political liberals who agree with Rawls' idea that this procedure indeed justifies political coercion and results in normative obligations for real people. Whether justification can be achieved in this way is a matter of ongoing discussion and cannot be sufficiently covered here. For the time being, I assume that justification can be achieved in this manner and would like to ask readers who think differently to kindly suspend their disbelief for the length of the thesis.

political liberalism also admits Habermas's discourse conception of legitimacy […], as well as Catholic views of the common good and solidarity when they are expressed in the terms of political values."[118]

However, it seems that none of the possible conceptions of justice is by itself evident to everyone. Rawls himself uses the original position to show that Justice as Fairness is a reasonable conception of justice, a rather complex device of representation that requires intellectual competence and background knowledge to employ. To reflect on matters of cooperation and fairness on this level will certainly have to be taught (to some degree at least) to enable citizens to see that their political institutions are just and the reasons for it.[119]

Regardless whether for a well-ordered society whose consensus is built around a singular conception of justice or whether for a society that accepts a family of acceptable conceptions of justice, it looks like the principles of justice involved, and the connections between these principles and the actual political institutions of that society, need to be part of a political liberal education. Without the knowledge about these basic elements of a just society, citizens would act according to seemingly arbitrary conventions rather than according to principles they can endorse as right and inherently valuable.

2.5.2 Public Justifiability

Just as it cannot be taken for granted that citizens will endorse the principles of justice all by themselves, the same is true for the requirement for public justifiability and the duty of civility. The conception of citizens as free and equal, the principle of liberal legitimacy, the duty of civility, and the relation between these concepts need to be similarly taught and explained if a sufficient majority of future citizens are supposed to decide and act on these grounds. Especially the connection between the idea of freedom and equality and the duty of justification is not something that is necessarily obvious to everyone, so that children

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[118] Rawls 1999a, pp. 141f.

[119] In an attempt to add an interesting element of recursion to the discussion one could propose to make Rawls' *Theory of Justice* itself a part of common civic education.

will at some point in their education as future citizens have to be told the reasons why political coercion has to be justified.[120]

What makes public justifiability a particularly interesting topic in the context of education is the fact, that it is central to political liberalism and at the same time more controversial in its consequences for citizens than Rawls seems ready to admit. It is for example not at all clear how much restraint is required of citizens by the duty of civility, and there are good arguments that Rawls' version leads to an unfair limitation of the public political reasoning of religious citizens.[121] In this case, requiring them to have their children taught principles that they themselves conceive as unfair, perhaps with good reason, seems to add more than just insult to injury. I will describe the problems arising from this, and how political liberal education can approach them, in more detail in Chapter 6.

2.6 Education as Object of Public Reason

By now it has become clear that education has an important part to play in political liberal theory and that schools as institutions of education are part of the basic structure of society. The previous sections have shown that political liberal education is supposed to shape self-sufficient, politically autonomous citizens who are familiar with the basic ideas behind a political liberal society and who are, at least potentially, capable of understanding the legitimacy and appropriateness of their political system. Institutions of education and educational policies must therefore be part of the basic structure and subject to public

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[120] Rawls himself seems to assume that the fact that political power is coercive power is sufficient to ask for public justification, but this might even be too little. Perhaps, as Charles Larmore claims, the idea of liberal legitimacy and public justification rests on something more fundamental, like a principle of respect for persons (see Larmore 1999). If this is the case, then demonstrating the connections between this principle and the political values explicated by Rawls might also have to be part of a political liberal education. In this thesis I will argue that the idea of free and equal citizens and the connected need for public justification rests on a form of personal autonomy that political liberalism needs to endorse beyond its more familiar conception of political autonomy (see Chapter 4).

[121] For an extensive survey on different positions of public justification and what this means for religious citizens, see Eberle 2002, Ch. 3. The problem of public justification of education policies regarding religious curriculum content and faith schools will also be topic of Chapter 6 of this thesis.

justification requirements. Nevertheless, if standards of public justification apply to education and to schools, the question remains at what the level of granularity public justification in educational matters must be given. To get an idea under which circumstances Rawls would apply standards public reason to educational matters, we should return to a passage from *The Idea of Public Reason Revisited* which was already briefly mentioned before.

To counter the concerns that his conception of public reason is too restrictive for political discourse, in *The Idea of Public Reason Revisited* Rawls refers to the historical debate between Patrick Henry and James Madison about the question whether school prayers should be established in public schools. Instead of taking it for granted that school prayers are inadmissible from a liberal position, Rawls points out that there can be a reasonable debate about this topic as long as all sides refer to political values in their arguments (as, according to him, this was almost entirely the case in that particular debate).[122]

This case can serve as an example for the openness of political discourse even under the restrictions of public reason. Provided that citizens can refer to political values (i.e., values that all reasonable people can agree on) in which their reasons are eventually grounded, they can even argue for school prayers, as Henry did. And although in the historical case, school prayers have been banned from public schools "by objections […] turned largely on whether religious establishment was necessary to support orderly civil society,"[123] it looks like there could have been an alternative outcome compatible with the limits of public reason which would have found school prayers admissible. It is worth noting that Rawls himself does not seem to think so: for him, the debate is merely an example to show that the separation of church and state can be justified by reasons that "can be affirmed by all free an equal citizens, given the fact of reasonable pluralism."[124] His following elaborations about the good of this separation for both church and state makes clear, that

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[122] The same example can be found in *Political Liberalism* in the Introduction to the Paperback Edition, p. li-lii.

[123] Rawls 1999a, p. 165.

[124] Rawls 1999a, p. 166.

even though public reasons allows to argue against this separation in political terms, Rawls does not think it is a viable result of a debate based on public reasons.[125]

For those sceptical of political liberalism this example probably does not do much in the way of showing that public reason is not, or only minimally, restrictive. What it does show, and which is more interesting for now, is that the school as a social institution is an object of public reason, at least when it comes to "fundamental political questions."[126] This is consistent with the various ways in which schools are involved in the moral development of children (see above) and, as I want to claim, it shows that schools are as important for the "orderly production and reproduction of society and its culture" as, e.g., the family is.

2.7   Conclusion

Although Rawls writes only rarely in an explicit fashion about education, he provides a range of clues to what role education has to play in political liberalism. When spelling out what the implications of his brief remarks on education are, we see that a political liberal education cannot be as minimal as Rawls himself claimed. Instead, it must already convey some specific substantial normative content to educate people to become the kind of citizens the well-ordered society needs. Like other democratic and liberal theories, political liberalism has an interest in "conscious social reproduction,"[127] which will necessarily express itself in education.

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[125] A basic tendency to marginalise religious commitments in the public sphere that can be inferred from this example has been put forward more directly by other public reason liberals and been the object of extensive criticism. I will say more about this topic in the context of education and religion later in Chapter 6.

[126] Rawls 1999a, pp. 165f.

[127] Gutmann 1987, p. 45. It should be noted that in *Democratic Education*, Gutmann argues that conscious social reproduction is a unique characteristic of a democratic education, in contrast to liberal education which aims at absolute moral neutrality. The kind of liberalism she has in mind at that point is not political liberalism, though, whose democratic commitments she acknowledges in later writings, e.g., Gutmann 1995.

The rest of the thesis is divided into two parts. In the first part, I discuss in detail central elements of political liberalism that are relevant for a political liberal education that needs to shape future citizens in regard to the requirements and limits identified in this chapter. It covers the role of political virtues, of autonomy, and of political rights and liberties in political liberal education. The second part will suggest strategies for political liberal education to approach topics that pose particular challenges to education, such as the place of religion in education, the thematization of same-sex relations in gender education, and the special requirements education needs to provide for in the case of immigrants.

Part 1: Central Elements of Political Liberalism

The next three chapters form the first main part of this thesis. This first part focuses on three abstract theoretical elements of political liberal theory: political virtues, autonomy, and rights. In addition to being central elements of political liberal theory, these are relevant elements in the context of education. Together they frame the main requirements a political liberal account of education can make on parents, children, and the state, while also establishing the limits for these requirements. Yet, these requirements and permissions are only sufficiently robust if the central elements of political liberalism themselves satisfy certain conditions: internal coherence and sufficient anthropological realism.

Internal coherence seems an almost trivial condition, and we should assume that political liberalism has proven itself sufficiently coherent. In the course of developing a political liberal account of education, though, conflicts between political liberal requirements on education and more general claims about, e.g., the nature of virtues or the role of autonomy will emerge. The chapters in Part 1 highlight these emerging conflicts and suggest ways to resolve them in order to maintain political liberalism's internal coherence.

The condition of sufficient anthropological realism is related to the metatheoretical claims Rawls himself makes about political liberalism. Political liberal theory is supposed to be ideal theory, i.e., not so much determined by what is feasible under circumstances found in the contemporary real world, but rather aiming at identifying political principles that would be used to order society in an ideal world. However, as Rawls writes, his political theory is supposed to provide the guidelines for a *realistic* utopia, something that would be attainable by human beings as they are. Taking the idea of the realistic utopia seriously, the idealisation and abstraction away from real-life conditions must be limited to a degree where our theory still considers basic parameters of human psychology. The models of virtues and autonomy employed by political liberalism should realistically reflect human capacities, even more so in a political liberal approach to education. The chapters in Part 1 discuss the relation between central elements like virtues and autonomy to education and indicate, how requirements on educational institutions can be formulated that meet these expectations of realism.

The weighting of these two aspects varies throughout the next three chapters. In regard to political virtues both, the internal coherence of the account of virtues in political liberalism and objections based on empirical psychological research are covered. When it comes to autonomy, the emphasis is on the question how neutral political liberalism can be in terms of individual autonomy and what exactly the preconditions for children are to become politically autonomous citizens. The chapter about rights and liberties has mainly a clarificatory function and aims to provide a clearer structure for the normative relations between parents, children, and the state.

3   Political Virtues

For a better understanding of how the political liberal conception of virtues shapes education, we need to take a closer look at the role of virtues in Rawlsian political philosophy. In the context of civic education, liberals often emphasise that citizens should develop and maintain a certain range of political virtues;[128] Rawls is no exception here, although he is less explicit about the place of virtues in liberal education. However, even the minimal account of civic education that can be found in *Political Liberalism* is supposed to encourage the development of these political virtues in future citizens (see 2.3.3 and 2.4.), such as toleration, mutual respect, reasonableness, fairness, civility, and perhaps best known, a sense to justice.

I will begin with a short summary of how Rawls understands virtues and of the role they play in his theory. As we will see, Rawls' own conception of virtues is, to say the least, ambiguous and in its original Aristotelian interpretation it seems inconsistent with the aims of his political liberal project not to rest on comprehensive ethical views. In a next step, I will attempt to clarify what role virtues are supposed to have in liberal political theory by having a quick look at other liberal accounts of virtues. After the role of virtues in liberalism has been clarified, I will present the challenge to virtue ethics posed by situationist psychology. While this challenge is aimed at virtue ethics in general, it implies problems for accounts of political virtues as well.

To solve both problems at once, a promising strategy would be to replace an account of political virtues by an account of norm-following. Such an account, which would be a robust reply especially to the empirical challenge, would be compatible with the role of virtues in political liberalism, or so I will argue. However, in the face of objections against norm-following accounts and in acknowledgment of empirically unresolved questions of how far elements like personal character traits are involved in virtuous behaviour after all, I will suggest that political liberalism fares best with a Humean account of virtues that focuses on the functionality of virtues in a social environment while remaining as far as possible agnostic about the underlying mechanisms.

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[128] See, e.g., Galston 1991, Callan 1997, and Macedo 1990.

3.1 Virtues, Excellence, and the Aristotelian Principle

To understand how Rawls defines virtues we need to look at *A Theory of Justice*, where he introduces the so-called *Aristotelian Principle*. This principle says that,

> other things equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realised, or the greater its complexity.[129]

For Rawls, this kind of striving for excellence is important in order to develop and maintain self-respect. It is one of the primary goods he assumes every person needs regardless of their particular plans of life. But, as he points out, any rational plan of life will have to consider the claims of this principle.[130] While not explicitly stated, this seems to imply that the more a plan of life involves developing and realising one's capacity for complex activities, the more rational, and therefore in some sense better, one's life is.

However, Rawls himself does not see any problem in this. He claims that the Aristotelian Principle is characterising human nature in an objective, factual way, therefore it must also have a central role in a theory of the human good. Furthermore, the Aristotelian Principle seems connected in a relevant way to one of the two moral powers, namely the capacity for a conception of a good life, as the following passage suggests:

> The role of the Aristotelian Principle in the theory of the good is that it states a deep psychological fact which, in conjunction with other general facts and the conception of a rational plan, accounts for our considered judgments of values. The things that are commonly thought of as human goods should turn out to be the ends and activities that have a major place in rational plans. The principle is part of the background that regulates these judgments. Provided that it is true, and leads to conclusions matching our convictions about what it good and bad (in reflective equilibrium), it has a proper place in moral theory.[131]

The factual status ascribed to the principle and its importance for self-respect makes it a building block for the (thin) theory of the good which allows the parties in the original

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[129] Rawls 1971, p. 426.

[130] Rawls 1971, pp. 428-429

[131] Rawls 1971, p. 432.

position to figure out the principles of right and justice, and to determine the primary goods that every member of society will be interested in.

Next to these things, another result of the deliberations in the original position is a definition of what makes a good person. Rawls's conclusion is that a good person has a set of "broadly based properties […] that it is rational for persons to want in one another."[132] There is no doubt for him about what belongs to this set for a citizen of a well-ordered society:

> I note straightaway that the fundamental moral virtues, that is, the strong and normally effective desires to act on the basic principles of right, are undoubtedly among the broadly based properties. […] Now since the basic structure of [a well-ordered society] is just, and these arrangements are stable with respect to the society's public conception of justice, its members will in general have the appropriate sense of justice and the desire to see their institutions affirmed.[133]

From the Aristotelian Principle Rawls leads us to the notion of the good person, which is partly defined by having certain moral virtues, of which the sense of justice is an extraordinarily important one. Nevertheless, maintaining this property oneself is only rational as long as others have it as well:

> Therefore, the representative member of a well-ordered society will find that he wants others to have the basic virtues, and in particular a sense of justice. His rational plan of life is consistent with the constraints of right, and he will surely want others to acknowledge the same restrictions.[134]

One notable thing these passages make clear is that the sense of justice and other basic virtues seem to have a strangely ambiguous status. On one hand they seem to be human capacities, the exercise of which the citizens of a well-ordered society enjoy for their own sake. Being virtuous, it appears, is supposed to have an intrinsic value for citizens. On the other hand. their value depends on the circumstance that fellow citizens share these virtues. The reason for this is easy to see: acting in accordance with principles of justice in a society where nobody else does would hardly be a rational strategy, as it would lead to

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[132] Rawls 1971, p. 435.

[133] Rawls 1971, p. 436.

[134] Rawls 1971, p. 436.

exploitation by one's fellow citizens who do not care about justice. From the perspective of individual rationality, the preferred strategy of social interaction needs to be conditional – only to act politically virtuously if the others (or a sufficiently large part of them) can be supposed to act in the same way. This is strangely at odds with the notion of virtues as intrinsically valuable that Rawls also seems to employ, at least if we assume him to share the widely held presumption that virtuous acts are independent of instrumental benefit calculations.[135]

Now, according to Rawls, under his favoured conception of justice that originates from the original position, Justice as Fairness, "the desire to do what is right and just is the main way for persons to express their nature as free and equal rational beings."[136] If I understand Rawls right in this context, all citizens that accept the conception of Justice as Fairness will necessarily accept the desire to act rightly and justly as an aspect of the good in which they have to excel. His conclusion regarding virtues then is

> that the virtues are excellences. They are good from the standpoint of ourselves as well as from that of others. The lack of them will tend to undermine both our self-esteem and the esteem that our associates have for us. Therefore indications of these faults will wound one's self-respect with accompanying feelings of shame.[137]

Arguing in this way enables Rawls to claim that there exists a congruence between the human good and the right. Because he is concerned with political stability for the right reasons, Rawls wants citizens to conform with the principles of justice not just for reasons of self-interest, as the latter would not prevent them from acting unjust whenever possible and preferable. Instead, the sense of justice must be a non-instrumental moral motivation. By creating the relation between something that is a human good (and as such intrinsically

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[135] One of the particular properties of virtuous acts is that they are taken to be valuable, even though they will not lead to the best possible, or even merely good, consequences when judged by instrumental rationality. See e g. Adams 2006, pp. 60-62.

[136] Rawls 1971, p. 445.

[137] Rawls 1971, p. 445.

valuable) and the right (which is instrumentally valuable) Rawls believes that he can achieve this end.[138]

This dual character of the sense of justice, and other virtues as well, seems to mark the liberal theory developed in *A Theory of Justice* as a (at least partially) comprehensive form of liberalism that could be used to justify perfectionist political decisions. As Samuel Freeman observes, "the Aristotelian Principle introduces an element of perfectionism […] via a claim regarding human nature."[139] A life plan will have to align with the Aristotelian Principle in order to make it a good, or "flourishing" life over the time it lasts. A similar observation is made by Steven Wall: "Rawls's acceptance of this principle pulls him beyond [a] simple subjectivist view of the human good […]. It also provides a foundation for a type of perfectionist politics that runs counter to his explicit commitments."[140]

It is worth noting, though, that another contemporary Rawlsian, Paul Weithman, does not seem to share this view on the Aristotelian Principle. In his discussion of the principle as a conjunctive that can be read in different ways, his way of understanding it is this:

> Some of what needs to be accounted for is the value we attach to activities like the arts, demanding intellectual endeavours and the appreciation of beauty. The second conjunct seems to be the part of the Principle that does that work, helping us to understand why rational plans include such activities, and doing so without appeal to perfectionist principles or Mill's distinction between higher and lower pleasures.[141]

It is not completely clear to me whether Weithman's claim about the Aristotelian Principle not incorporating perfectionist principles is supposed to be valid only for the second claim (the second conjunct is saying that human beings enjoy more complex activities better than less complex ones) or for the principle as a whole. Regardless of this uncertainty, he seems to take the Aristotelian Principle as a purely descriptive claim which does not include an

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[138] For a helpful discussion of the congruence of the good and the right in Rawls' theory see Freeman 2007, Ch. 6.

[139] Freeman 2007, p. 271.

[140] Wall 2013, p. 579.

[141] Weithman 2010, p. 100.

ethically evaluative component in form of a claim about preferences for more complex activities being of increased value. Nevertheless, his list of valuable activities the principle accounts for seems curiously weighted towards what traditionally is conceived as valuable especially by an educated elite. It does not include watching mud wrestling on television, regular visits to the pub, or spending hours playing video games. This might just be by accident, but it seems more likely that the principle has some tacit evaluative content after all. When taking it as a measure of a good life, we can no longer say that pushpin is just as good as poetry.

Contrary to Weithman and in line with Freeman and Wall, it occurs to me that the principle has some tacit evaluative content. To explain the value of a range of particular activities, Rawls uses a broader principle which applies to all of them,[142] and depending on our metaethical convictions this move might be a problematic one. For anyone believing in some version of the Naturalistic Fallacy which rejects moving from an is to an ought, we either have to assume that valid evaluative conclusions can be inferred from factual statements, or that the Aristotelian Principle itself has already evaluative ethical content. Whether the first solution is feasible is controversial. The second solution would already imply an evaluative basis that political liberalism would have to (partially) rest upon, something that the neutrality-minded Rawlsian might want to avoid if possible.

Let us grant the former for the moment – that it is somehow possible to derive normative conclusions from purely descriptive premises.[143] Perhaps now it could be possible to save the Aristotelian moral psychology by pointing out that it is not an evaluative ethical view but merely a "descriptive principle about human motivation," [144] that lends explanatory power to Rawls' claim that the good and the right are congruent. This attempt certainly is

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[142] An interesting question in this context would be if the different kinds of activities that Weithman thinks are characterised by the Aristotelian principle really all fit the category of complex activities and can all be explained by it. Regrettably, whether appreciation of beauty is a complex activity like e. g. chess cannot be discussed in further detail here.

[143] See, e.g., Curry 2006 for an approach to circumvent the Naturalistic Fallacy in the spirit of David Hume.

[144] Wall 2013, p. 579.

warranted by Rawls' emphasis that the Aristotelian Principle fits well with empirical evidence about human behaviour.[145]

But, as Wall observes, even if the principle accurately describes a fact about human nature, it remains an evaluative question if the kinds of activities involved are to be encouraged or supported by political measures. A positive verdict on this would result in perfectionist policies. To support this perfectionist reading further, Wall provides a plausible interpretation of the famous passage about counting blades of grass which claims that the person in the example indeed ought to choose a different way of living, one that would allow for excellence in more complex activities, if she were able to do so. This, so Wall, suggests that for Rawls the Aristotelian Principles is true and has to play an essential role in an account of the good for human beings.[146]

For Wall, the Aristotelian Principle leads indeed to perfectionist policies that aim at promoting the good. While Rawls seems to think that private association "and the cultural marketplace more generally" will provide sufficient opportunity for citizens to develop excellence in a variety of talents, Wall argues for state subsidies to encourage engagement in worthwhile complex activities: "state subsidies for intrinsically valuable cultural pursuits, as well as state funded educational initiatives to foster appreciation of them, plausibly could be justified by appeal to the AP."[147]

The fact that Rawls does not reject the Aristotelian Principle in *Political Liberalism* supports the perfectionist reading even more. Rawls' continued endorsement of the principle is compatible with political liberalism, Wall claims; the political decisions about perfectionist policies justified by the principle are neither regarding constitutional

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[145] Rawls himself argues in *A Theory of Justice* that his virtue theory is warranted by psychological and evolutionary research, see Rawls (1971), pp. 431ff.

[146] See Wall 2013, pp. 580-582.

[147] Wall 2013, p. 590.

essentials nor matters of basic justice, and as such can be appropriately based on comprehensive views about excellence and human nature.[148]

While we should accept Wall's observation about the comprehensive nature of the Aristotelian Principle, the same cannot be said for his conclusion. The perfectionist interpretation of Rawls' political liberalism given by Wall seems problematic for at least two reasons.[149] First, the demand for neutrality expressed in the duty of civility and its restraints should perhaps have a wider scope than the one Rawls himself declared. Jonathan Quong argues that we have to assume a wide scope of application for the duty of civility if we want to take public reason seriously, and that the main defences of a narrow scope (which includes only constitutional essentials) turn out to be insufficient.[150] But even if we are sceptical about Quong's claim, there is a second reason to reject Wall's position at least in regard to education: if institutionalised education is indeed part of the basic structure of society, perfectionism like the one advocated by Wall has no place in matters of educational policy. We will have to look for another solution to the problem the Aristotelian Principle poses in this regard.

So far, it looks safe to say that the Aristotelian Principle can be interpreted as a comprehensive philosophical doctrine (perhaps, though, only a partial one) which provides justification to perfectionist policies. But, as Rawls himself notes, his turn to political liberalism was motivated by the concern that in a reasonably pluralistic society not all citizens will endorse comprehensive doctrines like these.[151] If we properly want to honour this ambition, we should avoid perfectionist concessions like the one Wall proposes. Therefore, in the context of political liberalism we would expect a different account of political virtues that reflects the division of the two moral powers (the capacity for a

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[148] See Wall 2013, pp. 595f.

[149] For the distinction between comprehensive and perfectionist conceptions of liberalism that I employ here, see 2.1.6.

[150] See Quong 2011, Ch. 9.

[151] See e. g. Rawls 1993, pp. xvif.

conception of the good and the capacity for a sense of justice) and avoids any grounding in comprehensive philosophical doctrines that can be rejected by reasonable citizens.[152]

Nevertheless, as already mentioned, Rawls does not discard the Aristotelian Principle. Instead, in *Political Liberalism* he reaffirms his claim about virtues from his earlier work and its role in the process of determining a conception of justice. In a final step,

> by drawing on the Aristotelian principle and other elements of justice as fairness, we spell out the ways in which the well-ordered society of justice as fairness is intrinsically good.[153]

In the same way the explanation for political virtues still rests on the Aristotelian principle.[154] This suggests that, even after Rawls' political turn, reasonable citizens are supposed to endorse an overlapping consensus containing a conception of justice partially based on and a notion of political virtues fully based on an Aristotelian conception of virtues. They will also, as he claims, experience the exercise of their two moral powers as good due to the Rawlsian moral psychology based on the Aristotelian principle,[155] something that might seem contestable from the perspectives of reasonable citizens holding different ethical views on virtues and the human good.

Therefore, if the overlapping consensus is really supposed to be acceptable to all reasonable citizens, regardless of their comprehensive doctrines, then basing some of its content on a comprehensive philosophical doctrine like the Aristotelian principle should appear more than suspicious. This looks exactly like the sort of case that should be ruled out by adopting political liberalism.

Apart from claiming that there is no comprehensive and/or perfectionist view involved (Weithman), that there is but ignoring it (Freeman), or biting the bullet and endorsing

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[152] And as far as the author of this paper can be considered reasonable, there exists at least one person that would reject the Aristotelian principle.

[153] Rawls 1993, p. 207.

[154] See Rawls 1993, p. 208, n. 41.

[155] See Rawls 1993, pp. 202f.

perfectionism (Wall), Rawls seems to suggest another way of reconciling the Aristotelian Principle in a footnote. He proposes to take the moral psychology of Justice as Fairness for granted, but to see the Aristotelian Principle as replaceable by equivalent principles. These substitute principles would be compatible with the various comprehensive views held by reasonable citizens but would still lead to similar conclusions.[156] While Rawls still thinks some sort of principle necessary to connect the right and the good, he allows for a variety of explanatory routes that are compatible with different comprehensive doctrines.

How plausible this approach is for achieving the congruency between those two spheres cannot be discussed here. A pressing question would be, at any rate, how similar these alternative explanatory principles would have to be to Rawls' own: do they just have to result in a satisfying level of congruency, regardless of how they achieve it, or are they required to share particular elements with the Aristotelian principle, e.g., an account of virtuosity? The first version implies a high probability that acceptable alternative principles will lack the intrinsic account of virtues that the Aristotelian version sports. The second version seems to narrow down the range of alternative accounts significantly and might result in the exclusion of views that would otherwise count as perfectly reasonable in the wider scope of political liberalism. With both versions, we would need a detailed explanation of how each comprehensive view that does not accept the Aristotelian Principle accounts for the talk of political virtues and their link to intrinsic values. This seems like a lot of unpromising work – work that we fortunately can avoid, if my arguments in the following sections are plausible.

By now, we have seen that the role of the Aristotelian Principle and the nature of virtues in Rawls' moral psychology is messier than his own cursory treatment of this topic in *Political Liberalism* suggests. While it does not falsify political liberalism as such, it looks like an inconsistency that makes the overall theory appear less robust than the faithful Rawlsian might wish. Finding a more robust way to avoid inconsistencies regarding virtues will almost be necessary for a political liberal theory of education. However, this is not the only problem posed by the Rawlsian account of political virtues. In addition, it shares a common weakness with other virtue theories – a vulnerability to the situationist challenge.

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[156] See Rawls 1971, p. 203, n. 35.

3.2 The Situationist Challenge

Aside from the problem that Rawls' Aristotelian political virtues could make his political turn look inconsistent, the role of virtues in ethics and political philosophy is not uncontroversial in general. The concept of virtues as desirable and stable character traits has been challenged for some time now on the basis of empirical evidence from social psychology.

Generally, virtues are conceived as character traits, as dispositions to act in a certain way that are supposed to be morally valuable. Following Julia Annas' account of virtues as an example here, we can take a virtue to be a persisting feature of one's person which is reliable and characteristic of the person in question as it is deeply set within her – "[a] virtue is a disposition which is central to the person, to whom he or she is, a way we standardly think of character."[157] It is a relevant characteristic of virtues that they do not only express themselves in the behaviour of their bearers, but also in "reasoning and feelings."[158]

However, this idea of stable action-guiding dispositions has been challenged by empirical psychology at least since the 1970s. Empirical research in so-called "situationist" psychology seems to support the hypothesis that the relevant motivations for behaviour is dependent to a much larger extent on situational cues than on character traits. A radical interpretation of situationist experiments would be to claim that there are not character traits of any action-guiding relevance. But even under a more moderate interpretation, existing character traits that can influence an individual's behaviour are not stable across a range of different situation types. Research results show, e.g., that helpful behaviour in test subjects can be significantly determined by external factors. These factors are contingent circumstances that make them "feel good," such as having received a cookie or finding money prior to a situation where they have an opportunity of helping others.[159] Whereas

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[157] Annas 2011, p. 9.

[158] Annas 2011, p. 9.

[159] See Isen, Levin 1972.

these positive circumstances increase the likelihood of participants offering help to others, "negative" factors such as being in a hurry[160] or the amount of environmental noise, e.g., from a lawn mower,[161] seem to have the opposite effect. In this context well-known is also Stanley Milgram's "Behavioral Study of Obedience"[162] as evidence that virtues have little action guiding effect in stressful situations. In Milgram's experiment, test subjects were ordered to apply electric shocks of increasing severity to a person (whom they could not see and who was not really connected to the shock generator). Although it was clearly indicated to them that the receiver of the shocks would be at the risk of his life at some point, the majority of test subjects increased the shock intensity to a lethal level before they refused to continue. The setup of the experiment was designed to expose the test subjects to increasing pressure by the experimenter, whom they perceived as an authority. As in the experiments mentioned before, the situational circumstance had a much greater influence of the subjects' behaviour than any virtuous character traits.

For Gilbert Harman, an extraordinary zealous advocate of the situationist hypothesis, these research results show that the ordinary view of character traits as determining factors of behaviour and their assumed role in virtue ethics rests on an error which has finally been exposed by social psychology. Harman's position is therefore that virtue ethics should be ignored in favour of a situationist approach to ethical questions.[163] Others, like Owen Flanagan or John Doris, are more modest in their criticism but still argue that virtue ethics cannot rely on character traits as motivating factors alone.[164] Aside from the question which of these interpretation of the situationist challenge is the more plausible one, what seems evident is that it is not only a challenge for "ethical" accounts of virtues. The same

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[160] See Darley, Batson 1973.

[161] See Mathews, Canon 1975.

[162] Milgram 1963.

[163] See Harman 1999 and Harman 2000.

[164] See Flanagan 1991, Doris 1998. Doris for example suggests what he calls an "emulation" or "advice" model: being virtuous would have to include also the capacity to anticipate our behaviour in particular kinds of situations that would make unwanted behaviour more likely. This strategy would then allow us to avoid these situations, which counts as virtuous as well for Doris. See pp. 516-519.

objections apply to Rawls' use of the virtue concept in political philosophy as well, as Doris notes.[165]

In a recent contribution to this discussion, Emily McTernan outlined what the situationist challenge means for political virtues in liberal political philosophy. Although being less radical in her views than Harman and admitting that contemporary social psychology sees behaviour determined by both, character traits as well as situational factors, virtues are for McTernan nevertheless no "stable, effective way to secure certain behaviours across situations."[166] To assure that a majority of citizens adhere to politically appropriate patterns of behaviour, she maintains, political theory needs to look out for a for an approach that can replace a virtue education aiming at developing certain character traits.

3.3 Social Norms in Political Theory

As an alternative for political virtues McTernan proposes that political philosophers should instead adopt social norms to take the place of virtues when it comes to motivating citizens to act in accordance with liberal principles.[167] A very broad definition of what a social norm is she takes from Elisabeth Anderson: "A social norm is a standard of behavior shared by a social group, commonly understood by its members as authoritative or obligatory for them."[168] These norms could take the role in behaviour formation that authors like Rawls have so far ascribed to virtues:

> Social norms are strong contenders for the instrumental role that liberal virtue was introduced to fulfil. Research in social psychology and economics suggests that social norms are powerful determinants of behaviour, and secure stable patterns of behaviour from the majority of those who internalise the norm.[169]

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[165] See Doris 1998, p. 513.

[166] McTernan 2014, p. 87.

[167] McTernan 2014, Section III.

[168] Anderson 2000, p. 170.

[169] McTernan 2014, p. 95.

To do so would be advantageous for liberal political philosophy in at least two ways: it would be an empirically supported approach that is compatible with contemporary paradigms of social psychology, and it would only pose minimal requirements for citizens, because people already come fitted with an innate desire to conform to the expectation of others.[170]

Social norms provide people with social identities or roles that are associated with certain kinds of behaviour, and being a citizen is one of the social identities people in modern societies have, including a particular set of normative requirements. As, e.g., Cass Sunstein observes, acting in the capacity as citizens often requires different behaviour than acting as a consumer, a "difference [that] is connected to the fact that a citizen is helping to make a judgment not simply for himself but for a collectivity."[171] The normative requirements of the citizen identity appear to be a suitable replacement for the political virtues required under political liberalism. They could even provide behavioural guidance in cases when citizens actions are not observed by others, e.g., motivating citizens to comply with the duty of civility even when being alone in the voting booth, provided they internalised this aspect of their role sufficiently.

3.4   In Defence of Social Norms

In a direct reply to McTernan, Eamonn Callan objects to this replacement strategy and attempts to vindicate the role of virtues in liberal education. One of his central observation is that the stability that can be maintained by norms seems to be rather unsatisfactory. It would exhaust itself in

> preserving the set of regime properties that distinguish (at least minimally) liberal states from their many alternatives. Once the rule of law obtains and basic liberal rights are secured without any threat of subversion, stability of this kind is realized.[172]

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[170] See McTernan 2014, pp. 98f. See also Brennan et al. 2013, pp. 198-202 for an account of desire-based norm-following that supports this approach.

[171] Sunstein 1996, p. 924.

[172] Callan 2015, pp. 2f.

Norms make people act according to liberal principles, but they do not make them liberals. The stability needed by political liberalism in the face of reasonable disagreement, in contrast, also requires "social criticism, and that in turn seems to require open-mindedness and allied intellectual virtues."[173] It appears that this must to be indeed a genuine point of worry for any liberal who does not think of the idealised liberal state as a mere utopian (or perhaps rather dystopian) status quo, but as a dynamic structure subject to changes over time. As long as there is a possibility for the conditions under which a society exists to change, there will be a need to readjust the basic structure in reflection of these changes.

Yet, the intellectual virtues required for social criticism which Callan is concerned about are a different subset of political virtues than the ones needed for a stable liberal society. Unlike, e.g., tolerance and mutual respect that are basic requirements for liberal citizens, the virtues necessary for social criticism seem to be closer to the original Aristotelian conception of virtues as something everyone should strive for, but which is attained only by a few. It is not necessary that every citizen realises these virtues to a high degree, as long as there are at least some citizens who do. This would allow for some political virtues, including those necessary for social criticism, to be mainly depending on character traits, while virtues that are conducive to social stability would be backed primarily by social norms. Nevertheless, the concern remains that norms could perhaps only secure the most basic form of stability, which would not be sufficient. Even though liberal in a minimal sense, a liberal society stabilised only by norms could develop a culture that "is strongly inhospitable to free speech, even though dissent speech is legally tolerated."[174] This concern, that a norm-based version of political virtues would lead to a less-than-sufficiently liberal society, needs to be taken seriously. A satisfactory answer must say more about the distinction between social norms and moral norms, which leads directly to another of Callan's objections.

