

“Collectivizing Public Reason: Groups as Persons in Political Liberalism”

§1. Introduction

In John Rawls’s political liberalism, reasonable individuals in a constitutional democracy base their views of fundamental political matters on reasons they reasonably expect other reasonable individuals to accept. They thus exercise public reason. But these reasonable individuals are not the only actors whose views of such issues must be grounded within the bounds of public reason. Courts, legislatures, political parties, and other groups also deal with fundamental political issues. But of course, these groups consist of individuals. Can we therefore simply consider the demands of public reason satisfied when individual group members offer reasons they reasonably believe that others can accept? The answer is negative and shows why political liberalism should require groups, and not just their individual members, to ground their judgments in public reason. I show why this requirement adds to the attractiveness of Rawls’s theory, and how it follows from his view of certain groups as reasonable and rational persons.

But how can a group give reasons for its judgments of fundamental political issues? As Christian List and Philip Pettit show in their recent works on group agency, there is no simple answer to this question.¹ To make a reason-based judgment, you must judge on logically interconnected propositions that take the form of premises and a conclusion. But aggregating individual group members’ consistent judgments is no secure way of making a group’s

¹ I shall refer to several of List and Pettit’s works throughout this paper, but their most comprehensive account of group agency is Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford: Oxford University Press, 2011).

judgments consistent (see figure 1).² Making groups behave as persons requires an account of how they can reliably make consistent judgments based on their members' individual judgments. Rawls provides no such account. This paper therefore fills a gap in Rawls's theory by identifying a collective decision-making procedure that enables groups to reason as persons.

	<i>p</i>	<i>q</i>	<i>p or q</i>
Member 1	True	False	True
Member 2	False	True	True
Member 3	False	False	False
Majority	False	False	True

Figure 1. Three group members vote consistently on three interconnected propositions. But the majority judgments are inconsistent. If the group adopts the majority judgments as its judgments, it will fail to give a reason for why it judges the third proposition to be true.

The paper proceeds in three main parts. First, §2 considers the core elements of political liberalism with a focus on its account of group agency. It shows how Rawls thinks groups, as well as individuals, must appeal to public reason when they consider fundamental political matters. §3 looks at Rawls's collective decision-making procedure and its problems. Rawls realizes that public reason will rarely lead to unanimous agreement. And when people disagree, they must vote to make collective decisions. But the majority voting rule Rawls proposes will not enable groups to make consistent judgments of interconnected propositions. They can consequently not behave as persons giving reasons for their views of fundamental political matters. §4 provides a collective decision-making procedure that is compatible with political liberalism and reliably generates reason-based decisions. I conclude in §5 by highlighting the main findings of the paper.

² The term 'judgment' is more appropriate than 'preference' in this context, as the group members' voting should express their judgments of what is good for their group rather than their brute preferences. See Philip Pettit, "Deliberative Democracy and the Discursive Dilemma," *Philosophical Issues* 11, no. 1 (2001): 270-271.

§2. Rawls's political liberalism

2.1 The idea of public reason

I begin by exploring public reason and its output, namely a political conception of justice. To exercise public reason is to base judgments of fundamental political issues on reasons that all reasonable persons within a society can be expected to accept. Public reason defines the political behavior of reasonable persons engaging in political advocacy concerning questions of constitutional essentials and basic justice.³

Public reason produces a complete political conception of justice, which expresses the principles that govern the basic structure of a constitutional democracy. By the basic structure, Rawls means 'a society's main political, social, and economic institutions, and how they fit together into one unified system of social cooperation from one generation to the next'.⁴ The basic structure specifies how citizens are to think of themselves and their relationships with one another.⁵ It is, in short, society's main coordinator. State institutions operating in accordance with a political conception of justice satisfy political liberalism's fundamental liberal principle of legitimacy, which says that political power can only be exercised in accordance with constitutional essentials and principles of basic justice one can reasonably expect all reasonable citizens to accept.⁶

Constitutional essentials, Rawls explains, 'specify the general structure of government and the political process' and 'equal basic rights and liberties of citizenship that legislative majorities are to respect'.⁷ They form 'the general structure of government and the political process', and the 'equal basic rights and liberties of citizens' that the basic structure and the political process specify.⁸ Basic justice concerns distribution of goods and burdens, as well as

³ John Rawls, *Political Liberalism*, expanded ed. (New York, NY: Columbia University Press, 2005), 252-253.

⁴ *Ibid.*, 11.

⁵ *Ibid.*, 300.

⁶ *Ibid.*, 137.

⁷ *Ibid.*, 227.

⁸ *Ibid.*, 228.

giving everyone fair opportunities.⁹ Public reason leads reasonable persons to ‘a reasonable answer to all, or nearly all, questions involving constitutional essentials and matters of basic justice’, Rawls says.¹⁰

I take public reason to apply at three different levels. Since Rawls’s *Political Liberalism* largely discusses the motivations for reasonable citizens’ political behavior, public reason obviously leads (a) each *individual* to justifiable answers to fundamental political questions. But this paper shows how Rawls both does and should apply public reason also to (b) the level of certain *groups* in domestic society. He also thinks public reason applies to (c) the level of interacting *peoples*. The role of public reason is the same regarding fundamental matters in the cooperation between peoples, internationally, and citizens and certain groups, domestically. It ‘applies in one case as in the other’, Rawls says.¹¹ ‘Well-ordered peoples’, he explains, are ‘the actors in the Society of Peoples, just as citizens are the actors in domestic society’.¹² And Rawls goes on to say that ‘[a]s reasonable citizens in domestic society offer to cooperate on fair terms with other citizens, so [well-ordered] peoples offer fair terms of cooperation to other peoples’.¹³ This paper focuses on public reason at levels (b) and (c).

