Rawls’s Political Liberalism: Historicist Or Kantian?

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Rainer Forst views Rawls’s *Political Liberalism (PL)* as “a non-comprehensive Kantian moral-political theory,” arguing that the political conception of justice is justified using practical reason alone. In contrast, Burton Dreben holds that “Kant’s talk about practical reason is useless for understanding Rawls.” This thesis argues that Dreben’s reading fits better with the project of *PL*. Forst mistakenly treats political conceptions of justice as if they were categorical imperatives that independently determine the reasonableness of comprehensive doctrines, resulting in his overlooking an important feature of Rawls’s political constructivism that distinguishes it from Kant’s moral constructivism—the public justification of political conceptions of justice, given reasonable pluralism. Forst does not adequately take into account the ways in which fundamental ideas implicit in the public political culture of constitutional liberal democracies justify the political conception of justice.

INDEX WORDS: Rawls, *Political Liberalism*, Historicist interpretation, Kantian interpretation, Practical reason, Forst, Dreben
RAWLS’S POLITICAL LIBERALISM: HISTORICIST OR KANTIAN?

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To Bigger Bear
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Rawls’s _Political Liberalism_ has received a wide range of interpretations. Among them, historicist and Kantian interpretations seem to stand in stark contrast with each other. Rainer Forst’s Kantian interpretation presents Rawls’s _PL_ as “a non-comprehensive Kantian moral-political theory.”¹ In Forst’s account, practical reason plays a crucial role in _PL_. The political conception of justice is justified on the basis of practical reason alone and determines autonomously the reasonableness of all comprehensive doctrines.² Burton Dreben, in contrast, holds that “Kant’s talk about practical reason is useless for understanding Rawls.”³ Dreben argues that Rawls turned away from grounding his theory philosophically and instead relied on ideas implicit in public political culture. Accordingly, Dreben gives a historicist, rather than Kantian, reading of _PL_.⁴

This thesis acknowledges that there is textual support for both views. On the one hand, as shown in both Lecture III of _PL_ and “Themes in Kant’s Moral Philosophy,” Forst is right that Rawls’s political constructivism and Kant’s moral constructivism—as Rawls understands it—are structurally analogous. On the basis of this structural parallel, Forst puts forward the view that political conceptions of justice bind citizens categorically. On the other hand, Dreben’s interpretation is supported by Lecture I of _PL_, which stresses the importance of fundamental ideas in grounding the political conception of justice. On this view, fundamental ideas have the justificatory force they do, not because they are ideas of practical reason, but because they are

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² Ibid.
⁴ By “historicist,” we mean some notion of the absence of an absolute ground or foundation that is intended to contrast with the rationalism of the Kantian perspective. Arguably, historicism must make some reference to the dependence of values on world-views that shift over time. It is potentially compatible with both progressivism, as in Kant, Hegel, and J.S. Mill, so that we come closer to the truth, and with a stronger relativism, which sees only difference about which no absolutely independent judgment is possible. But in either case, historical change is a factor.
held in common by citizens of constitutional liberal democracies. One does not ground these ideas but sees where they lead.

The heart of the debate is whether the project of PL is to provide an \textit{a priori}, trans-historical justification of the political conception of justice – the Kantian interpretation – or whether the project prescinds from the question of whether such a justification is possible and, if so, what that justification is, leaving that question to the various comprehensive doctrines of modern society – the historicist interpretation. On the former interpretation, the project seeks a universally-valid grounding for the political conception of justice, while, on the latter interpretation, the project limits itself to providing a justification that proceeds within the framework of the basic values and ideas of the public political culture of modern democracy.

In “\textit{Political Liberalism: An Internal Critique},” Leif Wenar recognizes the tension between the Kantian and historicist readings of Rawls and points out that certain elements in PL are Kantian but that those elements are incompatible with Rawls’s larger project in PL. He concludes that from the perspective of that larger project they should be discarded. I agree with Wenar’s analysis and aim to show in this thesis that the historicist reading fits better with the project of PL. Forst mistakenly treats political conceptions of justice as if they were \textit{categorical imperatives} that independently determine the reasonableness of comprehensive doctrines. This mistake results in Forst’s overlooking an important feature of Rawls’s political constructivism that distinguishes it from Kant’s moral constructivism—namely, that Rawls seeks a \textit{public} justification of political conceptions of justice, \textit{given reasonable pluralism}. More specifically, Forst does not adequately take into account the various ways in which fundamental ideas implicit in the public political culture of constitutional liberal democracies \textit{justify} the political conception of justice. This thesis sides with Dreben in showing that Rawls’s conception of practical
reason—unlike Kant’s—is embedded in the political tradition of constitutional liberal democracies, ones characterized by reasonable pluralism.
2 THE HISTORICIST INTERPRETATION

There is strong textual evidence for the historicist interpretation. We must bear in mind that Rawls’s project in *PL* is motivated by his realization that political liberalism needs to apply “the principle of toleration to philosophy itself.”\(^5\) In contrast to what he had assumed in *A Theory of Justice*, in *PL* Rawls recognizes that the pluralism of modern democracies means that it is unwarranted to think that a well-ordered society must be made up entirely of persons who view themselves as Kantian agents subjecting themselves to laws that they themselves make using practical reason.\(^6\) According to Dreben, Rawls thinks that it is inevitable—in view of “the free exercise of human reason”—that rational and reasonable people will endorse different comprehensive doctrines.\(^7\) Only state oppression can enforce social unity on the basis of the comprehensive liberalism of Kant or any other liberal thinker.\(^8\) Conceptions of justice now have to be strictly political in the sense that they must stand free of any particular comprehensive doctrine.