McTernan's account lacks an explicit distinction of moral and other, "merely" social norms, as pointed out by Callan. The relevant distinction here is not one of the attitude citizen have regarding the norms in question: even though the content of norms might be a

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[173] Callan 2015, p. 3.

[174] Callan 2015, p. 6.

moral imperative (e.g., "respect your fellow citizens despite their different religious beliefs"), the reasons of citizens to comply with them can be pragmatic, e.g., they could follow the norm to avoid sanctions or because they hope to gain social advantages by following the norm. If citizen of a liberal society were to follow norms of political morality for pragmatic reasons only, this would mean falling back into a modus vivendi in the Rawlsian sense which is assumed to become unstable as soon as the balance of power changes. To avoid this regress, norms of political morality would have to be internalised by citizens in a manner that they accept them as moral imperatives, meaning "that their violation cannot be justified by ordinary reason of self- or group-interest."[175] Yet, as Callan suggests, this kind of internalisation would result in the same kind of education as a virtue-focused education would be. If Callan is right, from the perspective of education nothing is won by giving up the traditional character-based conception of virtues.

It needs to be said first that good arguments exist for an internalisation of norms that makes them work as moral reasons. From the perspective of political theory, Gerald Gaus gives a convincing evolutionary account of the advantages of rule internalisation for a society, and how internalised rules connect to a practice of social morality.[176] From the perspective of individual practical reasoning, Geoffrey Brennan et al. provide a plausible explanation of how we internalise social norms and why it is rational to do so.[177] When it comes to internalisation as a necessary precondition for motivating politically virtuous behaviour, it seems that norms can do as good as striving for excellence can. The remaining question therefore is not if norms could replace character traits, but whether it would make any difference in educating them. Callan assumes that norms that are sufficiently similar to virtuous character traits in their motivational force must lead to the same educational requirements. For norms to have the effect of virtues, they do not just need to be mere social norms, but moral norms with a "distinctive motivational gravity."[178] If citizens will conceive of a particular set of norms as moral, he concludes, their inculcation seems to be

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[175] Callan 2015, p. 8.

[176] See Gaus 2011, Ch. III.

[177] See Brennan et al. 2013, Ch. 9.

[178] Callan 2015, p. 8.

no different to the inculcation of virtues, "because norm promotion ultimately collapses into civic education."[179]

Like Callan, McTernan is aware of the relevance of distinguishing between social and moral norms,[180] but does not elucidate it much further in her approach. Perhaps she does take it for granted that the behaviour patterns that are required by liberal citizens can be grounded in social norms alone, while Callan's position seems to be that norms that take the role of political virtues have to be moral norms and to be internalised as such.

To say more about whether and how a norm-based account of political virtues could fit into political liberalism, we need a clear distinction between social and moral norms, though. According to Brennan et al,

> [p]aradigmatic examples of moral norms include the norms that exist in most societies forbidding murder, rape, and torture, norms of truth-telling and promise-keeping, and norms of beneficence. Paradigmatic examples of social norms include norms forbidding nudity in public places, norms of gift-giving, and norms of address.[181]

It is important to keep in mind that here the term "moral norms" is supposed to refer to "a special kind of accepted rule or normative principles," not "to objectively valid rules or normative principles."[182] Categorising norms as moral in this context means that they have a particular motivating force for individuals accepting them. The principles in which those accepted rules are grounded might be objectively valid, but whether they are does not change the fact that they are accepted moral norms in a particular society. We can easily imagine a society in which same-sex relationships are viewed as morally wrong, which is reflected in moral norms against entering same-sex relationships. Members of this society who endorse those particular moral norms would insist that same-sex relationships are morally wrong, not only in their own society but in all societies. Yet it seems doubtful that this kind of norm is really grounded in justifiable moral principles.

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[179] Callan 2015, p. 9.

[180] See McTernan 2014, p. 96, n. 48.

[181] Brennan et al. 2013, p. 57.

[182] Brennan et al. 2013, p. 57.

The relevant difference between moral norms and social norms are the distinct types of accountability created by them. In the case of moral norms, it is individual accountability that we have qua being individuals; we are accountable to other individuals, regardless whether they are members of our society or not. Usually, this kind of moral accountability is grounded in "properties that we and they possess as individual agents."[183] In the case of social norms, in contrast, we have this accountability as members of a group for which these norms are valid. Thus, we are only accountable to other members of that particular group, and likewise can also hold other members of that group accountable for breaching associated rules.

In contrast to what seems to be Callan's claim, i.e., that norms that replace character traits as the basis for political virtues need to be moral norms, it seems to me that the sort of virtuous behaviour liberal citizens are supposed to engage in is linked to *social* norms. Certainly, when citizens are supposed to act according to principles of justice, to be respectful and tolerant, at least in political liberal theory they are supposed to do so in the context of our society or state. In some cases, for example in the case of the duty of civility, it is obvious that any norm concerning this duty is limited to a particular polity, as the responsibility of citizens for their political decisions only includes those others who are citizens of that polity themselves and as such subject to the coercion these political decisions involve. The limitation of scope is less obvious in the case of other virtues, e.g., tolerance, as one could argue that the scope of rules governing toleration of others vary by context. But it seems quite clear that the *political* virtue of tolerance is about tolerance toward one's fellow citizens and not tolerance for people everywhere.

For Rawls, political virtuous behaviour is moral behaviour in terms of justification. Moral norms that guide citizens' actions in the well-ordered society will have to be "real" moral norms inasmuch as they need be justifiable by valid philosophical principles. When it comes to their scope in terms of accountability, however, these are social norms: they are valid for exactly one society or state.[184] Therefore, I see no reason to agree with Callan that

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[183] See Brennan et al. 2013, p. 87.

[184] To my knowledge there is no distinction in political liberal theory between societies and states, other than a distinction between a people and a people's government made by Rawls in *The Law of Peoples* that identifies the government as the "representative and effective agent" of a people (p. 38). This seems to me

they need to have a particular motivational weight. Although for philosophers like Rawls the justification of their grounds is a moral question, in their application they seem to be social norms due to their limited scope of accountability.

Despite these arguments in favour of norms, it is still far from settled whether norms offer a clear alternative to virtues in liberal political theory. As far as I can see, the empirical research is not as conclusive as its advocates claim, but neither can it be easily dismissed in favour of virtues. At this point I do not aim to make a final verdict on the question whether political liberalism should stick with the traditional account of virtues as good character traits or whether it should follow McTernan's recommendation and adopt norms instead as the new "political virtues". It might be the case that citizens are more effectively motivated by social norms to behave in a way we would call virtuous, and that the same behaviour based on character traits is harder to teach, less reliable, and perhaps even an illiberal practice. It might also be that virtue ethics can come up with successful replies to the empirical challenges revealed by psychological research.[185]

In the light of the inconclusive state of the debate about virtues and norms, it would be preferable to have an approach to political virtues that delivers the functional aspects political liberalism needs without committing firmly to support one of the possible underlying theories. Therefore, I suggest that political liberalism should adopt a pragmatic Humean account of political virtues that could do all the work needed while staying neutral in regard to substantive claims about what sort of psychological grounding virtuous citizen behaviour should have.

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like an unfortunate shortcoming, as it is far from evident that the moral spheres of state and society are completely congruent, but one that cannot be remedied here. For present purposes, I will assume that state and society share the relevant norms of political morality to a sufficient degree.

[185] John Doris for example suggests that being virtuous just implies to be aware of the situational variability of one's behaviour and take this into account when planning one's actions. See Doris 1998, pp. 517-520.

3.5 Humean Virtues

Two main problems have been discussed so far in this chapter: the comprehensive theoretical background that the Aristotelian Principle provides for a political liberal account of virtues and the uncomfortable status of virtues as robust character traits in the light of empirical evidence. In the light of these problems, the concept of virtues in the theoretical framework starts to look rather inconvenient.

Two obvious replies to these challenges have been discussed so far: we could just claim that the Aristotelian Principle and the moral psychology it is embedded in would pass the overlapping consensus and that the burden of proof that it would not is on those who claim otherwise. We could also side with Callan and argue that virtues are far less problematic than empirical psychology make them seem and there is no reason to be concerned about them. Nevertheless, none of these solutions seem to me to result in the necessary robustness a liberal theoretical framework should have.

I want to suggest doing neither, but instead falling back to a different account of virtues. To save the idea of political virtues for political liberalism it looks promising to employ a Humean conception of virtues as proposed by Maria Merritt. Doing this will allow us to continue referring to virtues as political liberals while getting at once rid of any metaphysical baggage that, as we might fear, could come with the Aristotelian Principle, and of any empirical objections against virtues. Admittedly, this approach will require further consideration about the relation between the good and the right in Rawlsian theory as well.

What are the advantages of the Humean account of virtues? For Merritt, the incongruity between Aristotelian virtue ethics and situationist psychology results from the strong degree of motivational self-sufficiency that character traits are supposed to have in virtue ethics.[186] These just do not fit well with empirical evidence. For this reason, she suggests, we should adopt a Humean conception of virtues instead. The same strategy also provides us with a solution to the tension of the Aristotelian Principle with the political liberal claims not to rest on comprehensive views.

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[186] See Merritt 2000, pp. 374-376.

In Merrit's interpretation of Hume, virtues are "socially or personally beneficial qualities of mind [which] should be relatively stable over time somehow or other."[187] In contrast to Aristotelian virtues, the stability of Humean virtues has not to rely on those qualities "taking a special, self-sufficiently sustained psychological form."[188] The stability of Humean virtues does not rely on the motivational self-sufficiency of character traits that are beneficial from a personal or social perspective. While the relevant motivations must have "regularity and constancy"[189] in order to be judged as virtuous, it is not the case that character traits are a self-sufficient motivating force. Instead our "sentiments, actions and manners" are, as Hume writes in his discussion about liberty and necessity in regard to freedom of will,[190] shaped and sustained by external (and internal) influences. In other words, what can stabilise our virtuous behaviour under the Humean model can be a mixture of stable (or at least locally, i.e., in a certain range of similar situations, stable) dispositions of character as well as of external factors of social life that would be too contingent to be acceptable from a perspective of classical Aristotelian virtue ethics. Taking norms to be part of these external influences seems only plausible.

Although a Humean model of virtues differs from the way Rawls defines virtues, it is perfectly compatible with the way he employs virtues in his political liberalism. As Merritt writes:

> [W]hat the Humean normative ideal of the virtuous person presents us with is the figure of someone with whom it would be reasonable to live in every kind of cooperative social relation – as opposed to the Aristotelian figure of someone who has mastered a set of correct, rationally well-founded attitudes governing practical choice.[191]

It seems that Humean virtues are much more "political" than Aristotelian ones in the sense that they are less focused on an ideal of what makes life good for an individual, which

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[187] Merritt 2000, p. 378.

[188] Merritt 2000, p. 378.

[189] Hume 1739/2007, p. 260.

[190] Hume 1739/2007, p. 259.

[191] Merritt 2000, pp. 379f.

makes them excellent candidates for modelling the political virtues political liberalism needs. They offer a solution for the problems of comprehensiveness and perfectionism associated with the Aristotelian Principle. By employing a Humean conception of virtues, political liberals can remain agnostic about which component, psychological dispositions or the following of norms, does the relevant work in motivating virtuous behaviour in citizens. Alternatively, it might be the case that it is only a combination of both that leads to the desired results. In any case, no further assumptions are needed about the nature of excellence or about what contributes to human flourishing.

To give an example of how Humean virtues work for political liberalism, let us take the sense of justice to compare different ways of understanding political virtues. In the original conception of political virtues, citizens identify acting in accordance with the principles of justice as a complex and challenging task they want to excel in. This provides, as far as Rawls is concerned, the necessary intrinsic motivation for just social behaviour.

With the Humean account, several explanatory routes for the politically virtuous behaviour are available. First, citizens (at least some of them) could indeed have a stable character trait that makes them eager to be excellent in just cooperation with their fellow citizens. Second, even if average citizens lack these character traits they will have, as human beings, a desire to follow social norms in order to satisfy the expectations of others in regard to social cooperation. Therefore, they are still provided with sufficient motivation to act in accordance with the principles of justice (I will say more in the following paragraphs about whether this is the right kind of motivation). Third, citizens could sometimes be motivated by a desire for excellence in social interaction, but sometimes this desire might be too weak to prevail against conflicting egoistic desires. On these occasions, their desire for norm-following might provide a fall-back mechanism that ensures an overall stability of social cooperation.

One possible concern needs to be addressed here, though. Does the non-commitment that makes Humean virtues attractive for political liberalism in my view not at the same time make them incompatible with the ambitions of Rawls' moral psychology concerning stability for the right reasons? One of the reasons why citizens will be motivated to act in accordance with the rules and limitation of just principles is because they perceive them as a good for two types of reasons. The first type of reason is instrumental: "political society […] secures for them the good of justice and the social bases of their mutual self-respect.

[…] In securing these things political society secures their fundamental needs."[192] It is in the self-interest of citizens to endorse the right. The second type of reason is intrinsic and in order to make the right also intrinsically motivating for them, Rawls thinks that something like the moral psychology based on the Aristotelian Principle is necessary. This way they will also acknowledge the right as their good, and their intrinsic motivation is based on the intrinsic value of their good.

While Humean virtues work well with the instrumental part, perhaps there is something particular about the intrinsic motivation generated by a human good (in this case the striving for excellence) that this account might miss. The Humean account remains agnostic about the exact motivator of a particular behaviour – it can be some character trait, a social norm, or a combination of both. But it seems that if we want the relevant motivation linked to intrinsic values, we will have to end up with virtues in the classical sense. One could argue that only a classical account of virtues can capture the connection between intrinsic value and intrinsically motivated beneficial behaviour.

It certainly is the case that Rawls needs citizens to be intrinsically motivated to act in a politically virtuous way. If there were only instrumental reasons for citizens to act virtuous, e.g., because this kind of behaviour secures to them the benefits of mutual cooperation, this would leave them free to act in an adverse manner whenever they feel the benefits of this adverse act outweigh the benefits they gain by acting politically virtuous. But at this point there might be some clarification needed about the way in which political virtues can generate this intrinsic motivation.

The requirement for intrinsic motivation does not necessarily mean that acting in a way that political virtues facilitate must be linked to some intrinsically valuable good *from an objective point of view*. It can be enough for citizens to subjectively assign value to the relevant acts to ensure stable, non-opportunistic behaviour. There seems to be no further need for objective intrinsic value as implied by the excellence claim of the Aristotelian Principle. As long as citizens endorse tolerance, mutual respect etc. because they take these

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[192] Rawls 1993, p. 203.

patterns of behaviour as inherently valuable, it is not relevant for political stability if these practices have an objective intrinsic value.

In the case of norms that lead to politically virtuous behaviour the intrinsic motivation comes with the internalisation of these norms. As I have argued earlier, norms that could replace political virtues should be taken as social norms in the way Brennan et al define them. Citizens do not see these norms as instances of mere shared practice but instead they hold normative attitudes that correspond with these practices. This means that in the first case, citizens will acknowledge that 'this is the way we do it around here' but do not assign any particular moral weight to these practices. In the second case, citizens' reasons to follow these norms include the idea that it is good to do so in a moral sense. Therefore, they will have non-instrumental reasons to act in accordance with the social norms prescribing just, fair, tolerant, and respectful behaviour as citizens.[193]

Certainly, there will be a part of the population that will not follow, but only conform to those norms for instrumental reasons, e.g., because they see an individual benefit in it or because they want to avoid sanctions for non-conforming behaviour.[194] But this is in itself no argument against norms taking the role of virtues in political theory, as long as the majority of the population is acting justly due to their belief that their behaviour is intrinsically valuable.

When it comes to education, it looks like the Humean model leaves both routes open – the inculcation of character traits as well as the inculcation of norms. Which one should have more weight, either in terms of efficiency or in terms of neutrality can be left open for discussion according to further empirical evidence or the particular social context. Regardless of which route will be the feasible or the most successful one, a need for some sort of civic education will remain, but not for the reason Callan claims. If in the case of virtues, the aim of civic education is supposed to facilitate the development of the right kind of character traits, in the case of norms its aim will be to stabilise the tendency to follow the right kind of norms. Although the desire to follow norms might be an innate

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[193] See Brennan et al. 2013, pp. 215-217.

[194] This can be called an externalisation of norms, see Brennan et al. 2013, pp. 219-224.

one, the concrete norms which citizens choose to follow may vary. To make sure that they will be at least more likely to follow political liberal norms, education will be as helpful as it would be in developing the right kind of virtues.

3.6 Conclusion

In this chapter I tried to argue that the conception of political virtues, based on the Aristotelian principle, which Rawls introduces in *A Theory of Justice* and still holds on to in *Political Liberalism* has two significant problems. One of them is the at least partially comprehensive assumption about human nature that could justify perfectionist policies, the other is the more general question if virtues, understood as stable character traits, are a realistic building block for stability in liberal political theory. The answer to both these problems can be a Humean conception of virtues that remains agnostic about the exact motivational source of the kind of behaviour that citizens of a liberal democratic society should adopt. When employing this conception, citizens count as having the necessary political virtues if they act according to the principles of justice and other requirements of political liberalism, regardless if their action is motivated by character traits of norm following.

In order to discuss a political liberal account of education, it looks reasonable to dismiss the Aristotelian Principle introduced originally by Rawls and instead become a Humean minimalist about political virtues. This strategy does not exclude any of the possible explanations for how political virtues actually work and it still allows us to operate with a pragmatic conception of virtue that can be found throughout a vast part of the literature about liberal political theory.

4 Autonomy

In contrast to political liberalism, most other liberal theories consider autonomy as a central value. Generally, these are comprehensive liberal theories (in the Rawlsian sense) whose proponents see no problem in justifying policies supporting and improving the autonomy of citizens, regardless of whether some citizens might (reasonably) disagree with this policy. The idea of autonomy as central value is often associated with, e.g., the liberalism of John Stuart Mill and plays a central role in the work of many contemporary liberals such as Joseph Raz,[195] Joel Feinberg,[196] Marina Oshana,[197] Steven Wall,[198] or Thomas Hurka.[199]

Political liberalism, however, aims to avoid any justification of political coercion based on claims about individual autonomy that invoke notions of substantive value. At the same time, political liberalism needs *some* conception of autonomy, it seems, to capture the capacities of citizens to participate in free and equal political decisions. Without it, there would be no grounds on which to claim that citizens are entitled to a range of political rights and liberties. Rawls therefore introduces the distinction between so-called "ethical" autonomy and "political" autonomy. Ethical conceptions of autonomy are part of a comprehensive view of the good and intrinsically linked to other comprehensive values, which Rawls associated with the liberal ideas of Kant, Mill, and Raz. Political autonomy, on the other hand, is restricted to the public aspect of persons' lives, i.e., to their role as citizens. The latter kind of autonomy should therefore be safe to use in political liberal theory.

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[195] Raz 1986.

[196] Feinberg 1989.

[197] Oshana 1998, Oshana 2007.

[198] Wall 2007.

[199] Hurka 1987.

From the perspective of education, though, I think that there is more of a story to tell. Political autonomy is, by design, a conception of autonomy that applies to a very narrow social role, the role of being a citizen of a liberal democratic state. It is grounded in claims about the equality of citizens, rooted in their moral power of having a capacity for bearing a conception of the good (more details on this are coming up in 4.3). This notion of equality implies, so I will argue, a more basic conception of autonomy of individuals as self-determined agents which is therefore a necessary part of the grounding of political autonomy. This is a relevant factor in the context of education, as it seems necessary that children gain an understanding of this basic conception of autonomy before they can grasp the meaning of political autonomy. It is hard to see how we could understand that our fellow citizens have the status of politically autonomous citizens if we do not understand an underlying conception of autonomy as self-determined agent. However, this underlying conception of autonomy, while not being political, is not ethical in Rawls' sense and is therefore compatible with political liberalism's claim for neutrality.

This chapter starts with an overview of ethical conceptions of autonomy which Rawls rejects as comprehensive and which thus cannot have any justificatory use in political liberalism, followed by a brief analysis of his definition of political autonomy. After the conceptions of ethical and political autonomy have been outlined, I will claim that beyond political autonomy, political liberalism must involve a different kind of autonomy that is neither political nor ethical in the strong sense Rawls has in mind. This kind of "weak" conception of autonomy is implicit in one of the most basic notions that grounds political liberalism, the notion of equality. Particularly in regard to the matter of education, political liberals will have to endorse at least some kind of weak, proceduralist account of individual autonomy.

After having discussed in more detail what adopting weak autonomy means for a political liberal education, I will present arguments against this sort of weak autonomy that have been brought forth by Meira Levinson, who claims that a proceduralist account leaves us with a counter-intuitive conception of autonomy and that liberal education must require a substantive notion of autonomy. My aim is to show that this is not the case and a proceduralist notion of autonomy can offer plausible answers to Levinson's critique.

4.1 Varieties of Autonomy

Before discussing notions of autonomy that are relevant to political liberalism, we should look at other liberal conceptions of autonomy. This will be helpful for two reasons. First, Rawls himself characterises the conceptions of autonomy that political liberalism is based on to a large degree by distinguishing it from comprehensive conceptions of autonomy. Having a clearer notion of these conceptions therefore will be essential to the understanding of what sets apart the ideas of autonomy in political liberalism from comprehensive autonomy. Second, it might be that some elements common to comprehensive notions of autonomy are compatible with political liberalism after all. Gaining a broader overview of the autonomy debate will make it easier to identify these elements later in this chapter.

The accounts of autonomy I discuss are the ones that Rawls gives as examples for types of comprehensive liberalism: the accounts of Immanuel Kant, J.S. Mill, and Joseph Raz, followed by brief list of examples from other contemporary accounts of autonomy which would fit the same pattern. I will also focus on a distinction that Rawls does not explicitly address but that will be of some importance for political liberalism, the distinction between substantive and proceduralist accounts of autonomy.

The first example for someone employing an ethical view of autonomy is Kant, who uses the terms of autonomy and heteronomy in regard to moral action. Kant insists that, as long as our actions are relying on interests, "be it one's own or that of another […] the imperative had to be conditional, and could not be fit to be a moral command at all."[200] Without a vantage point from which we can that evaluate our motives in moral regards, our actions are still heteronomously guided. The reason for this is that, while certainly the interests that are guiding us are "our" interests, they are external in the sense that they are not under control of the rational self that Kant assumes to be the characteristic feature of human beings. To act morally, and thus autonomously, one must act "in conformity with his own will which is, however, universally legislating according to its natural end."[201] The

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[200] Kant 1785/2014, IV 433, 8-9.

[201] Kant 1785/2014, IV 432, 30-31.

Kantian moral agent is rational and by his rationality can and ought to determine by himself whether an action is morally required, permitted, or prohibited by applying the categorical imperative to it.

This conception of the person can be understood as metaphysically substantive and individualistic: the moral agent's compass is her rationality, not mere inclination, sentiment, or an attachment to customs. Although Kant is aware that the common person in everyday life does not live up to these expectations, his ideal moral agent is the rational individual that does determine the morality of her actions by herself alone. Autonomy, for Kant, means being rational in one's moral decisions. What classifies this view as comprehensive is the complex metaphysical theory about the self it is based on, including among others the claim that the self can be meaningfully distinguished from its interests, and that this distinction carries a relevant moral value.

For the next proponent of a comprehensive conception of autonomy, John Stuart Mill, personal individuality is one of the central values of a free society. Drawing on the ideals made popular by German humanist Wilhelm von Humboldt, Mill claims that only the person whose "desires and impulses are his own – are the expression of his own nature, as it has been developed and modified by his own culture – is said to have a character."[202] Individuality, for Mill, "is one of the leading essentials of well-being," not only just a part "of civilization, instruction, education, culture, but [it] is itself a necessary part of all those things."[203] Although Mill himself does not explicitly name it, it is clear that his claims rest on the idea of a valuable form of individual autonomy. Compared with Kant, Mill's account of autonomy is much broader, as it concerns not only morality but basically the whole way of life of a human being. Whatever our projects are, according to Mill they will have only real value if we develop and pursue them as an expression of ourselves, not as part of tradition or convention.

The most contemporary view of autonomy that Rawls identifies as comprehensive is held by Joseph Raz. Similar to Mill, Raz believes that there are two valuable forms of activity

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[202] Mill 1859, p. 67.

[203] Mill 1859, p. 63.

involved in the project of "creating [one's] own moral world", one of which is having human relationships and the second one "forming and pursuing projects that give shape and content to one's life."[204] By ascribing value to these kinds of activity, his conception of autonomy becomes one involving a strong notion of self-determination or self-authorship.

Notably, not just any relationship or project is valuable in this view, only those that have been autonomously achieved or pursued.[205] Furthermore, although Raz allows for degrees of autonomy and admits that some people might find it valuable to not focus directly on autonomy in all aspects of their lives, he claims that "[t]he value of autonomy is a fact of life. […] [T]hose who live in an autonomy-enhancing culture can prosper only by being autonomous."[206] Raz's conception of autonomy, in a nutshell, sees self-authorship as the key component of autonomy, but accepts autonomy only as valuable in relation to morally valuable choices.

Next to the particular moral evaluation of one's relations and activities as a condition for being autonomous, what adds to the ethical character of this approach are the political conclusions Raz draws. For Raz, the good and valuable life has to be, at least in modern Western societies, an autonomous one. This must have political consequences, because he understands the function of governments being the promotion of morality:[207]

> So if the government has a duty to promote the autonomy of people the harm principle allows it to use coercion both in order to stop people from actions which would diminish people's autonomy and in order to force them to take actions which are required to improve peoples' options and opportunities.[208]

In order to do this, it is legitimate and probably even desirable for governments to engage in perfectionist policy making and to use paternalistic means of promoting autonomy, as long as they are compatible with the respect of autonomy in his sense.

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[204] Raz 1986, pp. 86-87.

[205] See Raz 1986, pp. 90-91.

[206] Raz 1986, p. 394.

[207] See Raz 1986, p. 415.

[208] Raz 1986, p. 416.

These three accounts of autonomy by Kant, Mill, and Raz, despite differing in many of their details, are significantly similar insofar as they are substantive accounts of autonomy which specify distinct capacities or circumstances that make a person autonomous. There are many more contemporary substantive views of autonomy whose claims work in the same way, although they might identify different conditions of autonomy. Steven Wall, e.g., emphasises the role of external conditions such as freedom from coercion and manipulation as well as "access to an adequate range of options."[209] Marina Oshana meanwhile attributes "autonomy to a person when the person has de facto power and authority to direct affairs of elemental importance to her life within a framework of rules […] that she has set for herself" and summarises this with the phrase "being true to oneself."[210] Lastly, there are also views like that of Thomas Hurka who understands "autonomy as goodness."[211] Not much would be gained to discuss these accounts in more detail, as they can all be rejected as comprehensive by political liberalism on the same grounds.

We should pay more attention to a different sort of accounts of autonomy, though. Alongside substantive theories of autonomy such as these, there are also *proceduralist* accounts that define autonomy not so much by evaluating the content of a person's commitments, notions of a good life, etc. but by assessing how these commitments came into existence. Proponents of this view are, e.g., Harry Frankfurt,[212] Gerald Dworkin,[213] John Christman,[214] and Ben Colburn.[215] As Rawls did not, to my knowledge, object to any proceduralist account of autonomy, I will discuss this type of view on autonomy in the

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[209] See Wall 2007, p. 234.

[210] Oshana 2007, p. 411.

[211] Hurka 1987, p. 361.

[212] Frankfurt 1971, Frankfurt 1994.

[213] Dworkin 1988.

[214] Christman 2005, Christman 2009

[215] Colburn 2010b

following sections in connection with the kind of autonomy that is inherent to political liberalism.

4.2   Political Autonomy

The conception of autonomy that is supposed to be central to political liberalism is that of political autonomy. Although it differs relevantly from Rawls' earlier notion of autonomy in *A Theory of Justice*, I will start with his earlier approach, as it will make his turn toward a political conception of autonomy more transparent.

The account of autonomy held by early Rawls is quite straightforward:

> Following the Kantian interpretation of justice as fairness, we can say that by acting from [the principles of justice as fairness] persons are acting autonomously: they are acting from principles that they would acknowledge under conditions that best express their nature as free and rational beings.[216]

Among other changes that come with political liberalism, Rawls also acknowledges that this Kantian notion of autonomy is a comprehensive one. In order to account for the fact of reasonable pluralism, it needs to be replaced.[217] Therefore, in *Political Liberalism* Rawls introduces two important distinctions concerning autonomy, one between rational and full autonomy, the other one between ethical and political autonomy.

The rational/full distinction is another take on the congruence between the good and the right, a congruence which Rawls already tried to obtain by employing the Aristotelian Principle for the domain of political virtues, as discussed in Chapter 3. According to this distinction, citizens

> are rationally autonomous in two ways—they are free within the limits of political justice to pursue their (permissible) conceptions of the good; and they are motivated to secure their higher-order interests associated with their moral powers […].[218]

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[216] Rawls 1971, p. 515.

[217] An explicit comment on this can be found in footnote 8 of the introduction to the paperback edition of *Political Liberalism*, see Rawls 1993, p. xli, n. 8.

[218] Rawls 1993, p. 74.

This rationality is the basis for the decisions about the basic principles of justice, which are made by the parties in the original position. The parties are a representation of the idea that citizens, when "fairly situated in respect to one another,"[219] can determine fair terms of cooperation while doing so with their own advantage in mind. In the original position, the fair situation is given by the veil of ignorance that hides detailed information about each party's position in actual society. At the same time, the parties' mutual disinterest and their interest in maximising their share of basic goods without risk reflects the aiming of citizens for their own advantage. The outcome of this procedure is justified insofar it is what rationally autonomous citizens would decide for in ideal circumstances.

The (pro tanto) justification the original position provides for these principles then leads to what Rawls calls full autonomy that is found in the citizens of a well-ordered society:

> [C]itizens of a well-ordered society in their public life [...] are fully autonomous. This means that in their conduct citizens not only comply with the principles of justice, but they also act from these principles as just. Moreover, they recognize these principles as those that would be adopted in the original position. It is in their public recognition and informed application of the principles of justice in their political life, and as their effective sense of justice directs, that citizens achieve full autonomy. Thus, full autonomy is realized by citizens when they act from principles of justice that specify the fair terms of cooperation they would give to themselves when fairly represented as free and equal persons."[220]

To speak in Kantian terms, the self-given law for public life consists in the principles of justice and acting according to these principles makes citizens fully autonomous. The principles of justice, as Rawls conceives them, are the result of citizens' own rationality when applied to the question of social justice, and thus their self-chosen *nomos* – but limited to the political sphere. At this point, Rawls makes the second important distinction between political autonomy and ethical autonomy:

> "Here I stress that full autonomy is achieved by citizens: it is a political and not an ethical value. By that I mean that it is realized in public life by affirming the political principles of justice and enjoying the protections of the basic rights and liberties; it is also realized by participating in society's public affairs and sharing in its collective self-determination over time. This full autonomy of political life must be distinguished from the ethical values of autonomy and individuality, which may apply to the whole of life, both social and

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[219] Rawls 1993, p. 73.

[220] Rawls 1993, p. 77.

individual, as expressed by the comprehensive liberalisms of Kant and Mill. Justice as fairness emphasizes this contrast: it affirms political autonomy for all but leaves the weight of ethical autonomy to be decided by citizens severally in light of their comprehensive doctrines."[221]

It is worth analysing this passage in more detail, as some parts of this characterisation of political autonomy are fairly obvious, while others remain surprisingly ambiguous.

The first and clearest condition is that citizens must hold certain pro-attitudes towards the principles of justice. They need to do so in order to reach full autonomy by rationally endorsing the principles of justice, as we have seen before.

When Rawls says that citizens have to enjoy their liberties, it seems at least that he has external factors in mind: if citizens are kept from acting in a politically autonomous way by particular circumstances (say, a policy that prohibits association of citizens in order to promote their political interests), they cannot be really autonomous. But it seems that enjoying one's liberties must also include some sort of internal condition, such as acknowledging or being aware of the value which the political liberties have for oneself as a citizen.[222] While getting the external factors right is a matter of designing the political structures and laws accordingly, the necessity of providing the required internal factors has implications for civic education, as the awareness of one's liberty might not come by itself.

Rawls' reference to participation remains slightly ambiguous. He writes that full political autonomy "is also realized" by political participation, but this way of phrasing it could mean two things. One way to see it is as another item on the list of necessary conditions: a citizen has to politically participate in order to be fully autonomous. This would be an

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[221] Rawls 1993, pp. 77f. Kant's and Mill's political philosophy is again referred to as examples for comprehensive liberalism on p. 199 in the context of children's education, together in a footnote that mentions Raz's position as a contemporary example.

[222] This seems to be an important condition for the basic structure of society being substantially just, not just formally, as Rawls emphasises in his discussion of fair equality of opportunity: "[F]air equality of opportunity is said to require not merely that public offices and social positions be open in the formal sense, but that all should have a fair chance to attain them. […] In all parts of society there are to be roughly the same prospects of culture and achievement for those similarly motivated and endowed." (Rawls 2001, pp. 43f)

almost Republican way to read Rawls,[223] and perhaps it would also imply a binary conception of autonomy: only when all necessary conditions are satisfied can we be fully autonomous, otherwise we are not. Another way to read this passage would be to understand political participation as something that adds in degree to full autonomy. This would presuppose a gradual conception of autonomy, granting some citizens (those who actively participate in shaping their society's future) a higher degree of full autonomy than those who rather stay at home in front on the television, perhaps even on election day. Nevertheless, even the latter sort would be fully autonomous as long as they endorse the principles of justice and enjoy their liberties, only less than their more involved fellow citizens.

I will happily leave the question of which of these interpretations is closest to Rawls' intentions to others (although I assume the most plausible view is that political autonomy comes, like other sorts of autonomy, in degrees). What I want to focus on in the next sections is my claim that political autonomy cannot be the only conception of autonomy that political liberalism is committed to.

4.3 Weak Autonomy

Although it might appear that political autonomy is the only conception of autonomy that is relevant for political liberalism, there is more to be said. One of the main premises of political liberal theory, that citizens are free and equal, implies another notion of autonomy. It is not the kind of political autonomy that is explicitly required as part of the political liberal framework. But neither is it, as I want to argue, some sort of comprehensive (or ethical) conception of autonomy that could not be shared by all reasonable comprehensive doctrines.[224] Let me explain.

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[223] In the sense of authors like Quentin Skinner (Skinner 1998, Skinner 1984), Philip Pettit (Pettit 1997), or Cass Sunstein (Sunstein 1993), who see political participation as the core of positive political liberty or even as a duty.