2.2 The political corporate person

This section sketches the central actor of political liberalism, the political person motivated by public reason. In his essay “Justice as Reciprocity,” Rawls says the term ‘person’ will often mean individual human being, but it ‘may refer to nations, provinces, business firms, churches, teams, and so on’.¹⁴ ‘[I]t will be ambiguous’, he says, whether he uses the term

⁹ Ibid., 229.

¹⁰ Ibid., 454.

¹¹ John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 18-19.

¹² Ibid., 23.

¹³ Ibid., 25.

¹⁴ John Rawls, “Justice as Reciprocity,” in *Collected Papers*, ed. Samuel Freeman (Cambridge, MA: Harvard University Press, 1999), 193-194.

‘person’ to refer to an individual or a corporate person.¹⁵ In this section, I show how Rawls’s political person can be thought of in this ambiguous way.

But first, I shall respond to a likely objection to my focus of corporate persons in Rawls’s theory. In the 550-page 2005 edition of *Political Liberalism*, Rawls mentions ‘corporate persons’ only a few of times.¹⁶ The political ideals he identifies ‘characterize the ideal of a good *citizen* of a democratic state’.¹⁷ And public reason applies especially, he says, to ‘the reasoning of legislators, executives (presidents, for example), and judges (especially those of a supreme court, if there is one)’, and to the ‘reasoning of candidates in political elections and of party leaders and others who work in their campaigns, as well as the reasoning of citizens when they vote on constitutional essentials and matters of basic justice’.¹⁸ Some may argue, then, that the political person should be strictly thought of as an individual, and that Rawls does not expect collective entities to exercise public reason.

But this objection is misguided. By executives, for example, it is not clear that Rawls only has individuals in mind. He may plausibly mean a cabinet or a president’s office. And legislators, judges, and party leaders can hardly reason without keeping in mind their groups’ decisions. We shall see in section 4.3 that individuals may act strategically in groups and express judgments that contradict their personal opinions in order to produce a desired collective outcome. And the willingness to cooperate that characterizes Rawls’s reasonable persons surely implies a concern with their group’s function that motivates individual reasoning.¹⁹ A well-ordered people must also be thought of as a person, which Rawls requires to act as a political person towards other peoples. A people must base its decisions concerning the basic structure of the Society of Peoples on public reasons.²⁰ In the Society of

¹⁵ Ibid., 194.

¹⁶ The term is not included in the index, but I have found it used three times, on pages 50, 107-108, and 111.

¹⁷ Rawls, *Political Liberalism*, 194-195. Emphasis added.

¹⁸ Ibid., 382.

¹⁹ Rawls, *Political Liberalism*, 49.

²⁰ Rawls, *The Law of Peoples*, especially part 1.

Peoples, well-ordered peoples are to propose to other peoples fundamental principles to govern their interaction for reasons they believe all affected peoples can accept.²¹ Clearly, then, Rawls does not just see individual persons as political persons.

List and Pettit distinguish between intrinsic and performative conceptions of personhood, and the idea of a group as a person is only compatible with the latter.²² And so is Rawls's political person. On an intrinsic conception, a person is defined by the biological matter it is made of, whereas the performative conception defines personhood in terms of behavior. Rawls defines political persons by their capacities for reasonable and rational behavior. They are responsible for, and ready to give reasons for, their behavior. Corporate and individual persons are clearly not both persons on the intrinsic conception, as they do not consist of the same material. It is in terms of performance it makes sense to say that they are different versions of the same.

Persons are 'conversable' to the extent that they offer reasons to justify their actions.²³ And they display integrity by making coherent judgments or decisions.²⁴ Rawls's political persons are conversable due to their reasonableness, which they express by being 'ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so'.²⁵ Reasonable persons thus satisfy what Rawls calls 'the criterion of reciprocity'.²⁶ They are motivated to work towards constitutional principles everyone can endorse.²⁷ And since they are rational, Rawls's persons also display integrity. Rationality, for Rawls, involves having the 'powers of judgment and deliberation in seeking ends and interests peculiarly its own', and to choose the means needed to reach these

²¹ Ibid., 56.

²² List and Pettit, *Group Agency*, 171.

²³ Christian List, "The Discursive Dilemma and Public Reason," *Ethics* 116, no. 2 (2006): 365-366.

²⁴ Ibid.

²⁵ Rawls, *Political Liberalism*, 49.

²⁶ Ibid., xlii.

²⁷ Ibid., xliv.

ends.²⁸ Groups can operate as conversable persons with integrity, though not without some difficulties, as I show in 3.2.

In a modern pluralistic society, individual persons live according to different comprehensive doctrines that express their moral, philosophical, and religious convictions. Public reason is based on the convictions that all reasonable comprehensive doctrines hold in common. These convictions form a set that Rawls calls ‘an overlapping consensus’, OC. Arguments concerning matters of constitutional essentials and basic justice must be grounded in OC. Principles grounded in OC can be endorsed by all reasonable persons but for different reasons. By requiring agreement only on fundamental principles, and not their underlying reasons, reasonable persons in a pluralist society can remain true to their comprehensive doctrines. We thus get what Rawls considers ‘the most reasonable basis’ for social unity.²⁹ A conception of justice based on OC is a political conception acceptable to all reasonable persons. Political power based on a political conception satisfies the liberal principle of legitimacy.