On Dreben’s historicist reading, a strictly political conception restricts itself to “reasonable” political values “implicit” in the public culture of modern democratic societies.\(^9\)

More specifically, such conceptions “can be worked out from fundamental ideas seen as implicit

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\(^7\) Dreben, "On Rawls and Political Liberalism," 318.


\(^9\) In Forst’s own words: “The theory had to move away from the ground of comprehensive doctrines of this [Kantian] kind and confine itself to “political” conceptions and values that appeared “reasonable” from and “implicit” (*PL*, 13) in the public culture of a democratic modern society.” See Forst, "Political Liberalism: A Kantian View," 124 (my emphasis). It is arguably too strong to use the words “restrict” or “confine.” We look to the public, political culture for political values, but it remains an open question as to whether Rawls allows the use of political values not found in the public, political culture, or even the use of non-political values in grounding the conception of justice, and, if so, to what extent.
in the public political culture of a constitutional [liberal] regime.”

Rawls’s point, as Dreben sees it, is not to argue about whether constitutional liberal democracy is required by practical reason, but to see what such a democracy entails. As Rawls puts it: “In a democratic society [and always you must read that as constitutional liberal democratic society - BD] there is a tradition of democratic thought, the content of which is at least familiar and intelligible to the educated common sense of citizens generally. Society’s main institutions, and their accepted forms of interpretation, are seen as a fund of implicitly shared ideas and principles.”

Accordingly, Dreben writes that this “fund of implicitly shared ideas and principles” is the starting point. One need not argue for, nor ground it but see where it leads.

The aim is thus to work out from “easily agreed upon concepts”—such as that of society as a system of fair cooperation and of citizens as free and equal persons—to “particular detailed conceptions.” This “working out” allows principles of justice to be derived from these concepts. The principles help guide adjudication between “claims arising from each individual’s freedom and claims arising from the demand for equality among individuals”—which are almost always in conflict in liberal societies.

As Dreben points out, Rawls further specifies that reasonable political conceptions not only include but also prioritize “a list of certain basic rights, liberties, and opportunities (such as those familiar from constitutional regimes).” In addition, such conceptions guarantee

“measures ensuring for all citizens adequate all-purpose means to make effective use of their

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14 Ibid., 330.
15 Ibid., 334.
Dreben would deny that these requirements follow from Kantian principles and ideas of practical reason. He regards Kantian practical reason as “useless for understanding Rawls.”\textsuperscript{18} Given that Rawls at times uses the term “practical reason,” it is unfortunate from Dreben’s perspective that Rawls \textit{appears} to ground this notion of “public reason” in Kantian practical reason. But all Rawls is in fact saying, on Dreben’s interpretation, is that reasoning that guides human conduct can and should enter the political public sphere.\textsuperscript{19}

Moreover, it is clear that public reason, for Rawls, is not rooted in Kant’s transcendental idealism but in the political tradition of constitutional liberal societies. As Rawls puts it: “Political philosophy does not, as some have thought, withdraw from society and the world. Nor does it claim to discover what is true by its own distinctive methods of reason apart from any tradition of political thought and practice.”\textsuperscript{20} This seems to suggest that Rawlsian practical reason—unlike Kant’s—is embedded in the political tradition of constitutional liberal democracies. This will be explored in greater depth in the subsequent sections of this thesis.

Along with the fact of “reasonable pluralism,” there is also what Dreben calls “the fact of liberal pluralism.”\textsuperscript{21} Just as it is unreasonable to expect citizens to endorse the same comprehensive doctrine, it is unreasonable to expect them to agree upon the same political conception of justice, precisely because reasonable people disagree. Justice-as-fairness now belongs to a family of reasonable political conceptions, though it was previously regarded as part of a comprehensive doctrine.\textsuperscript{22}