[224] Other authors, such as Meira Levinson and Matthew Clayton, would disagree at this point. I will discuss their views later in this chapter.

Equality, for Rawls, is based on the status of citizens as moral persons which have two basic features, also called the "two moral powers":

> first they are capable of having (and are assumed to have) a conception of their good (as expressed by a rational plan of life); and second they are capable of having (and are assumed to acquire) a sense of justice, a normally effective desire to apply and to act upon the principles of justice, at least to a certain minimum degree.[225]

Moreover, a point that is repeatedly emphasised in *Political Liberalism* is that free and equal persons do not only have a capacity for the good but "have at any given time a determinate conception of the good interpreted in the light of a (reasonable) comprehensive view."[226]

Built into this conception of equality is a notion of autonomy. It is neither the comprehensive and substantive Kantian conception of autonomy of early Rawls nor the restricted political one of the later. It is, instead, a kind of proceduralist autonomy. The kind of autonomy that comes with the presumed equality of persons can be best understood as "a relatively weak and contentless notion,"[227] as Gerald Dworkin puts it, or much in the way of what Gerald Gaus describes as "ultra-minimal conception of personal autonomy."[228] It does not rest on a notion of "substantive independence," but is rather based on

> a shared conception of what a person is. What makes an individual the particular person he is, his life-plan, his projects. In pursuing autonomy, one shapes one's life, one constructs its meaning. The autonomous person gives meaning to his life.[229]

Dworkin claims that this shared conception of personhood is the basis for the requirement of moral justification when it comes to coercion. This neatly fits with the political liberal idea of justification of laws and policies, as well as the respect for persons that is implicit

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[225] Rawls 1971, p. 505. See also Rawls 1993, p. 19 and p. 81.

[226] Rawls 1993, p. 81.

[227] Dworkin 1988, p. 31.

[228] Gaus 2005, p. 293.

[229] Dworkin 1988, p. 31.

in Rawls' political liberalism. Justification has to be given in the form of public reasons that are acceptable to all citizens, regardless of their comprehensive views because citizens understand themselves as equal to each other. To do so, they will have to share a notion of what constitutes a person (in this context), just as noted above.

It seems also to be this minimal form of autonomy that Ronald Dworkin refers to as the "particular but plausible theory of philosophical psychology"[230] which is required for any conceptions of equality aiming at some sort of equality of personal success. While Dworkin's theory of equality differs from Rawls', it is still the case that Rawls' notion of primary goods, and especially the idea of self-respect being of particular importance, makes political liberalism a theory that aims, among other things, at a certain level of distributive equality. Without citizens perceiving themselves as "active agents who distinguish between success of failure in making the choices and decisions open to them open to them personally,"[231] Justice as Fairness could not be coherent as an egalitarian theory (and the same holds, I suppose, for any other conception of justice that is compatible with political liberalism).

One particular variant of making one's own choices is brought to light in the characterisation of the first moral power, the capacity for having a conception of the good. Individuals with this capacity are also able to form and, if necessary, revise their conception of the good, and while Rawls himself, to my knowledge, does not explicitly draw a connection between the two moral powers and autonomy, this point is developed by others. Will Kymlicka argues that the moral power of forming and revising one's conception of the good still implies a capacity to autonomously make choices about one's conception of the good, even though citizens do not necessarily have to exercise this capacity.[232] Here it becomes evident that autonomy, and not only one of the purely political

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[230] Dworkin 2000, p. 28.

[231] Dworkin 2000, p. 28.

[232] See Kymlicka 1995, pp. 158-163. While Kymlicka takes this as evidence that Rawls' conception of political autonomy is not successful, I think that the kind of autonomy required by the second moral power is indeed of the weak kind proposed in this chapter. It should be mentioned here that Meira Levinson refers to Kymlicka's connection of the second moral power with autonomy but draws the conclusion that

kind, is involved in the basic conceptions of a person, a conception on which the idea of free and equal citizens relies.

Therefore, political liberalism, despite Rawls' efforts to separate ethical and political autonomy, is at least partially grounded in a conception of autonomy that is connected with the idea of equality in a way that cannot be purely political. This is no reason for concern, though, because the conception of autonomy in question is not ethical in the sense that Rawls wants to avoid – it does not advocate substantive ideals of individuality or independence. It includes, though, an idea of shaping one's own life, of self-determination or self-rule, but without a substantive ideal of what sort of choices or decisions count as good. Instead it is a proceduralist, or formal, conception of autonomy. I will refer to it as a weak conception of autonomy in the following.

This interpretation of an underlying non-political conception of autonomy for political liberalism might not be uncontroversial. On the one hand there will be objections that the idea of weak, proceduralist autonomy that I assume is too thin and that the first moral power implies something much stronger that resembles a Razian notion of autonomy more closely.[233] From this perspective, the conception of weak autonomy would not be substantive enough. At this point, I am not concerned with objections of this type, as it seems to me that they would be part of a broader objection against the political liberal project with its ambitions of neutrality as a whole. As I said in the beginning of this thesis, for the present work I take the soundness of the political liberal project in general for granted.

On the other hand, there is the possible objection that, all things considered, my understanding of the role of autonomy in political liberalism is not very different from the Razian liberal account. As noted above, an idea of shaping one's own life is central to Raz's version of autonomy as well (Section 4.1), and the assumption of an underlying account of autonomy in this sense could look like a very similar move in a direction that is too

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autonomy must be taken as a substantive good in itself (see Levinson 1999, pp. 18-21). Levinson's perspective, especially her argument against a proceduralist account of autonomy, will be discussed later in this chapter.

[233] Such an approach can be found in Blake 2001, pp. 266-271.

comprehensive for political liberal taste.[234] This concern can be moderated, though, and the next sections explains in some details to what extent ideas of self-determination and self-authorship are associated with a weak conception of autonomy.

4.4 Self-Determination

Talking about "shaping one's life" in the context of autonomy can mean very different things. For somebody like Raz, who also uses the term "self-authorship," it connotes notions of deliberate planning, perhaps even aspiring to some sort of perfection regarding one's life projects, and ideas about human flourishing and what makes personal projects valuable. In contrast, proponents of a proceduralist approach to autonomy understand the phrase merely in the sense of self-determination, which has to include neither much deliberation or substantive values autonomous agents needs to pursue, nor any particularly valuable projects thy need to be involved in. To adapt an example from Gaus, the conception of autonomy needed here will also include the uncomplicated, beer-drinking football fan whose main "project" it is to enjoy as many Glasgow Rangers games as possible.[235] Weak autonomy does not need to include "the ideal of free and conscious self-creation,"[236] and we also do not need to claim that autonomy is valuable only if it is connected to valuable activities or relationships.[237] Due to these fairly low requirements, there is no need for perfectionist state action to promote autonomy other than to the extent that is needed to treat citizens as free and equal. This seems to be the minimum requirement that all reasonable comprehensive doctrines will accept anyway, as far as the basic premises of political liberalism go. A weak, proceduralist conception of autonomy seems to be able to fulfil this role.

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[234] For a detailed argument why the Razian idea of autonomy does not work well with political liberalism, see Quong 2011, Ch. 2.

[235] See Gaus 2005, p. 296.

[236] Raz 1986, p. 390.

[237] See Raz 1986, pp. 86f.

Even so, with a weak conception of autonomy we should spell out the content of terms like self-determination or "shaping one's life" in more detail. This will not only help to clarify further why it is not problematic for political liberalism in the way substantial conceptions of autonomy are, but also to find out more about the requirements of political liberal education in regard to autonomy. To get a better idea of what deciding about one's own course of life means, it might be helpful to look at what Ben Colburn wrote about autonomy in the context of liberal theory.[238]

While the overall level of autonomy of a person's life depends "upon the extent to which the agent in question throughout her adult life decides for herself what is valuable,"[239] Colburn identifies two conditions for determining whether a decision is autonomous. The first one is an endorsement condition, which requires that reflection about "what putative values she ought to pursue in her life"[240] would lead a person to endorse these values for herself. This condition does not, however, require actual reflection but is already satisfied if the above was hypothetically the case. The second condition is an independence condition, requiring that this reflection (actual or hypothetical) about a person's own values is "free from factors undermining her independence."[241]

These two conditions support a weak conception of autonomy like the one I endorse in this chapter. It is minimal enough to let people live their lives according to their own comprehensive views, and at the same times it seems like something that every reasonable comprehensive doctrine needs to accept – that persons are self-determined agents.[242] This

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[238] Most interestingly, despite Colburn identifying himself as a sort of Razian liberal, his account of proceduralist autonomy and authenticity can be integrated into political liberalism without difficulty.

[239] Colburn 2010b, pp. 24f.

[240] Colburn 2010b, p. 25.

[241] Colburn 2010b, p. 25.

[242] This is not to say that every reasonable comprehensive doctrine must acknowledge freedom of will in a deep metaphysical sense. A reasonable comprehensive doctrine might hold a determinist view of agency, it must acknowledge, however, that agents in contemporary liberal democratic societies thinks of themselves as self-determined (even if this could be nothing more than a convenient kind of fictionalism about freedom of will).

view of human individuals as agents does not seem in any way problematic for political liberalism.

Yet there might be a concern that explicit talk about autonomy is still either too comprehensive or that it leads to a version of perfectionistic liberalism. To be sure that it is not, let us have a look at the criteria that Quong set up for falling under the category of political liberalism (or political anti-perfectionism, as he also calls it). In order to be comprehensive, liberalism must "be based in some particular ideal of what constitutes a valuable or worthwhile human life, or other metaphysical beliefs."[243] This is not the case with the account of weak autonomy, which does not take the place of a central ideal here. Instead it is, as I have argued, an integral part of the assumption of persons being free and equal. This is one of the basic assumption of political liberalism, shared by Rawls and Quong alike. It would be very odd if we wanted to claim that "[p]ersons are free in the sense of being rational agents, capable of practical reasoning, with plans and projects for their own life,"[244] but deny that this has anything to do with autonomy. Invoking some non-substantive conception of autonomy here is not a comprehensive move.

Neither does the conception of weak autonomy imply liberal perfectionism. For Quong, perfectionism is characterised by the permissibility of state actions that "promote or discourage some activities, ideals, or ways of life on grounds relating to their inherent or intrinsic value, or on the basis of other metaphysical claims."[245] But the weak conception of autonomy does not demand more promotion or discouragement than the ideal of free and equal citizens does. It is also not used as a justification for this kind of political actions or restrictions, instead by taking care of citizens' status as free and equal, the liberal state respects their autonomy.

The assumption of a weak notion of autonomy which is inherent to the idea of free and equal persons is neither comprehensive nor perfectionistic when checked against Quong's

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[243] Quong 2011, p. 15.

[244] Quong 2011, p. 14.

[245] Quong 2011, p. 15.

criteria for political liberalism. Therefore, when talking about education in the context of political liberalism, there is no harm in talking about autonomy as well. For a start, it will be helpful to look again at Colburn's account of liberal autonomy and how it relates to the education of children. Despite understanding himself as a comprehensive liberal insofar as he takes autonomy as being a value worth promoting (while being anti-perfectionist in regard to other possible values),[246] Colburn provides a reasonable list of autonomy-related requirements for liberal education that is compatible with the conception of weak autonomy which is part of political liberalism.

Colburn's central claim is that the liberal state should be autonomy-minded, and while his favourite conception of autonomy allows for adults to live a wide range of lives (even ones that might look not very autonomous from the outside, as long as the person in question satisfies the two conditions named above), there have to be stronger limitations in the case of children:

> Autonomy does require that individual [sic] decide what is valuable in life. Hence, the autonomy-minded state must also try to ensure that people can make those decisions. Amongst other things, this entails that the state must put in place a compulsory system of education designed to promote autonomy. Such a system need not instil a belief that autonomy is valuable […]. However, it does seem to require some other definite measures, such as making children aware of a variety of possible ways of life, and offering them the conceptual wherewithal to choose between them.[247]

If we want to follow Colburn here, and if we understand political liberalism to be autonomy-minded in the weak sense discussed above, then this would mean that the political liberal state would have indeed to design its educational policies in the way that Colburn proposes. And although the steps leading here seem plausible, this might be a stronger claim about political liberal education than we would have supposed acceptable in the framework of political liberalism, particularly bearing in mind what Rawls himself writes about it (see 2.2).

How compatible with Rawls' political liberal ideas this proposal for liberal education is, remains to be seen. To determine this, it will be useful to investigate the three questions

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[246] See, e.g., Colburn 2010a.

[247] Colburn 2010b, p. 40.

that emerge from Colburn's claim about liberal education for autonomy: how legitimate is a compulsory system of education, what does it mean to promote autonomy without promoting its value, and what range of possible ways does liberal education have to offer? I will discuss each to these question in more detail in the following sections.

4.5 Compulsory Education

Although it seems that a form of compulsory education is usually accepted by the majority of political philosophers without further questioning, it might be required to ask for a proper justification for this kind of education, as it is a form of political coercion. In liberal democratic societies, children of a certain age range usually receive an education that conforms to standards set by the state, regardless whether they themselves or their parents approve of it. Although in practice compulsory education often involves compulsory schooling as well, the latter is no necessary implication of the former. At least when it comes to promoting autonomy, it seems that compulsory schooling is not strictly necessary (despite public schooling probably being more conducive to this end). Therefore, I will assume that the necessary requirement here is for compulsory education only. A system of compulsory education seems also to be the default for Rawls when he outlines the requirements of political liberal education, regardless of how minimal they might be (see 2.2.2).

Justification for compulsory education has been given on various grounds. It has been argued that it ensures that children will grow into autonomous persons, become competent members of a democratic society, that it is a form of distributing important resources needed to enjoy their rights and liberties, and that it is important in order to inculcate some form of communal or national identity, as well as political virtues.

One often named liberal purpose of compulsory education is to make children become autonomous persons, assuming that it includes an idea of individuality similar to that of John Stuart Mill. From this perspective, compulsory education is meant to "take rational and responsible control of their lives"[248] and to bring about that children become "self-

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[248] Kleinig 1981, pp. 192f.

formative and self-directive"[249] citizens. It safeguards what Joel Feinberg calls children's "right to an open future"[250] by shielding their autonomy rights until they are adults. Otherwise, children could be at risk of being unfairly limited: "An education that renders a child fit for only one way of life forecloses irrevocably his other options."[251] Feinberg claims that compulsory education in addition secures children's autonomous future against their own decisions – thereby making up for their lack of capacity for long-term planning. While Feinberg's concrete idea of autonomy might be already too substantive to serve as justification on a political liberal view of education, it is one that certainly has appeal to comprehensive theories of liberal education.

But it is far from clear if compulsory education is the right way to tackle these demands.[252] Aharon Aviram, for example, even argues that the idea of an autonomy-facilitating education contradicts the concept of compulsory education. Autonomy, so his argument goes, is inherently linked to the rationality of a person. Only in cases where a person is not rational is paternalistic interference justified. A common assumption of liberals that often remains tacit is that children are not, or not to a sufficient degree, rational, so that paternalism regarding them is justified, including the requirement of compulsory education. Aviram claims that children (with the exception of small infants) cannot generally be assumed to be irrational and that, if they have the status of rational individuals, they also have to be treated as autonomous persons. It therefore seems paradoxical to justify paternalism towards children with the necessity of preparing them for an autonomous life. Valuing autonomy seems indeed to require either refraining from paternalism or finding another justification for it.[253]

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[249] Hinchliffe 2014, p. 38. It should be noted that Hinchliffe argues from a Republican perspective and argues for an education for liberty in a Republican sense. Nevertheless, his basic requirements for an education for autonomous persons are similar to those of many rights-focused liberals.

[250] Feinberg 1980, p. 113. Emphasis in the original.

[251] Feinberg 1980, p. 115.

[252] Kleinig 1981, pp. 193f.

[253] See Aviram 1986, p. 54.

The problem with this objection against compulsory education is that it relies on the claim that children in fact are sufficiently rational to make them autonomous to a degree above which paternalism against them has to be justified. Although one might agree with Aviram that children are not totally irrational, one might still think that, as long as they have not reached a certain minimum threshold with their capacity to make rational, informed decisions, they are not sufficiently autonomous to, e.g., opt out of schooling. Political liberal education therefore does not need to be concerned about compulsory education being illegitimate due to children's autonomy.

The case of compulsory education might best be understood as a special case of what David Archard calls the "caretaker thesis," the liberal conception that children are not (yet) autonomous agents and thus important choices regarding their lives are legitimately made by adults, usually their parents. In general, says Archard, "the paternalist caretaker must choose what the child would choose if competent to make choices, and choose with regard to the interests of the adult the child will become."[254] The default assumption is that the caretakers themselves are competent in these matters, which might be true for parents in relation to many aspects of a child's upbringing. But, as John Kleinig writes, "[p]arents do not always have their children's interests at heart, and even if they do, they may not know how to respond to them or they may be placed in a situation where they are forced (by economic or other circumstances) to sacrifice them."[255] Therefore, the task of education might best be "outsourced" to experts on this matter, much in the same way as parents would, e.g., ask medical experts for help with health issues of their children.

Primary education of children is crucial for ensuring at least a basic range of options in later life, therefore it needs to include a sufficiently broad variety of topics. It seems reasonable to assume that schools as professional institutions are more competent than most parents when it comes to decisions about what children should learn and in which way.[256] They contribute to providing the right to an open future to children by guiding their

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[254] Archard 1993, p. 78.

[255] Kleinig 1981, p. 194.

[256] Especially the last claim is open to objections: it is far from settled that schools provide optimal learning environments for all children. One way to improve this state of affairs could be the privatisation of

development of "the capacity to reflect, deliberate and argue as well as the ability to acquire knowledge about herself and her world."[257] As children grow older, they become gradually more autonomous and able to make decisions in their own interest. The end of the compulsory stage of education can be understood to reflect this fact.[258]

In the context of political liberalism, autonomy offers one way to justify compulsory education. Children in a political liberal society will need to develop the kind of autonomy necessary for their civic duties during their time in school – this includes political autonomy in the Rawlsian sense as well as the kind of weak autonomy I have argued for earlier in this chapter. It is, of course, possible that some different, non-compulsory schooling system could address the liberal concern with autonomy just as effectively, or even better. Whether such forms of schooling are feasible I cannot answer. Yet, for a well-ordered political liberal society modelled after contemporary Western democracies, an autonomy-based argument for compulsory education appears most plausible.

Nevertheless, even if we agree that there is a case for compulsory education, we might disagree on the question of its extent. Some liberals could argue that only primary education should be compulsory, while others see a need for a more extended compulsory education. It seems to me that these questions on details are no longer questions about generally applicable principles across all possible well-ordered societies, but that the right decision here would rather depend on the particular socio-political context. In a society characterised by very diverse religious yet reasonable comprehensive doctrines which put much emphasis on life in religious community, compulsory education might be limited to primary education only. In a more market-focused, competitive society, or in a society that requires extensive political involvement of citizens, it might be prudentially and morally

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schools, which then could offer different teaching methods/environments, some of which would probably turn out more effective than others (see, e.g., Tooley 2000). Nevertheless, it seems safe to assume that, on average, schools are more competent in educating children than parents themselves in a well-ordered society.

[257] Archard 1993, p. 82.

[258] On average, the compulsory stage of education ends at age 16 in most European countries, although some require some additional compulsory part-time education until age 18 (see European Commission 2015).

required to extend compulsory education to secondary education as well. What can be said generally, though, is that there are reasonable liberal arguments in favour of compulsory education as such.

4.6 Promoting Autonomy

Proceduralist accounts of autonomy like the ones of Dworkin and Colburn, which do not require inculcating the belief that autonomy is a substantive value, seems to work well with the tendency of political liberalism to avoid an ethical conception of autonomy. But even if autonomy does not enter education as something that is good and valuable in itself, it is nearly impossible (and maybe also hardly desirable) to avoid promoting weak autonomy altogether. The particularly interesting question for the Rawlsian political liberal is in this regard, if and how autonomy can be taught without giving up the position of neutrality towards reasonable comprehensive doctrines and becoming too perfectionist.

An autonomy-minded education, Colburn argues, would have to be at least committed to "making everyone aware of a variety of ways of life, offering the conceptual wherewithal to choose between these, and ensuring that everyone has a fair chance of acquiring the knowledge and skills required to succeed in them."[259] While being more neutral than an education that promotes autonomy as intrinsically valuable, he notices that this still excludes a certain range of comprehensive doctrines:

> The autonomy-minded liberal is committed to saying that certain ways of life are beyond the pale, because they cannot survive the education process that autonomy-minded liberalism requires. For example, any way of life will *de facto* be ruled out if it requires children to be raised in ignorance of possible courses their lives might take other than those approved by their parents […].[260]

While Colburn has a form of liberalism in mind that resembles Raz's when talking about autonomy-minded liberalism, he observes that these concessions are acceptable for the political liberal as well. If we remember Rawls' stance on minimal political liberal education (see 2.2.2), we will recall he conceded that the effects of political liberal

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[259] Colburn 2008, p. 624.

[260] Colburn 2008, p. 624.

education can sometimes resemble those of a more comprehensive liberal one, despite the different justifications for both. Rawls also acknowledges that this sometimes can lead to changes in traditional ways of living that conflict with these requirements and that the changes have to be accepted.[261] It seems so far, that Colburn's argument, although primarily designed for a more comprehensive autonomy-valuing kind of liberalism, works for political liberalism as well.

Someone could complain about this requirement being too strict and resulting in policies which are unfair toward ways of life that see too much knowledge about the world outside their sphere of influence as endangering. It seems to me, though, that the conceptions of weak autonomy and of political autonomy, which shape the content of political liberal education, allow for a principled vindication of these requirements. Children in a well-ordered society need to understand themselves, and others, as self-determined agents. This does not necessarily mean teaching that the aims and values of other comprehensive doctrines are as substantially valuable as one's own, but it implies inculcating an acceptance of other citizens' reasonable comprehensive doctrines as equally worthy of respect on a political level. In terms of political autonomy, they will also need to acquire the skills and knowledge mentioned in 2.2.2. These are all requirements which contribute to the stability and continuity of a free and equal political liberal society. Reasonable citizens therefore cannot legitimately complain about them.

4.7 The Range of Possible Life Options

What does it mean to make children aware of a variety of possible ways of life? We can attempt to answer to this question by making quantifications along following dimensions: how many different ways do children have to learn about, and how much detailed information about possible ways is necessary to facilitate autonomous future lives?

From a simplified point of view, it seems that more options are better. As with other things, the marginal utility of knowing about possible ways of life will decrease, but unless it hits zero or turns negative, we might feel inclined to say: the more options, the better. Of course, things are not that simple. Getting information about ways of life comes with costs,

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[261] See Rawls 1993, p. 200.

and those costs increase with every option that we want to gain knowledge about. To a degree, schools decrease these costs for children by saving them the effort to search for relevant information and (ideally) only providing information of sufficient quality. Nevertheless, children will have to invest time and capacity to process information, both of which are limited and, furthermore, need to be distributed between different educational goals. There are practical constraints on how much can be taught about various ways of living.

Yet it seems important to make children in the context of their school education aware of a relevant range of reasonable world views and approaches to life existing in their society.[262] Given these aims and the practical restrictions, someone will have to decide in which way this kind of awareness ought to be achieved, which ways of life are supposed to be included, and to what depth. An example for this is the representation of LGBT[263] relationships as normatively equivalent to heterosexual relationships that are still taken as the norm by a majority in existing liberal democratic societies. The perceived inequality between, e.g., homo- and heterosexual lifestyles leads in many cases to social pressure on children and young adults because either their parents or they themselves fall into the LGBT category (while the first can already be a problem during primary school, the latter usually occurs during secondary school). This pressure is not so much the result of formal discrimination but of informal, every day discrimination due to prejudices and stereotypes held by schoolmates and teachers. Removing this informal discrimination in actual societies and at least avoiding it in moderately idealised ones is a matter of justice and as such a political liberal account of education must be sensitive to them. Presenting LGBT

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[262] By phrasing it this vaguely, I deliberately leave the question unanswered which world views and life approaches should be part of school curricula. These are, once more, decisions that need to be made in a particular social context. In one kind of well-ordered society it might be the best option to represent the major comprehensive doctrines, while in another, it would be important to bring attention to minor reasonable world views that would otherwise be threatened by marginalisation.

[263] Various extensions of this acronym are used nowadays, such as LGBTQ, LGBTI, LGBTIQ, and LGBT+. For sake of simplicity I am using LGBT with the intention to also include gender identities that might not be represented by any of those four letters.

ways of living as possible and equally valuable options next to more traditional ones looks like an essential step in coping with this particular kind of injustice.[264]

Rawls' own minimal account of political liberal education does not tell us much about being aware of and understanding different ways of living. Nevertheless, adding a requirement for teaching this kind of awareness is justified by the notion of equality in his liberal political philosophy and the weak conception of autonomy that is built into it. First, by learning about various ways of living children (and persons in the wider sense) can realise that there are meaningful choices that are, in principle, open to them (even if they might never change their way of life radically by, say, adopting completely different conception of the good at some point). As Gerald Dworkin claims:

> What does have intrinsic value is not having choices but being recognized as the kind of creature who is capable of making choices. That capacity grounds our idea of what it is to be a person and a moral agent equally worthy of respect by all.[265]

Similar ideas of what constitutes a person from a moral perspective can be found in the works of various other authors as well (often combined with accounts of moral responsibility), such as Peter Strawson,[266] Stanley Benn,[267] and Gerald Gaus.[268]

Second, having one's own comprehensive doctrine presented as one of a range of reasonably considerable alternatives in a pluralistic society can be understood as one way to signal equal respect to citizens. Citizens owe each other equal respect, following Charles

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[264] In actual liberal democratic states there is a tendency to make this topic a political question, as it seems an ineffective or at least very slow process to achieve equality at schools in these matters via teachers' and schools' efforts alone. The reason for this, in part, are biases held by teachers themselves or included in the basic religious world view some schools aims to convey. That is why in the UK, at the time of writing, the National Union for Teachers calls on its members to pressure the government to include "a positive portrayal of same sex relationships" (NUT General Secretary Christine Blower, quoted in Espinoza 2015) into a compulsory sex education.

[265] Dworkin 1988, p. 80.

[266] Strawson 1962.

[267] Benn 1988.

[268] Gaus 2005, Gaus 2011.

Larmore, "as beings capable of affirming a vision of the good life."[269] An education that includes various ways of life does not only facilitate respect for adherents of these ways of life, but also provides reassurance of the equal status of their conception of the good.

This aspect becomes even more important if we think about the transition from political principles applied to the model of a well-ordered society to an all-things-considered approach for real societies. For the moderately idealised well-ordered (and closed) society, perhaps there seems no particular need for making other comprehensive doctrines more accessible. In Rawls' vision they share a single political identity and, as Onora O'Neill remarks, will therefore "unsurprisingly be willing to seek and abide by shared principles and standards for the fundamental arrangements of life when it is possible. That is more or less what it is to be a citizen of a democratic society."[270] Real liberal societies have so far not reached this level of homogeneity in their political culture. As Victoria Costa observes, this way of modelling the well-ordered society ignores "things such as that not all members speak the same language, that some are recent immigrants, or that there may be deep social divisions along ethno-cultural or racial lines."[271] In order to accommodate to those circumstances, political liberal education cannot be (as Rawls proposes) minimal but has to endorse a wider approach that fosters "dialogue and mutual understanding among citizens."[272] An important part of this approach is to make children aware that ways of life other than their own exist, and supply them with at least a sufficient amount of details about these ways of life to create an understanding of why people living those kinds of lives might not share one's views and arguments, despite being reasonable. This variety of considerations speak in favour of providing knowledge about a range of possible life options, not only for reasons of personal autonomy but also in order to foster respect among citizens for each other's ways of living and, by this, contributing to social cohesion and stability.

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[269] Larmore 1990, p. 136.

[270] O'Neill 1997, p. 421.

[271] Costa 2004, p. 11.

[272] Costa 2004, p. 11.

This ends the discussion of Colburn's three requirements for an autonomy-minded liberal education, which should have demonstrated what a political liberal education must provide that is committed to a conception of weak autonomy as well as to a conception of political autonomy. What still remains to do is to look at objections to proceduralist autonomy conceptions on the basis that they are too weak for a fully-fledged liberal theory of education.

4.8   Objections to Weak Autonomy

Although it seems obvious that the moral powers of citizens imply some sort of autonomy, not everyone would agree that it is only a weak kind of autonomy, as I am suggesting. Meira Levinson in particular has argued in the context of liberal education that a proceduralist conception of autonomy is not sufficient for a robust liberal theory. Instead even political liberalism would have to adopt a more substantive conception of autonomy that would result in it becoming what she calls "a weakly perfectionist" brand of liberalism. Levinson's "ideal of personal autonomy is a substantive notion of higher-order preference formation within a context of cultural coherence, plural constitutive personal values and beliefs, openness to others' evaluations of oneself, and a sufficiently developed moral, spiritual or aesthetic, intellectual, and emotional personality."[273] It is hard to see how an educational programme based on this ideal could be justified from the perspective of the comprehensive doctrines involved, as the development of a spiritual, aesthetic, and emotional personality is exactly what they will reasonably disagree about to a wide extent.

Levinson sees citizens' capacity for a conception of the good, i.e., "to form, to revise, and [to] rationally pursue such a conception"[274] as a main feature of Rawls' theory that "encompasses the capacity for autonomy."[275] Instead of buying into Rawls' explanation that this is a mere characterisation of how citizens are supposed to think of themselves (as citizens) instead of being a moral ideal,[276] Levinson insists that the justification of liberal

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[273] See Levinson 1999, p. 35.

[274] Rawls 1993, p. 302.

[275] Levinson 1999, p. 19.

[276] See Rawls 1993, p. 300.

institutions "relies on the *value* of autonomy."[277] The fact that this capacity plays an important role in the political conception of the person does show, so Levinson, that we assign a particular value to it. Echoing Ronald Dworkin, she concludes that the capacity for autonomy "represents a substantive *good*"[278] that we want to exercise not just because it is there but because we take it to be valuable. Thus, the only way to properly and fully justify liberal institutions lies in "adopting an ideal of individual liberal autonomy."[279]

The weak account of autonomy given by Gerald Dworkin, "the thinnest possible notion of autonomy"[280] is of no use in this context for Levinson. This is due to the formal nature of Dworkin's conception of autonomy: to be autonomous, individuals must have the capacity to identify or reject the reasons for which they are acting,[281] but it does not evaluate the second-order reasons for this identification/rejection. This disqualifies it from being an acceptable conception of autonomy in Levinson's eyes for at least two reasons.

First, we are told, the Dworkinian weak conception of autonomy does not provide us with good criteria "to distinguish properly between heteronomous and autonomous individuals,"[282] as we cannot make this distinction on the basis of the second-order reasons that individuals hold. Levinson's example compares Harry, who will do whatever his mother tells him to do, regardless of the consequences, and Abner, who will also do whatever his mother tells him to do, but because she is wiser than him and will help him to

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[277] Levinson 1999, p. 19. My emphasis.

[278] Levinson 1999, p. 20. Emphasis in the original.

[279] Levinson 1999, p. 21.

[280] Levinson 1999, p. 26.

[281] See Dworkin 1988, p. 15. To use Frankfurt's terminology, autonomous agents must have the capacity to form second-order desires to act upon first-order desires they identify with and to reject first-order desires they do not identify with. In Frankfurt's view, this is even essential for the definition of a person. See Frankfurt 1971.

[282] Levinson 1999, p. 27.

achieve a particular goal X.[283] Both articulate "second-order desires that [they] reached following a period of reflection on their first-order desires"[284] when stating these plans. Therefore, Levinson thinks that a proceduralist conception of autonomy identifies both of them as autonomous, which "seems inappropriate in Harry's case under any reasonable understanding of autonomy."[285] Her reason for thinking so is the following:

> […] Harry might rightly have judged that he is psychologically deeply dependent on his mother's approval and therefore decided to follow his mother's advice no matter what the consequences. [...] Harry's second-order judgements are made within a context of heteronomy – i.e., as a result of an unalterable psychological dependence on his mother that he has not questioned or changed.[286]

To better understand her objection, it is important to clearly distinguish different orders of desires and related decisions here. Employing a Frankfurtian kind of view, in the way both Dworkin and Levinson seem to do, one can map Harry's desires/decisions as follows:

D1   Harry desires to follow his mother's advice, regardless of the consequences. This is a first-order desire.

D2   Harry decides to give in to D1, because he realises that he is psychologically deeply dependent on his mother.

Levinson claims that D2 is a heteronomous decision, because it results from the dependence on his mother, but this seems wrong.

It is certainly true that D1 results from this dependence, but less certainly so for D2. The way Levinson describes D2 as a decision about D1, it looks much like Harry is aware of the fact of his psychological dependence and how it leads to him having D1. If Harry reflects about the nature of D1, aware of his deep psychological dependence, and decides to endorse this first-order desire anyway, this seems not necessarily to be a problem. He

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[283] See Levinson 1999, p. 27.

[284] Levinson 1999, p. 27.

[285] Levinson 1999, p. 27.

[286] Levinson 1999, p. 27.

might have realised that the costs to overcome the psychological dependence are high and decided not to pay them. If Harry in fact reflects about D1, is aware of the dependency it is connected with, and decides to go with it, D2 seems to be an autonomous decision. Therefore, under this interpretation, the example above does not show that a weak account of autonomy forces us to classify actual cases of heteronomously made decisions as unproblematic.

This might become more plausible if we consider Harry as what Suzy Killmister calls a "Woody Allen agent," an agent who endorses his neurotic first-order desires as constitutive of his identity and endorses them as valid reason for action.[287] Harry can be well aware of the unreasonableness of the desire to do everything his mother says but still accept it as a central part of his own self and as such reason-giving to himself. As long as we assume that "[a]utonomy is about doing what we take ourselves to have reason to do,"[288] acting on these reasons is "a form of self-expression, or self-realisation"[289] and therefore justified as reason. So even if we do not agree with his reasons for it, they are *his* justified reasons and his decision to act on them is an autonomous one.

But perhaps the malign psychological influence of Harry's mother also extends to the second-order reasons on which D2 relies – strict monitoring and repressive influence by his mother instilled in Harry the belief that he can only be a valuable person if he always does what his mother wants. This might be a case of influence on a person's reflective capacities that undermines personal self-determination.[290] When Levinson talks about his

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[287] Killmister 2015. In light of recent claims about Woody Allen's problematic attitudes toward women and potential abuse claims it should be noted that the use of the term "Woody Allen agent" does not imply any sympathies for the person himself on my side (neither, I assume, on Killmister's side).

[288] Killmister 2015, p. 13.

[289] Killmister 2015, p. 10.