In a pluralistic society, it is both unnecessary and undesirable that reasonable persons hold the same reasons for their shared convictions.³⁰ It is unnecessary because what matters is people’s willingness to cooperate, not the reasons for their cooperativeness. And undesirable because the stability of the agreement rests on it being endorsed for a diversity of reasons. Demanding conformity on reasons will exclude otherwise cooperative citizens from political society, and consequently make OC narrower and society less stable.³¹

The members of a corporate person, however, must agree not only on judgments but also the underlying reasons for these judgments. Otherwise the corporate cannot give reasons for its judgments. The OC of a corporate person is therefore more demanding than the OC of

²⁸ Ibid., 54.

²⁹ Ibid., xlviii.

³⁰ Ibid., 364.

³¹ Ibid., 149.

reasonably pluralist society, as Rawls describes it. To judge that ‘*q*’ is true, the group members must agree on reasons for *q*, say, ‘*p*’ and ‘if *p* then *q*’. Only then can their group function as a conversable person ready to give reasons for its judgments of fundamental political issues. The group members need not, however, agree on deeper reasons, i.e. reasons for why they believe ‘*p*’ and ‘if *p* then *q*’. They must only share reasons for their collective judgments, and need not agree on the reasons for these reasons. We may therefore say that the OC of a corporate person lies one level deeper than the OC of a reasonably pluralist society.

§3. Collective decision making

3.1 Rawls’s majority voting

It is obvious, Rawls says, that ‘given the many obstacles to agreement in political judgment even among reasonable persons, we will not reach agreement all the time, or perhaps even much of the time’.³² Public reason will likely bring reasonable persons closer to agreement, but it will often fail to make them reach it.³³ It is part of being reasonable, Rawls says, to ‘know that in political life unanimity can rarely if ever be expected on a basic question, and so a democratic constitution must include procedures of majority or other plurality voting to reach decisions’.³⁴ ‘A vote can be held on a fundamental question as on any other’, in Rawls’s view.³⁵ So when reasonable persons disagree about a fundamental political question, they will all accept that their group’s response to this question is the judgment that gets the most votes. The sources of reasonable disagreements are what Rawls calls ‘the burdens of judgment’.³⁶ ‘[C]onflicts arising from the burdens of judgment exist and limit the extent of

³² Ibid., 118.

³³ Ibid.

³⁴ Ibid., 393.

³⁵ Ibid., 241.

³⁶ Ibid., 54-58.

possible agreement'.³⁷ Reasonable and rational persons make different judgments, and their reasonableness requires them to accept this fact.³⁸

Reasonable persons, Rawls says, 'recognize and accept the consequences of the burdens of judgment'.³⁹ And one such consequence is that a group must sometimes make decisions with which some of its reasonable members disagree. But the decision is still acceptable to all the members if it is generated by a procedure they all accept. Without unanimous agreement, Rawls says, 'some political rule of action must be laid down and all must be able to reasonably endorse the process by which a decision is reached'.⁴⁰

The outcome of the vote is legitimate insofar as individuals vote as political persons motivated by public reason.⁴¹ Rawls makes voting a public rather than private or personal matter by requiring citizens to justify their votes to one another by appealing to public reason.⁴² This process makes legitimate law, binding on the citizens, when exercised in a legislative assembly.⁴³ And we may expect it to produce legitimate outcomes also in other groups, such as cabinets and courts, as well as in peoples in the Society of Peoples. Voting thus enables a group to make judgments also when its members disagree. The group can consequently make judgments that some of its members disagree with. So if the majority believes that a proposition '*p*' is true, then a majority voting rule allows the group to adopt this views, even if some of its members deny that '*p*' is the case.

3.2 The discursive dilemma

Counting up votes is a reliable way of making a collective decision on a single issue. But for groups to behave as persons, they must also hold reasons for their decisions. Group members

³⁷ Ibid., 487.

³⁸ Ibid., 56.

³⁹ Ibid., 488.

⁴⁰ Ibid., 478.

⁴¹ Ibid., 479-480.

⁴² Ibid., 219. Rawls here appears to oppose secrecy in voting. By making the ideal assumption of everyone being reasonable and respectful towards one another, this view seems less problematic than it probably would be in the non-ideal world.

⁴³ Ibid., 480.

must therefore vote on a set of interconnected propositions, taking the form of premises and a conclusion, to provide their group with underlying reasons for its decisions. To judge the conclusive proposition, C , to be true, the group must also say why C is true by judging any number of propositions serving as premises for C . In this section, we shall see why voting on interconnected propositions may fail to provide a group with reasons for its decisions. The problem is expressed in the discursive dilemma, to which Rawls has no response. He offers no account of how voting can generate reason-based collective decisions, but he needs one in order to maintain the idea of political corporate persons. In this section, I show how the discursive dilemma occurs. I then, in §4, consider how political liberalism should respond to this aggregation problem.

The discursive dilemma shows that majority voting cannot reliably produce consistent judgments when the public agenda is non-simple.⁴⁴ The public agenda is the set of propositions to be voted on. It is simple if its propositions are not logically interconnected, and non-simple if the propositions are interconnected, say, as premises and a conclusion. A compound proposition with a logical connective, such as \neg (not), \wedge (and), \vee (or), \rightarrow (implies), or \leftrightarrow (if and only if), ties together the propositions on a non-simple agenda. The compound proposition ' $p \wedge q$ ' ties together the atomic propositions ' p ' and ' q ', ' $p \rightarrow q$ ' links ' p ' to ' q ', and so on.