\textsuperscript{17} Ibid.
\textsuperscript{18} Dreben, "On Rawls and Political Liberalism," 340.
\textsuperscript{19} Ibid.
\textsuperscript{20} Rawls, \textit{Political Liberalism}, 45.
\textsuperscript{22} Ibid. Rawls specifies the principles of each member of the family as follows: “the first [principle] enumerates basic rights and liberties of the kind familiar from a constitutional regime,” “the second [principle] assigns these rights, liberties, and opportunities a special priority, especially with respect to the claims of the general good and perfectionism values; and,” “the third assures for all citizens the requisite primary goods to enable them to make
Textual support for the historicist reading can also be found in the series of papers that laid the groundwork for *Political Liberalism*. Those papers contain additional clarifications of Rawls’s move away from grounding the conception of justice in a comprehensive moral theory. In “Kantian Constructivism in Moral Theory,” Rawls had already asserted that “What justifies a conception of justice is not its being true to an order antecedent to and given to us, but its congruence with our deeper understanding of ourselves and our aspirations, and our realization that, *given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us.*” Yet, in that paper, Rawls’s move to a political conception was still incomplete, because he regarded justice as fairness as “an illustration of Kantian constructivism in moral theory.” But subsequently, in “Justice as Fairness: Political not Metaphysical,” Rawls claims that “as a practical political matter no general moral conception [such as utilitarianism or Kantianism] can provide a publicly recognized basis for a conception of justice in a modern democratic state.” The basic intuitive idea here is that justice as fairness “starts from within a certain political tradition.” Thus, Rawls shows that he does not intend to use Kantian comprehensive moral theory as the legitimating basis for justice as fairness, because, in his view, it is unrealistic and unreasonable to expect citizens living in modern constitutional democracies to adopt Kant’s comprehensive doctrine as their own.

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24 Ibid., 322.


26 Ibid.
3 THE KANTIAN INTERPRETATION

3.1 Textual Evidence

Forst rejects the historicist line of interpretation for the following reasons. First, Forst denies that Rawls’s claim that the political conception relies on “fundamental ideas seen as implicit in the public political culture of a democratic society” supports the historicist reading. According to Forst, Rawls does not say that these ideas guide current practice or “are widely shared in contemporary democratic societies.” Rawls also never says that the theory of justice uses these ideas because they are widely shared or practised. Forst interprets Rawls as saying that “there are ideas implicit in a democratic society if this society can justifiably claim to be democratic at all…[S]ome hard work of abstraction is required to arrive at these ideas, which are presented as ideas of practical reason.” In other words, certain ideas are present in the public, political culture of liberal democratic states, but those ideas need to undergo “the hard work of abstraction” in order to have justificatory force for political conceptions of justice. Additionally, it is not because they are part of the public, political culture that they have justificatory force even in their suitably abstract form.

Forst clarifies his interpretation of PL by explaining that “as much as Rawls distanced himself from a presentation of his theory in terms of a comprehensive Kantian moral doctrine, we ought to read it as a noncomprehensive Kantian moral-political theory.” In other words, PL did mark a turn away from Kant, but this turn was deliberately incomplete. Rawls’s project, according to Forst, was to “develop a freestanding conception of justice that is justified on the

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29 Ibid.
30 Ibid., 123.
basis of—noncomprehensive—principles and ideas of practical reason alone.”  

Forst stresses two crucial features of Rawls’s political conception of justice. First, it is independent of comprehensive doctrines. Second, it has normative priority over these doctrines. The second feature in particular marks the Kantian aspect of Rawls’s political conception of justice.

The correct model of justification, Forst posits, is as follows. The freestanding conception of justice is constructed on the basis of principles and ideas of practical reason—their own construction is practical reason. Important examples of ideas of practical reason include the idea of persons as free and equal and the idea of society as a system of fair cooperation. The procedure of this construction is the argument from the original position, which is not itself constructed but presented or “laaid out.”  

The main idea of Rawlsian constructivism is “to establish a procedure of construction based on practical reason to generate justifiable norms…that no reasonable person can deny.” The freestanding conception of justice—with its own notion of reasonableness—determines autonomously whether a certain comprehensive doctrine is reasonable. Comprehensive doctrines are reasonable if they share “the independently defined and grounded essentials” of the political conception. Forst thereby treats the political conception as if it were a categorical imperative, a test on the basis of which alone the reasonableness of any doctrine can be determined. On his view, only independently-grounded political conceptions “can generate the normative force to determine which of the comprehensive doctrines is reasonable and which is not; it is the umpire on these questions, the only authority there can be.”

31 Ibid (emphasis mine).
32 Rawls, Political Liberalism, 103.
33 Forst, “Political Liberalism: A Kantian View,” 129.
34 Ibid., 125.
35 Ibid., 128 (emphasis mine).
To be clear, Forst takes the key notion of the reasonable to be *reciprocity of justification*, which means that reasons for adopting certain principles of justice governing the basic structure have to be mutually justifiable—using only practical, public reason—among citizens viewed as free and equal, regardless of their comprehensive doctrines. Political conceptions of justice resulting from the Rawlsian constructivism just outlined above clearly seem reasonable in the sense of satisfying the condition of “reciprocity of justification” and so, according to Forst, are justified on the basis of practical reason.

There appears to be textual support for Forst’s view. In *PL*, Rawls posits that the political conception “may be represented as the outcome of a procedure of construction” that is “based essentially on practical reason.” Furthermore, Rawls says that “the constructivist conjecture is that the correct model of practical reason as a whole will give the correct principles of justice on due reflection…Once reflective equilibrium is reached…the procedure of construction now correctly models the principles of practical reason in union with the appropriate conceptions of society and person,” which themselves are ideas of practical reason. These quotes from *PL* seem to vindicate Forst’s interpretation that the justification of the political conception primarily depends on a correct model of practical reason.