[290] See Dworkin 1988, p. 18.

decision being "the result of an unalterable psychological dependence [...] that he has not questioned or changed," this seems to indicate that she has the second option in mind.[291]

Whether D2 is autonomous in this case depends on a more accurate description of his situation than we have been given in this case. It could be as Levinson says and Harry's disposition is literally unalterable, or alterable only at unrealistically high psychological costs. In this case D2 can be counted as a case of adaptive preferences, to use Jon Elster's terminology, where Harry declared the only feasible option as the optimal choice for himself in response to the psychological pressure that shaped his decision.[292] These are cases that are ruled out under an account of proceduralist autonomy and doing so requires standards to disqualify cases of adaptive preferences and manipulation from being counted as autonomous.[293]

The second point of concern for Levinson is that the weak conception of autonomy "allows the possibility that people may enslave themselves yet continue to be regarded as autonomous."[294] Harry does so, she claims, by effectively giving his mother the control over his life, but still is considered autonomous by Dworkin because his decision was based on a second-order judgement.

In the case given by Levinson, it seems D2 has been based on adaptive preferences, Harry's decision was not an autonomous one in the first place and the story ends here. We would not need to worry that a weak conception of autonomy permits slavery because it was already agreed upon that Harry lacked the autonomy criterion. But what if Harry's case was just a bit different, and D2 was, after all, the result of an autonomous process?

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[291] I will leave aside the question if we should seriously demand from Harry to change or challenge a dependence that we describe as unalterable in the same sentence. Instead I will assume that "unalterable" is used here hyperbolically for "very hard to alter" by Levinson.

[292] See Elster 1993, Ch. 3.

[293] See Dworkin 1988, p. 18.

[294] Levinson 1999, p. 28.

Neither Harry's particular decision to let his mother control his life nor a decision for a life that will be in large parts determined by others in general are equal to enslavement. It is not unusual for people to choose living conditions like these. "[A] person who wishes to be restricted in various ways, whether by the discipline of a monastery, regimentation of the army, or even by coercion, is not, on that account alone, less autonomous,"[295] as Dworkin states. The individual that chose a long-term contract with the army might be limited in her life choices for the time spent under this contract, but as the decision to sign it was her own, we would say that overall her life is autonomous, although some stretches of it might be to a far lesser degree than others. While her life can be counted as autonomous globally, for the time of her contract her life is locally less autonomous.

Even if we assume that Harry means to obey his mother until the end of his (or, perhaps more probably, her) life, this does not change anything relevant. Even if his mother should demand ritual suicide of him, this would not change the autonomous status of his initial decision, provided it really was an autonomous decision (as discussed earlier in connection with Levinson's first point of concern). Probably most of us would not agree with Harry's decision, but similarly many people also would find the decision to become a soldier or a monk disagreeable. Nevertheless, I would want to insist that in both cases the disapproval is not based on a lack of autonomy of the decision, but on our evaluation of the reasons of the chooser.

In addressing Levinson's concerns about the shortcomings of Dworkin's proceduralist accounts of autonomy at this point I hope to have shown that a weak account of autonomy can provide sufficient ground for the idea of freedom and equality that are fundamental to political liberalism. In order to make sense of these concepts, we need more than just the political autonomy that Rawls refers to, but not as much substantive autonomy as Levinson assumes. Indeed, a weak conception of autonomy as the one proposed in this chapter, can do just the work it needs to do without becoming a comprehensive, and should therefore be acceptable to political liberals.

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[295] Dworkin 1988, p. 18.

4.9 Conclusion

I have argued in this chapter that political liberalism does not only involve an ideal of political autonomy, but also implies in its very basic assumption some form of individual autonomy that can account for basic liberal values such as freedom and equality. Nevertheless, this does not mean that political liberalism rests tacitly on a substantive ethical version of autonomy, only that a very thin conception of autonomy is implicit in its most basic commitments. A proceduralist account of autonomy, such as given by Gerald Dworkin, can fill this place without burdening political liberalism with assumptions about its value. As this thin idea of autonomy is already built into the assumption of persons as free and equal, a premise that has to be accepted by all reasonable citizens, it is perfectly compatible with an interpretation of political liberalism that aims to be as little perfectionistic as possible. At the same time, it allows for a consistent Rawlsian position in the debate about autonomy in education.

5 Rights

This chapter takes a closer look at the kind of rights that regulate education in a society that is structured according to the principles of Justice as Fairness. Analysing the relations of rights in detail here seems necessary if we aim to provide an account of political liberal education, as different agents involved in decisions about education might have different interests in its concrete implementation. In the case of children's education, those agents are children themselves, their parents, and the state.

Children themselves can be said to have an interest in education, although this kind of interest might essentially be the one of their future selves who will be citizens. Parents most probably have an interest in the education of their children, and aspects of this interest might collide with the values their children are confronted with at school, or perhaps the lack thereof. This might result in a subsequent interest of parents in private or home schooling. Then there is the state itself, which can be assumed to have an interest in stability and continuity, which in some ways shape the ways education is realised and limits the available options. The question of how these various interests are best balanced can be, at least to some extent, framed as a question of rights, duties, and liberties.

It needs to be emphasised that the rights and liberties discussed in this chapter are not prior to or independent of the substantive content of political liberalism discussed before, political virtues and autonomy. Instead, the rights and liberties of citizens are the political means that allow them to exercise their two moral powers as members of a well-ordered society – they enable citizens to shape their lives according to their conception of the good, and to cooperate with others on fair terms. This implies, as will become clear throughout the chapter, that the extent of citizens' liberties can be determined by reference to the basic substantive premises of political liberalism, including political virtues and autonomy. The benefit of employing the terminology of rights and liberties is that it helps us to see more clearly what kind of freedom each of the parties involved has and where this freedom is justifiably limited.

5.1 Conceptions of Rights in Political Liberalism

To develop and exercise their two moral powers, i.e., their capacities for a conception of the good and for a sense of justice, citizens will need certain institutional background conditions that are specified by a range of rights and liberties. Rights (and, as we will see, liberties, if we employ a Hohfeldian terminology here) are part of the list of basic goods that the parties in the original position will decide to distribute in a manner, at least according to Rawls, that all citizens will benefit as much as possible from these goods, regardless of their position in society. We can understand these rights and liberties as generated by "role-based desires" (desires caused by having the two moral powers), as, e.g., Leif Wenar claims – citizens will have these desires in virtue of being citizens.[296] This also means that these kinds of rights are not merely legal rights (although they will be supported by corresponding legal rights in a well-ordered society), but moral rights that apply in a political context.[297]

While rights and liberties therefore have an important role in political liberal theory, their initial outline comes in very broad strokes in Rawls' original account. The list of basic liberties that the parties in the Original Position will agree upon (such as freedom of thought and liberty of conscience) does not give us any instructions about how to proceed in cases in which different liberties conflict with each other. Instead, figuring out these details is postponed to later, less idealised stages. Rawls' own example of how this process is supposed to work is freedom of political speech. Here we are given a few more details about the limitations and comparative weight of rights and liberties. For this reason, although not exactly on the topic of education, we will therefore examine in the following how Rawls thinks this mechanism works in the context of freedom of speech.

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[296] Wenar 2013, p. 221.

[297] See Martin 1985, pp. 31-41. The moral rights discussed in this chapter find their legal counterparts in constitutional rights. Moreover, there will be a much larger number of legal rights that either cover more detailed aspects of these basic rights or are related to matters that basic/constitutional rights are not at all concerned with. Various legal regulations regarding consumer rights might be an example for the first type, while environmental laws could be an example of the second (at least for Rawls, who does not think that environmental policies involved basic rights and liberties, although this is contestable).

One kind of limitation that applies to freedom of speech (and most probably to all liberties in Rawls' view) is a feasibility constraint. Although having unlimited access rights to public places and social resources would support our freedom to express our views, it seems impossible to grant such extended rights to all citizens. This would be "so unworkable and socially divisive that [it] would actually reduce the effective scope of freedom of speech."[298]

Furthermore, Rawls claims that

> the basic liberty of liberty of conscience [sic] is also self-limiting. [...] [R]easonable regulations would be accepted to secure intact the central range of this liberty, which includes the freedom and integrity of the internal life of religious associations and the liberty of persons to determine their religious affiliations in social conditions that are free.[299]

After these considerations, the freedom of political speech can be specified "into more particular liberties so as to protect its central range."[300] Rawls' way of proceeding with this example is to find what he calls "fixed points within the central range"[301] of the freedom of speech by examining historical debates about the constitution of the United States. The results of this process (and similar ones for other liberties) can then be turned into specific legal rights for a well-ordered society.

In an attempt to determine what rights and duties are involved in education, I will try to go a slightly different way by framing this analysis in terms of Wesley Hohfeld's scheme of rights. Hohfeld offers an analytical framework specifying the formal relations between right-bearers and their social environment, which, although originally applied to legal rights, can be and has since been applied to moral rights and duties as well.[302]

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[298] Rawls 1993, p. 341.

[299] Rawls 1993, p. 341.

[300] Rawls 1993, pp. 341f.

[301] Rawls 1993, p. 342.

[302] See, e.g., Kramer 1998 for an extensive discussion.

In common use (and to a large extent in legal discourse) the term "rights" is used to refer to various types of rights, which Hohfeld distinguished into "rights," "privileges," "powers," and "immunities." Each of these types of rights has a correlate, of which "duties" are the most commonly known and used; the other three identified by Hohfeld being "no-rights," "liabilities," and "disabilities." The following table of correlatives might make the relation between these terms clearer:[303]

right	privilege	power	immunity
duty	no-right	liability	disability

While the first row defines different types of legal (or moral) positions held by someone commonly said to bear a right, the second row determined which correlative duty-like position is held by others who interact with the right-bearer.

- If A has a *right*, this means A is entitled either to some good or service X, or to do some action Y. B as a duty-bearer would have a *duty* to provide the good X or not to interfere with action Y.

- If A has a *privilege* (often called a "liberty" by contemporary Hohfeldians) to do Y, B has no right to claim that A ought not do Y and thus B bears a *no-right*. This does not mean that B cannot interfere with A doing Y, as long as B does not infringe any rights of A by doing so.

- For individual A to hold a *power* in this context means that A can modify entitlements which are based on her rights (or that of someone else if A holds this power over another person's entitlements). For example, although A bears a right to the exclusive use of a piece of land and B in principle has a duty not to use that land, A holds the power to modify her entitlements in such a way that that allows B to use the land. B, on the other hand, bears a *liability* when it comes to entitlements

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[303] See Hohfeld 1913, p. 36, Hohfeld 1917, p. 65.

granted by the power of A – B is liable to any changes that A might make to B's entitlement to use her piece of land.

- An *immunity*, on the other hand, means that A is not exposed to B exercising a power, while this means that B bears a disability to exert her power regarding particular rights of hers. An example for this would be a case where A rents out housing property to B and at a later revoking B's entitlement to use the property. If B would have no access to alternative housing in that case and would thereby become homeless, one might think that these circumstances provide B with an immunity to A's (otherwise legitimate) power to claim her property back from B.[304]

Hohfeld's scheme provides a clear structure and terminology to determine the relations between different parties in a normative conflict. Therefore, rephrasing political liberal rights in Hohfeldian terms can clarify and perhaps even resolve the conflicts of interests of children, parents, and the state in regard to education.

At this point, it is important to note that Rawls' usage of the terms "rights" and "liberties" differs from the way how Hohfeld and his successors employ these terms. To avoid terminological confusion, I will use the terms "rights" and "liberties" in the way Rawls uses them, while I will use the term "claim-rights" to refer to Hohfeldian rights, which are opposed to duties, and the term "privilege-rights" to what Hohfeld calls "privileges." It appears to me that Rawls uses the term "duty" in a sense equivalent to Hohfeld's, so that no distinctive terminology is needed in this case – Rawlsian duties are Hohfeldian duties.

When writing about people exercising their rights and being prevented from exercising them, it often sounds like Rawls uses the term "rights" loosely.[305] Central to political liberalism are what he calls liberties, which, as we will see, can in many cases be understood as privilege-rights, although sometimes they seem qualify as claim-rights. A

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[304] This is not to say that everyone would come to the same conclusion in this case. The moral intuitions about whether the threat of homelessness provides this sort of immunity to B will, for instance, differ significantly between libertarians and egalitarian liberals.

[305] See, e.g., Rawls 1993, p. 325.

quasi-formal definition of citizens' liberties (DL) appears in *A Theory of Justice*. Liberties "can always be explained by a reference to three items," according to Rawls:[306]

> (DL) "The general description of liberty, then, has the following form: this or that person (or persons) is free (or not free) from this or that constraint (or set of constraints) to do (or not to do) so and so."[307]

Agents capable of having these liberties are natural persons, associations, and states, and the constraints mentioned "may range from duties and prohibitions defined by law to the coercive influence arising from public opinion and social pressure."[308] Rawls himself is mainly interested in political and legal restrictions of liberties, that is why he takes liberties to be "a certain structure of institutions, a certain system of public rules defining rights and duties."[309]

In his discussion of particular political liberties, Rawls also employs the distinction between positive and negative liberty.[310] At first this might be confusing, as the context in which this distinction is usually applied differs from the context in which liberties that are under discussion here.[311] Looking at the relevant discussion of *liberty* and *liberties* by Rawls, though, it becomes clear that he seems to take liberties (i.e., particularised liberties of, for example, free speech, association, etc.) to be constituents of an overarching conception of liberty, and that the distinction of positive and negative liberty can be

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[306] Rawls 1971, p. 202. As often, the claims Rawls makes in *Political Liberalism* rest on claims he made earlier in *A Theory of Justice*, as in the case of liberties (see Rawls 1993, p. 325, fn. 33). I will therefore assume the validity of what Rawls writes about rights and liberties in *A Theory of Justice* for a theory of political liberalism, unless otherwise noted.

[307] Rawls 1971, p. 202. Rawls takes this definition of freedom from Gerald MacCallum (see MacCallum 1967, p. 314).

[308] Rawls 1971, p. 202.

[309] Rawls 1971, p. 202.

[310] See Rawls 1971, p. 201.

[311] Especially as Rawls takes this distinction from Berlin 1958, where the conception of freedom Berlin talks about is different from the conception of liberty/liberties that Rawls employs in *A Theory of Justice*.

applied to categorise singular liberties.[312] While he thinks that both kinds of liberty are relevant, negative liberty (or, in the case of particular liberties something that can perhaps be called negative liberties) has more weight and should not be sacrificed for the positive liberty of political participation (or other positive liberties). This emphasis on negative liberties will be important later, as it adds another layer of protection against perfectionist education policies.

When it comes to the question whether rights and liberties are protecting the agent's interests or the agent's choices, Rawls gives no direct answer, although it can be reasonably inferred that political liberalism would presume an interest-based account of rights and liberties. I will say more about this distinction in the next section about children.

First, we need to return to definition DL, which looks on the surface like the description of a Hohfeldian liberty. However, a closer look at Rawls' description of liberties seems to rule out this simple approach:

> A rather intricate complex of rights and duties characterizes any particular liberty. Not only must it be permissible for individuals to do or not to do something, but government and other persons must have a legal duty not to obstruct. I shall not delineate these rights and duties in any detail, but shall suppose that we understand their nature well enough for our purposes.[313]

A shorter but similar description from *Political Liberalism* confirms this view: "[T]he basic liberties are specified by institutional rights and duties that entitle citizens to do various things, if they wish, and that forbid others to interfere."[314] It shows that liberties in the context of Rawls' political liberal theory are something shaped by the restriction that rights place on others.

To get an idea of how to apply Hohfeld's scheme to political liberalism, it will be best to look at some example cases of liberties as defined by DL. For the sake of brevity, I will use

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[312] This becomes clear from the start of his section on the concept of liberty. See Rawls 1971, pp. 201-203.

[313] Rawls 1971, p. 203.

[314] Rawls 1993, p. 325.

A for an agent capable of bearing liberties, C a constraint or set of constraints, and P for some activity this agent could do:

> A is free from C to do P

At the first glance this looks like a plain privilege-right. A has no duty not to do P and any other agents bear a so-called "no-right" corresponding to it – i.e., A has no duty to not doing P and no duty to stop doing P because some other agent might wish so.

Nevertheless, things are more complex than that, as becomes evident when we look at one of the basic liberties under political liberalism, freedom of speech, as an example. An individual A is free to stand on a box and hold a speech about the danger of immigrant workers. We can say that A has a privilege-right to do so. This implies, however, that some agent B could still try to keep A from doing P by any means that do not violate any of A's claim-rights. This latter condition is important to keep in mind – while A's liberty involves no duties of non-interference, other rights she bears shield her liberty. B cannot physically restrict A in order to keep her from speaking, as B has a duty not to interfere with A's claim-right of free movement. So, while B under a duty not to harm A or employ physical force in order to keep A from speaking, B could still try to keep A from speaking by distracting her or by producing enough noise to drown her speech.[315]

It seems that, strictly speaking, the liberty of free speech can be understood as a privilege-right, but very often when we are talking in common-sense terminology about "the right of free speech," we are referring not only to that privilege-right alone, but also to the shielding claim-rights involved and their related duties. Rawls does exactly this when discussing rights and liberties,[316] and it seems safe to say that most, if not all, Rawlsian liberties and rights are complex compounds of privilege-rights and shielding claim-rights as well.[317] What he calls the right to hold personal property, for example, involves a claim-

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[315] See Kramer 1998, p.13, where this example is used.

[316] This becomes clear when he writes: "A rather intricate complex of rights and duties charaterizes any particular liberty." Rawls 1971, p. 203.

[317] For a list of basic liberties see Rawls 1971, p. 61.

right that correlates with the duty of others not to use one's property without permission, but also privilege-rights such as to use one's property in whatever way one seems fit (unless, of course, this again is limited by duties against others). In this way, the basic liberties and other liberties derived from them can be described in terms of Hohfeld's schema, although most of them will not consist of a single claim-right or privilege-right, but instead of several of those.

It will be helpful to keep this in mind as the next sections will try to clarify which claim-rights and privilege-rights are involved in questions about education and what kind of basic liberty they might belong to. To do so, we need to distinguish three parties whose interests, and therefore also their rights, are relevant in the discussion of rights in relation to education: children, parents, and the state. The latter two are without doubt agents who can make use of claim- and privilege-rights, although this is somewhat less obvious in the case of children. In the following section I will discuss in more detail what kind of rights the state and parents have, as well as arguing that children have certain rights and which of these are relevant here.

5.2 Children

From a pre-theoretical perspective, we often take children as bearer of rights. One of the most prominent examples for this view is the United Nations Convention on the Rights of the Child,[318] which declares various children's rights, such as a right to life, the right to acquire a nationality, and the right to freedom of expression, to name a few. Political liberal theory, however, does not explicitly offer any resources to capture this practice. Instead, it is concerned with the rights of citizens, which are derived from their two moral powers, and it seems implausible to assume that children have full citizen status. At least up to a certain age, children lack the necessary capacities to qualify as citizens, and even after they developed these capacities they might take time to develop the necessary desires to exercise them. Children thus cannot have rights qua being citizens.

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[318] United Nations General Assembly 9/2/1990.

Nevertheless, a political liberal account of education should be capable of embedding a pre-theoretical notion of children's rights, particularly as it is supposed to reflect the state of affairs in existing liberal democratic societies. A look at the general discussion of children's rights might help to determine a position that fits well with political liberalism, and a suitable starting point is the distinction between will or choice theories and interest or benefit theories of rights, as both have very different strategies to account for the rights of children.

Will or choice theorists think of claim-rights as demarcating clear limits within which an individual's choices cannot legitimately be interfered with. These limits hold regardless of the content of the individual's choices, so even if others think that it is an incredibly bad choice, they have a duty not to interfere (as long as the choice does not violate anyone else's rights).[319] From the perspective of will theories of right, an agent must be able to make a claim in order to qualify as a right-bearer at all, which restricts the range of right-bearers to rational adults. Interpreting this position strictly means that children have no rights, at least not at very young age, because they are not able to make reasonable claims regarding their rights. Opposed to this are interest or benefit theorists, who think that the function of rights is to secure the interest an agent has. Interest theories of rights are therefore not reliant on the agent's ability to make a claim.[320] From this perspective, agents who cannot make claims do nevertheless have certain rights, such as the comatose or those with severe mental disabilities, as we can plausibly assume them to have a range of basic interests. For many interest theorists, the same is true for animals.

If political liberal theory wants to make sense of children's rights, it seems, then it needs to adopt an interest-based account of rights, as it is clear that at least infants cannot make any claims that rights could be grounded upon. For some, this might be even a decisive argument in favour of an interest theory of rights – taking our pre-theoretical intuition that children have rights as correct, Neil MacCormick, for example, argues that therefore only

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[319] See, e.g., Steiner 1998, Hart 1982, Wellman 1995.

[320] See, e.g., MacCormick 1977, Raz 1992, Kramer 2001.

interest theories can reflect these intuitions and hence that only these theories are defensible.[321]

Adopting an interest-theoretic account, though, would also mean having to address the concerns about interest theory that defenders of will theories voice. Interest theory, so the objection, leads to an inflation of rights, as not only reasonable human beings but also animals and perhaps other entities like ecosystems could be assigned rights. The special status of rights as a particular sort of "moral furniture,"[322] well suited for their characteristic use in moral debate, would get lost for interest theories, as well as much-needed "analytical perspicacity"[323] in the discussion about the nature of rights.

In the context of rights in political liberalism, this might not be the most pressing concern, though. The range of rights relevant here included only political rights,[324] and the range of right bearers is similarly limited, originally to (adult) citizens and the state. The main reason to include children in the group of right-bearers is that they are future citizens without whom a stable and just society over time cannot be achieved. Providing children with certain rights takes into consideration the moral status they will have as future persons, as well as the overarching socio-political goal of stability. So, while adopting either a will or and interest approach to rights does not seem essential, it would add more substance to political liberalisms approach to rights and make it overall more robust. I only want to briefly sketch two possible routes to achieve this.

The integration of an account of right-bearers that takes the will theorist's concern seriously could be achieved by assuming that rights are based on interests for those who are not able to make proper claims, and for those who can make choices a will conception of rights applies, which outweigh interest considerations. To infants, a pure interest conception of rights would apply, which would gradually change into a choice rights

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[321] See MacCormick 1976.

[322] Feinberg 1970, p. 18.

[323] Steiner 1998, pp. 261f.

[324] Which also includes rights that can be derived from principles of distributive justice.

conception as they grow older and more rational.[325] Another way to reconcile interest-based and will-based rights would be by making a corresponding distinction between welfare and agency rights as Harry Brighouse does. With this model, agency rights have a particular weight because we assume that an agent's interest in her agency will outweigh her welfare interest in most cases as long as she can realise that agency. For young children, who lack the rational and deliberative capacities to do so, only their welfare rights will be considered.[326]

Regardless which route we prefer, to generate an account of education political liberalism needs to find a position on for children's rights and liberties. If we take the list given by Rawls in his discussion of liberties as exhaustive, children should have the status of persons, including the rights assigned to persons. And at least in the context of the basic institutions of a just society, there are good reasons to accept children as persons. Considering the stance of the parties in the original position, it seems that the decision to treat children as the bearers of rights, regardless of any metaphysical or other considerations about whether they are persons in a more substantive sense, should strike us as rational, as long as we take the parties to be interested in the well-being of themselves as well as their direct descendants. The same considerations that Rawls assumes would move the parties behind the veil of ignorance to establish that each generation has to leave an amount of just savings for further generations are at work here – the parties cannot know which generation they belong to, i.e., whether they might take the place of a child in society.[327]

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[325] See Brennan 2002.

[326] See Brighouse 2002.

[327] See Rawls 1971, Section 44. This argument implies a further question about the reason why the parties in the original position should be concerned about having the place of children in society but not about having the place of embryos or foetuses. If we cannot provide a principled reason to draw the line at birth, it would follow that parties in the original position had an interest to be safeguarded as unborn children as well, which would result in strict anti-abortion laws. Unfortunately, I do not have the room to discuss this problem in detail here, although I think that good reasons exist to draw the line at birth. I am grateful to Areti Theofilopoulou for drawing my attention to this particular problem.

In the context of political liberalism, the principles of justice are supposed, among other things, to supply each citizen with a sufficient amount of primary goods to live a flourishing life.[328] Rights and liberties (in Rawls' sense) are part of these goods, and we are assuming that children have some of these already at the beginning of their lives (e.g., essential rights against harm), while they will gain others at a certain stage (e.g., rights of political participation). Other primary goods include opportunities and wealth. Neither do children gain these by birth into a liberal society, nor do they acquire them automatically when reaching a certain age. Instead they will have to acquire certain knowledge and skills, which either themselves become opportunities (e.g., acquiring the skill of quilt making might kindle a live-long love for this profession and become itself an opportunity for a fulfilling life) or enable persons to make use of opportunities that turn up at some point (e.g., job offers requiring certain kinds of knowledge or skills). Moreover, in a market-oriented economy access to wealth is, at least in part, gained by having knowledge and skills that are valuable for the market. While this latter group of primary goods are not right and liberties themselves, it can be argued that a bundle of rights and liberties, e.g., free choice of occupation and access rights to certain kinds of public resources, is a necessary precondition to enjoy these goods.

Another necessary requirement for making proper use of goods like rights and liberties, and for gaining opportunities and wealth as full-fledged citizens later on is an adequate education. Therefore, children need at least a sufficient level of education, and due to the central role of these primary goods in political liberalism's principles of Justice as Fairness it seems plausible to claim that there is indeed a right to education.

We can even take a further step back and argue with Matthew Clayton that the development of the basic capacities of liberal citizens relies, at least in part, on education. Clayton thinks that children have a claim-right to what I will in short call a decent upbringing (not the best upbringing or optimal parents), that allows them to develop a sense of justice and a conception of the good. Others are bound by a moral duty to provide children with this sort of upbringing.[329] The primary bearer of this duty is not specified, but

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[328] See Rawls 1971, pp 62f.

[329] Clayton 2006, p.76 and p. 78.

it seems reasonable to assume, that parents as well as the state both bear this duty. This means that parents have a responsibility for providing the child with the means (which do not only include material means but education as well) to develop certain basic capacities, while the state will provide other means by setting the necessary requirements for schooling and education.

In summary there seem to be good reasons to allocate children at least a limited range of rights and liberties under political liberalism, from which we can derive a right for an education that provides future citizens with the relevant capacities to flourish in a well-ordered society. In the next step, we will have a look what rights and liberties, as well as duties, are involved on the side of parents.

5.3 Parents

Unlike in the case of children, we do not need to argue that parents in general have rights and liberties. The relevant question here is, what kind of Hohfeldian rights they have, in order to determine the content and extent of the education of their children. Questions in this context are, e.g., whether parents have a privilege-right or even a claim-right to choose private schooling for their children, to send them to religious schools, or whether they have a right to end their children's education after a certain time. In short, how much legitimate authority do parents have when it comes to the education of their children?

In *The Idea of Public Reason Revisited*, Rawls himself does "assume that as children we grow up in a small intimate group in which the elders (normally parents) have a certain moral and social authority."[330] Still, their authority is limited: as the family is seen as part of the basic structure by Rawls, the principles of justice apply to the family as a main institution of society. But, as Rawls tells us about the family:

> [P]olitical principles do not directly apply to its internal life, but they do impose essential constraints on the family as an institution and so guarantee the basic rights and liberties, and the freedom and opportunities, of all its members. This they do, as I have said, by specifying the basic rights of equal citizens who are the members of families.[331]

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[330] Rawls 1999a, p. 158.

[331] Rawls 1999a, p. 159.

Following the quoted passage, Rawls focuses on the equality of wives which is granted for by their basic rights as citizens, while emphasising that the "internal life" of the family is in no way influenced by other political principles, e.g., principles of distributive justice. While are told nothing more about the extent and the limits of parental authority, this brief passage can serve as a starting point for a more thorough investigation.

Even though children are not equal citizens in the full sense, we have seen in the previous section that they do have some claim-rights in the Rawlsian framework (although they cannot actually claim them themselves), and that their future access to primary goods has to be guaranteed. These rights and entitlements of children limit parental authority, although how exactly remains to be seen, and a variety of positions on this question exists. A comparison of them will be helpful to tell more clearly what claim-rights and privilege-rights parents supposedly have.

Rawlsian in spirit, but in some sense much stricter in the limitation of parental authority, is Matthew Clayton. Although he subscribes to a (restricted) right of parents to rear a child, this excludes a right of school choice.[332] He assumes that parties in a hypothetical choice situation would acknowledge that in case they were children, it would not be in their interest that the right to determine the content of their education lay exclusively with their parents.[333] Instead, the authority over the education of children would mainly lie with agents external to the family, i.e., with the state. The choice situation which justifies this assumption is, according to Clayton, similar to Ronald Dworkin's insurance scheme where parties representing members of society allocate rights and duties for citizens according to interests and limitation of resources.[334]

> [G]iven the significant constraints, which, I argue, everyone's interests as free and equal persons place on the liberty of others in educating children, and a concern to ensure good educational provision for their own childhood, it is likely that parties would choose to

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[332] Clayton 2006, p. 59.

[333] See Clayton 2006, pp. 77f, 81ff.

[334] See Dworkin 2000, Ch. 9, Section V.

> allow suitably qualified non-parents to exercise some, perhaps considerable, authority in matters of educational provision.[335]

Instead of having free choice in matters of education, parents have duties to make education accessible to their children, corresponding to children's claim-rights to having a sense of justice and an autonomous life. They are not the only bearers of these duties, though, as the state as an agent will also be under a duty to provide the necessary resources (material and otherwise) that parents are unable or unwilling to provide.

Drawing furthermore an analogy between the relation between children and parents on one side and the relation between citizens and the state on the other, Clayton concludes that the restraints of public reason apply to the family in a way similar to political activities in greater society – restraints that demand that parents avoid "comprehensive enrolment," as he calls it. This would mean that parents will have to avoid any practice "in which children are [involuntarily] enrolled into a particular comprehensive doctrine."[336] The restraint on comprehensive enrolment would not only apply to religious doctrines, with the practice of baptism being a prominent example, but also to secular comprehensive doctrines – such as utilitarianism,[337] or, as a more mundane example, veganism.[338]

To be fair, Clayton does not demand absolute neutrality from parents when raising their children and allows for "introducing children to comprehensive doctrines when the ambition is not to make them participants or believers."[339] The moral status of bringing children in contact with comprehensive doctrines depends on the parents' intentions. Only

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[335] Clayton 2006, p. 80.

[336] Clayton 2006, p. 88.

[337] Marilyn Friedman, e.g., argues that convinced utilitarians could be classified as unreasonable under political liberalism in case they would insist on the truth of their convictions regarding the political realm (see Friedman 2000). Unlike her, I will assume that at least some forms of utilitarianism can exist as reasonable comprehensive doctrines in a political liberal society.

[338] Perhaps veganism classifies only as a partial comprehensive doctrine. Then again, full endorsement of veganism involves so many aspects of life that it might even reach the status of a full comprehensive doctrine.

[339] Clayton 2006, p. 110.

if their aim is "having one's children be part of a comprehensive practice, or having them adopt the comprehensive convictions in question,"[340] this counts as illegitimate enrolment. In contrast, a legitimate case for Clayton is one where parents do "take their children to church to enable them to experience the traditions and practices of the church, [but] also allow their children genuinely to become familiarized with other religious and irreligious traditions."[341]

Clayton's interpretation of public reason combined with parents' duties leads to a strict restraint of comprehensive influences on the upbringing and education of children and limits the authority of parents to a wider extent than Rawls' brief account of the family does. The restrictions of public reason applied to the upbringing of children would, e.g., only leave very limited privilege-rights for parents to choose their children's school – e.g., religious schools were not a legitimate option, as they would not satisfy Clayton's non-indoctrination condition. This strict limitation of parent's privilege-rights rest on Clayton's assumption of a much more substantial conception of individual autonomy underlying political liberalism than Rawls', which is still supposed to be compatible with the ambition political liberalism to be non-comprehensive.[342] But this seems neither necessary nor feasible.

As I have argued for in Chapter 4, political liberalism works well with a much thinner account of autonomy than Clayton has in mind, which in turn requires far less from parents in terms of value neutrality. While they will still have a duty to ensure that their children's education will prepare them for a life as citizens with the capacity to acquire and make use of the basic goods (including their rights and liberties), they will have more freedom of choice when it comes to forms of comprehensive education than Clayton would allow them. Religious schools would remain an option, as long as their curriculum acknowledges

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[340] Clayton 2006, p. 110.

[341] Clayton 2006, p. 110.

[342] See Clayton 2006, pp. 24-27.

at least a thin idea of autonomy.[343] To argue for restrictions of parents' choices for their children on the basis of a more substantive conception of autonomy therefore does not seem necessary, at least from the perspective of a political liberal account of education.

Perhaps the argument against Clayton's approach can be made even stronger, because an upbringing of children without any comprehensive enrolment might not even be feasible. In a critique of Clayton's account, Johannes Giesinger summarises two convincing reasons for accepting (reasonable) forms of comprehensive education, both of which are grounded in "general conditions of human upbringing."[344] The first reason is that children need a particular loving kind of personal relationship with their parents, which is assumed to be necessary to develop self-esteem. Self-esteem can be taken to be a part of the more complex primary good of self-respect, which children as future citizens are entitled to. Furthermore, it can also be understood as a "precondition for autonomous agency,"[345] which is a basic requirement of political liberalism.

The second reason is that it is hard to see how children create themselves without having access to a pre-existing evaluative system they can refer to. To form a moral personality, children will need an "initial set of evaluative criteria"[346] to start with, which they will usually get from the "family culture" they grow up in. Even if it were possible not to involve children into comprehensive practices and to convince them that there is a reasonable disagreement about their parents' values, this effort would leave them with a normative deficit that otherwise would be less likely to occur: "[c]hildren who are not educated in a comprehensive way might be especially prone, for instance, to take up values from the mass media, from peers, or religious fanatics."[347] It is indeed hard to imagine a

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[343] Stated in this way it remains a very vague requirement. We will see in Chapter 6 what this means for concrete questions of schooling.

[344] Giesinger 2013, p. 273.

[345] Giesinger 2013, p. 273.

[346] Giesinger 2013, p. 273, see also Noggle 2002 p. 213.

[347] Giesinger 2013, p. 275.

plausible scenario where children are educated by standards of public reason alone and then, at a certain age, pick the religious or ethical view of life of their choice.

That said, both Rawls as well as Clayton can still be accused of not being restrictive enough in the case of parental authority. Timothy Fowler does exactly this when he argues that neither Rawls nor Clayton's account of parental authority does consider any non-political aspects of comprehensive doctrines. His reasons are different than the ones I have discussed before, though, and certainly worth having a closer look at.