The discursive dilemma shows how voting over a non-simple public agenda is no sure way of making logically consistent collective judgments, even if the judgments of each individual group member are consistent. I shall henceforth refer to an individual group member's set of judgments as a profile. Aggregating consistent profiles may lead to the impossibility result of the group endorsing premises that necessarily lead to a conclusion it

⁴⁴ List, "The Discursive Dilemma and Public Reason," 375. The discursive dilemma may also occur under other voting procedures, as shown in Christian List and Philip Pettit, "Aggregating Sets of Judgments," *Economics and Philosophy* 18, no. 1 (2002): 89-110. However, I shall only focus on majority voting because this is the procedure Rawls turns to when reasonable persons disagree.

rejects.⁴⁵ Pettit, who gave the problem its name, calls it ‘discursive’ because it involves individuals coming together to make a collective judgment.⁴⁶ And it is a dilemma because the group members must choose between either being responsive to individual profiles or being collectively rational, in which case the group is not responsive to individual profiles.⁴⁷ Consider figure 2. By adopting the majority judgments of propositions ‘ p ’ and ‘ $p \rightarrow q$ ’, the group may go against the majority by inferring that ‘ q ’ is true. Alternatively, the group can adopt the majority’s judgment of ‘ q ’, but that forces it to reject the majority view of one, or both, of the first two propositions.

	p	$p \rightarrow q$	q
Player 1	True	True	True
Player 2	True	False	False
Player 3	False	True	False
Majority	True	True	False

Figure 2. A group makes inconsistent judgments of three interconnected propositions.

The discursive dilemma implies that for groups to function as persons making robustly consistent judgments, they need a capacity to adopt judgments only a minority of their members supports. In certain cases, groups may even need to make judgments all its members reject.⁴⁸ At the micro-level, individuals behave rationally and feed consistent

⁴⁵ List and Pettit, “Aggregating Sets of Judgments,” 89-110.

⁴⁶ Pettit, “Deliberative Democracy and the Discursive Dilemma,” 272.

⁴⁷ Ibid.

⁴⁸ But I shall not focus on such cases here as they presuppose unequal treatment of group members, which conflicts with political liberalism’s view of people as free and equal. As I show below, an aggregation function in political liberalism must satisfy the condition of anonymity, which gives the group members’ attitudes equal weight in the collective decision-making procedure.

To give an example of how a group may need to endorse a proposition all its members reject, suppose a group is divided into two subgroups. Subgroup A has a special right, perhaps due to its members’ expertise on the matter, to decide the group’s judgment of one proposition, ‘ p ’. And subgroup B has a special right to decide on another proposition, ‘ $p \rightarrow q$ ’. A ’s judgment of ‘ $p \rightarrow q$ ’ is irrelevant, while B ’s judgment of ‘ p ’ is irrelevant. The members of A unanimously support ‘ p ’, while the members of B unanimously support ‘ $p \rightarrow q$ ’. But when the whole group ($A \wedge B$) vote on ‘ q ’, the group members unanimously reject ‘ q ’. If the group nonetheless infers that ‘ q ’ is the case because its members have voted in favor of ‘ p ’ and ‘ $p \rightarrow q$ ’, then it makes a decision all of its members reject. The result is presented in figure 3. In the third column (q), the group goes against both subgroups to achieve its consistency. This example is taken from Franz Dietrich and Christian List, “A Liberal Paradox for Judgment Aggregation,” *Social Choice and Welfare* 31, no. 1 (2007): 60.

	p	$p \rightarrow q$	q
Subgroup A	True	False	False
Subgroup B	False	True	False
Group	True	True	False True

judgments into the aggregation procedure. But at the macro-level, the group risks behaving irrationally if it relies strictly on the rational input from the individual group members, as we see in figure 2. We thus get a disconnection between individual and collective rationality. To function as reasonable and rational persons, groups need a capacity to self-correct and reinforce their own rationality when aggregating votes makes their judgments inconsistent. And such self-correction involves adopting views the majority rejects.

I shall only focus on a limited number of scenarios to which the dilemma might apply, but note that the problem is generalizable to any group of three or more members collectively making judgments of any number of premises connected to a conclusion.⁴⁹ To express the problem in terms more relevant for present purposes, we cannot generally expect an aggregation function to generate reason-based collective decisions.

The discursive dilemma might arise in any group governed by majority voting that Rawls expects to behave as a political person. To illustrate the problem, let us imagine one case based on an example in Rawls's *The Law of Peoples*.⁵⁰ Four liberal democratic states, the Netherlands, Belgium, France, and Germany, intend to form a single society.⁵¹ Let us suppose that the Euro has not been introduced, and that these four states discuss introducing a common currency for their union. In a referendum, the Belgian people votes in favor of the new currency, which it considers beneficial for all the four peoples.⁵² But when representatives from all the four states meet, the Belgians cannot give reasons for their people's public-reason-motivated decision.

Suppose that there are three Belgian representatives, each of whom representing one region, and that the citizens of the three regions have given reasons for their votes. The

Figure 3. A paradox in a case of subgroups allocated to decide the group's judgment of the different propositions. The group makes a judgment of the third proposition, 'q', that both subgroups reject.

⁴⁹ Pettit, "Deliberative Democracy and the Discursive Dilemma," 273.

⁵⁰ Another obvious example is the US Supreme Court giving reasons for judging something (un)constitutional.

⁵¹ Rawls, *The Law for Peoples*, 43.