There is also textual support for Forst’s central claim that the structures of Rawls’s political constructivism and Kant’s moral constructivism are identical. Just as the categorical imperative is derived independently of and prior to doctrines of value, the political conception is grounded independently of and takes priority over comprehensive doctrines. Lecture III of *PL*

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37 Ibid., 96.
39 Ibid., 128. Rawls’s “Themes in Kant’s moral philosophy” seems to support this reading to some extent: “We might say: a moral conception is not to revolve around the good as an independent object, but around a conception of the right as constructed by our pure practical reason into which any permissible good must fit.” See John Rawls,
and Rawls’s “Themes in Kant’s Moral Philosophy” do show that Rawls’s political constructivism (the original position procedure) and Kant’s moral constructivism (the “categorical imperative procedure” or “CI-procedure”) share certain similarities. Of course, Kant never used the phrase “CI-procedure.” The “CI-procedure” is Rawls’s gloss on Kant’s understanding of how the categorical imperative is to be applied to determine our moral duties.

Forst explains some of the similarities between the two procedures. First, what Rawls calls the “limits on information” embedded in the CI-procedure do resemble the veil of ignorance—a crucial feature of the original position. The first limitation prevents us from knowing our own particular features, including our ends and desires. The second limitation dictates that when we reason about whether we can will that our maxim be adopted, we must do so “as if we do not know which place we may have in that world.”

Second, just as pure practical reason constrains and subordinates empirical practical reason absolutely, the rational choice of parties in the original position are subject to reasonable constraints. Third, Kant’s moral constructivism constructs the total set of categorical imperatives, while Rawls’s political constructivism constructs a political conception of justice; yet both the CI-procedure and the original position are themselves not constructed, but “simply laid-out.” Fourth, the CI-procedure takes as its basis the “conception of free and equal persons as reasonable and rational” and the conception of society as made up of such persons, each regarded as “a legislative member of a realm of ends.” These conceptions are neither constructed nor laid out. We elicit them “from our moral experience,” from working through the

"Themes in Kant's Moral Philosophy," in Kant’s Transcendental Deductions: The Three "Critiques" and the "Opus postumum", ed. Eckart Förster (Stanford, CA: Stanford University Press, 1989), 93. This quote seems to imply that “the conception of the right” or the categorical imperative derived from pure practical reason takes precedence over various conceptions of the good.

40 Rawls, "Themes in Kant's Moral Philosophy," 86.
41 Ibid., 87. Also Forst, “Political Liberalism: A Kantian View,” 130.
42 Rawls, Political Liberalism, 103; Rawls, "Themes in Kant's Moral Philosophy," 98.
CI-procedure, and from applying the moral law to our actions.\textsuperscript{44} In other words, these Kantian conceptions are embedded in the CI-procedure. In the same way, the “Rawlsian” ideas of persons as free and equal and of a well-ordered society made up of these persons are embedded in Rawls’s constructivist procedure.\textsuperscript{45}

However, there are also differences between the two forms of constructivism that Forst does not mention. The fourth similarity in particular points us to an obvious distinction between Kant’s moral constructivism and Rawls’s political constructivism: Rawls does not characterize persons as legislative members “of a realm of ends.”\textsuperscript{46} The realm of ends, for Kant, is the metaphysical conception of a realm of beings who have noumenal free will and so possess unconditional value and are never to be treated merely as means but always as ends. Rawls wants his political construction to have nothing to do with Kant’s transcendental idealism.\textsuperscript{47} He also regards Kant’s doctrine as a comprehensive liberalism, from which the construction of the political conception of justice must remain independent.\textsuperscript{48}

As Rawls puts it, Kant’s moral constructivism goes deeper than political.\textsuperscript{49} While the CI-procedure and the original position aim at specifying the content of the moral law and determining the content of the principles of justice, respectively, there remains a crucial difference.\textsuperscript{50} The categorical imperative applies to rational and reasonable persons in their interpersonal interactions; in other words, it extends to all of life. In contrast, the political conception of justice applies only to the basic structure of society, though this society is understood to comprise reasonable and rational people.

\textsuperscript{44} Ibid.
\textsuperscript{45} Rawls, \textit{Political Liberalism}, 103.
\textsuperscript{46} Rawls, “Themes in Kant's Moral Philosophy,” 99.
\textsuperscript{47} Rawls, \textit{Political Liberalism}, 99–100. Of course it remains debatable whether Rawls successfully presents a non-metaphysical interpretation of Kant’s theory in his constructivism.
\textsuperscript{49} Ibid.
\textsuperscript{50} Rawls, “Themes in Kant's Moral Philosophy,” 82.
As I will argue, despite its enjoying some textual support, the Kantian interpretation does not fit well with the project of PL in its entirety. In fact, the tension between the two interpretations shows how Rawls struggles to find the appropriate framework for his project. More importantly, the political conception that follows from the constructivist procedure does not determine the reasonableness of the doctrines autonomously. This is Forst’s own conjecture and it is not textually supported by PL.