The problem with the basic Rawlsian version is, according to Fowler, that its concern with stability for the right reasons will force political liberalism to ignore unreasonable aspects of comprehensive doctrines that are reasonable from a *political* perspective. As long as it is secured that a comprehensive doctrine is reasonable in the political sense, i.e., it accepts the content of the overlapping consensus as normatively binding, the state will allow parents to pass their particular comprehensive beliefs on to their children. Fowler claims that it necessarily has to do so, because

> [p]romoting any set of non-political values will require the state to take a position on precisely those controversial issues which Rawls thought to avoid. By allowing parents to take the lead, the liberal state is thus seemingly able to bypass this problem by refusing to favour any one sets of parent's views above the others. […] The state does not condone or condemn any of these different ways of raising children, and thus can maintain the posture of neutrality.[348]

Indeed, from what we have seen, this seems a plausible interpretation of Rawls' take on upbringing and education. The problem which Fowler sees here is that comprehensive doctrines might be politically reasonable but might include beliefs about non-civic aspects of life which "are incoherent or that may be detrimental to children's future flourishing."[349] His concern is that parents who adhere to comprehensive doctrines that are unreasonable in what he calls a "metaphysical sense" will be able to pass unreasonable non-political beliefs to children which may be harmful. On the surface, it seems indeed that they might have a privilege-right to do so. An example for this would be the case of homosexual children

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[348] Fowler 2010, p. 370.

[349] Fowler 2010, p. 371.

brought up in a religious tradition that may inculcate the belief "that all homosexuals will go to hell. Such an upbringing would presumably lead to serious distress in children who later became homosexual."[350] Nevertheless, so Fowler, this tradition would need to be taken as politically reasonable and therefore acceptable for political liberals.

Even if parents were not morally legitimised to pass on their beliefs to their children in the form of enrolment, as Clayton argues, in Fowler's view they will still remain "important role models for children [so that] we might then expect children to hold similar views to those of their parents,"[351] an effect that will be further amplified by life in a community whose members adhere to a particular comprehensive doctrine and where children's social experiences are shaped by a particular set of comprehensive beliefs. So, even if Clayton tries to exclude intentional comprehensive enrolment, Fowler argues, children will still pick up "incoherent, false or dangerous beliefs,"[352] and families or the state could not even provide guidance to counteract the effects of those beliefs as this would "constitute an incidence of adults deliberately shaping the non-political views of children, which is explicitly forbidden by Clayton's understanding of the principle of legitimacy."[353]

To fix this fundamental problem political liberalism has with child upbringing, it seems that it would have to set more demanding standards of what counts as reasonable, including those which evaluate the validity of their non-political beliefs. This would be quite a big step from the (relatively) neutral position political liberalism aims to keep, as Fowler admits.

Fowler's objection to political liberalism relies significantly on the distinction between political and non-political unreasonable views. Admittedly, Rawls and other political liberals do not, to my knowledge, draw a very clear line between what is political and what is not. I cannot give a full-fledged account here of how to do that (perhaps determining whether some view is political or not has to be determined on a case-by-case basis, or

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[350] Fowler 2010, p. 375.

[351] Fowler 2010, p. 378.

[352] Fowler 2010, p. 378.

[353] Fowler 2010, p. 378.

perhaps it is context-dependent). Nonetheless, I think that it is in principle possible to argue that many of the unreasonable views that Fowler is concerned about are no, at closer inspection, non-political and can be legitimately restricted by a political liberal state. Let us take as an example Fowler's case of parents who wish to pick a school that support their beliefs that homosexuals will end up in hell. Do these parents have a privilege-right to make this kind of choice? If two main tasks of political liberal education are to inculcate civic virtues and a capacity for weak autonomy, it seems unlikely.

When it comes to political virtues of tolerance and respect, it seems that someone with a firmly held belief about the moral turpitude of sexual orientation will hardly be able to respect citizens he thinks of as morally inferior. It seems that educational content which would lead to attitudes contradicting political virtues cannot be reasonable and therefore not protected by parent's privilege-right to determine their children's education. This would rule out cases like "homosexuals go to hell," but still would allow for other cases that Fowler could consider harmful – those who only concern the children themselves. Let us take for example someone who is brought up to endorse a strictly fruitarian lifestyle in such a dogmatic way that she will even stick to it in case it turns out that it leads to relevant loss of life quality (e.g., if the fruitarian turns out to suffer from a severe condition of fructose malabsorption).

Considering the requirements of weak autonomy, at least in principle parent's choices of education can be ruled out that would violate the endorsement condition and the independence condition (see 4.4) of the future adult citizens that the child will become. At a stage where that person is considered an autonomous citizen, she will have to endorse the values she pursues, and this endorsement must be free from factors that undermine its independence. Educational choices undermining the reflections about that person's values, e.g., by keeping differing views out of her home-schooling programme or sending her to a dogmatic fruitarian school (were it to exist) would very likely count as an undermining influence and would not be permissible for the political liberal.

So far, the approaches to raising and educating children under political liberalism discussed here were concerned that parents might have too much freedom when it comes to authority over their children. In the light of the account of political virtues and autonomy presented in the previous chapters, there seem to be plausible arguments against both Clayton's fairly

demanding restrictions of parental authority as well as against Fowler's concern that political liberalism had no means to deal with politically reasonable, but otherwise unreasonable views of educating children.

A political liberal stance on parental rights seems have much in common with the approach that Harry Brighouse and Adam Swift take. In sharp contrast to Clayton and Fowler, they argue that parents do have significant rights to shape the lives of their children, based on the value of the unique kind of "spontaneous, loving, intimate sharing of lives"[354] that the relationship between parents and children is. While their focus is more on an intrinsic value of the parent-child relationship, this view includes also sharing parents' world view or religion with their children. It reaffirms a point I mentioned already earlier in the discussion of Clayton's approach and the arguments against it: that being embedded in a family structure[355] and sharing their parents' values is, up to a certain age, a relevant part of children's upbringing.

An important aspect of the parent-child relationship for Brighouse and Swift is the value that raising a child has for parents, and that an important part of this valuable project is the passing on of values from parents to children.[356] From a political liberal perspective, this "family value" can be understood as an important element of the primary good of self-respect. While certainly not the case for every single citizen, for many citizens having a family and raising children will be a major project of their lives, forming their identities and contributing significantly to their self-respect. Overly restrictive limits on parental authority could easily deprive citizens of this important element and contradict the ideal of a fair distribution of primary good. Thus, the liberty that parents should have, according to Brighouse and Swift, seems justified from a political liberal perspective as long as it enables children to develop into politically virtuous, autonomous citizens.

This leads to a new concern regarding the education of children. Despite broad parental privileges, Brighouse and Swift see a need for limits to parental rights when it comes to

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[354] Brighouse, Swift 2014, p. 142.

[355] Not necessarily a traditional nuclear family structure though, defined by a heterosexual parental couple.

[356] Brighouse, Swift 2014, Ch. 6; see also Brighouse, Swift 2006.

equality of opportunity. While parents do naturally have an interest in contributing to the well-being of their children, this can easily end up in inequality of outcomes, as children of wealthier parents will have access to an education that those from a poorer background will not. However, Brighouse and Swift rule out "bequest of houses or other property, or the choice of elite private schools"[357] as not covered by the condition of spontaneity that for them is linked to the particular values of family relations, so that some political restrictions might be permissible. Still their general claim remains: "Simply put, familiar relationship goods are more important than fair equality of opportunity."[358] This does not rule out that in conflicts with other rights and duties, e.g., duties of assistance to the poor in society, could override these rights. Brighouse and Swift consider these further questions beyond the scope of their work, though.

One could argue that parent's rights to control the education of their children, through choice of school or other education-related activities, conflicts with requirements of distributive justice. Fair equality of opportunity is undermined if parents with more monetary, but also cultural, capital, can choose to provide better education to their children than less well-off parents. The children of the former will have most likely better opportunities than those of the latter.[359]

Under Justice as Fairness as the assumed core conception of justice for political liberalism, this is not by itself a problem. Inequalities are acceptable, as long as the difference principle is satisfied, i.e., as long as the least well-off in society will benefit from these inequalities. As soon as this were no longer the case, though, parents' control over their children's education would have to be limited. It is plausible to assume that the right to control the education of one's children is a claim-rights against other citizens, as other citizens can reasonably be assumed to have a duty not to interfere with the education of other people's children. Against the state, meanwhile, parents only hold a privilege-right, which allows the state to interfere with their control over education if it is demanded by the

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[357] Brighouse, Swift 2014, pp. 142f.

[358] Brighouse, Swift 2014, p. 143.

[359] See Brighouse, Swift 2014, pp. 127f.

state's duty for just distribution of primary goods (more about this duty in the next section of this chapter).

To summarise, my claim is that from a political liberal point of view parents do not have to be as strictly limited in their rights over the education of their children as Matthew Clayton thinks, and political liberalism also has less problems to address non-political unreasonableness than Timothy Fowler claims. The way children acquire their initial set of evaluative beliefs and turn into citizens with a healthy sense of self-worth allow for a good measure of parental influence on their development, including the enrolment into parental comprehensive doctrines and decisions about their education based on comprehensive world views. Not only is this justifiable with the good of children in mind, but also when considering the significant contribution to their self-respect raising which is experienced by many parents through the activity of raising children according to their own values. Limits to parental choices about children's education, as we have seen so far, are set by the central aims of political liberal education, such as inculcating political virtues and autonomy.

While parents' rights concerning the upbringing and the choice of their children's education are claim-rights against most other persons, it seems most plausible to understand them only as privilege-rights when it comes to the relation between parents and the state, which has to take care of distributive justice. What rights, and more important, duties the state has in relation to parents (and children as well) will be the topic of the next section.

5.4 The State

At first it might seem odd to talk about the rights of the state in a liberal framework. After all, an important function of rights, from a liberal perspective, is to protect citizens from illegitimate intervention by the state. Nevertheless, there are good reasons for political liberalism to assign rights and liberties to the state as well. One reason to attribute claim-rights to the state lies in the state's duty towards its citizens to redistribute resources in

accordance with, at least under Justice as Fairness, the difference principle.[360] In order to be able to fulfil this duty, the state will need to have claim-rights entitling it to claim ownership over some of its citizens' resources and redistribute them. Citizens therefore must have correlating duties to give up their fair share of resources for redistribution, usually in the form of taxes.

In addition to these redistributive duties, the political liberal state has a duty to provide opportunities for education that enables children to make use of the primary goods they will be entitled to as citizens. We could also interpret the task of providing opportunity of education not as being distinct from but as a part of the state's redistributive duties – adult citizens already have the capacities to make use of their rights, opportunities, etc., so in their case the state must provide a proper institutional framework, de facto enabling them to make use of these capacities. Children, who are developing these capacities, cannot make use of those institutions but instead will need to go through proper preparing educative steps first. The preparation for being able to use one's primary goods can be reasonably understood as an integral part of a fair distributive pattern. In any case, whether the state's duty of providing sufficient education is part of a bundle of redistributive duties or a category of its own, the political liberal state has *some* sort of duty to provide education.

A more mundane, but nevertheless not less important aspect of providing sufficient education should be mentioned here as well. While goods like food and shelter are not explicitly part of the list of basic goods of Justice as Fairness, there is no doubt that they are basic requirements of citizens in a well-ordered society as well. It is reasonable to assume, as, e.g., Robert Noggle does, that "fully developed moral agents in a moral community will be able to use the primary goods of income and wealth to provide these goods [i.e., food and shelter] for themselves."[361] Here, as well as in the case of primary goods, education at least partially is part of the preparation of children to acquire the

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[360] We have to keep in mind that other conceptions of justice are possible and permissible in a political liberal society (see Chapter 2, Sub-Section 5.1), but it seems plausible to assume that all of them will have an egalitarian component that accounts for redistributive schemes of some kind.

[361] Noggle 2002, p. 108.

necessary means to afford basic material goods. A state's duty for providing education can therefore also be derived from its duties to distribute primary goods among its citizens.

Unlike other kinds of redistribution in the case of education the state does not only have a claim-right to acquire a part of citizens' resources for its task. To provide proper education for children, it seems necessary that the state also has a claim-right to children's participation in educational processes, at least until they will be minimally able to benefit from their share of primary goods and to participate in society. At first glance, the correlating duty of participating in this kind of education appears to be located with children themselves, but that is not a satisfactory result. If we assume that children, up to a certain age, need a fiduciary that claims their rights for them (which are their parents on most cases) then we should also assume that duties concerning children's education will apply to parents and other relevant fiduciaries in the same way. In other words, a duty to make sure that a child receives sufficient education falls on its parents or other fiduciaries, where the latter might also include the state or its actors in some cases.[362]

Next to requirements of distributive justice, a state's duty to provide education can plausibly be generated from the requirement for stability and continuity. Together with justice, stability and continuity are central aims of the political liberal project (see 2.1), so they must play an important part in determining the claim-rights and duties concerning education. Citizens enjoying a just and peaceful society will have an interest in its stability and continuity, so it is reasonable to assume a duty of the state to realise this aim. We have already seen how education can contribute to stability and continuity in Chapters 3 and 4 by equipping children with the proper political virtues and autonomy to grow into citizens that are defined by their two moral powers and that will act in accordance with the principles of justice. So, if there is a duty to maintain stability and continuity, it entails a duty to provide the necessary education and, in the same pattern as described above, a right to enforce participation in this education.

Summed up, it can be argued that the state has a clearly determined (most likely even over-determined in the face of the various ways to derive a duty to provide public education)

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[362] For example, in the case of child-care workers or other government officials who might, in exceptional cases, need to override parents' rights and liberties in regard to their children's education.

claim-right against children, and against parents as their proxies, to participate in education, and that children have a duty to participate, respectively parents to make sure that their children participate. This claim-right results from two duties the political liberal state has, on one hand the duty to distribute resources in a just way, on the other hand to maintain stability and continuity. Both duties are supposed to be affirmed by reasonable citizens, so that reasonable citizens will also accept the duties concerning children's' education that follow from those.

5.5 Conclusion

As we have seen, education can be framed as the object of claim-rights, privilege-rights, and duties. Children have a claim-right to education (up to a sufficient extent) that is based on their entitlement to primary goods that will be in part only accessible by an adequate education. At the same time, they will have a duty to participate in that education – although at a young age, this duty will be owed to them by their parents.

Parents, as the fiduciaries of their children, have a twofold responsibility. They will be responsible for taking care of their children's rights until these will be able to do this themselves, and they also have to make sure that children's duties to participate in a political liberal education will be carried out. At the same time, parents have privilege-rights when it comes to decide under what customs and traditions, or comprehensive doctrine to use Rawls' terminology, their children grow up. This will include, e.g., the choice of school, as long as it meets certain criteria of reasonableness and justice. Finally, the state has claim-rights against children and parents alike, which it needs to fulfil its duties of justice and to maintain social stability over time.

Sorting out this configuration of rights and duties is an important step in determining what political liberal education can require from citizens and what liberties parents have concerning the education of their children. Nevertheless, they are no more than rough guidelines, as the claim- and privilege-rights identified in this chapter are based on the basic rights and liberties of Justice as Fairness, which are sufficiently broad principles rather than concrete rules. They correlate to constitutional rights which, although important, are far from sufficient to regulate almost any situation in daily life.

In order to find out what concrete regulations can be derived from these broad principles, second part of the thesis will analyse three more concrete cases: the role of religion, of same-sex relations, and of immigration in education. We will see that different sets of rules can be used to regulate the influence of religion on the education of children, which are compatible with the rights and duties identified in this chapter. We will also see that, depending on how far we think requirements of basic justice reach into concrete legislation, very different sets of rules can be the results.

Part 2: Application Cases

In the previous three chapters I have discussed in some detail the main aspects of political liberal theory that are of central importance for political liberal education – the role of citizens' political virtues in a well-ordered society, the importance of their capacity for certain kinds of autonomy, and the legitimacy of political rights and obligations both citizens and the state have in regard to each other. I have outlined what educational aims can be derived from central elements of political liberal theory and what restrictions they impose on education. For now, let me calls these basic principles of political liberal education. If, as political liberals assume, the aspects of political liberalism discussed in the first part belong to the core content of the overlapping consensus of a well-ordered society which all reasonable citizens endorse, then the basic principles of political liberal education must also be acceptable to reasonable citizens.

Despite the detailed discussion in the previous chapters, those basic principles of education remain abstract insofar as only little has been said about how they manifest themselves in the concrete political and social institutions of a well-ordered society. What still needs to be shown is what implications these central but abstract elements have for more concrete educational policies. Accordingly, the aim of the next three chapters, which form the second main part of this thesis, is to illustrate how the basic principles of political liberal education can serve as guidelines to more practical questions. These chapters discuss religion, same-sex marriage, and immigration in the context of education. All three of them are, to varying degrees, topics of contemporary political debates in western liberal democratic societies, and deep disagreement often characterises public debate on them. At the same time, these three topics are also relevant for real-life contemporary politics of education. A political liberal approach to education should therefore suggest a principled approach to these application areas.

The insights on how to treat these cases from a political liberal perspective are limited, of course. The chapters of the second part of this thesis will offer justification for limitations of parents' (and children's) freedom of choice in matters of education by reference to basic principles of political liberal education. It is important to note, though, that once we have determined the rough shape of these restrictions and also what is (in principle) permissible,

there remains plenty of room for a wide range of varying realisations of education policies – some of which might work better in certain contexts than others. Regional or local educational policies, while being within the limits we can derive from political liberal principles, could vary to great extent, depending on the ethnical composition and economic circumstances of their catchment area. These lead to even more fine-grained question about how to structure education which are beyond the scope of this thesis, as are ethical questions of every-day educational practice. However, the example cases discussed in the following chapters are concrete enough to give an idea of the implications a political liberal account of education could have for actual politics on state level and how it can provide principled guidelines for real-life policies.

6 Religion

The relation between liberalism and religion often seems to be an uneasy one. Tensions exist between classical liberal values such as autonomy and equality, and the values of religious traditions whose holy scriptures proclaim, e.g., inequalities between genders or the superiority of the members of one's own religious community over other members of society. These tensions sometimes become especially salient in the context of education, as court cases such as *Yoder v. Wisconsin* and *Mozert v. Hawkins* illustrate.[363]

Most interesting to me in the context of political liberal education are the recent contributions to this discussion which focus on the role of religion in public reason.[364] Not only is public reason one of the central features that distinguishes political liberalism from its more comprehensive siblings, but most of the problems that occur in the relationship between religious citizens and a liberal democratic education system are application cases of public reason. Religious citizens can be reasonable, i.e., agree that a requirement for systematic education of children is covered by the principles of justice, but still disagree with secular citizens (or even each other) about which interpretations of the principles of justice are legitimate, i.e., what set of laws and policies regarding education are publicly justifiable. Nonetheless, even if we try to solve disagreements about the correct interpretations of the requirement of justice with the aid of public reason, it often remains far from evident what the justifiable set of education policies is in a given case. The exact application standards of public reason are controversial and depending on what version of public reason we choose to apply, we end up with very different sets of policies.

In what follows I will try to give a plausible, although brief, account of the application of public reason to matters of educational policy. It rests on the basic political liberal requirements for education that have been explained in the chapters of Part 1, and thereby imposes limits on the range of valid reasons that reasonable citizens can use to justify their favourite education policies. These limits are less strict than those imposed by many other

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[363] See 2.3.2 for a detailed description of these cases.

[364] See 2.1.5 for public reason in political liberalism.

liberals who discuss education. While political liberal education determines these limits in recourse to its basic requirements of citizens' capacities for autonomy and political virtues, these requirements that I have argued for are relatively modest in comparison with those stated by other authors such as Levinson, Callan, or Clayton.

This chapter will take a closer look at the debate between advocates of public reason accounts and authors who defend the political position of religious citizens. According to many public reason liberals, public reason must exclude explicitly religious reasons of citizens as valid justification of their political decisions. In contrast, those concerned about the religious integrity of citizens argue that most liberal interpretations of public reason restrictions place an unfair burden on religious citizens. Picking up on this debate, I will argue that prima facie political liberalism can accommodate religious citizens to quite some extent, e.g., by permitting private schools that offer religious education next to the required standard curriculum. I will reject, however, the more radical claim that a political liberalism committed to public reason understood correctly would have to abolish a public school system altogether – and assertion recently put forward by Kevin Vallier.[365]

While in principle an education system consisting of a mixture of public and private schools is justifiable from a political liberal perspective, there are further factors to consider. Depending on the balance of more concrete facts about the particular circumstances of a society, private schools might have detrimental effects on the political development of citizens. Under different social conditions, though, private schools could perhaps be the only alternative to a political climate in education which would alienate religious parents from mainstream politics.

After discussing the problems of private education, I will end this chapter with a section about how the political liberal state should proceed with unreasonable religious parents who cannot be accommodated in the educational system without giving up basic principles of political liberal education.

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[365] See Vallier 2014.

6.1 Public and Private Reasons

To understand how public reason shapes the set of justifiable education policies, it is necessary to explain in more detail the constraints that Rawls' conception of public reason imposes on the citizens of a well-ordered society.

Public reason demands that participants in political decision processes fulfil what Rawls calls their "duty of civility:" they are supposed to make their political decisions based only on reasons that are public, i.e., shared by, or at least hypothetically accessible to, other citizens. If reasons are based on a particular comprehensive doctrine and are therefore not accessible to citizens who are not adhering to that doctrine, these reasons ought not be used for the justification of political decisions. Because political decisions usually lead to political coercion, decisions based on comprehensive reasons would not be sufficiently justified to citizens not sharing that particular comprehensive doctrine.

This version of the restrictions by public reason, as it initially appears in *Political Liberalism*, seems to imply that citizens with deep religious commitments could not rely on religious reasons (alone) to legitimise their political decisions, as these reasons are not accessible to their non-religious fellow citizens – and often also not to those holding a different religious view. Later, Rawls introduces what he calls "the wide view of public political culture." It allows for reasons originating from the values of reasonable comprehensive doctrines to be employed in political discourse, "provided that in due course proper political reasons […] are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support."[366] To use Rawls' own example, parties in a debate about the public support of church schools do not have to start off with public reasons alone, but instead are allowed to use reasons grounded in their comprehensive doctrines. This will allow all participants to explain how their reasonable view supports the basic political values of their society, provided they will be able to provide public reasons in due time.[367] Nevertheless, the restriction of the duty of civility stays in place, although in a delayed form. While reasons firmly rooted in their

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[366] Rawls 1999a, p. 152.

[367] See Rawls 1999a, pp. 153ff.

comprehensive doctrine might be a main motivation for these citizens, they would be morally required to make a different decision if they were not able to translate them into public reasons at the end of the day.

Rawls himself, as I mentioned earlier, does not give much detail on how exactly religious reasons are supposed to be treated. One convenient way of filling in this gap would be to fall in line with other proponents of public justification and public reason liberals and to assume that a practice of public reason means some strict limitation of the use of religious reasons in the public sphere. Robert Audi, for example, stipulates two principles of democratic citizenship, a principle of secular rationale and a principle of secular motivation, which require citizens to offer adequate secular reasons to justify their political decisions and to be motivated by secular reasons.[368] From a religious perspective, at least, this approach would burden religious citizens considerably.

Stephen Macedo, who describes himself explicitly as a political liberal in the Rawlsian tradition, acknowledges that burdens of public reason indeed exist for religious citizens (as much as for other comprehensive beliefs, many secular ones most likely included). Even so, Macedo does not think that these burdens could anyhow outweigh the requirements of public reason and dismisses worries about them with the claim that "[i]f some people nevertheless feel 'silenced' or 'marginalized' by the fact that some of us believe that it is wrong to seek to shape basic liberties on the basis of religious or metaphysical claims, I can only say 'grow up!'"[369]

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[368] See Audi 2000, pp. 86-100. Like Rawls, Audi accepts religious reasons in political discourse as long as public reasons can be given eventually.

[369] Macedo 2000b, p. 35. This sentence is often quoted in the literature about public reason and religion. What is usually skipped in quoting this sentence is the relevant original context – an argument against the idea that public reason was an undemocratic limitation of free speech. It is this particular suggestion that Macedo dismisses this harshly. Otherwise he acknowledges that religious reasons indeed have a place in political debate, although the decisive reasons in a debate will have to be those that are public and can be shared by all reasonable citizens. See also Macedo 1998, p. 71. In this regard, he is in line with Rawls' later account of religious reasons in political deliberation. However, this still means that religious reasons need to be replaced by public, i.e., non-religious ones for citizens to provide public justification.

The problem with this seemingly simple and convenient answer to the question of unfair religious burdens is that it does not engage very constructively with religious positions. The insistence on secular reasons and the claim that these were the kind of reasons which democratic citizens plainly must accept suspiciously resembles strategies of comprehensive liberals. Therefore, it is worthwhile to have another look for more political liberal replies to the worries about unfair burdens for religious citizens.

6.2 The Burden of Religiousness

Proponents of religious commitment have offered various counterarguments to the stance that religious citizens need to ultimately justify their political choices by reference to non-religious reasons. Christopher Eberle argues that this requirement for restraint is too much of a burden for religious citizens and therefore would already be dismissed in the original position.[370] Assuming that the parties in the original position have information about the psychological costs involved for deeply religious citizens, they would decide against them, as they could end up being one of those citizens. This case would be an instance of the more general assumption that the parties in the original positions would not choose any principles for which the "strains of commitment"[371] are too high. It turns out, so Eberle, that the duty of civility cannot be justified by means of the original position.

It is not all that obvious, though, that the restrictions of public reason are too much of a burden in the way Eberle claims. Rawls' duty of civility is not necessarily an unbearable burden for all religious citizens but only for a subset of them. Using one of Macedo's metaphors here, the psychological taxation of religious citizens may vary, depending on the content of their beliefs. While the costs for citizens with tolerant and ecumenical religious views might be low or non-existent, citizens holding more fundamentalist positions (e.g., conviction that dissenters will face eternal damnation, the lower moral status of non-believers etc.) will have to pay a higher price and compartmentalise their comprehensive

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[370] See Eberle 2002, pp. 140-150. Eberle assumes, plausibly as I believe, that the duty of civility is closely linked (or even identical) with Rawls' principle of liberal legitimacy, which itself is one of the principles which the parties in the original position would choose.

[371] Rawls 1971, p. 176.

convictions to a greater extent.[372] In situations that require citizens to give public reasons as their motivations, the latter kind of citizens will have access to fewer of those and can therefore make fewer legitimate political decisions.

In terms of educational policies this means that parents whose comprehensive views share only few elements with the overlapping consensus in a liberal democratic society will sometimes have laws and regulations imposed on them that are not, and cannot, be legitimised to them. They might not agree with the content of school curricula that they perceive as incompatible with their religious views, despite this content being justified by political liberal principles all sufficiently reasonable religious views would agree on. While this might be an unfortunate fact of modern life, it is not necessarily a reason for concern for political liberals. The exercise of political power must be legitimised to reasonable citizens but there is no moral obligation to try and legitimise them to those that are unreasonable (or just not sufficiently reasonable) and do not share the basic values and principles of the political liberal society.[373]

The kind of religious citizens who pay relevantly higher psychological costs are those whose doctrines do not share many values and virtues with political liberalism in the first place, such as toleration and respect for persons. In terms of political reasonableness, we can call these more fundamentalist strands of religious views less reasonable than the ecumenical and more tolerant ones. It means that the less politically reasonable citizens' comprehensive beliefs are, the higher their psychological costs to participate in a liberal democratic society. They share fewer of their reasons with more open-minded fellow citizens, or differently put, fewer of their reasons are accessible to their fellow citizens that have different comprehensive views.

6.3 Religious Reasons as Public Reasons

Political liberals have good reasons not to follow Eberle's suggested solution for the problem of religious burdens. Rejecting the duty of civility would weaken the practice of

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[372] See Macedo 1998, p. 72.

[373] See, e.g., Dreben 2003, pp. 323, 328f, Quong 2011, p. 181.

public justification in a well-ordered society to an extent that it would become almost irrelevant. A well-ordered society of this sort would be less stable for the right reasons, we can assume, than one that employs some standards of public reason.

If we do not follow Eberle and assume that the parties in the original position would indeed choose principles that demand some sort of public reason restraint, we are stuck with the problem of religious citizens being forced to privatise what for many of them might be one of their major life projects. Kevin Vallier calls this the "integrity objection" to liberalism: "[p]rivatization is said to require citizens of faith to repress their fundamental commitments when participating in politics, thereby forcing them to violate their integrity."[374] In contrast to Eberle, Vallier does not try to solve this problem by rejecting the duty of civility but he instead suggests widening the scope of reasons that count as public. His approach is to replace the accessibility requirement (more details on this below) with a requirement for mere "intelligibility." This strategy has far-reaching effects on education – one of the practical conclusions of this recast of public reason standards is, according to Vallier, that public schools cannot be justified to all reasonable citizens and therefore only an educational system consisting of private schools would be legitimate.

To understand Vallier's strategy and its implications for liberal education better, we need to take a closer look at what kind of reasons are public reasons for the political liberal and can therefore legitimise political decisions. Once I have examined the reasons for his claim about the unjustifiability of public schools, I will argue that political liberal education can and must indeed justify a public education system.

For a start, it is necessary to understand the various interpretations of public reason standards. According to a common interpretation of Rawlsian public reason, reasonable citizens must bring forth reasons that are (at least hypothetically) *shared* by their fellow citizens. Only then do those reasons have a justificatory force legitimising the exercise of political power. What exactly it means to have shared reasons, though, is debatable. It has been argued that this would require all citizens to endorse the same justifications for a

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[374] Vallier 2012, p. 149.

political decision.[375] In Vallier's terms, the reasons that are part of a justification have to be "epistemically justified for each member of the public."[376] Under this narrow interpretation, reasons can be justificatory "only if each citizen will affirm the reason as her own at the right level of idealization."[377] This requirement for shared reasons could be satisfied in at least two ways, which both look implausible.

First, we could assume that the reasoning of citizens on an individual level is sufficiently similar for the results of their "internal deliberation" being identical in all relevant aspects. Given that these citizens live in a society characterised by value pluralism, this would be an implausibly high expectation. Second, the shared reasons interpretation could instead require a deliberation process that can only legitimately come to an end when a general endorsement of the right justification has been reached. However, this restriction looks highly infeasible at the level of idealisation where political liberals locate the well-ordered society. The burdens of judgement (see 2.1.4), which are supposed to be part of a reasonably pluralistic society, render this interpretation impossible.

Instead, it is more plausible to interpret the talk of shared reasons in the way of the "principle of justificatory sincerity" that Jonathan Quong proposes:

> Each citizen must appeal only to considerations they sincerely believe other reasonable citizens can endorse, but different citizens may still endorse the same decision (or different decisions) for different reasons.[378]

Vallier has a similar interpretation of shared reason, although he calls it the "accessibility requirement," which he thinks is the way Rawls understood public reason. The requirement says that although not all citizens share the same reasons, they still share a common

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[375] See Bohman 1996, pp. 80-83, Dryzek 2000, p. 15.

[376] Vallier 2014, p. 110.

[377] Vallier 2014, p. 109. Emphasis in the original.

[378] Quong 2011, p. 263.

standard of evaluation that they apply to different justificatory reasons. Reasons than satisfy these common standards will count as publicly *accessible*.[379]

An objection to the accessibility interpretation of public justification by Gerald Gaus claims, though, that these requirements are still too strong to properly take account of the idea of mutual respect for citizens. According to Gaus' conception of public reason, justifying reasons are path-dependent. Depending on various internal and external circumstances, citizens can therefore generate different, and sometimes contradictory, beliefs about political (and moral) situations. Due to their path-dependency, these different outcomes should nevertheless be taken as valid public reasons for or against political decisions, provided the deliberative process behind them is sufficient.

The path-dependent nature of human reasoning would also mean that citizen (even when moderately idealised) must not necessarily share common evaluative standards as it is required by the accessibility reading, despite being sufficiently good reasoners. Insisting on an accessible reasons conception of public justification would therefore mean to deny (some) citizens the respect they are entitled to as rational and reasonable, and thereby competent, moral agents.[380]

Vallier picks up on Gaus' objection to motivate his claims that the appropriate standards for public reason must be distinctly weaker than the accessibility standard and settles for *intelligibility* instead. Reasons count as intelligible, and thereby as potentially justificatory, if they are epistemically justified in accordance with the evaluative standards of the reasonable individual whose reasons they are — even if other citizens do not share these standards. Religious citizens, for example, can base their decisions for policies and laws on their sacred texts which count as reasons according to their evaluative standards, although secular citizens might not share these standards. While this is a permissible interpretation of public reason, it does not mean that every subjective epistemic standard automatically passes as intelligible: citizens must still be "either rationally entitled […] or rationally

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[379] Vallier 2014, p. 108. See also Vallier 2011, p. 367.

[380] See Gaus 2011, pp. 288-292.

required to affirm"[381] the reasons they think of as justificatory. While rationally required standards are those of sufficient information and inferences, religious texts like the Bible or the Koran qualify for Vallier as sources of standards that citizens are rationally entitled to affirm.[382]

The intelligibility reading of public reason is part of Vallier's claim that there is no need for a *consensus* of reasons to legitimise political decisions, where citizens must share the same evaluative standards. Instead, a *convergence* of reasons is sufficient, which means that neither citizens' justificatory reasons nor their evaluative standards need to be shared or even accessible. What matters is that citizens have standards that, while agent-relative, satisfy certain threshold conditions of rationality and that fellow citizens can see the validity of these standards despite not necessarily sharing them.[383] Political liberalism, correctly understood in its aim for neutrality and its respect for value pluralism, would imply the intelligibility requirement for public justification. According to Vallier, only this conception of public reason provides a maximum of integrity and individual freedom for citizens.[384]

This line of argument now leads us straight back to education policies. Public education is Vallier's application case to demonstrate what difference the intelligibility standard makes for the justification of actual policies. Under the consensus interpretation of public reason liberalism, the requirement for reasons that are at least accessible to all citizens alike implies a certain kind of civic education which makes future citizens suitable for this type of democratic deliberation. Vallier identifies three aims of liberal consensus education:

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[381] Vallier 2014, p. 106.

[382] See Vallier 2014, p. 107. Vallier's argument for religious beliefs having the same epistemic status as non-religious moral beliefs can be found in Vallier 2012. I will not reproduce it here, as nothing I am going to say depends on its plausibility.

[383] See Vallier 2012, Vallier 2014, pp. 106f, Vallier 2016, pp.608f. For an earlier account of intelligible justificatory reasons see Bird 1996.

[384] See Vallier 2016, pp. 601f.

> […] consensus liberal citizens must be (i) sophisticated and fair deliberators who (ii) deliberate in shared terms and (iii) assign the aim of creating a shared public culture overriding weight with respect to their religious convictions that bear on political life.[385]

None of these requirements are necessary for a convergence conception of public justification that only relies on intelligible reasons. Accordingly, a publicly justified education system under convergence liberalism would look quite different from one that must realise the above aims. Instead of supporting public schools, an education system under convergence liberalism would consist exclusively of private schools that would, e.g., be accessible via a voucher system. Parents could send their children to the school that best fits their comprehensive views, be they secular or religious, or so Vallier claims.