⁵² I suppose here that one state means one people, but it is not clear that Rawls would think of these four states as four peoples. In Belgium, for example, the Dutch-speaking, French-speaking, and German-speaking parts of the population may perhaps be considered three different peoples.

representative of the first region says that the reason why her region voted in favor of the new currency was lower transactions costs within the union (R_1). And the majority of people in this region rejected improved inflation performance (R_2) and lower interest rates (R_3) as reasons for their decision. The representative for the second region, however, says that R_2 was the reason why his region voted for the currency, and that R_1 and R_3 were both rejected. And the third representative explains that her region favored the new currency because of R_3 , and that most people in her region rejected R_1 and R_2 . None of the reasons, then, is favored by a majority of the regions. But the regions unanimously support the conclusion that follows from any one of the three reasons. Figure 4 shows how the regions give reasons for their votes. The conclusive proposition, which is to introduce the new currency, C , needs support from just one of the reasons: ' $(R_1 \vee R_2 \vee R_3) \rightarrow C$ '. The Belgian people favors the new currency, but it cannot explain why because a majority rejects all the three reasons the regions give for supporting the currency. The Belgians thus fail to act as a conversable political person towards its three neighboring peoples.

	R_1	R_2	R_3	$(R_1 \vee R_2 \vee R_3) \rightarrow C$
Region 1	Yes	No	No	Yes
Region 2	No	Yes	No	Yes
Region 3	No	No	Yes	Yes
Majority	No	No	No	Yes

Figure 4. A people is unable to give a reason for its decision.

§4. Making groups function as persons

4.1 Searching for a procedure

This final part of the paper considers the extent to which different collective decision-making procedures are compatible with political liberalism. A procedure is justified, Rawls explains, if it is publicly recognized by individual persons as free and equal citizens, and if it ensures

social cooperation on fair terms.⁵³ And to enable groups to function as persons, the procedure must respond effectively to the discursive dilemma. After rejecting several procedures, I finally, in 4.3, arrive at a procedure that fits well within Rawls's theoretical framework.

In this section, 4.1, I first introduce four conditions, familiar from social choice theory, that it may seem reasonable to expect political liberalism's aggregation function to satisfy. I then show why this aggregation function should only meet three of these conditions, and weaken one, systematicity. Weakening systematicity is an important step towards finding an appropriate collective-decision making procedure for political liberalism, the search for which continues in section 4.2, before it ends successfully in 4.3. I end this section by showing how some procedures that do not weaken systematicity conflict with the criteria of political liberalism.

Enabling groups to behave as reasonable and rational persons, while treating their members as free and equal individuals, requires an aggregation function that satisfies the following three conditions:

Universal domain. The aggregation function admits as input any possible profile of individual attitudes towards the propositions on the agenda, assuming that individual attitudes are consistent and complete.

Collective rationality. The aggregation function produces as output consistent and complete group attitudes towards the propositions on the agenda.

Anonymity. All individuals' attitudes are given equal weight in determining the group attitudes. Formally, the aggregation function is invariant under permutations of any given profile of individual attitudes.⁵⁴

And to enable the group members to judge each proposition based on their own personal convictions, the aggregation function must also meet a fourth condition:

Systematicity. The group attitude on each proposition depends only on the individuals' attitudes towards it, not on their attitudes towards other propositions, and the pattern of dependence between individual and collective attitudes is the same for all propositions.⁵⁵

⁵³ Rawls, *Political Liberalism*, 16.

⁵⁴ List and Pettit, *Group Agency*, 49.

⁵⁵ *Ibid.*

Rawls's account of public reason clearly suggests that the aggregation function of reasoning groups must satisfy universal domain because respecting individuals as free and equal can only mean accepting all possible consistent profiles as valid input. The aggregation function must also satisfy collective rationality in order for the group to function as a person capable of making reason-based decisions. And since public reason is clearly a democratic ideal, it gives equal weight to each individual's vote. Its aggregation function must therefore satisfy anonymity. Systematicity may also seem important, as it allows the group members to vote freely on each proposition based on their own reasonable views.

But the discursive dilemma shows that no aggregation function can robustly satisfy all of these four conditions when the public agenda is non-simple. It must weaken at least one condition.⁵⁶ If group members can consider each proposition separately (systematicity), all votes are given equal weight (anonymity), and all consistent profiles are acceptable (universal domain), then we cannot expect collective rationality. To meet the collective rationality condition, we must weaken one of the other conditions. I shall argue that Rawls's aggregation function should weaken systematicity, which means that the group will not be robustly responsive to how the majority judges each of the propositions on the non-simple public agenda. So if the majority makes the inconsistent judgments ' p ', ' q ', and ' $\neg(p \wedge q)$ ', then the group may reject one of the propositions, say, ' $\neg(p \wedge q)$ ', and ensure collective rationality by adopting the view that ' $p \wedge q$ '.

By weakening systematicity, the supervenience relation, which turns individuals' judgments into a group judgment, is not proposition-wise. It is rather holistic, as it treats the public agenda as a whole rather than each of the propositions one by one.⁵⁷ Holistic supervenience enables the group to consider one proposition with concern for the implications a judgment has on its views of the other propositions on the public agenda. By

⁵⁶ Ibid., 50.

⁵⁷ Ibid., 64-72.

focusing on the whole agenda, the group will judge in favor of both ‘ p ’ and ‘ q ’ only if it also judges that the compound proposition ‘ $p \wedge q$ ’ is the case. Proposition-wise supervenience, on the other hand, treats the propositions one by one, which makes it vulnerable to making inconsistent judgments. Only holistic supervenience is consistent with robust group rationality, which is expected from corporate persons, but comes at the cost of reducing majority control over the group’s judgments.⁵⁸ As I show in 4.3, however, this is not a costly solution for political liberalism, as it enables the reasonable group members to display their desire to cooperate.

In the next two sections, I look for solutions to the problem of inconsistent judgments among procedures that weaken systematicity. In what remains of this section, I show why some procedures that satisfy systematicity are inappropriate for political liberalism. First, degenerate and undemocratic procedures, such as a dictatorship, enable a group to give reasons for its behavior, just like an individual person. Such procedures satisfy collective rationality, universal domain, and systematicity, but clearly violate anonymity by failing to respect individuals as free and equal persons.⁵⁹ So does any procedure that excludes the valid contributions of some individuals for whatever reason.⁶⁰ Any procedure that fails to respect the diversity of citizens, such as a procedure that allows everyone to vote but weighs the contributions of individuals proportional to their reliability, conflicts with political liberalism’s equal treatment of all reasonable persons.