3.2 Problems

What should we make of the similarities and differences between Rawls’s political constructivism and Kant’s moral constructivism discussed thus far? It is important to emphasize that Rawls’s account of Kant’s moral constructivism is an interpretation of the first formulation of the categorical imperative as Rawls understands it. I am not concerned with adjudicating whether Rawls has the best interpretation of Kant’s moral theory, or whether Rawls’s account stays true to what Kant himself has to say. For our purposes, knowing the structural similarities between Kant’s moral constructivism and Rawls’s political constructivism help us understand the latter as a procedure inspired by the CI-procedure as Rawls interprets it. However, these similarities do not advance Rawls’s argument in any substantive way. In fact, Rawls’s political constructivism can be read independently of Kant’s moral constructivism.

More importantly, and partly because Forst focuses too much on the structural similarities between the two models without paying careful attention to their differences, he treats the political conception of justice as if it were a categorical imperative. For instance, he

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52 In fact, Rawls cautions readers concerning his interpretation: “In characterizing human persons I have used the phrase ‘reasonable and rational.’ The intention here is to mark the fact that Kant uses verminstig to express a full-bodied conception that covers the terms ‘reasonable’ and ‘rational’ as we often use them…It’s a deep question (which I leave aside) whether Kant’s conception of reason includes far more than reason.” See Rawls, "Themes in Kant's Moral Philosophy," 87.
says: “The independence of the political conception from comprehensive doctrines does not weaken but instead strengthens its foundations because reason is autonomous (‘self-originating and self-authenticating’…) and does not need any other normative source to bind moral persons—categorically, we may add, because no other comprehensive system of value can justifiably trump the normativity of reason and its constructions.”

The Kantian interpretation purports to distinguish in a non-question begging way the reasonable from the unreasonable comprehensive doctrines, but its success is questionable. Pure practical reason in the form of the principle of reciprocity shows us, in Forst’s view, that doctrines that reject the fundamental ideas from the political culture are unreasonable and so do not need to be “tolerated” by a political conception. Forst’s principle of reciprocity does not, by itself, amount to a comprehensive doctrine. But the problem is that it cannot do the work to which he puts it—grounding the fundamental ideas—without introducing contestable philosophical claims of the sort from which PL prescinds as part of applying the principle of toleration to philosophy.


[54] Those doctrines would, of course, deny that they are unreasonable in the sense of being contrary to practical reason.
4 RAWLSIAN VERSUS KANTIAN CONSTRUCTIVISM

In assessing the differences between Forst and Dreben, it is important to recognize that Forst is not interpreting Rawls as relying on the whole of Kant’s distinctive account of practical reason in his political constructivism. In a letter to his editor, Rawls regards his use of the Kantian language in PL as a serious error that caused readers to mistake his view for Kant’s, and Forst is aware of this. So he might agree with Dreben that Kant’s idea of practical reason is useless for understanding Rawls.

Nonetheless, Forst views the structures of Rawls’s political constructivism and Kant’s moral constructivism as analogous in a way that does conflict with a historicist reading of Rawls. Forst, just as in Kant, the categorical imperative is derived from practical reason independently of and prior to doctrines of value and entails a priori, substantive demands on conduct, the political conception is, in Rawls, grounded by practical reason in a way that is independently of and takes priority over comprehensive doctrines and entails a priori, substantive demands on social and political arrangements. As we have seen, Forst writes, “The independence of the political conception from comprehensive doctrines…strengthens its foundations because reason is autonomous (‘self-originating and self-authenticating’)…and does not need any other normative source to bind moral persons—categorically, we may add, because no other comprehensive system of value can justifiably trump the normativity of reason and its constructions.” Thus, he treats the idea of reasonableness in Rawls’s political conception of justice as if it were a categorical imperative on whose basis one can rest an a priori argument of

55 Rawls’s goal was to get rid of this sort of confusion in the revised edition of PL. See Rawls, Political Liberalism, 438. Also see Forst, “Political Liberalism: A Kantian View,” 125n7.
practical reason against values that are in conflict with the fundamental ideas embedded in the public culture of modern constitutional democracy.

By contrast, the historicist reading of Rawls rejects the idea that PL relies on any such “Kant-like” conception of practical reason and leaves outside of the political conception the justification of the values of modern liberal democracy. The justification of those values is exclusively the work of the various comprehensive doctrines found in modern societies, and a political conception does not address the matter of whether there is some a priori refutation of comprehensive doctrines that reject the basic values of liberal democracy.

Forst’s central point seems to be that the anti-historicist account of the project is the correct one, because it enables us to distinguish, among the various comprehensive doctrines, the reasonable ones from the unreasonable ones, while the historicist account lacks the resources for deciding in a non-question begging way that certain comprehensive doctrines found in modern society are unreasonable and so do not need to be “tolerated” by a political conception. Pure practical reason in the form of the principle of reciprocity shows us, in Forst’s view, that doctrines that reject the fundamental ideas from the political culture are unreasonable.