To illustrate how education would need to be justified under convergence liberalism, Vallier compares the positions of two example parents, Alvin, who believes in a comprehensive religious doctrine, and Daniel, who is a comprehensive secularist.[386] The incompatibility of their views is supposed to become evident when we look at two curricular topics they deeply disagree about – the teaching of intelligent design and sex education. By picking these quite different topics as reasons for disagreement, Vallier aims to demonstrate how disagreement spreads out over a whole range of curricular topics. If parents are to disagree about multiple, often unrelated curricular topics, this would support the conclusion that only private schools are publicly justifiable. I will argue later in this section that this is only the case at a particular aggregation level of parents' preferences and that political liberals have good reasons to opt for a slightly more fine-grained level of preference aggregation. However, first we need more information about the disagreement between religious and secular parents.

In Vallier's example, Alvin wishes for a curriculum that teaches intelligent design as a possible alternative view to evolutionary theory and he also thinks that sex education should focus on abstinence, procreation, and the view of sex as a sacred act. Daniel, in contrast, thinks that children ought to be taught evolutionary theory "unpolluted by

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[385] Vallier 2014, p. 230. Vallier sees these requirements as central to, e.g., the work of Macedo and Gutmann on political education.

[386] See Vallier 2014, pp. 232-242.

nonscientific questions"[387] and that sex education should prepare children in time for the possible consequences of sexual activity. Obviously, Alvin and Daniel both have strong reasons to reject each other's preferred curriculum but with a scheme of public schooling in place there will often be no legitimate way (from the perspective of intelligibility public reason standards) to proceed in cases like these. While Alvin and Daniel would both prefer having their children educated in schools to having to educate them themselves, they would still prefer to educate them themselves when it comes to the topics above, instead of having their children attend a curriculum designed after the preferences of the opposing comprehensive doctrine.

According to Vallier, public schools cannot satisfy various contrary demands, like the ones of Alvin and Daniel, simultaneously; trying to do so would mean to remove controversial elements from the curriculum. Such measures would only lead to a watered-down, alternative that would be unacceptable for everyone. Vallier also briefly considers a model that would enable parents to opt their children out of the controversial parts of the curriculum and either teach their children themselves or send them to private schools for these classes. This is, as he himself notes, an unusual proposal and would mean an additional burden for religious parents, as they would have to pay extra costs for the alternative lessons (in either time or money) while still having to pay for public schools.[388]

Public schools also cannot decide to merely go for one of the above options (conservative religious or secular scientific). This would mean exerting unjustified coercion on either Alvin or Daniel, who both have so-called defeater reasons against the education policies they oppose. These defeater reasons are based in their comprehensive views and evaluative standards which are intelligible to their fellow citizens; they trump any reasons in favour of

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[387] Vallier 2014, p. 239.

[388] See Vallier 2014, p. 243. Vallier also briefly touches the possibility of opting out of single blocks that do not require the lessons being taught in an alternative form when it comes to teaching of Intelligent Design. The concern of the relevant parents would be, as he thinks, that their children "would have to pay the social consequences for separating [themselves] from the class" and would be ridiculed by their classmates (see p. 239). While this is certainly a possible, it does not necessarily show that partial opt-out or separate classes on particular topics is not a viable option. I tend to think that it rather hints at how important it is for children to learn to respect religious diversity from an early stage on.

a particular coercive political measure, thus effectively making its implementation impermissible.[389] Vallier's conclusion is that, assuming a default position against coercive laws and institutions, a tax-financed public schooling system could not be implemented consistently with the public reason constraint construed in his preferred way.[390]

Objections have been given against various parts of Vallier's argument. One can argue that what needs to be justified are not coercive policies themselves, but the reasons for the relevant decisions,[391] or that convergence (and with it the intelligibility standard) relies on controversial epistemological assumptions.[392] I will try to avoid these in-depth discussions about fundamental disagreements on public reason. What seems helpful in the context of discussing education policies, though, are Andrew Lister's thoughts about preference aggregation in public reason. I will take his discussion of the "aggregation problem" as a starting point without necessarily endorsing the conclusions he draws from his observations.[393]

The policy options that Vallier gives us in the context of public education already require an aggregation of preferences – while we can identify various positions regarding parts of the curriculum (intelligent design/evolution, sex education), the options that Alvin and Daniel are deciding about are bundles of more fine-grained curricular policies. The ordering of their preferences would look like in the following table.

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[389] It is worth noting that the concept of defeater reasons requires a presumption in favour of liberty, i.e., that any coercion by regulative political measures must be justified to those subject to it. See, e.g., Benn 1988, Ch. 5, Gaus 2011 Ch. VI, Section 17.3, Vallier 2014, pp. 30f. Even if often not made explicit, any political theory that considers justification of political coercion important relies on a presumption in favour of liberty as one of its premises, therefore also political liberalism.

[390] Vallier's view on decision procedures in public reason is in this regard similar to the view argued for by Gerald Gaus in Gaus 1996 and later publications.

[391] See Lister 2013.

[392] See Quong 2011, pp. 265-273.

[393] See Lister 2013, pp. 87-101.

	Alvin	Daniel
Allowing Intelligent Design	1	0 (defeater)
Exclusive Focus on Evolution	0 (defeater)	1
Permissive Sex Ed	0 (defeater)	1
Conservative Sex Ed	1	0 (defeater)

The numerical values represent relative preference ratings of Alvin and Daniel in relation to the curricular policies under discussion. A value of 0 means that the person in question has reasons not to endorse a policy and would indeed prefer not having any regulations rather than the options that are available. There are cases where one or more involved parties hold defeater reasons.

Assumed that these two curricular decisions were sufficient for determining everyone's position on the question of how a legitimate school system ought to be designed, aggregation in the way Vallier does it seems permissible. Yet, this is rather unlikely. In the next two sub-sections I will take a closer look how his choice of policy aggregation impacts the results. I will instead propose a different disaggregation of individual positions and then compare a third position to the positions of Alvin and Daniel. My point will be that while political liberal education should attempt to accommodate these positions, it also must not become a hostage to extreme positions.

6.4 Disaggregation of Religious Reasons

In light of what I said about basic requirements of political liberal education in Chapters 3 to 5, I am sceptical that the reasons Alvin and Daniel have for rejecting education policies that oppose their comprehensive views are really defeaters. Although the requirements of political liberal education are not as high as Vallier thinks, there certainly are *some* central requirements that reasonable citizens (and reasonable comprehensive doctrines) ought to acknowledge.

The requirements of political liberal education that I have identified in the first part of the thesis regarding political virtues, autonomy, and rights, belong to the normative core values of political liberalism, therefore reasonable citizens must agree upon these values, and the requirements derived from them, as part of the overlapping consensus. If that were not the case, we would have a theory that would no longer be identifiable as (roughly Rawlsian) political liberalism.[394] It might be sufficient for the overlapping consensus to leave room for various, mutually exclusive interpretations of the principles it contains but it must be a consensus nonetheless. A political liberal society that would not have a consensus about basic principles of education but only convergence can hardly be supposed to be stable over time, at least not for the reasons political liberals take to be relevant.

Rawls himself describes a political conception of justice as consisting of two parts, the substantive principles of justice themselves and the "guidelines of inquiry" to "decide whether substantive principles properly apply and to identify laws and policies that best satisfy them."[395] Two kinds of political values that relate to these two parts are values of political justice and values of public reason. Values of political justice are those of political equality, equality of opportunity, and so on, while values of public reason cover political virtues such as "reasonableness and a readiness to honor the (moral) duty of civility."[396] As I have argued earlier, these values and the necessary skills to realise them for oneself need be taught to future citizens. Furthermore, these values are part of the common ground reasonable citizens of a political liberal society share.[397] Citizens rejecting these values themselves or political consequences that directly follow from these values cannot claim

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[394] Which is not to say that it would not be a plausible, or perhaps even more plausible, conception of liberalism. It would just be beyond the scope of this thesis.

[395] Rawls 1993, p. 224.

[396] Rawls 1993, p. 224.

[397] See Quong 2012, pp. 52f.

that they have been subject to illegitimate political power. They would be classified as unreasonable from the perspective of political liberalism.[398]

Considering the requirements of political liberal education, we should check each of the aforementioned curriculum options to see whether Alvin or Daniel really have defeaters against their implementation, or whether an implementation is legitimised to reasonable citizens simply by the fact that these parts of the curriculum are contributing to substantive political liberal requirements.

Allowing intelligent design: Here it is important to determine how intelligent design is introduced into the curriculum. If it would enable children (or, more likely, parents) to make an exclusive decision either to attend intelligent design classes or evolutionary biology classes, Daniel's reasons would not hold against this case – his children could attend the "purely scientific" course and would not have to engage with any intelligent design theories.

However, Vallier concedes that a curriculum of this kind could lead to other, more problematic objections. His proposal is therefore only to teach intelligent design as an example for the limits of scientific theories and what they can explain. Intelligent design could be taught "as part of a theology or philosophy portion of secondary schooling that could be legitimately mandated."[399] It is this relatively weak form of intelligent design lessons that Daniel resists.

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[398] This is at least Quong's interpretation of political liberalism found in Quong 2011, Quong 2012. Public reason liberals can disagree with this view; Gaus has notably done so and thinks the result is a sort of political liberal sectarianism (see Gaus 2012, pp. 8f) that does not differ much from perfectionism. At this point I will assume that Quong's view is closer to the Rawlsian idea of political liberalism than Gaus' and therefore rely on the premise that reasonable citizens share the core values of political liberalism by definition. Nevertheless, other ways of making requirements of political liberalism and public justification compatible with each other are possible; e.g., we could think of public reason as one of various values, all of which would be sufficient, but not necessary conditions of legitimacy. This would make political liberalism a sort of hybrid between public reason liberalism and perfectionist liberalism (Wendt [in press]). I do not think that the basic requirements for this interpretation of political liberalism would look much different from the one I develop on the basis of Quong's.

[399] Vallier 2014, p. 237.

We need to determine why Daniel's reasons to reject even this "modest" proposal count as a defeater. His reasons cannot be related to some serious risk (of whatever kind) that his children would be exposed to by this curriculum. Neither will the theory of evolution be withheld from his children, nor will intelligent design be presented in the context of biology lessons as a similarly valid theory.[400] The only ground on which Daniel could present a defeater here would be that this sort of (from his perspective) objectionable curriculum would be financed with taxes – he would be politically coerced into paying for it, although indirectly.

Exclusive focus on evolution: This kind of curriculum is rejected by Alvin, who seems determined to have intelligent design introduced as part of the curriculum to counter a purely scientific evolutionary view that leaves no room for God.

While it might contribute to a better mutual understanding and perhaps even social stability if citizens with different religious or secular views have an insight into each other's comprehensive doctrines (I will say more on this in the following section), it does not seem to me that Alvin's children are at a serious risk by a public school curriculum that does teach evolution but does not mention intelligent design. Alvin's children could be taught about intelligent design at home, at Sunday school, or in other ways. As in Daniel's case, the only relevant coercion that is involved here is that this kind of school is financed by Alvin's taxes – although he would prefer, if possible, to send his children to a school that does also teach intelligent design.

Permissive sex education: Perhaps the case for permissive sex education that is favoured by Daniel is stronger than the case for an "evolutionary theory only" curriculum. To determine whether it is, we need to have some more details on what the content of permissive sex education could be.

Assumed that the reasonable minimal aims of sex education should be the prevention of unwanted pregnancies and infection with sexually transmitted diseases (STDs), any sex

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[400] Vallier's example avoids the obvious "evolution is just one of many theories" pitfall and acknowledges that theories can be better or worse; he also acknowledges that theories of intelligent design are certainly bad science (see Vallier 2014, pp. 234-237).

education worth its name should enable adolescents to avoid these harms. Any kind of sex education curriculum that turns out to be strongly insufficient to reach these goals can be ruled out as an inadequate choice.

Sex education programmes empirically confirmed as effective will include lessons about the use of contraception and convey knowledge about sexual risk-taking behaviours that might lead to infections with STDs or unwanted pregnancies. It is furthermore important for the effectiveness of these programmes that they are based on social learning theories. These theories can provide effective teaching strategies, such as personalising the information about risk-taking behaviour by presenting it in an accessible context for young people, and by also addressing social and media influences.[401]

If this is what Daniel favours, it seems primarily an *efficient* sex education. This is what he should expect from public schools. Perhaps, though, he is unhappy with some of the measures taught which he might find dishonest or outdated, e.g., strategies of abstinence. Nevertheless, there seems to be good evidence that teaching adolescents so-called "resistance skills" in order to postpone the first occurrence of sexual intercourse is part of an effective sex education, as long as it is combined with other content covering information about STDs, pregnancy, and contraceptives.[402] Should it turn out that a sex education programme that does not include an abstinence strategy is relevantly less efficient than others, Daniel's preferences would be at odds with the primary goal of sex education to be efficient. Under these circumstances, I would not take Daniel's reasons to insist on an abstinence-free programme as defeater, as they would undermine the effectiveness of sex education for his children.[403]

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[401] See Kirby et al. 1994; for similar results see also Cvetkovich et al. 1975, Eisen, Zellman 1986 and Eisen et al. 1990.

[402] See, e.g., Ku et al. 1992 and Ku et al. 1993.

[403] It is possible that future empirical research will show that the relation between teaching resistance skills and an effective sex education are not causal. In this case, there would be no reason to teach abstinence to make a sex education programme successful, and Daniel's reason would be eligible as a defeater.

Conservative sex education: The same arguments that can be made against Daniel's claims work in the same way against Alvin's claims if his ideal version of sex education would miss some of the parts relevant for it to be efficient. If Alvin were, e.g., convinced that lessons about the use of contraceptives would lead adolescents to have premarital sex and therefore sex education should not include information about the use of contraceptives, this would lead to a relevantly less efficient education programme. If, similarly to Daniel's case, Alvin's reasons would lead to a significantly less efficient sex education, his reasons should not count as defeaters.

In summary, the comparison of Alvin's and Daniel's positions towards evolution and sex education as part of the school curriculum shows that both topics have a different relevance for the discussion of the legitimacy of public education. One might have expected sex education has the more relevant topic, but this is not the case. Indeed, Alvin and Daniel cannot diverge too much from some of the core standards constituting an efficient sex education. If they reject too much of the relevant content of sex education, the kind of curriculum they would tolerate equals a position deliberately favouring low-quality or even no sex education. This is not a permissible option from the perspective of justice, as adolescents as future citizens need access to education that allows them to pursue a variety of life projects. Reasonable citizens, so the assumption, will accept that a sufficiently efficient sex education must be part of such an education – at least under a conception of public reason that uses standards of acceptability.

In contrast, the disagreement about evolutionary theory and intelligent design might generate proper defeaters here. While coercive policies in the case of effective sex education are justified by the entitlement of children as future citizens to a self-determined life, no convincing reason of such sort can be given in the case of evolutionary theory. It is hard to see how Alvin's or Daniel's children will be worse off in terms of political liberal values if they learn about either evolutionary theory or intelligent design. However, as Vallier remarks, both are coerced to pay taxes which support a public school curriculum that they find highly defective. It looks as if Alvin's and Daniel's reasons to reject a public curriculum that tries to accommodate both their views on evolution are therefore potential defeaters that are not overridden by considerations for the good of their children. In the next sub-section I will discuss whether these defeaters are enough to leave public education as unjustifiable.

6.5 Public and Private Schooling

One of the purposes of public reason is to structure public deliberation about policies that are not directly covered by the principles of justice, and while the requirement of an efficient sex education can be derived from those principles, the form of how evolutionary biology and intelligent design ought to be taught cannot. Alvin and Daniel will agree as reasonable citizens that redistribution of resources to provide education for children is a demand of justice, but they can disagree about how the resources for education are further distributed in a particular, more fine-grained context.

But even though this disagreement is reasonable, it does not inevitably lead to abolishing state-run public schools and establishing a purely privatised education system as Vallier claims. This becomes clear when we compare Alvin and Daniel's positions with a third position. Assume a third party, Pauline, who is indifferent towards the question whether the theology and philosophy section will also cover intelligent design or not, or how exclusive the focus on evolutionary theory in biology lessons is.

Table 1

	Alvin	Daniel	Pauline
Allowing Intelligent Design	2	0 (defeater)	1
Exclusive focus on Evolution	0 (defeater)	2	1

What she cares about, though, is that the state offers public education. She believes that only public schools will allow her children to experience the diversity and multiculturalism of a modern, progressive society. While she would accept a completely privatised education system, she would not find home schooling acceptable as she has, like many modern citizens, commitments and interests beyond the upbringing of her children.

Depending on how strong Alvin and Daniel's concerns about public schools is, the table of eligible options could take one of the following forms: either they both still prefer a public education system, although flawed in their eyes, to home schooling (see Table 2 below)

Table 2

	Alvin	Daniel	Pauline
Public education system	1	1	2
Privatised education system	2	2	1
Home schooling	0 (defeater)	0 (defeater)	0 (defeater)

or they would rather home school their children than sending them to public schools (see table below).

Table 3

	Alvin	Daniel	Pauline
Public education system	0 (defeater)	0 (defeater)	2
Privatised education system	2	2	1
Home schooling	1	1	0 (defeater)

Only the second scenario of Table 3 would lead to a completely privatised education system as the only legitimate option, while the first case would allow for either a public or a privatised system, or a mixed system of both public and private schools.

At first it seems that only private schools are a legitimate choice, as in both scenarios, private schools are the only option against which no party has any defeater reasons. According to a pure public reason liberalism that does not rest on any underlying principles of justice, this would be indeed the case. However, political liberalism does, and therefore, substantive considerations of justice might alter the balance of defeater reasons as outlines above. There are good reasons to assume that professional education can provide a more comprehensive education of better quality than home schooling, in most cases at least (see

also 4.5 on this). Therefore, the entitlement of children to an adequate education which can be derived from the principles of Justice as Fairness provide might cast a different light on Table 3.[404] Alvin and Daniel's preferences might be, from a political liberal perspective, unreasonable, as both their second preference (home schooling) would be incompatible with requirements of justice.

From a perspective of political liberalism in the more egalitarian sense, in contrast to a public reason perspective resting on an intelligibility interpretation, Table 3 might be ruled out due to the unreasonable positions of Alvin and Daniel. We then end up with Table 2, where "moderate" Alvin and Daniel's highest preference would still be private schooling and their second preference public schooling, while Pauline would still prefer public to private schooling.

Both scenarios would be permissible from the perspective of political liberal education. None of the requirements identified in the previous chapters exclude the option of a fully privatised schooling system, as long as children will be able to develop the relevant political virtues, a capacity for minimal autonomy and later for political autonomy, and the prerequisites to make use of the primary goods. While such a system would be accommodating citizens with defeater reasons against public schooling, like the versions of Alvin and Daniel in Table 3, it would certainly disappoint citizens like Pauline.

An educational system that accommodates citizens like Alvin and Daniel as well as Pauline could also allow for private providers next to public ones. A distribution for educational resources could be achieved in various ways, such as a voucher system. Regardless of the details of the system, though, the costs of the private and public schooling of children will have to be paid for through the redistribution of wealth by the state,[405] and meet the requirements of political liberal education.

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[404] As I noted in 2.5.1, variants of political liberalism in combination with other conceptions of justice are possible. While they might differ in detail, it is likely that from any of those conceptions sufficiently similar requirements for education can be derived.

[405] For an argument against a private school system that is entirely paid for by parents themselves (except the very poor) on the basis of mutual respect and equality of opportunity see, e.g., Brighouse 1998b.

As yet, it looks like the principles of justice and the standards of public reason permit an education system that can either be entirely privatised or consists of two tracks, a private and a public one. This range of possible education systems is consistent with the few comments about education by Rawls himself. Neither a private nor public a school system is excluded by the conception of Justice as Fairness. A systematic education of children is providing fair equality of opportunity in a just society by insuring "equal chances of education and culture for persons similarly endowed and motivated by either subsidizing private schools or establishing a public school system."[406] While Rawls does not discuss this topic in more detail, it seems right that neither of these options must to be excluded, provided a proper implementation.

Staying agnostic in regard to the status of educational providers, whether private or public, is reasonable. The transfer of skills, knowledge, and attitudes necessary for living in a just society is quite independent of the status of the provider, as long as the standards that ought to be reached are set by a just state. From a practical perspective, a range of public and private schools to choose from might provide children with a better chance of an adequate education than a purely state-run system, provided that basic requirements of political liberal education are fulfilled.[407] As a reminder, these requirements include a sufficient development of political virtues in children that enable them to value reciprocity, be tolerant, have respect towards their fellow citizens and so on. Schools also have to enable the kind of minimal autonomy that would be necessary to develop political autonomy. Furthermore, children need to learn about the political rights (and duties) in their society and the necessary skills and capacities to make proper use of them. All of these requirements can be met (in principle) by private school providers, even when backed by a particular comprehensive doctrine.

We need to take into account as well that an important part of most ethical and religious views is to teach children what seems true and important from their respective perspectives. Part of almost any idea of the good is its own reproduction by convincing

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[406] Rawls 1971, p. 275.

[407] For similar views, although not especially in regard to political liberalism, see, e.g., Gutmann 2002, pp. 41-43.

others that it is the right and true doctrine. This might be more obvious in cases of religious doctrines, but it seems also true for, e.g., philosophical doctrines – the Millian humanist who thinks that individualism is important for a good life might want to convince others of this as well, especially if she also thinks that this contributes to overall happiness. Restrictions on religious schools on the grounds of being backed by comprehensive doctrines would vice versa also apply to schools propagating other more philosophical or explicitly secular views.

As long as schools provide sufficient standards of education in line with political liberal requirements, there seems to be no principled reason to exclude private or religious providers from the education sector of a political liberal state. With these conditions as side-constraints, there is no good political liberal reason not to offer education within a variety of comprehensive contexts.[408] Similar permission can be made for the school choice of parents. Always provided the education they choose satisfies the political liberal requirements in terms of virtues, autonomy, and so on, there is no reason why they should not have their children brought up in a school that, e.g., is outspokenly secular or openly religious. If we think that the relationship between parents and children is indeed a particularly valuable one,[409] or that it can be understood as falling in the category of the means of self-respect, and thus qualify as an instance of this particular basic good of justice (as suggested in the previous chapter), it would even be unjust to deny parents this option.

This (admittedly somewhat extended) discussion of religious reasons as public reasons has hopefully elucidated the limits which political liberal education must impose on religious claims on education. Political liberal education can allow for private religious schools, although it needs not and must not give up the public branch of education, as Vallier claims. However, the principled permissibility of private schools still needs to be defended against objections resting on more concrete effects that it might have on society. While not

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[408] A similar claim can be found in Malenfant-Veilleux 2017, which analyses the last education reform in Quebec under the aspect of Rawlsian justice (among others). I agree with Malenfant-Veilleux that a mixed system of public and private schools must be accompanied by integrative measures (see also 6.3) and a sufficient control over taught subjects, the school calendar, evaluation standards etc. to satisfy requirements of justice.

[409] See Brighouse, Swift 2006, Brighouse, Swift 2014.

illegitimate, religious private schools could contribution to a form of confessional segregation of society and thus turn out to be detrimental to liberal stability. On the other hand, private schools under official political liberal guidelines might still be the best way to accommodate religious parents who would otherwise seek the services of non-official, possibly more fundamentalist, institutions to get the religious schooling they want for their children. I will discuss these problems in the next sub-section.

6.6 Problems of Private Education

Despite the prima facie permissibility of private schools, (at least) two more problems might occur that need to be addressed. The first is the concern that an education system, while accommodating all kinds of reasonable doctrines, might not foster sufficient interaction between children from different comprehensive backgrounds. This "liberal silence" can lead to segregation and in the long run to a less stable society.

The problem of liberal silence is discussed by Kenneth Strike, who focuses on the way religion can be taught in a public schooling curriculum.[410] The attempt to be neutral about religious views can lead, Strike observes, to a practice of bracketing religious content from education and focusing it solely on the political (and moral) values of political liberalism, which might generate internal problems by itself. This practice can lead to a crucial lack of communication between religious and secular citizens because religious reasons are supposed to stay outside the public arena, with the result that religious values are not discussed in depth in public schools. Under conditions like these, it is likely that children from religious backgrounds find themselves separated from those with secular backgrounds when it comes to values and the scope of moral convictions. Communication between secular and religious children, and eventually between citizens, will therefore lack the qualities that seem necessary for political liberalism to work, as Strikes points out:

> When conclusions are visible and the reasons for them are not, people are less able to see
> an issue through the eyes of their opponents. People on the one side will see their

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[410] See Strike 2007.

opponents as ungodly. People on the other side will see their opponents as ignorant and unreasonable. The mutual respect required of good citizens is not encouraged.[411]

It is possible that this problem is even reinforced by allowing private schools focusing on particular comprehensive views. Religious children would be segregated not only from secular children, but also from religious children with different faiths. If this were the case, these religious groups might suffer the same disadvantageous effects as, e.g., segregated immigrants, as described later in Chapter 8.

The remedy that Strike recommends for public schools would be having a "religious dialogue in a way that does not endorse anyone's religion"[412] in particular, while still endorsing the core norms of liberal democracy. Examples of how to integrate creationism, gay rights, and bible studies in common school education illustrate this.[413]

This approach looks plausible for public schools without any comprehensive agenda backing it. It seems more problematic in a setting that allows for private schools, as these will by design educate almost exclusively children whose parents belong to a specific religious group. Even if the state requires private religious schools to accept pupils from other religious or secular backgrounds, it seems unlikely that more than a handful of children with different religious beliefs would attend a school of a particular confession. The opportunity for experiencing religious diversity in the way Strike proposes would not be given at these schools.

If the existence of private schools, even in a mixed education system with public and private schools, contributes to liberal silence effects, this may be a serious disadvantage when it comes to conveying necessary political virtues or norms for future citizens. While not the only means to learn tolerance and respect, actual contact with children from different comprehensive background in an open, supportive environment would certainly be valuable. Public schools without an agenda shaped by a comprehensive doctrine seem to be better suited to provide this kind of environment than religious private schools. Even if

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[411] Strike 2007, p. 696.

[412] Strike 2007, p. 701.

[413] See Strike 2007, pp. 701-708.

by the necessary legal regulations religious private schools were forced to also accept children from other religious backgrounds, we can strongly assume that a majority of parents would not make use of this opportunity.

Despite this seemingly major drawback of a partly privatised education system, it would be impetuous to claim that therefore private schools were ruled out as impermissible. Depending on the social conditions found in a given society, enforcing an exclusively public education system might surprisingly lead to a decrease in social stability after all. An important reason for not restricting the freedom of school choice would be, as John Tomasi argues, the perceived legitimacy of the political liberal state. If political liberals really care about legitimising the state to reasonable citizens, they should be sensitive to how liberal measures might restrict those people that are at the margins of the set of reasonable citizens but can still be considered sufficiently reasonable. Taking measures to further liberal aims without considering their effects on what the "marginally reasonable" perceive as valuable will alienate them from the liberal society and decreases the legitimacy of the political liberal state. Unbalanced, broad-stroked liberal policies that resemble those of comprehensive liberalism too much could effectively turn reasonable citizens into unreasonable ones.[414]

It needs to be emphasised that the conception of legitimacy Tomasi has in mind here is one of perceived legitimacy. It could be that the political liberal state is perfectly legitimate and justifiable to its moderately idealised citizens, although a majority of actual citizens, while reasonable in the Rawlsian sense, do not see this due to various biases taking effect on their reasoning. Nevertheless, if a political liberal framework for education is supposed to be not only an academic exercise but to have a practical value, it is worth taking considerations like Tomasi's seriously. In consequence, it might be a prudent as well as a tolerant move to accommodate those at the margins of reasonableness in order to make them accept the political liberal state as legitimate.

In a similar spirit, Harry Brighouse suggests that denying religious schools to citizens for whom they seem important might increase the tensions between these citizens and the

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[414] See Tomasi 2002.

state, which would mean a negative effect on social stability. In contrast to Tomasi, Brighouse in addition is worried about effects of confessional segregation and liberal silence and therefore proposes to counter these effects by actively involving the state in the funding of religious schools.[415] While Brighouse's proposal focuses on autonomy as a central educational value, arguing that this would increase the chance to "produce autonomy-facilitating schools,"[416] the same could be expected for political liberal requirements of education. Furthermore, he proposes a requirement for religious schools to accept children from other religious or secular backgrounds, something which would counteract the risk of liberal silence in a segregated education system.

The expected effects of Brighouse's proposals will vary, in my view. The state being directly involved in religious school funding and therefore controlling their adherence to mandatory curricula content and other regulations might be an effective way to ensure that basic requirements of political liberal education are satisfied. Requiring religious schools to accept children from diverse backgrounds would be more of a symbolic gesture. It seems unlikely that many religious parents would send their children to schools run by different confessions, no more likely, at least, than secular parents sending their children to religious schools.

Yet, the answer to the question whether private schools should be avoided on the grounds of confessional segregation and liberal silence, or tolerated to accommodate the marginally reasonable, is context-dependent. In a society that is reasonably stable and has only a small minority of marginally reasonable religious citizens, the benefits of avoiding liberal silence by not establishing religious private schools might be bigger. However, another possible case is a society where a large group of marginally reasonable religious citizens might turn their back on a political liberal value consensus if they feel that their religious values systematically ignored. In this case, the society in question might benefit more from a variety of private schools providing a reasonable civic education next to a religious curriculum.[417] Even though private schools are prima facie permissible from a political

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[415] See Brighouse 2005, Brighouse 2006, Ch. 5.

[416] Brighouse 2005, p. 87.

[417] The question of cultural traditions might also play an important part. In societies, e.g., where religious schools have a history dating back several centuries and often have a high reputation, it seems likely that

liberal perspective, concrete political decisions about their role in an education system will also need to be based on concrete facts about the actual socio-political environment.

While parents who prefer private education might be deeply entrenched in their comprehensive doctrines and some of them may be characterised as only marginally reasonable from a political liberal perspective, they still are reasonable citizens. What remains to be discussed is the relation between the political liberal state and unreasonable citizens in the context of education. This will be the topic of the last sub-section.

6.7 Education and the Unreasonable

As long as the state provides some sort of quality check to see whether the requirements of political liberal education are met by private schools (if these are permitted in a concrete case, that is), there are no reasons against parents' decision to send their children to private schools backed by reasonable comprehensive doctrines. The same cannot be said if unreasonable doctrines or decisions are involved, either on the side of schools or on the side of parents.

When it comes to a general strategy for handling unreasonable comprehensive doctrines, Rawls talks about "containment."[418] Unfortunately, he does not give any more hints about what containment as a political measure implies in his view, which allows for a variety of interpretations. Marilyn Friedman for example sees in the talk about containment a potential approval of the disenfranchisement or silencing of groups in society that are labelled as unreasonable according to a standard not justifiable to them.[419] These groups would not only include extremist minorities, though, but also groups who just happen to have substantially different but mostly moderate views about political morality, such as utilitarians.

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their sudden abolition would outrage not only the religious part of the population but also non-religious citizens who consider these traditional institutions important on a more symbolic level.

[418] See Rawls 1993, p. 64, n. 19.

[419] See Friedman 2000.

In comparison, Quong gives a more plausible version of containment, arguing that unreasonable citizens do not have to fear a blanket withdrawal of political rights or liberties. Even unreasonable persons are entitled to the benefits of citizenship. Instead, particular rights and liberties are suspended only in the context of an action that counts as unreasonable and threatening to the political liberal state. This would be support for

> any policy whose primary intention is to undermine or restrict the spread of ideas that reject the fundamental political values, that is, (a) that political society should be a fair system of social cooperation for mutual benefit, (b) that citizens are free and equal, and (c) the fact of reasonable pluralism.[420]

Overall it seems more helpful to talk about (in the political liberal sense) unreasonable *decisions* regarding children's education than to talk about unreasonable *parents*. Matthew Clayton and David Stevens give as an example the restriction of parents' liberty of free exercise of religion in cases where the education they see as adequate for their children does not meet the requirements of political liberalism.[421]

To illustrate the divergence between those two standards further, we can imagine parents who hold as part of their religious convictions that there is an inequality between genders that should be reflected in political life as well, such as, e.g., in a restriction or abolishment of women's suffrage. In a political liberal state, these parents would of course have all the rights and liberties of citizens, including the liberty to choose from a range of reasonable options of education for their children. However, they could be legitimately denied the request for a school that teaches their children in accordance with their unreasonable beliefs about inequality.

There will certainly be parents with strong comprehensive views of this kind who nevertheless are reasonable enough to participate in the political liberal society and accept the given requirements. Perhaps they compartmentalise some of their convictions and are quite unhappy with some conditions in their society, e.g., public schooling. These parents would probably prefer an educational system consisting of private schools where children are taught according to the religious beliefs of their community (and because they are

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[420] Quong 2011, p. 299.

[421] See Clayton, Stevens 2014, p. 73.

reasonable, they would also grant that other religious communities could have their own schools).

I do not think that these are necessarily cases the political liberal needs to be concerned about. Provided that the education of children from unreasonable backgrounds adequately respects their parents' comprehensive views and does not discriminate against them, it seems reasonable and legitimate to deny them access to private schools teaching unreasonable and illiberal interpretations of certain world views. Although the consensus on the principles of justice in a political liberal society, and therefore of the structure of its basic institutions, is more than a compromise, as Rawls emphasises, we can easily conceive of reasonable citizens that accept a given educational system as legitimate while still think that one that would accommodate their comprehensive views better would be a more optimal one. Commitment to mutual cooperation in a just society does not always have to be joyful and certainly will hold disappointments for citizens.[422]

6.8 Conclusion

This section provided an analysis of the status of religious reasons in a political liberal society and an assessment of important limits to what sort of education religious parents can claim for their children. It has demonstrated what sorts of burdens religious citizens might have to face in a political liberal education system and also to what extent the political liberal state can (and should) accommodate their preferences regarding their children's education.

Political liberals who support views of public justification resembling those of Audi and Macedo would likely be unhappy with my analysis, and the same is probably true for proponents of strong religious freedom along the lines of Eberle and Vallier. If so, I hope this indicates that my sketch of the limits of freedom of religion in educational choice has found a plausible middle ground.

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[422] See Lomasky 1998 for an example of how a comprehensive view can accept reasonable social arrangements, although they will seem suboptimal to its adherents. Lomasky's argument aims at libertarians but works for religious views in just the same way.

The next chapter changes the focus away from religious reasons and towards sex and gender education. Nevertheless, citizens' religious views continue to play an important part here, too, as many arguments against an open and comprehensive sex education seem to originate from religious beliefs.

7   Same-Sex Relations in Education

So far, I tried to show that political liberalism can be quite permissive in terms of religious freedom. Although political liberalism does not rule out a public schooling system, as Vallier tries to argue, it allows in principle for a variety of school forms. This gives followers of religious doctrines the opportunity to pick a school where the curriculum also covers religious content, if they wish, while comprehensive atheists could choose a school that is free from the religious views they detest.