Jürgen Habermas’s procedure is also inappropriate for political liberalism. Habermas idealizes the circumstances further than Rawls by not only assuming that people will be reasonable and rational, but also that their deliberation will lead to unanimous agreement. On Habermas’s account, there will therefore be no need for voting, and no aggregation problem

⁵⁸ Ibid., 69.

⁵⁹ Marc Pauly and Martin van Hees, “Logical Constraints on Judgment Aggregation,” *Journal of Philosophical Logic* 35, no. 6 (2006): 569-585.

⁶⁰ Arguably, political liberalism violates anonymity by excluding unreasonable persons.

will ever arise.⁶¹ This procedure satisfies all the four conditions listed above. But Rawls rejects Habermas's view of public reason as a procedure that generally leads to rational consensus. The ideal consensual deliberation theory is too remote from the pluralism of the real world, in Rawls's view. 'Actual political conditions under which parliaments and other bodies conduct their business necessitate great departures from [Habermas's communicative ideal of discourse]'.⁶² And by expecting rational consensus, Habermas fails to respect the many reasonable but conflicting comprehensive doctrines within a modern society, Rawls argues.⁶³ Reasonable persons will deliberate, they will consult relevant evidence and information, and they want to reach a conclusion everyone can accept, but unanimous agreement remains unlikely.⁶⁴ Political philosophy, as Rawls sees it, 'must be concerned ... with practical political possibilities'.⁶⁵ In the end, 'votes must be taken'.⁶⁶

A supermajority rule is also unsuited for political liberalism. Requiring a sufficiently high supermajority threshold will guarantee consistency and eliminate the possibility of a discursive dilemma.⁶⁷ List and Pettit show that if group members vote on k propositions, then a supermajority higher than $(k-1)/k$ guarantees that the aggregation function meet all the four conditions.⁶⁸ So if there are three propositions, the aggregation function will satisfy the four conditions as long a supermajority of at least two-thirds supports a judgment of each proposition. And if there are four propositions, the supermajority requirement is three-fourths, and so on. The weakness of a supermajority rule is its indecisiveness.⁶⁹ When not enough people agree, the group fails to make a decision. The group will be protected against making inconsistent judgments, but only at the cost of failing to make decisions necessary for

⁶¹ Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1996).

⁶² Rawls, *Political Liberalism*, 430.

⁶³ *Ibid.*, 450-451.

⁶⁴ *Ibid.*, 448.

⁶⁵ John Rawls, "The Idea of an Overlapping Consensus," *Oxford Journal of Legal Studies* 7, no. 1 (1987): 24.

⁶⁶ Rawls, *Political Liberalism*, 430.

⁶⁷ List and Pettit, *Group Agency*, 52.

⁶⁸ List and Pettit, "Aggregating Sets of Judgments," 106.

⁶⁹ List, "The Discursive Dilemma and Public Reason," 391.

social cooperation. The supermajority rule can meet all the four conditions, but it will often fail to deliver a result. It is likely to prevent public reason in pluralist societies from generating complete political conceptions of justice by leaving questions unanswered.⁷⁰ And a group is not personifiable if it often remains quiet on issues important for its interaction with others. A supermajority rule is consequently unsuited for political liberalism.

4.2 Sequential priority procedures

By weakening systematicity and adopting holistic supervenience, we get a procedure that may prioritize certain majority judgments over others. This is a ‘sequential priority rule’, which specifies an order of priority among the propositions on the non-simple public agenda.⁷¹ The group considers the interconnected propositions in that order, and earlier judgments logically constrain later ones.⁷² If the majority first believes that ‘ p ’, and then that ‘ q ’, then a sequential priority rule might require the group to accept that ‘ $p \wedge q$ ’, regardless of the majority’s judgment of this propositions, because it follows logically from the first two judgments. A ‘priority-to-the-past rule’, as List calls it, always rejects a proposition that is inconsistent with previously accepted propositions.⁷³ But the priority need not be temporal. It can also be given to judgments of more important propositions over those of less important ones.⁷⁴

One sequential priority rule is the ‘premise-based procedure’, which gives priority to the premises over the conclusion to ensure completeness and consistency.⁷⁵ To illustrate, the Belgian people in the example above can decide that since majorities have decided that neither R_1 , R_2 , nor R_3 is the case, the people rejects the new currency ($\neg C$) without voting on

⁷⁰ Christian List, “A Model of Path-Dependence in Decisions over Multiple Propositions,” *The American Political Science Review* 98, no. 3 (2004): 508.

⁷¹ *Ibid.*, 495-513.

⁷² Christian List and Philip Pettit, “Group Agency and Supervenience,” *The Southern Journal of Philosophy* 44, no. S1 (2006): 97-98; List and Pettit, *Group Agency*, 56.

⁷³ List, “A Model of Path-Dependence,” 500-501.

⁷⁴ *Ibid.*, 499.

⁷⁵ List and Pettit, *Group Agency*, 56.

the matter. Figure 5 shows how the people, as a group, supervenes on the individual regions' contributions in order to make its judgments consistent. It gives priority to the judgments of the first three propositions, and makes a reason-based decision by going against the majority on the third proposition. Majorities thus support the group's judgments of R_1 , R_2 , and R_3 , but not its judgment of C .