A historicist reading, in contrast, does not see Rawls as trying to construct a justification that can show, in a non-question-begging way, that certain doctrines are contrary to reason. The project is to elucidate the idea of the reasonable from the perspective of the fundamental ideas of modern political culture, not to justify that perspective as privileged by practical reason. Forst’s principle of reciprocity does not, by itself, amount to a comprehensive doctrine, but it cannot do the work to which he puts it—grounding the fundamental ideas—without introducing contestable philosophical claims of the sort that PL brackets as part of applying the principle of toleration to philosophy.
Contra Forst, and following the historicist approach, in the next section, I argue that Rawls’s political constructivism—unlike Kant’s moral constructivism—is not deontological in a strong Kantian way. The conception of justice it arrives at does not bind moral persons like a categorical imperative does. The picture of Rawlsian constructivism that Forst presents does not adequately explain how the principles of justice are justified in PL. Forst does not take into account an important difference between Rawls’s political constructivism and Kant’s moral constructivism, namely the fact that the former, unlike the latter, “aims at uncovering a public basis of justification on questions of political justice given the fact of reasonable pluralism.”\(^{58}\) It thus “proceeds from what is, or can be, held in common,” i.e. fundamental ideas found in the public political culture.\(^{59}\)

\(^{58}\) Rawls, *Political Liberalism*, 100 (emphasis mine).

\(^{59}\) Rawls, *Political Liberalism*, 100.
5 RAWLSIAN FUNDAMENTAL IDEAS AND THE PROJECT OF POLITICAL LIBERALISM

We should recall that the first lecture of PL is concerned with the fundamental ideas of Rawls’s theory. Rawls states that the first fundamental question of political liberalism is: “what is the most appropriate conception of justice for specifying fair terms of social cooperation between citizens regarded as free and equal, and as fully cooperating members of society over a complete life, from one generation to the next?”60

In trying to answer this question, Rawls—as Dreben rightly remarks—is aware that disputes over the best way to express or present the values of freedom and equality via a system of basic rights and liberties are ongoing. This is a conflict that Rawls believes has been internal to liberal democratic thought itself, between a Lockean line of thinking that prioritized “the liberties of the moderns” and a Rousseauian line of thinking that prioritized “the liberties of the ancients.”61 Justice as fairness is an example of a reasonable political conception of justice trying to adjudicate such internal conflicts.

In fact, in Rawls’s statement of the first fundamental question, one can identify various fundamental ideas, specifically: (i) society is to be a system of fair cooperation over time, and (ii) citizens are to be free and equal. As Rawls goes on to explicate these ideas in the first lecture of PL, he explains them in relation to justice as fairness as a political conception. For example, Rawls regards (i) as the “fundamental organizing idea of justice as fairness.”62 Other fundamental ideas are organized within this “master” idea. Insofar as political conceptions of justice other than justice-as-fairness constitute attempts to answer the first fundamental question, they are built upon these fundamental ideas.

60 Ibid., 3.
61 Ibid., 5.
62 Ibid., 15.
On Forst’s view, fundamental ideas such as (i) and (ii) are elements of pure practical reason. However, Forst’s conception of reason is a more ambitious one than can fit within the project of PL. He does not explain how those Rawlsian ideas of practical reason might be derived from more basic principles of practical reason, or whether he reads Rawls as treating those ideas as rock-bottom elements of practical reason. Either way, Forst is saddling Rawls with a formidable philosophical question, any answer to which is unlikely to receive wide assent in a free society.

The historicist interpretation avoids saddling Rawls with such a burden. On that interpretation, the ideas of persons as free and equal, and of society as a system of fair cooperation, have justificatory force not because they are ideas of practical reason, but because they are held in common by citizens of constitutional liberal democracies. The project of PL is understood to be that of justifying a liberal political conception of justice on the basis of ideas in the public political culture. Whether there is a deeper philosophical justification that derives from pure practical reason is a matter that the project does not address. That is why it is a historicist project, and why Forst’s efforts to read the project as a Kantian one that offers a transcendental justification in terms of practical reason do not work.

Proponents of the historicist interpretation might concede that the historicist account lacks the resources for deciding in a non-question begging way that certain comprehensive doctrines found in modern society are unreasonable and so do not need to be “tolerated” by a political conception. But it does not follow, however, that the historicist account is left without any means to declare certain comprehensive doctrines unreasonable. It is important to emphasize that Rawls does not offer a clear definition of unreasonable comprehensive doctrines. In fact, he deliberately defines reasonable doctrines in a loose way, to “avoid excluding doctrines as
unreasonable without strong grounds based on clear aspects of the reasonable itself.”⁶³ A reasonable comprehensive doctrine, for Rawls, is an exercise of both theoretical and practical reason and “normally belongs to, or draws upon, a tradition of thought and doctrine.”⁶⁴ This loose definition, according to him, would prevent his account from being “arbitrary and exclusive.”⁶⁵ Nonetheless, the historicist interpretation might determine that certain comprehensive doctrines are unreasonable because they directly contravene fundamental ideas implicit in public political culture which principles of justice are expected to conform to. For example, doctrines which refuse to respect certain groups of people or deprive them of basic liberties might be classified as unreasonable.⁶⁶ But this classification is made within the context of the background culture, not on the basis that these doctrines are contrary to Kantian practical reason in a non question-begging way.