Still, despite the permissible inclusion of religious contents into political liberal education, it is still necessary to set limits to the demands a religious doctrine can make concerning the details of educational policies. It became already clear in the discussion of sex education in the previous chapter that there are reasons that can outweigh parents' preferences. Such reasons are grounded in the necessary core content of a political liberal education: a range of political virtues, the capacity for weak autonomy, and knowledge of and capacity for making use of citizens' primary goods. Due to these requirements, I have argued, political liberal education must provide a sufficiently efficient sex education as part of its curriculum in regard to topics like STDs and pregnancy. It can be argued, though, that sex education should cover more than this and should include topics like same-sex relations and marriage. This chapter will focus on the question whether and for what reasons same-sex relations, and by extension, marriage, ought to be covered by political liberal education.

Although I established in the previous chapter that reasonable citizens cannot use defeater reasons against a sufficiently efficient sex education in schools, religious or conservative parents could still argue against the inclusion of same-sex relations as a topic of sex education. It is worth examining whether there could be plausible arguments for restricting the content of sex education on this more fine-grained level. The arguments that are most interesting in this context are so-called natural law arguments. While they are exactly in line with conservative Christian notions of homosexuality and same-sex relations, their proponents claim that these arguments draw their force from rationality alone, without any further need for religious background arguments. If that were the case, the political liberal would perhaps have to give in to them. As we will see, it is however far from evident that

natural law arguments are based solely on rational grounds and therefore suitable as guidelines for political liberal policies.

The discussion of this chapter starts with a brief assessment of the role of deep religious commitments in the debate about same-sex relations. While it turns out that comprehensive commitments offer not sufficient justification for a legislation banning the topic of same-sex relations from a sex education curriculum, the second section of this chapter illustrates how natural law theory tries to achieve this aim by claiming that the demand for exclusion of same-sex relations as topic is rational. The third section holds that natural law theory, despite representing itself as based on pure reason, classifies as a comprehensive doctrine and cannot offer any justification to exclude same-sex relations from sex education. The fourth section finally spells out in more detail the importance of same-sex relations as topic in sex education for homosexual adolescents in terms of autonomy and self-respect.

7.1 The Tension with Deep Religious Commitments

Perhaps deeply held religious convictions of parents could be a reason for bracketing certain aspects of sex and gender equality in a school curriculum. While they might have to accept that a sufficient form of sex education is required from a political liberal perspective, the inclusion of same-sex relations as a topic, presenting them as of equal value with heterosexual relations or even marriage, [423] could feel like too much of a burden for deeply religious citizens. Moreover, the claim that same-sex relationships or marriage have the same value as heterosexual relationships could be understood as an inculcation of values that are opposing those of certain groups of religious parents.[424] In this reading, the liberal state would, against its own claims, not be neutral towards reasonable world views but instead use its power to teach children view and values that are incompatible with their (or at least their parents') religious convictions.

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[423] I will use the terms 'heterosexual' and 'opposite-sex' synonymously in this chapter, as well as 'homosexual' and 'same-sex'.

[424] Far from being only a theoretical position, this is an argument found in real-life debates about sex and gender equality in education, see, e.g., DePalma, Jennett 2007.

The rejection of same-sex marriage by religious citizens will usually be based on some aspect of their religious tradition that label same-sex relationships as morally bad or inferior. Because these objections are directly based on comprehensive views that are not shared by all reasonable citizens, however, it makes them unsuitable for justifying legislation *against* same-sex relations, such as a prohibiting public display of affection or other restrictions. The question in this case is, however, whether these comprehensive views can block any policies *in favour* of same-sex relations. Concerned religious citizens could argue that including same-sex relations in the sex education curriculum is an attempt to promote them as valuable life choice.

The argument that sex education would promote homosexuality, though, would only make sense if same-sex relation would themselves be based on a set of comprehensive beliefs. We could maybe imagine a comprehensive doctrine that rests on the belief that same-sex relations are morally superior to heterosexual relations and should be therefore aspired by everyone. But while comprehensive beliefs of this kind might exist and perhaps even motivate some citizens to promote the moral virtue of same-sex relations, no such world view could justify any same-sex policies of the political liberal state. Such a view would hardly be part of the overlapping consensus between reasonable comprehensive doctrines and thus could not produce reasons that are acceptable to all reasonable citizens.

Instead, the reasons for assigning to same-sex relations a similar institutional status as to heterosexual relations must be grounded in principles all reasonable citizens in a political liberal society agree upon. The relevant principle, in this case, is the equality of citizens in terms of rights and liberties. Contrary to potential claims of some religious citizens that the political liberal state would promote homosexuality, equal treatment of same-sex and heterosexual relations is required by basic principles of justice. In a society that agrees on a conception of justice like Justice as Fairness, these principles cannot be overridden by the religious sentiments of some of its citizens. However, natural law theorists attempt to argue that policies securing the equality of same-sex relations, e.g., by acknowledging same-sex marriage, would be a strategy of illegitimate promotion. If this were the case, it would indeed be a problem for the political liberal state. How convincing these approaches are will be the topic of the next two sub-sections.

7.2   The Assumed Moral Superiority of Heterosexual Relationships

Not all arguments against same-sex relations and their institutional recognition are based on explicitly religious premises. In particular, so-called new natural law theorists attempt to present arguments which do not rely on any theological claims. Although their motivation is in many cases clearly a religious one, they try to offer reasons that are supposed to be appealing to rationality, independently of any underlying religious convictions.

The central consensus among natural law theorists is that only marital, heterosexual intercourse is morally good while other forms of intercourse (extramarital, homosexual, etc.) are intrinsically bad. The exclusive moral goodness of traditional opposite-sex marriage, whose *telos* always seems to be reproduction, is assumed to be a natural fact in itself and as such evident to human reason. To promote the good and to protect its citizens from moral evils, the state must therefore not promote same-sex relations or introduce same-sex marriage. While natural law theorists accept that the state cannot legitimately interfere with citizens' private lives by making same-sex relations illegal, they seem to be convinced that same-sex relations should at least be discouraged by not giving them equal status to heterosexual relations. To justify the political difference between these two kinds of relations, various lines of arguments are employed.

John Finnis, for example, very directly addresses the perceived moral evil of homosexuality. The state, whose responsibility it is in Finnis' view to keep its citizens safe from moral harm, has a

> legitimate concern with public morality and the education of children and young people towards truly worthwhile and against alluring but bad forms of conduct of life. […] [A] life involving homosexual conduct is bad even for anyone unfortunate enough to have innate or quasi-innate homosexual inclinations.[425]

For further explanation of why homosexual conduct is morally bad, Finnis invokes Socrates, Plato, Aristotle, and Aquinas, among others, to argue for his position, which is constituted by the following three claims:

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[425] Finnis 1994, p. 1052.

1. The commitment of two heterosexual partners in "the sexual union of marriage" is intrinsically good (and incompatible with non-marital sexual relations).

2. Homosexual sexual acts are "radically non-marital" (and therefore "unnatural").

3. Homosexual acts are, due to their similarity to masturbation, "unworthy of the human being."[426]

On this view, it is evident to human reason that opposite-sex marriage is intrinsically good and anyone employing their capacities of practical reason must necessarily see this. Therefore, "choosing against the marital good is unreasonable."[427]

However, the explanation for the intrinsic value of marriage remains unsatisfactory vague throughout Finnis' writings. It is posited as one several of "basic human goods," together with life, health, knowledge, friendship, and others. The nature of these goods is and the fact that they are intrinsically valuable is assumed to be evident to anyone who exercises their conscience. Essentially, it is supposed to be knowledge based on moral judgements that could (and should) be made by anyone who aspires to be rational and reasonable.[428] Finnis's use of the terms rational and reasonable here almost sounds like Rawls', but with important differences. For individuals being rational and reasonable in the context of their moral judgements means for Finnis that they decide to act virtuously whenever they have a choice.[429] Rational individuals can determine which acts are virtuous and which are not due to their relation to the already mentioned basic human goods. Basic human goods therefore seem to be the most basic building block of moral acts in Finnis' natural law approach.[430]

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[426] See Finnis 1994, pp. 1062f.

[427] Finnis 2008, p. 393.

[428] See Finnis 2008, p. 389.

[429] See Finnis 1983, pp. 29f.

[430] See Finnis 1983, pp. 50ff, Finnis 1980, Ch. 4.

From this perspective, there exists a clear divide between "gay marriage," which can only remain "fictional" marriage, and "real" marriage. The latter is characterised by "the marital act [which] culminates in the very kind of activity – ecstatic genital giving and genital accepting of semen – that sometimes results in generation."[431] Finnis claims that the intrinsic value of marriage is grounded in the combination of mutual love and/or trust and the possibility for procreation.[432] While the good of "real" marriage is worthy of promotion, "fictional" marriage and any non-marital relations are something citizens should be saved from. In conclusion, the state must an obligation to save them. Finnis' idea that the state has the authority to discourage homosexual conduct rests on an Aristotelian notion of a political society that has to promote that which is "truly worthwhile (including moral virtue)" while "hinder the harmful and evil." Furthermore, the state must "assist people with parental responsibilities to educate children and young people in virtue and to discourage their vices."[433]

Other natural law theorists, such as Sherif Girgis, Robert George, and Ryan Anderson, endorse Finnis' claims about the value of marriage, although they focus less on the moral evil of same-sex relations but emphasising the unique value of procreation and parenting. On their view, "real" marriage is likewise characterised by a comprehensive union between husband and wife who complete each other by forming a reproductive unity during coitus, this kind of unity being of a unique intrinsic value.[434] Furthermore, marriage is supposed to be the sort of relationship that is "best suited for honorable parenthood – among other things, permanently and exclusive."[435]

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[431] Finnis 2008, p. 396.

[432] It is worth noting that even though a heterosexual couple might not have children or might for biological reasons not even be capable of having children, they would still fulfil the conditions for proper marriage. The reason for this remains unclear to me (perhaps because in nearby possible worlds they could have children). I will not pursue this intriguing question further here, as it is not relevant for my argument against Finnis' position.

[433] Finnis 1994, p. 1076.

[434] Girgis et al. 2011, pp. 253ff.

[435] Girgis et al. 2011, p. 256.

Girgis et al are concerned that giving same-sex relationships the status of marriage would "increase marital instability," as it would change the basic meaning of the institution of marriage. It would be "fundamentally about adults' emotional unions" only and no longer about the seemingly necessary biological-functional union.[436] The equal status of same-sex relations would also "blur the distinct value of friendship, which is a union of hearts and minds,"[437] in contrast to marriage. The acknowledgement of same-sex marriage would "distort people's understanding of the kind of relationship that spouses are to form and sustain."[438] It would also be detrimental to a good practice of child-rearing, as

> no civil institution would any longer reinforce the notion that children need both mother and father; that men and women on average bring different gifts to the parenting enterprise; and that boys and girls need and tend to benefit from fathers and mothers in different ways.[439]

On a political level, same-sex marriage and sex education that supports the notion of an equal worth of same-sex and opposite-sex relations lead to the same sort of problem. Both are conceived by Girgis et al as a threat to moral and religious freedom.[440] The conclusion is therefore that marriage should "be regulated for the common good" because it "uniquely meets essential needs" of procreation and child-rearing in a way no other form of relation does.[441]

The phenomenon of "becoming one" and the unity of the heterosexual coitus in regard to its procreational function is also emphasised by Patrick Lee as the distinctive and valuable feature of "real" marriage. But more than just being functional, the intercourse is said by him to "embody" or "actualise" the community of the married partners, thereby

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[436] Girgis et al. 2011, pp. 260f.

[437] Girgis et al. 2011, p. 261.

[438] Girgis et al. 2011, p. 261.

[439] Girgis et al. 2011, p. 263.

[440] Girgis et al. 2011, pp. 263ff.

[441] Girgis et al. 2011, p. 287.

instantiating the basic human good of marital union.[442] It seems that for Lee any intercourse not meeting the biological criteria of involving one male and one female partner fails to actualise the community between the participants and remains at best "an illusory experience of a union."[443]

Lee thinks that there are at least two reasons why the political community as a whole should accept this narrow definition of marriage. The first is the claim that children will receive the best care possible by their biological parents, and that children have "a natural need for love and care" of their biological parents."[444] The second claim is that "people's sexual passions and energies […] are channelled to an intelligible good."[445] The declaration of equality of same-sex marriage would, according to Lee, distort people's view on the good in marriage (the biological unity and the orientation towards becoming a family) and instead "send the message that marriage is centrally about the romantic attachment and sexual relationship of adults."[446] As with other new natural law theorists, central to Lee's argument for opposite-sex marriage are metaphysical assumptions about the nature of marriage as a "multi-levelled, (bodily, emotional, spiritual) personal union that is fulfilled by expanding into family,"[447] in addition to claims about the beneficial effects of opposite-sex couples on the process of child-raising.

While these examples are far from being an exhaustive survey of the natural law literature, they establish some of the key arguments of the movement: a functional definition of marriage combined with a Kantian notion of treating others as ends in themselves, which in the case of sex is only possible in an opposite-sex marriage. In the view of the new natural lawyers, marriage seems to transmogrify instrumental, undignified sex acts into something intrinsically valuable. Ultimately, it is this central part of their argument which

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[442] See Lee 2008, pp. 422f.

[443] Lee 2008, p. 424.

[444] Lee 2008, p. 424.

[445] Lee 2008, p. 425.

[446] Lee 2008, p. 425.

[447] Lee 2008, p. 429.

makes natural law theory irrelevant to questions about the political liberal legitimacy of same-sex relations, as the next section will show.

7.3 Natural Law Theory: A Comprehensive Doctrine

Political liberals do not need to consider any new natural law arguments against same-sex marriage based on the (perceived) intrinsic value of opposite-sex marriage. The question of whether the new natural lawyers offer "the most elaborate intellectual case for distinguishing between homosexual and heterosexual activity"[448] or rest "on bad theology as well as bad philosophy"[449] (or perhaps both) is simply no reason for concern in this context. Although natural law theories avoid openly religious arguments, they are comprehensive doctrines. Their accounts of marriage are deeply ethical in the Rawlsian sense, and as such there can be reasonable disagreement about the claim that "real" marriage can only exist for heterosexual couples who never think about having intercourse with anyone else than their spouses.

One of the main premises of the natural law argument for the unique status of heterosexual marriage is rooted in substantively comprehensive metaphysical and religious views about the particularly unifying nature of the marital sexual act.[450] Regardless of whether these arguments are religious or non-religious, it is quite obvious that not all reasonable citizens will agree on them. Neither the Kantian notion that sex acts in which we view each other as mere means to an end are moral wrongs, nor the view that the biological function of the sex act acquires an additional dimension of value when carried out under conditions of marriage are necessarily shared by all reasonable citizens of a well-ordered society.

A different argument found in the natural law repertoire, that good parenting requires opposite-sex marriage, might be more relevant for political liberal policies. After all, if it is a fact that children are best raised in heterosexual nuclear family constellations, it would

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[448] Macedo 2003, p. 276.

[449] Koppelman 1997, p. 53.

[450] A likewise substantive defence of this argument against critics can be found in Finnis 1997.

seem negligent by the political liberal state not to support these conditions for children. Yet, it is not at all settled that this really is necessarily the best way to raise children or that there are no other factors to consider next to children's well-being.

Extensive empirical research exists on the effects of single-parenting, step-parenting, cohabiting but not married parents, etc., indicating that these types of family constellation on average decrease children's well-being overall, e.g., in terms of educational success. These studies find that children growing up in a nuclear family are, in comparison, better off, mainly due to the economic stability, the amount of time parents spent on their education, and the expectations of parents for their children. Important to notice here is that this hardly justifies the simple claim that opposite-sex nuclear families are "good" while other family structures are "bad" (I will come back to this point shortly) but rather that under the given socio-economic structures, nuclear families provide on average the best conditions for children to grow up.[451]

Similar research on same-sex parenting is far less conclusive, with the available data being interpreted positively by some and sceptical by others. For example, a review of empirical research literature on same-sex parenting from 2005 concludes, that children assessed in these studies showed no significant differences in well-being than children under heterosexual parenting. Furthermore, marriage seems to have the same beneficial effects on children of same-sex couples as they have on children of heterosexual couples, providing an increase in financial well-being and stability.[452] However, a more critical review from 2012 argues that research regarding same-sex parenting is far from conclusive, as the sample groups are small and consist mainly of white, middle-class, mostly female parents.[453]

Any claim by natural law theorists about the advantage of heterosexual families can therefore only be assumptive, although the same is the case for the opposite as well.

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[451] See, e.g., McLanahan 1985, Astone, McLanahan 1991, Blum et al. 2000, Manning, Lamb 2003, Brown 2004, Brown et al. 2015.

[452] See Meezan, Rauch 2005.

[453] See Marks 2012.

Should it turn out that children are on average less well-off under same-sex parenting, it would be plausible to assume that the factors involved would be the same as in cases of single-parenting and other family structures: socio-economic circumstances in which non-nuclear family structures carry a heavier financial and, most likely, also social burden. Children of same-sex couples might struggle more to adapt socially due to biases of their social environment. Even under political conditions where official policies no longer differentiate between married and single parents, citizens often retain normative attitudes that value traditional families over other forms of parenting, which in turn will shape their interaction with children and parents that do not conform to those norms.[454]

It seems that in this case, contrary to the claims of natural law theorists, the aim of the political liberal state should not be promoting same-sex parenting and simultaneously discouraging or discriminating against non-traditional family arrangements, including same-sex parenting. Rather, the state's responsibility would be to shape social conditions that provide opposite-sex parents (as well as parents in other family structures) with a similar degree of economic stability and opportunities as same-sex nuclear families. Similarly, in regard to education policies the political liberal state does not have any legitimate authority to prohibit education about same-sex (and other) relations.[455] It seems quite clear that teaching about non-heterosexual forms of life is permissible. More than that, it seems that the inclusion of same-sex relations in a sex education curriculum is even required by political liberal basic principles. Two reasons for this are the unjust state of the institution of marriage traditionally conceived and the capacity of self-respect of future LGBT citizens, both of which are further explained in the next two sub-sections.

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[454] These effects can be amplified by internalised homophobia of same-sex parents or their children themselves. For internalisation of homophobia in regard to parenting see, e.g., Pacilli et al. 2011.

[455] A historical example for such policies would be Parliament of the United Kingdom 1988, Article 28: "Prohibition on promoting homosexuality by teaching or publishing material," cited in Finnis 1994 as an example for state policies aim at securing and promoting moral values. Article 28 was repealed between 2000 and 2003 in the United Kingdom.

7.4 Marriage as Unjust Institution

When discussing same-sex relations in the context of education, it is worth to also briefly think about the institution of marriage in the larger context of a political liberal society, as it will reveal additional reasons for including same-sex relations in sex education. The institutions of marriage as it is currently politically and legally recognised in existing liberal democratic societies is problematic from a liberal perspective. Married couples often gain economic advantages, such as tax breaks, that unmarried citizens miss out on, but marriage often also fosters an economic asymmetry between spouses that can lead to dependency and restriction of options of the economically weaker one of them (mostly women). Nevertheless, these inequalities are supported by acknowledging and even promoting the institution of marriage in its traditional form as politically legitimate. A just and fair society would need to overhaul the official institution of marriage to quite some degree to throw off the injustices that are currently linked to it.

One of the most convincing political liberal positions regarding marriage has recently been given by Elizabeth Brake. Aside from a thorough analysis of the contemporary institution of marriage (focusing on the US and the UK), she argues for a change of the social institution of marriage grounded in a political liberal framework of neutrality towards conceptions of the good life:

> Under the constraints of public reason, the reasons given for marriage law must meet a certain standard. Political liberalism precludes defining marriage law or policy on the basis of comprehensive religious, philosophical, or moral views.[456]

As the institution of the family, and therefore the institution of marriage as well, are part of the basic structure of society, these standards must apply to marriage laws as well.

It is not settled how this requirement can be best realised. Some authors argue that the institution of marriage itself is intrinsically problematic, as it implies conformity with a set of particular restrictions that ignores the diversity of human relations and could have

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[456] Brake 2012, p. 138.

unwanted side effects, such as an increase in domestic violence.[457] From this perspective, the institution of marriage should not have a legitimate place in a political liberal society at all and any legal framework for it would best have to be abandoned. Alternatively, the institution of marriage could be replaced by more appropriate relationship models or redefined along various lines. Clare Chambers, e.g., argues in favour of a piecemeal model of relationship regulation that would apply to different aspects of relations based on bundles of rights and duties and which, at least in some cases, would apply automatically to persons that stand in a suitable relationship to each other. Separate regulations would apply to, e.g., parenting, sharing of property, and so on.[458] In contrast, Brake herself favours a model of so-called "minimal marriage." Like traditional opposite-sex marriage, minimal marriage would define a particular kind of relation between people but would allow partners to select the rights and duties that apply to their relation. In addition, it would recognise all forms of relations as acceptable as marriage in a legal sense as long as they are a form a caring relationship.[459]

Regardless of the different details of how to reform (or abolish) the political aspect of the institution of marriage, Brake, Chambers, and others agree that the institution of marriage, as it is traditionally conceived in contemporary Western societies, has its share of problems. Developing this discussion in more depth and trying to argue for a definitive political liberal position on marriage would lead too far off the course of this thesis, but in respect to education it is necessary to take into consideration the (inherent) problems of marriage as a concrete political and social institution.

One could, of course, argue that the idealised well-ordered society which is used to model political liberal politics will have realised a more just form of marriage. In that case, the status of the institution of marriage will not contribute any further justification for the inclusion of same-sex relation in sex education. Yet, if we expect political liberal theory

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[457] For arguments against the institution of marriage (although not necessarily on political liberal grounds) see, e.g., Card 1996, Ettelbrick 1997.

[458] See Chambers 2013, Chambers 2017.

[459] See Brake 2012, Ch. 7.

and a political liberal approach to education to provide guidelines on how to shape real-life politics then it is sensible to also think about a well-ordered (or perhaps *almost* well-ordered) society that has not (yet) reached that stage.

It is in this pre-ideal political stage where education has a crucial role to play. At this stage, the political liberal idea of a more just institution of marriage is something that is likely to occur as outlandish and counterintuitive to many average citizens, due to its unfamiliarity. A change of attitudes within society towards same-sex relations in particular and marriage in general, necessary for realising more just institutions, can to a large extent be facilitated by school education. If people are made aware at early stages in their lives of the diversity of human sexuality and relations, they will be more prone to agree on the injustice of existing institutions and on the need to change them for the better. The need for institutional change is therefore a further justification for political liberal sex-education in a not-yet-ideal society.

Aside from this justification gained from the state of non-ideal institutions themselves, there are further justificatory reasons that can be derived from citizens' entitlement to primary goods, especially self-respect. In the following sub-section, I will say more about this route of justification.

7.5 Same-Sex Relations and the Primary Goods

Existing liberal democratic societies nowadays have anti-discrimination laws and other regulations to ensure equal opportunities on the job market and before the law for (most) LGBT citizens. Nevertheless, even under these conditions there is room for improvement in education, particularly in sex education. The shortcomings here are not so much explicit discrimination against homosexuality and other sexual orientations by teachers and school books, but the informal content of sex education lessons and the social environment of adolescents. Analysing the shortcomings of sex education under already benevolent political conditions will highlight what sort of shortcomings political liberal education should consider.

Next to the official content of sex education there exists a so-called "hidden curriculum" – attitudes and social norms that are conveyed without being explicitly addressed in lessons. Part of the hidden curriculum has been for a long time a standardisation of

heteronormativity, together with traditional gender roles.[460] This includes the practise of not addressing non-heterosexual sexuality and same-sex relations in sex education and instead focusing on sometimes very narrow definitions of what sexual relationships are (or should be, according to the prevalent social norms). Such practises lead to a marginalisation of children and adolescents who either have parents or close family members in a same-sex relationship, or who are themselves part of the LGBT spectrum. This marginalisation, especially at the age when sex education happens, will often lead to feelings of insecurity, of powerlessness,[461] and, as one participant in a study about LGBT topics in sex education described it, of being "freaks...like aliens or something."[462]

For a society which takes a conception like Justice as Fairness seriously, it seems crucial to include matters of same-sex relations in sex education. For adolescents to develop their capacity for self-respect, which is a basic good that citizens of a well-ordered society are entitled to, it is important to find deep-seated aspects of their developing identity represented in public life. How people identify themselves by their gender and their sexual relations is one of these aspects. It seems therefore to be a matter of justice to represent same-sex relations as equal to heterosexual relations in the context of sex education. Furthermore, adolescents build up their sexual identities by piecing together descriptive and normative bits of information from various sources, including their own family, their peer-group, and various types of media. Especially with male adolescents, this often leads to an expression of an exaggerated (heteronormative) masculinity in combination with a homophobic attitude.[463]

When these attitudes continue to motivate forms of heteronormative behaviour as adolescents turn into adults, problems for a liberal democratic society result. Citizens might be restrained in official roles to act upon homophobic attitudes by the law, e.g., as employers or government officials. Nevertheless, if a sufficiently large segment of the

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[460] See, e.g., Jones 1993, Kehily 2002, Ch. 3.

[461] See, e.g., Fine, McClelland 2006, Gowen, Winges-Yanez 2014.

[462] Gowen, Winges-Yanez 2014, p. 791. Quoted statement of a research participant.

[463] See, e.g., Kehily 2002, Ch.6.

population expresses these attitudes, even if only in non-public contexts, this will have a relevant impact on people not conforming to heterosexual standards. Homophobia and (informal) discrimination will, if it is pervasive enough in society, mean a relevant impairment for the acquisition of self-respect for LGBT citizens. Part of a state's efforts toward a just society will also include decreasing social tendencies for homophobia and similar phenomena, with one suitable measure being structuring education in a way that does not reinforce these tendencies in children and adolescents. While the concrete details of measures to change these informal aspects of education are best left to experts in education rather than to aspiring political philosophers, this necessarily would have to include clear statements about the equality of heterosexual and same-sex relations, and a similarly clear message against discrimination in this context.

The basis for this is not, as it might seem to citizens with particular comprehensive views, an illegitimate propagation of a homosexual lifestyle but the provision of a social environment in which citizens are treated as equal regardless of their sexual orientation. It is to a great extent through this social environment that citizens are able to make substantial use of their basic rights. This must be the aim of the political liberal state to the same degree as the equality of citizens from various religious backgrounds and the freedom to live according to their views.

Citizens who would disagree on this point can be classified as (partially) unreasonable from a political liberal perspective (see 2.1.4), at least in regard to matters of sex education. This would allow the political liberal state to override their claims of being treated unfair or illegitimately. However, this does not imply that citizens who disagree lose their legal or moral status as citizens, but that their disagreement with an equality-oriented sex and gender education is unreasonable (see also 6.7). Therefore, political morality does not require any more justificatory efforts to accommodate those citizens and the state can ignore their claims on the grounds of political liberal principles.

7.6 Conclusion

While the previous section has identified the freedoms of religious citizens in regard to education, this section has identified some of the limits that reasonable religious citizens will have to accept. I have hopefully argued convincingly that religious claims against "promotion" of homosexuality by the political liberal state misfire, as the political liberal

justification for including this topic in the sex education curriculum is not based on comprehensive world view about same-sex relations. Further, a brief discussion of the approach of natural law theorists to this topic has shown that, despite their avoidance of religious justifications, natural law arguments are grounded in a comprehensive doctrine similar to religious comprehensive doctrines.

Next to the defence against claims that same-sex relations would be an unjust infringement of some citizens' world views, this chapter has also presented two positive reasons for including same-sex relations in sex education, especially in non-ideal liberal societies. One of them is the economic and social injustice that is perpetuated by traditional conceptions of marriage, the other the limitation of LGBT citizens to develop and make use of their primary goods in a society where underlying resentment and discrimination against them exist.

Resentment and discrimination will also be relevant for the following chapter, although in a slightly different context. So far, I have discussed what can be called "intrinsic" problems of a political liberal society, which can occur regardless of whether the society is a closed society or not. In the next section I will leave the Rawlsian model of the closed society behind and discuss some of the problems in education that develop if individuals enter the society not only by birth but also by immigration.

8 Immigration and Integration

Immigration is one of the main political topics in the contemporary real politics of Western democracies, which also includes questions about how educational policies can (or perhaps even must) contribute to integration. A political liberal theory of education aiming at providing guidelines for real-world problems should have something to say about how to support the integration of immigrants and their children into society.

However, political liberalism offers no account of migration, as Rawls' brackets immigration as a topic. For the moderately idealised, well-ordered society he famously claims: "entry in it is only by birth and exit from it only by death."[464] Starting a theory of justice with the premise of a closed society makes it supposedly easier, on Rawls' idea, to identify the relevant details of a conception of social justice. This is a useful strategy for answering basic questions about fair distribution of resources and legitimacy of state coercion against citizens, yet it leaves other questions unanswered which turn out to be pressing ones for contemporary politics – for example, how is a political liberal society supposed to treat immigrants? The well-ordered society conceived by Rawls was modelled to solve different problems and does not provide any direct guidelines for real-world societies on these questions.

Nevertheless, in non-ideal societies the fact of pluralism is inextricably linked to the fact of immigration, and immigration poses its own set of challenges for education as, e.g., Victoria Costa correctly observes.[465] Contrary to Rawls' assumption that virtues and skills of citizenship are facilitated and fostered simply by growing up in a liberal society, she argues that this assumption is too idealistic and that at least when we aim at transposing findings from political liberal theory to more realistic settings, we must take into account the role schools play in this process:

> One central aim of educational institutions in non-ideal contexts is to foster the wide acceptance of common norms, principles and procedures that provide a certain coherence

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[464] Rawls 1993, p. 40.

[465] See Costa 2004.

> and viability to communal life and allow the different members and groups of society to get along together in a democratic way.[466]

Even if we concede that children of native citizens might adopt necessary political virtues, skills, and knowledge with only minimal support by the educational institutions (which, as I argued on previous occasions throughout the thesis, is unlikely), it is still plausible to assume that children of immigrants do not grow into their role as liberal democratic citizens as easily. At least in cases where their cultural background would establish or reinforce certain illiberal tendencies (e.g., beliefs that people can be treated as inferior due to their gender or religion, or resentments against basic political liberties as, e.g., freedom of expression), it would be a task for the educational system to counter such cultural effects.[467]

My aim for this chapter is to outline the challenges that the children of immigrants pose to a political liberal society and its educational institutions. Some of these challenges overlap with the topics of the previous two sections, religious education and sex education. Others are uniquely linked to immigration itself and need different answers than a political liberal theory of education would give to "home-grown" challenges of a similar kind.

I will first give a summary of what can reasonably be said about the moral status of immigrants in a political liberal society, referring to Rawls' own work on the relations between societies, *The Law of Peoples*. While Rawls seems to assume that migration will no longer be a relevant topic in a realistic global utopia consisting mainly of well-ordered liberal societies, I will argue in the second section of this chapter that this assumption would be implausible. For various reasons, migration would still happen.

More important, if a political liberal theory of education aims at offering guidance to real-life politics, it needs to address contemporary political challenges like immigration and integration. For this reason, the third section outlines the differences between the children of immigrants and children native to a well-ordered society, and what additional

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[466] Costa 2004, p. 6.

[467] See Costa 2004, pp.10-11.

requirements for political liberal education result from these differences – a focus on facilitating integration.

In the fourth section I will explain in more detail, what sort of integration should be the focus of political liberal education. After introducing the distinction between civic, social, and cultural integration, I will argue that the most important aspect of integration should be social integration. While civic integration should be sufficiently covered by the civic education curricula provided for native children as well, and cultural integration should be of almost no concern for political liberal education (with some minor exceptions), it is social integration that need more attention and perhaps additional resources in the context of education.

8.1 Borders in the Realistic Utopia

A very brief discussion of the role of immigration will be useful to better understand why and how immigration in political liberal education is relevant. Rawls' writings on political liberalism cannot give direct guidelines on how a political liberal society should treat immigrants, due to the way Rawls initially conceived it: with the well-ordered society modelled as a closed society, immigration turns up nowhere as a pressing question of justice. Even Rawls' late work on international justice, *The Law of Peoples*, is less helpful here than one might expect. It extensively discusses the just international relations among societies, but it says almost nothing about the place of individuals in his account of international relations.[468]

It is important to note here, though, that the utopian international world cannot be borderless for Rawls. On his view, state borders are not only contingent but necessary, as they define a people's territory which he understands as being that people's property.[469] Whether this argument for borders is convincing or not, for the moment it suffices to acknowledge that bounded national states are supposed to be a fact even under the

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[468] Unsurprisingly, the almost exclusive focus on *The Law of Peoples* on national entities and its lack of comment on the moral status of individuals in the sphere of international relations has been subject to a fair amount of critical scrutiny. See, e.g., Tan 1998, Beitz 2000, Caney 2002, or Glover 2011.

[469] See Rawls 1999b, p. 8, pp. 38-39.

idealisation of political liberal theory. At the same time, political liberal theory does not give an account of immigration or migration in general because it claims that migration does not happen in the international environment it presumes.

Rawls himself acknowledges that his theory of international justice does not have anything to say about immigration, for good reason: "The problem of immigration is not, then, simply left aside, but it is eliminated as a serious problem in a realistic utopia."[470] All political reasons for migration, such as religious oppression, denial of basic rights, but also humanitarian catastrophes like famines (as Rawls argues that they are mostly caused by political failure) will not occur in a realistic utopia consisting of well-ordered and decent societies – decent societies being those that are not ordered by a liberal theory of justice, but are nevertheless tolerable by satisfying certain requirements.[471]

However, the next sub-section will show that migration poses a relevant moral problem for a "society of peoples," as there are reasons for migration that Rawls' framework of international relations itself acknowledges.

8.2   Utopian Migration

Does it make sense to talk about migration in the context of political liberal theory then? Yes, because various causes for migration remain even in a realistic utopia. Even in an international community consisting only of well-ordered and decent societies some individuals would still migrate for personal reasons – religion, culture, climate, love, to name just a few. Rawls cannot eliminate migration as a political factor, even under these idealised conditions.

Furthermore, Rawls' "society of peoples" does not only consist of these two types of peoples. There are also what he calls "outlaw states," "societies burdened by unfavorable conditions," and "benevolent absolutisms."[472] The politics defining the national states of

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[470] Rawls 1999b, p 9.

[471] See Rawls 1999b, pp. 59-60.

[472] Rawls 1999b, p. 63.

such peoples are not grounded in liberal principles. Members of burdened societies might have only limited or no political and personal rights, and little to no just distribution of resources. These kinds of oppression and economic hardship in such states will provide excellent reasons for their citizens to emigrate to well-ordered societies with better living conditions and could lead to a considerable amount of migration, just like existing liberal democratic states experience currently.