	R_1	R_2	R_3	$(R_1 \vee R_2 \vee R_3) \rightarrow C$
Region 1	Yes	No	No	Yes
Region 2	No	Yes	No	Yes
Region 3	No	No	Yes	Yes
Majority	No	No	No	No

Figure 5. A premise-based decision-making procedure avoids a judgment aggregation problem by inferring the group's judgment of C from the majority judgments of R_1 , R_2 , or R_3 .

A problem with giving up systematicity and treating propositions unequally is to justify this differential treatment.⁷⁶ A decision is 'path-dependent' when it depends on how the group processes its members' contributions.⁷⁷ The challenge is to justify one path rather than another. Without a good reason for prioritizing the premises, why not prioritize the conclusion instead? In the currency case example, a reason for favoring the premise-based procedure is that the conclusion can be inferred from the first three judgments, but none of the first three judgments can be inferred in the conclusion-based procedure. So the premise-based procedure will generate complete group attitudes and reason-based decisions, while the conclusion-based procedure will not. But suppose that any one of the three propositions is not only a sufficient but also a necessary condition for C : ' $(R_1 \vee R_2 \vee R_3) \leftrightarrow C$ '. Now the conclusion-based procedure is not so indecisive because the truth of C implies that R_1 , R_2 , or R_3 is true. The outcome depends on the path, that is, the order of priority. In cases of path-

⁷⁶ Ibid., 57.

⁷⁷ List, "A Model of Path-Dependence," 495-513.

dependence, justifying the chosen path is crucial. But when there is no good reason for prioritizing some judgments over others, justifying one path instead of another becomes hard, if not impossible. This difficulty makes the sequential priority procedure seem less attractive. Having to decide the order of priority arbitrarily is an unsatisfying solution.

4.3 The straw vote procedure

The sequential priority procedures discussed in the previous section are applications of ‘functionally explicit’ structures, as they rigorously apply, for example, the premise-based or the conclusion-based procedure to make the group’s judgments consistent.⁷⁸ As we just saw, these procedures may be hard to justify and may fail to treat individuals as free and equal persons. In this final section, I show why political liberalism needs a functionally *implicit* structure, which will not simply apply a rigorous mechanism to turn inconsistency into consistency. It rather leaves it to the group members to decide how to proceed. In cases of group-level inconsistencies, the members get feedback about how the other members have voted, and must then alter their profiles in response to other members’ profiles in order to make the group’s judgments consistent.⁷⁹ This is what Pettit calls ‘the straw vote procedure’.⁸⁰

As I shall show in this section, the straw vote procedure works particularly well for political liberalism. It goes well with, and perhaps even enhances, the cooperativeness Rawls assumes in reasonable persons. The straw vote procedure lets the group members vote on all the propositions, but this vote is considered a straw vote until the group has taken a holistic view of the majority’s judgments over the whole public agenda and made sure that aggregating the votes will not produce group-level inconsistency. In the case of an

⁷⁸ List and Pettit, *Group Agency*, 60.

⁷⁹ *Ibid.*, 61-62.

⁸⁰ Pettit explains and defends this procedure in several of his works. My discussion of the procedure is based on his *On the People’s Terms: A Republican Theory and Model of Democracy* (Cambridge, Cambridge University Press, 2012), 193-194; “Rationality, Reasoning and Group Agency,” *Dialectica* 61, no. 4 (2007): 512; “The Reality of Group Agents,” in *Philosophy of the Social Sciences: Philosophical Theory and Scientific Practice*, ed. Chris Mantzavinos (Cambridge: Cambridge University Press, 2009), 81-88.

inconsistent result, the group members must deliberate and change their votes in response to each other's views in order to make the group's judgments consistent. The judgments, then, are results of deliberation rather than some rigorous priority rule.

When the Belgian people fails to give a single reason for why it favors the new currency, the straw vote procedure requires a deliberation between the three regions in which they decide either to collectively support at least one the reasons ($R_1 \vee R_2 \vee R_3$), or to reject the conclusion. In the deliberation, the parties may, for example, learn that they all have outcome-oriented preferences, and are therefore willing to change their judgments of the reasons to achieve a consistent collective decision in favor of their desired outcome. When they vote again based on the knowledge they acquired in the deliberation, the majority view of at least one of the three reasons will be different from the first voting round, and the Belgian people consequently has one or more reasons for why it supports the new currency. The outcome of this second round of voting will be path-dependent in the sense that deliberating group members will likely let judgments of more important propositions decide their judgments of less important ones. But this is how any reasoning proceeds from one judgment to another, and the judgments will not be arbitrary since they are based on deliberation.

The straw vote procedure thus depends on individuals being willing to vote against their personal views to enable the group to make reason-based decisions. The procedure thus encourages strategic voting, which means individuals voting against their own personal views on less important propositions on the public agenda to make the group's judgments consistent and in favor of their personal views of more important propositions. Such strategic voting is not a problem, but rather an expression of people's cooperativeness and their ability to

empathize with one another's views.⁸¹ It gives politics the educational role Rawls thinks it should have by providing them the opportunity to 'learn and profit from debate and argument' and to 'deepen their understanding of one another'.⁸² It encourages public debate, which, in Rawls's view, 'may serve a vital educational role'.⁸³

The straw vote procedure also enables corporate persons to reason with greater flexibility, thus imitating individual persons. Rawls acknowledges that as an individual, you are likely to hold conflicting views. You will often reflect on some issue and discover that you endorse reasons inevitably leading to a conclusion you reject. To make inconsistent views consistent, Rawls argues, they must be 'revised, suspended, or withdrawn'.⁸⁴ But it is not obvious how you should do so, and you will not simply let some rigorous procedure decide for you. You rather think carefully about your conflicting views. If you believe that ' p ', ' $p \rightarrow q$ ', and ' $\neg q$ ', it is not obvious how to make your views consistent. An inexplicit structure puts you in control over your reasoning process. Analogously, at the group level, the members of the corporate person collectively remain in control of its judgments by applying the straw vote procedure.