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⁶³ Ibid., 59.
⁶⁴ Ibid. Wenar posits that Rawls’s definition of reasonable comprehensive doctrines is unsatisfactory as it fails to rule out unreasonable doctrines such as religious fundamentalism, “white supremacism, and rational egoism [which] are all exercises of theoretical and practical reason within a tradition of doctrine.” He argues that a fourth criterion should be included—the criterion that reasonable doctrines are those doctrines that reasonable people could endorse. Given the comprehensiveness of Rawls’s definition of “reasonable person,” Wenar thinks this concept “grounds the meanings of all of Rawls’s other ‘reasonable’ terms.” See Leif Wenar, ”Political Liberalism: An Internal Critique,” Ethics 106, no. 1 (October 1995): 36.
⁶⁵ Rawls, Political Liberalism, 59.
6 OBJECTIONS AND REPLIES

Against my argument, Forst might insist on the distinction between a comprehensive Kantian moral doctrine and “a non-comprehensive Kantian moral-political theory.”67 He might argue that Rawls does not expect liberal democratic societies to be societies made up of Kantians in the metaphysical sense. All Rawls means is that we ought to reason like Kantians, and this view can be put forward without reference to Kant’s transcendental idealism. We are morally obligated to abstract from our comprehensive doctrines in deciding on a suitable conception of justice. It is morally impermissible to adopt conceptions of justice on the ground that they advance our personal benefit or on other non-reciprocal grounds. “The realm of ends,” in other words, need not refer to the realm of noumenal agents or things in themselves.

Textual support for this line of interpretation can be found in Rawls’s discussion of Kant’s moral philosophy in Lectures in the History of Moral Philosophy, in which “the realm of ends” is referred to as “a social world—the moral constitution and regulation of which is specified by the totality of precepts that meet the test of the CI-procedure...not a social world that can be described prior to and independently of the concepts and principles of pure practical reason and the procedure by which they are applied.”68 This seems to suggest that “the realm of ends” can be conceived independently of Kant’s transcendental idealism. Rawls seems to view it as a moral ideal, one that “can be reasonably striven for (although never fully achieved).”69 Kant’s discussion of “the kingdom [realm] of ends” in the Groundwork likewise does not appear to evoke the notion of the realm of things in themselves. Kant views “the kingdom of ends” as “the systematic union of several rational beings through common laws,” arrived at via the CI-

69 Ibid.
procedure. Therefore it is at least conceivable that you and I could live in our very own “kingdom of ends,” one in which we decide for ourselves, via the categorical imperative, what the laws which apply to us are. We arrive at these laws on the sole basis of our capacity for practical reason, independently of our comprehensive doctrines. At the same time, Kant does argue that our status as ends (persons) depends on our free will, even if free will cannot be proven but only presupposed as a necessary condition of thinking of ourselves as agents. And even that kind of transcendental argument seems to be the kind of philosophical issue that Rawls aims to bracket in PL.

The point is that it remains debatable whether one can speak of “the realm of ends” without any reference to transcendental idealism, but this is the topic of another paper. At the very least we can acknowledge that Rawls might have, at some point in his intellectual career, tried to use a distilled version of Kantian constructivism—one free from all of its Kantian metaphysical baggage—as the basis of Political Liberalism. The success of this attempt is of course questionable, but one can see the last vestiges of it in PL. Wenar, for example, was critical of Rawls’s characterization of reasonable persons as people who “recognize the burdens of judgement.”

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71 In fact, we may doubt whether it is really possible to free the CI-procedure from all its Kantian metaphysical baggage. Robert M. Adams, for example, writes that “Kant's aspiration for the good will is in important ways religious... He indicates that he is looking for something that would be good without limitation, something unqualifiedly good. Will we find empirically, in ourselves or in our neighbors, any will that is good without limitation? Kant (plausibly enough) thinks not. The good will is therefore for Kant a transcendent object of aspiration, in the sense that it transcends any empirically available realization of it, though he does not think of it as transcending the human as such.” See Robert Merrihew Adams, "Introduction," in *Religion within the Boundaries of Mere Reason And Other Writings*, by Immanuel Kant, ed. Allen Wood and Georgia di Giovanni (Cambridge: Cambridge University Press, 1998), xiv. Adams acknowledges that his interpretation of what the good will demands is a more robust one than most scholars would accept. Nevertheless, if the good will were in fact religious (i.e. metaphysical), as Adams points out, the categorical imperative would unavoidably be religious. This is because having a good will, for Kant, means following the categorical imperative.

presentation of justice as fairness by adding” the requirement that reasonable persons recognize the burdens of judgment. In Wenar’s view, “[t]he burdens of judgment displace firm religious faith.”