A political liberal state would need to care about immigrants, especially about those from burdened societies, and we can make some indirect assumptions about how a well-ordered political liberal society might treat immigrants. One claim of *The Law of Peoples* is that all liberal democratic societies will honour human rights.[473] We can assume that what Rawls has in mind are rights as they have been established in the Universal Declaration of Human Rights (UDHR)[474] – while sometimes he writes about them as normative principles derived from abstract justification, at other times he refers to Human Rights as a time-honoured international practice. For lack of more specific information, if nothing else, it seems reasonable to assume that rights as they have been stated in the UDHR are relevant for Rawls' ideal political theory as well. Particularly relevant are Articles 13 to 15 of the UDHR, which declare a right of everyone to leave their country (13.2), to seek asylum from unjust persecution (14), and to some extent the right to a nationality (15). These articles imply that at least political refugees have a right to immigration, albeit temporary under consideration as asylum seekers. Sometimes, though, there is obviously nowhere these immigrants could return to. In these cases, they will become de facto long-term residents.

Assuming that principles similar to the rights declared in the UDHR are relevant for a well-ordered society, it seems plausible that a well-ordered society will have its share of immigration. Even with strict policies for immigration control, a well-ordered society that respects human rights (as Rawls suggests it does in international contexts) must allow immigrants from outlaw states or burdened societies, some of who will be likely to stay.

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[473] Rawls 1999b, p. 37.

[474] United Nations General Assembly 12/10/1948.

This shows that immigration is indeed a relevant topic for a political liberal society. Even for a utopian "society of peoples," we need to determine to what extent the rights and obligations regarding education apply to the relation between the political liberal state and immigrants. I will attempt to do so in the next section.

8.3   Political Status of Immigrants

To what extent do immigrants differ from citizens when we think about what requirements and freedoms apply to them regarding the education of their children? As a first step, it makes sense to distinguish immigrants into two categories – those from other well-ordered and decent societies, and those from burdened societies and outlaw states. The relevant difference between these two groups lies in the development of attitudes and knowledge regarding their political autonomy, their political virtues, and their rights and duties in a well-ordered society. I assume that the attitudes and the knowledge of people migrating from a well-ordered society to another well-ordered society, or from a decent society to a well-ordered society, will be sufficiently similar to native citizens of their host society. In terms of education, these immigrants are similar enough to the native citizens that no more has to be said here than has been already in the chapters before.

In contrast, immigrants from burdened societies and outlaw states will most likely differ in their relevant political attitudes from the native citizens of a well-ordered society. Because they did not grow up in a liberal political system, it is plausible to assume that their civic education was different from liberal civic education, and it is likely that they had only limited (or even none) basic rights like those taken for granted in the well-ordered society. In this regard, immigrants from burdened societies differ in a relevant sense from native citizen of well-ordered and decent societies.

It needs to be emphasised at this point that whenever I refer to immigrants (or native citizens) in the following discussion, I am not referring to actual immigrants in actual societies. Rather, the immigrants I have in mind are in the same way abstracted from their real-life counterparts as are the citizens of a well-ordered society in the context of political liberal theory. My underlying assumption is that moderately idealised immigrants from burdened societies and outlaw states (in the Rawlsian definition) will have a sufficiently different cultural and political background from citizens of a well-ordered society. Like

these citizens, idealised immigrants still resemble actual persons in regard to their basic motivational and epistemic features. However, just as the moderate idealisation of citizens themselves, the idealisation of immigrants is an analytic device and certainly not meant as a sweeping generalisation applying to real-life immigrants.

A sensible way of identifying the differences between immigrants of burdened societies and children from well-ordered societies is by comparing their knowledge and endorsement of central ideas of political liberalism. Doing so allows for some reasonable conjectures about requirements of education for their children. In the following, I will discuss the relation of immigrants to political virtues, autonomy, and rights, and point out the potential differences to native citizens. This comparison will make it easier to determine whether and how political liberal education should adjust to immigration backgrounds

8.3.1 Political Virtues

Chances are good that immigrants (in the way characterised above) will not have the range of political virtues the political liberal state requires, at least not to the extent that native political liberal citizens do. The same will be true for their children as well, and even if their children are growing up in a well-ordered society, they will do so in a family that might not provide the same upbringing in regard to political virtues than families of "native liberals."

The most central moral deficit for an immigrant of a political liberal society would be the lack of a sense of justice, or a sense of justice that responds to substantially different norms of justice than those prevalent in the host society. If the sense of justice is one of the main defining criteria of political liberal citizens, immigrants with a divergent sense of justice might have significant difficulties to become part of the reciprocal political scheme of their new society. Furthermore, native citizens might not embrace immigrants as fully equal participant in a common scheme of social cooperation, not only due to cultural differences but also due to differences in the conceptions of justice they hold.

It is plausible to assume such a variety in the sense of justice for people from different societies. Norms of fairness vary culturally, and although it seems that there are limits to that variation, people from different cultures are used to different standards of what counts

as fair and what does not.[475] Although there is certainly a distinction between conceptions of justice and norms of fairness, I take both to be sufficiently related to each other to assume that conceptions of justice can vary along a reasonable spectrum between societies as well. This variety in conceptions of justice is also reflected in Rawls' claim that the content for the liberal concept of public reason can be determined by a range of different conceptions of justice, as long as they satisfy some basic conditions.[476] The conceptions of justice, though, to which immigrants from burdened or outlaw states are accustomed might be only partially acceptable from the perspective of a well-ordered society.

In regard to education, the sense of justice as a political virtue is particularly relevant (see Chapter 3). On the one hand, this is due to the centrality of this political virtue to the political liberal ideal of a just and fair society. On the other hand, the sense of justice is supposed to be a virtue that develops from childhood onward and is at first developed in the context of the family (see 3.1). Provided that this is a plausible account, children of immigrants might lack, at least to some extent, the private background to develop a sense of justice as required by the political liberal society. It would follow that the civic education of immigrant children would have to put more effort into fostering the development of their sense of justice than for the children of native citizens.

8.3.2 Autonomy

Political liberals ought to be concerned about two different conceptions of autonomy when it comes to education, as I have argued in Chapter 4. The first is the conception of political autonomy which includes the knowledge about one's status as a citizen and about the related rights, as well as the knowledge how to make use of them. The second is a weak, procedural conception of autonomy (see 4.3). Weak autonomy must play an important part in political liberal education as well, as it is the basis for a comprehensive exercise of the first moral power of citizens to sustain, and if necessary to change, an ethical conception of the good. It is also a first necessary building block for more specific conceptions of autonomy, such as political autonomy.

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[475] See Bicchieri 2006, esp. Ch. 3.

[476] See Rawls 1999a, pp. 140-148.

The notion of weak autonomy which presupposes a general view of human agents as causes of events, is probably universal enough that it will be not completely foreign to any immigrant. I will assume that this conception is, so to speak, easily epistemically available even to people who have not been socialised in a well-ordered society. However, the associated requirements of treating others in a certain way due to their status as autonomous agents might not be as universally accepted. Even less so, of course, a more complex and specific conception of political autonomy which is closely linked to ideas of individual rights. Most important in the context of individual autonomy are those rights that secure an individual's position against unjustified demands of other agents – individuals as well as associations and the state. These rights (many of which are technically liberties, as discussed in Chapter 5) include personal freedom rights, e.g., freedom of religion and conscience, freedom of though and speech, or freedom of association. But rights connected to political autonomy also include political rights, such as equal rights and liberties to participate in the political process and a share in shaping the politics of their society. Immigrants from outlaw states or benevolent absolutisms are likely to be unfamiliar with having this range of rights, and therefore perhaps also with acknowledging these rights when it comes to their fellow citizens.

Political autonomy is something that children of native citizens need to learn about as well as children of immigrants. The implications of weak autonomy, such as the freedom to change one's ideas of the good life, might be in contrast something that is already more familiar to native children of a well-ordered society without additional support from educational institutions. Even native citizens' children from very religious or culturally segregated backgrounds will usually get enough information about the world outside the bubble of their own comprehensive doctrine to realise that these ideas are out there in the mainstream society and generally valued.[477] In contrast, immigrants with a different socio-cultural background in which the correspondence between the first moral power and autonomous agency is not as clearly formulated and/or valued, might find this view foreign. There is a distinct possibility that children of immigrants with this kind of

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[477] Highly segregated groups like the Old Order Amish in the U.S. might be a borderline case. Although the Amish are certainly citizens from a legal point of view, it occurs to me that from a principled political liberal perspective that relies on certain assumptions about political virtues and autonomy, the Amish might not count as full citizens – at least from a perspective of political morality.

background will lack an element of appreciation in their family environment, even if their parents want them to integrate in their new society. It is in these cases, that education of immigrant children should put additional emphasis on a weak conception of autonomy (see 4.3) that seems necessary for the first moral power (which is, in Rawls' view, one of the defining capacities of a citizen).

For these reasons, political liberal education might have to put some extra effort into education for weak autonomy – perhaps even more so as there might be tendencies for children of immigrants to search for sources of identity in the culture of their parents, leading to crucial misunderstandings and perhaps sometimes even to cultural or religious extremism. It seems therefore important for the political liberal state to provide some sort of bridges between the original culture of immigrants and the culture of the well-ordered society that allow immigrants

- on the one hand to keep valuable elements of their original culture as meaningful parts of their identity and a valuable context for autonomous choice[478] and

- on the other to feel comfortable enough with the culture of the host society not to regress into an extreme identification with their original culture and thereby increasing effects of social segregation.[479]

This means, though, that unlike education for native citizens' children, education for immigrant children has to place additional emphasis on the valuable aspects of their cultural heritage, as long as it is compatible with basic liberal principles. It needs to signal clearly that identification with culture and traditions of their parents is not only tolerated but supported as part of developing a capacity for various forms of autonomy. Education for autonomy might therefore require more resources in the case of immigrant children, for legitimate reasons.

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[478] For the relevance of culture as a context for autonomy see, e.g., Kymlicka 1995, Ch. 5, Quong 2006.

[479] See, e.g., Skrobanek 2009.

8.3.3 Rights

When it comes to their rights, the difference between immigrants and native citizens are most obvious – immigrants do not necessarily have the same rights as citizens, on a legal level as well as on a moral level. How exactly the set of rights of immigrants differ from the set of native citizens depends on many varying factors, depending on the particular society in question. From a legal perspective, immigrants in real-world societies usually lack a whole range of rights that citizens hold, such as the right to vote, at least for a certain time after they arrived in a country. These legal rights usually come by acquiring official citizenship, which might be open to immigrants after spending a certain amount of time in the country and satisfying some minimum conditions.[480] However, some rights, e.g., a right to life or freedom from torture, which are usually also taken to be human rights without binding to citizenship status, would apply to immigrants as well as soon as they enter the political liberal state.

How about moral rights? As many legal rights of citizens are counterparts of the rights defined by political morality, we might find something of an analogy here. We remember that the system of moral rights chosen in the original position is supposed to enable citizens to exercise their two moral powers (see 5.1). Assuming that immigrants also have these two moral powers, or at least the capacity for them, and that they intend to become fully functional members of their host society, it seems that political morality has to treat immigrants (at least legal ones) similar to native citizens. A delay in time, as, e.g., in the case of rights to participate in the political process as voter or political candidate might be justifiable, as it might take some time for immigrants to integrate into their new society. After a reasonable period of time, though, it seems to be legitimate requirement for a well-ordered society to assign the same rights and duties to immigrants that native citizens have. This means that immigrants as parents have prima facie similar privilege-rights to native citizens when it comes to their children's upbringing in their cultural and religious traditions, as long as these do not infringe more basic rights. At the same time, immigrant parents share the same responsibilities to represent their children as fiduciaries, as their

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[480] Examples are citizenship tests for foreigners to be passed in order to gain full citizenship, as, e.g., in Great Britain, Switzerland, or Denmark. This covers only legal immigrants. The moral status of illegal immigrants is certainly more complex and cannot be discussed here.

children will have claim-right to education just like the children of native citizens (see 5.3). They will also have the same liberties in the regard to a religious (or otherwise particular) education of their children as native citizens have (see also Chapter 6).

In the case of the children of immigrants it is possible, though, that the state can require additional educational measures to integrate children of immigrants, and perhaps also adult immigrants themselves, into the well-ordered society.[481] These extra requirements originate from the state's duty to provide a just distribution of resources as well as stability and continuity. In the case of immigrants, who are most likely less integrated into society than native citizens, an extra effort might have to be taken to enable them to benefit from the goods the political liberal society can offer, while at the same time help them to endorse the values of the overlapping consensus at its core. What integration means in more concrete terms and what kind of measures the political liberal state might take to foster the integration of immigrant children are the topic of the following section.

8.4 Integration

The integration of immigrants into a well-ordered society is important from a political liberal perspective. Just as the state can make claim-rights against its citizens, it can (and should, as we will see) make similar claims against immigrants. At the same time, the political liberal state must however also provide adequate opportunities for immigrants and their children to integrate. Part of these opportunities for integration are delivered via educational institutions.

The first reason why the political liberal state must care about integration is that it is supposed to provide stability and continuity. This means, among other things, also to focus on the education of immigrant children. Integration that aims at liberal stability requires

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[481] For the scope of this thesis, I will bracket the topic of adult education. Nevertheless, it seems to be a highly relevant topic for two reasons. First, the same reasons why the political liberal state would help the children of immigrants to integrate well into society hold for adults as well. Second, in case of young adult immigrants, integration measures will have an indirect effect on the children they might have later in their life, providing already a more "well-ordered" family environment and thus increasing the chances of a good integration of their children (see the following section).

these children to learn how to become members of a political liberal society, quite similar to native children. Therefore, their civic education will have to cover the points discussed in the previous sections: political virtues, autonomy, and civic rights. However, successful integration requires more than (political) assimilation from immigrants' children alone. It demands that native citizens and their children accept immigrants as new partners in the scheme of social cooperation they are already part of themselves.

The second reason for the importance of immigration lies in a just distribution of resources. Integration of immigrants might not be that relevant when providing material resources or money – the state could subsidise families of immigrants with some sort of basic income, for example. Nevertheless, immigrants could continue living in highly segregated areas with inferior access to public services and economic opportunities, goods which fall into the scope of distributive justice as well. "Soft" goods, like access to economic and social opportunities, are not easily provided by the state without a certain amount of integration, as they depend on to a significant degree on the reciprocity of citizens and their attitudes toward immigrants. The chances for children of immigrants, e.g., to find a suitable job often not only depends on their vocational education but also on their ability to socially interact in an accepted way with potential employers, as well as on employers' attitudes towards people with a migration background. Both factors can be positively influenced by a suitably integrative school education.

The remaining part of this section will explain in further detail the importance of integration for a political liberal society, taking into consideration the reasons given so far for why political liberalism must care about integration. It will not give an exhaustive answer to the question of how the integration of immigrant children should best be supported under realistic, albeit moderately idealised, political conditions. This would require much more time and space than is available in the context of this thesis, and an amount of professional competence in the field of education that I am lacking. However, I will attempt to provide a rough indication of what integrational education in a political liberal society ought to aim for.

For a start, it is important to acknowledge that integration into a new society happens on many levels, each of which poses different challenges for both immigrants and the state. For the following discussion about integration, a distinction between three different levels of integration made by David Miller will be helpful. Miller distinguishes between social,

civic, and cultural integration. *Social integration* involves patterns of behaviour in the regular every-day interaction with the members of society. *Civic integration* covers the understanding and adaptation to principles and norms that are essential for being a member of the relevant political community. *Cultural integration* is the most ambiguous of the three levels, which either can refer to shared values, shared experiences, a common religion, a common geographical heritage, or some other form of common cultural identity.[482]

For children of immigrants, education plays an important part in integration processes on all three levels, although not every level bears the same significance from a political liberal perspective. From the strictly Rawlsian political liberal perspective, civic integration seems to be what we should be most concerned with because this sort of integration covers the endorsement of political norms and development of political virtues as well as knowledge of and respect for political rights – the basic capacities for being a functional citizen according to Rawls' own minimal definition of civic education (see 2.3).

To a large extent, this sort of integration (of children) can be already delivered by the civic education discussed in the chapters before. The inculcation of political virtues and a knowledge about rights and duties of citizens in the well-ordered society is already an essential part of civic education for native children as well (see Chapters 3 and 5). To what degree children of immigrants would have an increased need for this kind of education due to the lack of political liberal basic attitudes at home in their family is a matter of concrete political and social circumstances and too specific for claims made from the philosopher's armchair. My impression is, however, that the part of political liberal education that aims at the generation of political virtues in future citizens and conveys basic political knowledge about political institutions, rights, obligations, etc., possibly contributes in a sufficient manner to the civic integration of immigrant's children.

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[482] See Miller 2016, pp. 132f. Miller thinks that only social and civic integration can be legitimately promoted by the state (or to some extent even required, mostly in regard to civic integration), but not cultural integration.

When it comes to social and cultural integration, it is not unlikely that Rawls himself would classify these types of integration mainly as a matter of the background culture of a society and not of the political sphere. That would be a misleading assumption, though. At least social integration is an important matter for the political liberal state, as to some extent even a cultural integration might be. When looking at actual societies, we can observe that failed social integration entails distributive injustice, without citizens and immigrants deliberately contributing to the lack of integrative success. Conditions with the potential to obstruct integration efforts are not always obviously unjust political systems and laws but can arise from factors which are seemingly unrelated to justice.

An example for the risks which come with a lack of social integration is the risk of spatial and socio-economical segregation. [483] While one does not necessarily imply the other, both kinds of segregation often appear together. One possible scenario starts with spatial segregation: in a society in which social integration is substantially lacking, immigrants might tend to concentrate in neighbourhoods where only few natives live, resulting in spatial segregation between immigrant and native communities. This spatial segregation subsequently perpetuates social segregation and usually also economic segregation. One of the reasons triggering spatial segregation might be a phenomenon which by itself is morally neutral – ingroup prejudice or ethnocentrism. These attitudes are not expressed as hostility towards other groups in society but rather result in preference for members of one's own group, where group membership can be defined by religion, race, heritage, education or other factors.[484] Native citizens might prefer the proximity of and social interaction with other native citizens, even while not holding any discriminatory attitudes toward immigrants. At the same time, immigrants might prefer the community with other immigrants who share their cultural background, traditions, and their language. So, even

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[483] See Anderson 2010, e.g., pp. 46f, 72f. Her focus is on the relation between black and white parts of the population in Northern American cities. However, similar patterns of spatial segregation of migrant population can be observed in Europe (see, e.g., Musterd, Winter 1998, Arbaci 2007, Tammaru et al. 2016). While the socio-economic details of the European cases differ from their U.S. counterparts and among each other, the broad normative sketch given in this chapter section applies to segregation in general, as long as it results in unjustifiable political and distributive inequality

[484] See Brewer 1999.

without any outright discrimination happening, even a well-ordered society can have segregated communities.[485]

The segregation of immigrant communities increases the risk of disadvantageous social, political, and economic effects. Access to employment for immigrants becomes harder, either due to the brute fact of spatial mismatch (suitable jobs are further away and require commuting that is costly in terms of time and money), or due to the lack of cultural and social capital that provides easier access to employment.[486] Insofar as segregation of immigrant communities also results in a deficit in language skills compared with native citizens, this also has a negative impact on immigrants' overall economic opportunities.[487] The distributive inequalities resulting from these conditions are hardly justifiable in a political liberal society.

Adequate political liberal education policies would need to counter these disadvantageous effects of segregation. One direct measure would most probably to provide adequate schools which are easily accessible from segregated communities, so having children attending school is neither too costly in terms of money or time. Alternatively, if schools are not readily available in these areas, the state would need to provide transport opportunities for children from segregated immigrant communities to available schools.[488]

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[485] To some degree, in-group prejudice will have an effect on citizens as well, of course. Members of religious communities might prefer people with similar religious convictions, for example. Nevertheless, at least as long as they are reasonable, in-group members share a common political culture, and at least to some extent a social background culture with their "out-group" fellow citizens, which is not the case for recent immigrants.

[486] See Anderson 2010, Ch. 2.

[487] See, e.g., Chiswick, Miller 2002.

[488] What measures would be effective in a given context is an empirical question beyond the means of this thesis and is likely to differ due to historical and current socio-political circumstances. To give an example: according to some empirical studies, transport might be only the second-to worst solution though. Research on 'desegregation busing' practices in the U.S. found various disadvantageous effects: mandatory busing in the U.S. caused resentment and lead to compensatory actions by its opponents, such as moving so different places and sending their children to different schools (see, e.g., Lord, Catau 1976). However, it might be argued that the problems with school transportation, especially in the U.S., might be

Perhaps this would even be the preferable way to proceed, as this would facilitate multi-cultural schooling – something that could help to foster integration and counter another array of disadvantageous effects of segregated immigrant communities.

Next to economic disadvantages, segregation of immigrants can also have a negative impact on social cohesion. Continued segregation can lead to the development of stereotyping and ethnocentric attribution errors that can turn into a threat to the aspired social cooperation between immigrant and native groups in society. Native citizens might develop a stereotypical perception of immigrants that is based on a lack of experience with their living conditions. They might (wrongly) attribute the poor socio-economic conditions of immigrants to generalised perceived character traits of immigrants rather than to segregation and institutional failures.[489] These psychological mechanisms are likely to have detrimental effects on the trust between native citizens and immigrant groups and will therefore make it more difficult to uphold a stable scheme of equality-based reciprocity and cooperation.[490] Citizens could be less willing to participate in just redistributive schemes, as they would doubt the legitimacy of immigrants' entitlements under such schemes.

To offer a remedy to these negative effects of segregation on social cohesion, political liberal education policies could promote ethnically diverse schools and classes, that facilitate interaction between immigrants' and native citizens' children. Details of such multicultural schooling attempts will depend much on the concrete circumstance, yet it

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grounded in a more pervasive underlying problem of racism (see, e.g., McConahay 1982, Orfield 1995). Aside from resistance from certain social groups, evidence suggests that having to use school transport might leave the students affected by this policy in a worse-off position. Students who used school transport tend, for example, to have a decreased feeling of belonging (Anderman 2002). This observation might fit in with the previously mentioned need to affirm the cultural heritage of immigrants (8.3.2), as the experience of bussing might convey an impression of displacement and *forced* integration. In short, even seemingly harmless topics like transport by school buses might offer a bundle of normative and administrative challenges that will have to be solved in the concrete contexts in which they occur.

[489] See Anderson 2010, p. 46. Similar psychological mechanisms can distort migrants' social perception as well. See Weber 1994 for the function of ethnocentric attribution in terms of protection and enhancement of the self-image of groups.

[490] See, e.g., Gibney 1999, Pevnick 2009 for the importance of trust for egalitarian welfare states.

seems safe to say that sending ethnically diverse children to the same school by itself will not achieve much. Empirical studies about interethnic contacts in school contexts show that actual multicultural education is important, as are overarching class and school identities that can bridge ethnical differences of students. Educational institutions must not only be open to a diversity of students, but also actively provide a framework in which children can develop tolerance and respect for various world views.[491] Basic requirements for such a framework are for example that

- schools provide sufficient opportunities for people to get to know each other,

- schools provide a context in which various ethnical groups have a similar social status,

- that this context is one of cooperation rather than of competition,

- and that the contact between ethnic groups is actively supported by teachers and school administration.[492]

Comprehensive literature on integration in schools exists which provides more specific guidelines, based on empirical data, most of which should also be adequate in the context of political liberal education.[493]

To some degree, political liberal education already satisfies the requirements of integration in schools due to its responsibility to contribute to the stability of a pluralist society, as the

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[491] See, e.g., Thijs, Verkuyten 2014 for a meta-study of the contemporary literature on this topic.

[492] See Allport 1954.

[493] See, e.g., Breton 1964, Angrist, Lang 2004, Mouw, Entwisle 2006, Hortas 2008, Kristen 2008, Crul, Holdaway 2009, Söderström, Uusitalo 2010, Alba et al. 2011, Alba, Holdaway 2013, ten Teije et al. 2013. What becomes clear from the literature about integration in schools is that the success of integrative measures varies by context. It depends on factors like the characteristics of the ethnic groups involved, but also on structural factors such as parent's familiarity with school system and the available choices of schools.

previous chapters have shown. However, greater efforts might be necessary in the case of immigrants who are not familiar yet with the core norms and values of a well-ordered society, or whose comprehensive views might differ relevantly from those of the well-ordered society.

Certainly, there will always be hard cases where it remains prima facie unclear whether immigrants would have to adapt to certain requirements or not. Sometimes there are good reasons not to insist on one or several aspects of integration although the demands the state could make would be justified. This could be due to historical circumstances or due to the fact that abandoning a particular set of socio-cultural attitudes would be an extraordinary burden for a particular group of immigrants.[494] A fine-grained discussion of those cases is beyond the aims of this section, but it would closely resemble the already active discussion of legal exemptions for adherents of various cultural and religious traditions.[495] Much of what has been said there would be relevant for discussions about immigration into a political liberal society as well.

What we have (likewise) seen so far is that the political liberal state has an obligation to care about social integration and to actively facilitate it by providing adequate infrastructure and education policies. This does not seem necessary and perhaps not even permissible when it comes to cultural integration, the last and most vaguely defined kind of integration discussed here. I generally agree with Miller that the state cannot make many demands in regard to cultural integration. From the political liberal perspective, there are at least two reasons not to interfere with issues of cultural integration.

First, there seem to be no aspects of cultural integration that are relevant from a perspective of political morality. Without question the political liberal state must require immigrants to adapt their attitude towards equality if their hereditary culture supports unequal treatment women, homosexuals, or particular cultural groups. However, I take these to be aspects of

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[494] This seems to be mainly a hypothetical consideration, as I do not have any real-life examples of such cases. Nevertheless, they are possible and therefore a potential challenge for the immigration policies of a well-ordered society.

[495] For various arguments for and against exemptions from laws grounded in cultural and religious traditions of citizens see, e.g., Kymlicka 1995, Barry 2001, Kymlicka 2001, Quong 2006, Billingham 2017.

social integration that must be targeted by integrative measures in the realm of education and in other areas. Beyond that, there is no justification for the state to require giving up, e.g., customs of diet, clothing, or entertainment determined by immigrants' culture. There seems no reason to require the political liberal state to interfere.

Second, in the absence of pressing reasons such as requirements of justice it looks very much as if it is impermissible for the political liberal state to interfere with the culture and traditions of immigrants. Just as the state is supposed to be neutral toward the conceptions of the good of its citizens, the same is supposed to be the case for immigrants who, or at least whose children, are supposed to become full citizens. Culture and traditions are the framework for immigrants' conceptions of the good which, if reasonable, provide a legitimate context for them to exercise their capacity for a conception of the good, i.e., to exercise their autonomy (see 8.3.2). It would be almost contradictory if the political liberal state, constructed to accommodate a society characterised by value pluralism, would deny immigrants who are supposed to integrate and become citizens themselves, the freedom of following their own (reasonable) conception of the good.

This has been only a rough sketch of how a well-ordered society ought to support integration through its educational institutions. Nevertheless, it has given plausible reasons to justify certain requirements of the state in regard to political and social aspects of integration. It also provided reasons for the state to provide adequate opportunities for immigrants to acquire the necessary skills, knowledge, and attitudes. Moreover, it became clear that the political liberal state cannot make any requirements on cultural integration, at least not when we understand the distinction between social and cultural integration in the sense Miller does and which I used in this discussion.

8.5 Conclusion

In Rawls' original vision of the realistic utopia there is no room, or so it appears, for immigrants. But even in a world mainly consisting of liberal democratic societies, people will migrate. More importantly, if political liberalism wants to be of any use as a guide for contemporary politics, it also needs to address contemporary political challenges, one of which is immigration and integration.

This chapter gave a brief account of the education and integration of immigrant children in a well-ordered society by making use of abstraction and moderate idealisation. I have explained the potential deficits in regard to political virtues, autonomy, and the knowledge of political rights and liberties that children of immigrants might have. Furthermore, I have argued that these deficits ought to be addressed by political liberal education in order to contribute to successful integration.

The dimension of integration that seems most important to focus on is the one of social integration. The requirements for civic integration are more or less covered by standard civic education, and cultural integration has only very limit relevance for the political liberal state. Major differences between immigrant and native children in a well-ordered society which are relevant from the perspective of stability as well as from the perspective of distributive justice, are mainly a matter of social integration. Here, political liberal education will have to implement additional strategies and spend additional resources to support long-term integration of immigrants into a liberal democratic society.

9 Conclusion

We have reached the end of this thesis. Let me therefore give a quick summary of its main findings and conclusions. I started with a preliminary assessment of how much Rawls himself writes about education in his various works and what aspects of his political theory presuppose a certain kind of education of citizens. Although the direct mentions of education that Rawls makes in his writings are few, relevant elements of his political liberal theory require a certain groundwork to be laid by education.

Part 1, the first of two major parts of the thesis, had a look at the relevant core concepts of political liberalism in an attempt to determine how and why these concepts are relevant for education. It also highlighted the possible implications of a commitment to the core concepts for a theory of political liberal education. In the chapters of Part 1 I have argued that the relation between political liberalism and education is not a one-way street. Central notions of political liberalism, such as virtues, autonomy, and rights need to be interpreted, perhaps even recast, in order to contribute in a useful way to a political liberal account of education.

In regard to political virtues I identified two problems, one of them internal to political liberal theory, the other one external. The internal problem results from grounding political virtues in the Aristotelian Principle, which can be understood as a comprehensive view that is not necessarily shared by all reasonable citizens. In addition, or alternatively, the Aristotelian Principle can be taken as a justification for perfectionist policies, something that political liberalism also should try to avoid. The external problem is connected to the idea that political virtues are stable character traits. This view on virtues is contestable in the light of empirical research that suggests that ethical behaviour of persons does not so much rely on character traits, but on context-dependent factors. A political liberal theory of education should have the resources to offer a response to this situationist challenge.

My proposed solution for both problems is to abandon the Aristotelian Principle and instead endorse a Humean conception of virtues, which is mainly agnostic about the motivational forces behind virtuous behaviour. It allows for character traits as well as for external motivations, such as social norms, to be the motivation for being a good citizen without making contestable claims about the exact psychological mechanisms involved.

This update provides political liberal education with a more naturalistic and at the same time less controversial account of political virtues than the one originally employed by Rawls.

My investigation into the role of autonomy in education also revealed a need for the revision of Rawls' claims about autonomy in political liberalism. Although political liberal education might focus mainly on the political autonomy of citizen, political autonomy depends on other, more basic conceptions of autonomy that are not merely political in the Rawlsian sense. This underlying conception of autonomy is one that is rooted in persons capacity for agency. Although not purely political, this underlying conception of autonomy is compatible with political liberalism's claim for neutrality, or so I have argued. It is a weak, procedural conception of autonomy which is so general that it is not part of any particular comprehensive doctrine but a necessary condition of the modern view of persons that is part of any liberal democratic political theory. Therefore, accepting it as a basic component of political autonomy does not threaten to shift political liberalism into a more comprehensive direction. Adopting the conception of weak autonomy allows us to make sense of teaching political autonomy as it develops from a more basic notion of autonomy.

Compared to the chapters about political virtues and autonomy, the assessment of the role of rights in the context of political liberal education is the least revisionary part. Instead of changing or adding to Rawls' theory, I merely traced Rawls' notion of rights (and their implications) in the context of political liberal education in an attempt to make it easier to determine what sort of obligations and rights the state, parents, and children have. For the purpose of this exercise, I rephrased relevant claims about rights and freedoms that can be found in *A Theory of Justice* and *Political Liberalism* in terms of a Hohfeldian scheme of rights and liberties.

Part 2, the second major part of the thesis, applied the findings from the first part to what can be called contemporary applied problems of liberal political theory. Religion, same-sex relations, and immigration provide test cases on which I demonstrated what a political liberal theory of education can say about less abstract challenges in political liberal education.

In regard to religion, I engaged with the claim that a truly neutral political liberal society would need to abolish public education due to reasons of fairness and personal liberty.

Although I objected to this strong claim and showed that this is not the case, the following discussion also revealed the limits of the opposite claim that private and religious schools are not permissible in a liberal egalitarian society. In this context, it turned out that political liberal education can be more permissive than many political liberals concede. A political liberal account of education does not need to prohibit private schools or religious schools in principle – although the prima facie permissibility of, say, private schooling might be limited or cancelled out by particular socio-political contexts, e.g., under circumstances where private religious schools would contribute to social polarisation.

The role of same-sex relations in education is examined as another real-life example in the next section of the thesis. From a political liberal view, same-sex relations need to be part of a sex education curriculum. I defended this position against claims that this position would ignore general human values as well as against the objection that including same-sex relations in the curriculum would be a promotion of a certain way of life, both claims made by natural law theorists. Rather, my position is that including same-sex relations in political liberal sex education means providing basic goods for future citizens of diverse sexual orientations.

Against the convention to consider the society of political liberalism as closed, in the final applied chapter of this thesis I argued that we need to modify this model if we want to get some useful guidelines for real politics. Looking at the question of how political liberal education could and ought to deal with immigration (albeit on a fairly abstract level), I showed that political liberalism has the resources to develop a meaningful position on this topic.

In discussing the different aspects of political liberalism and the various challenges of liberal education, I was (hopefully) able to provide the reader with a plausible account of political liberal education. While it certainly does not cover all possible questions on how a political liberal state should design its education policies, it provides guidelines and examples from which answers to further and more concrete questions can be derived. This was the main aim of this thesis.

Beyond this aim, I think this thesis has demonstrated something more. The modifications and amendments I proposed in the first part are not arbitrary but arose in response to

problems of a particular context of application, namely education. To facilitate a plausible political liberal account of education, political liberal theory seemed to require certain adaptations, at least that was my impression when starting the project, and this impression remains. Political liberalism is ideal political theory, supposed to generate abstract principles from which we can device more concrete rules and solutions for moral challenges. It strikes me as misguided, though, to take ideal political theory as it stands as an unalterable fixed point from which we must try to construct solutions for pluralistic societies. By proceeding in this way, we would arrive at inconsistent or simply unfeasible solutions for concrete political problems.

Instead, as the line of reasoning in this thesis suggests, we should aim for what we could call a special version of reflective equilibrium. Instead of taking all aspects of our theory for granted, we should try to match the abstract building blocks of our ideal theory with the restrictions and requirements of the more concrete fields of application. Sometimes we will find, as I did in the first part of this thesis, that there are good reasons to change parts of the theory to meet the demands of the application case.

This approach will not convince everyone. Those who think that political philosophy has to determine what is just or right, regardless of feasibility, will disagree with my view. However, it seems fair to assume that this is not the idea behind political liberalism. While Rawls clearly saw himself committed to ideal political theory, his work and the work of political liberals that followed him always aimed at something that is supposed to be a realistic utopia. If political liberals want to uphold their commitment to that realism, however remote, they will sometimes need to make changes to their theory, just as I did in the case of education.

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