They do so at the cost of their own individual power to judge each proposition separately according to their personal convictions. The group's reasoning is the group members changing their votes to ensure the group's rationality, similarly to how an individual's reasoning is applying sub-personal cognitive mechanisms that work towards rational unity.⁸⁵ An individual person may therefore hold one view as an individual and a different view as a group member. Having to vote against some personal convictions is a price group members

⁸¹ For this reason, Keith Dowding and Martin van Hees consider the possibility of strategic voting 'good for democracy'. This possibility, they argue, helps people see that '[d]emocracy is more than simply collecting votes. It is also about knowing one's political environment, about understanding the preferences of others, and about knowing the nature of the process by which collective outcomes come about'. See Dowding and van Hees, "In Praise of Manipulation," *British Journal of Political Science* 38, no. 1 (2007): 10, 14.

⁸² Rawls, *Political Liberalism*, 481.

⁸³ Rawls, *Justice as Fairness*, 146.

⁸⁴ *Ibid.*, 30.

⁸⁵ List and Pettit, *Group Agency*, 64.

must pay for collective rationality. And I believe it is a price reasonable persons pay willingly. They want to cooperate with their fellow group members to achieve a common goal, even if it means voting against some of their personal convictions. As Rawls points out, reasonable persons want to be, and to be recognized as, cooperating members of their society.⁸⁶ We may also suppose they desire to cooperate within groups. If deliberating group members expect one another to willingly vote against some of their personal judgments to make their group function properly, doing so will be reasonable. By changing their votes in response to each other's views, the reasonable individual group members express their desire to cooperate, and that makes the straw vote procedure especially promising in Rawls's political liberalism.

The straw vote procedure should also appeal to political liberals because it follows the steps of Rawls's method of reflective equilibrium.⁸⁷ It allows the group members to discuss the advantages and disadvantages of the different ways of making their collective decisions consistent. Instead of mechanically applying a procedure that rigorously determines the order of the propositions, the group members move back and forth between mutually inconsistent collective judgments to see where adjustments can be made to achieve consistency. The group thus decides on principles of the political conception of justice exactly as Rawls instructs. The process turns individuals' judgments into a political conception that is in reflective equilibrium and therefore acceptable to every reasonable citizen.⁸⁸ In reality, some may not be happy about the outcome of the straw vote procedure, but this does not mean that the procedure has failed to apply the method of reflective equilibrium. Rawls does not expect a society, or a group, to achieve the ideal of reflective equilibrium.⁸⁹ But the process of

⁸⁶ Rawls, *Political Liberalism*, 81.

⁸⁷ List and Pettit also make this point in *Group Agency*, 61.

⁸⁸ Rawls, *Political Liberalism*, 8.

⁸⁹ *Ibid.*, 97.

working towards reflective equilibrium makes sure that the various reasonable views are treated respectfully, and the outcome will therefore be acceptable to all reasonable persons.

§5. Conclusion

Rawls expects certain groups to behave as political persons, ready to give reasons for their judgments concerning constitutional essentials and basic justice. To make groups act in this way, political liberalism needs a procedure that enables groups to reliably judge interconnected propositions consistently. The discursive dilemma shows how judgment aggregation cannot guarantee that a group of three or more members will make reason-based decisions. To reliably make such decisions, the group needs a procedure that allows it to reject majority judgments of some propositions. Rawls offers no such procedure. He instead appeals to majority voting, and he is far from alone in doing so. List and Pettit show how Hobbes, Locke, and Rousseau all mistakenly believed in majority voting as a way of making society behave as a rational agent speaking in one unified voice.⁹⁰ But Rawls, perhaps because he leaves his procedure underspecified, is not wrong in the same way as his three contractualist predecessors were. He does not say straight out that groups will act as unified persons by simply aggregating the personal judgments of their members. He rather leaves room for this paper to specify a collective decision-making procedure for political liberalism that responds to the discursive dilemma and enables groups to reason as persons.

The supervenience relation between the group and its members must function as a way for the group to correct itself in cases of judgment inconsistencies. In this way, the group can exercise public reason and fit Rawls's description of a political person. I have argued that peoples, courts, legislatures, executives, political parties, and other groups interpreting and proposing fundamental political principles should adopt the straw vote procedure in order to exercise public reason and successfully make public-reason-based decisions. This procedure

⁹⁰ List and Pettit, *Group Agency*, 43-44.

can generate reason-based collective decisions while respecting the group members' status as free and equal persons. Adopting this procedure will in some cases require people to make different judgments as group members than as separate individuals. They must remain willing to vote against some of their personal judgments to collectively work towards the group's rationality. This consequence of collectivizing public reason is compatible with Rawls's political liberalism. As reasonable persons, group members will be ready to adjust their views for the sake of their group's consistency, as long as they believe their fellow group members are similarly motivated. The reasonable group members want to bring their group's judgments into reflective equilibrium. The straw vote procedure thus successfully unifies the idea of reasoning groups with fundamental criteria of political liberalism.

Enabling groups to exercise public reason also makes political liberalism more attractive, as more political actors can make judgments concerning the use of political power that satisfy the core principle of political liberalism, the liberal principle of legitimacy. If groups making decisions concerning fundamental political matters can ground their decisions in reasons every reasonable person in their society can reasonably be expected to accept, then the legitimacy of these groups and their decisions is enhanced.