By insisting on the recognition of the burdens of judgments, Rawls expresses his view of political values as trumping other values. It does not follow, however, that Rawls neutrally gives priority to “just any political values.” Rawls’s partially comprehensive doctrine, according to Wenar, reveals his commitment to the view that “the exercise of free human reason under free institutions is more important than the truth of any particular comprehensive doctrines reached by that exercise.” And this “free human reason,” Wenar stresses, is essentially Kantian, i.e. reason guided “by its own authority, in accordance with (here political) ideas and principles authenticated by reason itself.”

By embedding this partially comprehensive doctrine in the conception of justice, Rawls makes the latter incompatible with most recognizable comprehensive doctrines with the exception of a comprehensive Kantianism. Wenar regards Rawls’s aim of “reconciliation through the realization of Kantian political values” as a noble yet unachievable goal given reasonable pluralism.

Wenar thinks that the project of PL needs no more than a limited conception of reasonable persons with (i) the two moral powers—capacities for a sense of justice and a conception of the good—and (ii) who are ready to abide by fair terms of cooperation. This

73 Ibid., 57.
74 Ibid.
75 Ibid., 58 (emphasis mine).
76 Ibid., 58.
77 Ibid.
78 Ibid., 59.
79 Ibid., 60.
80 Ibid., 61.
conception, moreover, would allow justice as fairness to work as a political conception compatible with a wide range of comprehensive doctrines.

While Wenar does not address the conflict between the historicist and Kantian readings directly, he insists that a limited conception of reasonable persons—one free of any Kantian elements—fits better with the larger project of PL precisely because it avoids saddling the project with the Kantian metaphysical baggage associated with the comprehensive definition. Accordingly, Wenar’s view is more compatible with the historicist interpretation.

It seems, moreover, that as Rawls was writing PL, he realized or at least was in the process of realizing that it was no longer viable to put forward a watered-down version of Kantian constructivism to justify the political conception of justice, especially if he wanted to apply the principle of toleration to philosophy itself. Additionally, there is no textual evidence which supports viewing the principles of justice as universally valid principles that bind citizens categorically, in the way that Forst’s interpretation suggests. Rawls says that “the correct model of practical reason as a whole will give the correct principles of justice on due reflection.”81 But elsewhere in PL, Rawls specifies what he means by correctness and claims that “reasonableness is its [political constructivism] standard of correctness, and given its political aims, it need not go beyond that.”82 This fits well with the historicist reading.

While this shift away from Kant was gradual, it seems to have been completed by his “Reply to Habermas,” which, though written after PL, can be construed as reflecting Rawls’s clarified conception of the project of PL. In that reply, he attributes the validity of the principles of justice to actual citizens’ agreement on them, not to their unanimous endorsement of Kantian constructivism as the appropriate method of derivation and their affirmation that principles

81 Rawls, Political Liberalism, 96.
82 Ibid., 127.
resulting from Kantian constructivism are categorically binding. This does not rule out the possibility that *some* citizens might approve of the principles of justice on the basis that they are consistent with a Kantian comprehensive doctrine. But this is *not* the only way citizens can endorse the principles of justice. Rawls’s concern with actual citizens in a liberal democratic state instead of mere hypothetical citizens in a well-ordered society is evidenced by his insistence on the dialogical or even “omnilogical” point of view of the society for which the original position is designed. As Rawls puts it: “It is there [in the public sphere or civil society] that we as citizens discuss how justice as fairness is to be formulated, and whether this or that aspect of it seems acceptable—for example, whether the details of the set-up of the original position are properly laid out and whether the principles selected are to be endorsed.”83 This quote might show that Rawls favors the original position as the appropriate procedure of construction, but it in no way entails that the principles that follow from it enjoy absolute or universal validity. Moreover, in “The Idea of Public Reason Revisited,” Rawls made it clear that, although he thinks that the original position is a reasonable way to construct his principles of justice, “others will think that different ways to identify these principles are more reasonable.”84

7 CONCLUSION

The debate between Forst and Dreben certainly suggests that Rawls could have been clearer in presenting the framework and goals of his project in Political Liberalism. However, I have argued that the historicist reading fits better with the project. Though Forst is right to observe that the historicist reading leaves philosophically important questions about practical reason up in the air, he errs in treating the political conception of justice as if it had the status of Kant’s categorical imperative and could independently determine the reasonableness of the comprehensive doctrines in modern democratic societies. In so doing, Forst fails to take into account the crucial role fundamental ideas implicit in public political culture play in justifying the conception of justice. These fundamental ideas carry justificatory force, not because they are ideas of practical reason, but because they are held in common by citizens of constitutional liberal democracies. At the same time, the historicist reading does not provide us with the resources for determining on the basis of pure practical reason that certain doctrines are reasonable. But this is an unavoidable limitation of PL that one must concede.
REFERENCES


