

## Public Justification, Public Culture, and Domination

### 1. Introduction

In John Rawls's political liberalism, legitimate exercises of political power must be publicly justifiable to reasonable citizens on grounds each can coherently accept, where citizens count as 'reasonable' only if they can accept certain values of what Rawls calls 'public culture'. Citizens who cannot suitably accept these values—the 'unreasonable'—do not have a say in public justification, or at most one that is greatly diminished in its influence. On this view, then, all legitimate political power must accord with cultural values of sorts, and can be legitimate even if it is not, or not equally, justifiable to people who cannot accept these values. Does this mean that Rawls's view prescribes that the unreasonable be dominated? What kind of domination would this involve, if any, and would this involve a form of cultural domination?

This chapter takes its lead from these questions. It offers a critical reading of the role of public justification in Rawls's political liberalism that foregrounds the unequal standing and influence of reasonable and unreasonable people in public justification, and that ventures to interpret this inequality in domination-theoretic terms. I shall suggest that there is reason to believe that Rawls's political liberalism would subject the unreasonable—a mixed group that also includes many respectable people—both to a kind of discursive and political domination, in a manner that warrants the suspicion that some kind of cultural domination would be involved.

Before I delve into things, let me further motivate a domination-theoretic engagement of Rawls-type political liberalism. Consider, then, some recent views of (non)domination: the exercise of power—e.g., political or social power—is said to not dominate

- (i) if it is *just* (Forst);
- (ii) only if it is *legitimate* (Forst, Gaedeke, Pettit);
- (iii) only if it is *justifiable to* power subjects (Forst, Gaedeke);
- (iv) only if the direction in which it is exercised is *equally acceptable* by citizens (Pettit);
- (v) only if it *accords with their status as free* (Pettit, Lovett);
- (vi) only if it *accords with their status as equals* (Hasan, Forst, Pettit, Gaedeke);
- (vii) only if it does not subject them to *objectionable status denials* (Bohman);
- (viii) if power agents are unable to constrain the choices of power subjects by impeding them from living *as their own nature and judgment dictate* (Lukes).
- (ix) if it does not involve the imposition on power subjects of another's will in a way that deprives them of their capacity for *autonomous agency* (Claassen & Herzog);
- (x) only if it is subject to a system of popular control in which each citizen has *equal influence* (Pettit).

First-generation political liberals like Rawls, Charles Larmore, or Stephen Macedo, do not offer sophisticated accounts of (non)domination, but their views evidently resonate with opinions on the above list.

For instance, it is a recurrent theme in first-generation political liberalism that the exercise of political power is oppressive if it does not accord with a reasonable conception of *justice*, or if it is not *legitimate*, or not *justifiable to* reasonable citizens on grounds that are *equally acceptable* by them—which speaks to versions of (i), (ii), (iii) and (iv), above. And Rawls stresses that political power, to not be oppressive, must respect each reasonable citizen as a *free and equal*—which speaks to versions of (v), (vi), and (vii). The assumption thereby is that such power can suitably respect such citizens only if it does not unduly constrain their

political *autonomy*, or their entitlement to live in accordance with their own, reasonable conceptions of the good or comprehensive views—which speaks to versions of (viii) and (ix). Not least, political liberalism evidently favours the view that political power should be exercised under a system of democratic control that broadly resonates with (x).

Oppression and domination might not be the same thing, but for what matters now it is unproblematic to assume that oppressive political power dominates, and *vice versa*. This makes it natural to understand first-generation political liberalism as offering a complex, justification-centric liberal view of non-domination. Roughly: in political liberalism, political power does not dominate only if it is legitimate, i.e., only if its exercise accords with principles or ideals that are justifiable to relevant citizens (i.e., the reasonable) on grounds each can authoritatively (i.e., coherently) accept. Or, for short: political power does not dominate only if it is publicly justifiable to relevant citizens on such grounds.

But if we understand things in this light, one matter that stands out is that public justification here allocates positions of influence to citizens in a manner that (at best) leaves some people—i.e., the ‘unreasonable’—with greatly *diminished* influence. And, within Rawls’s framework, one reason why citizens are left with such greatly diminished influence is that they cannot accept certain political values of public culture—values, moreover, that political liberalism supposes, rather than justifies, let alone justifies to the unreasonable on grounds they too, can accept. Hence, the worry arises that political liberalism, at least in the form that Rawls has given to it, would subject these people to some kind of domination, and a kind of cultural domination at that. The overall aim of this chapter is to explore this worry.

## 2. Political legitimacy, public justification

A natural starting point is Rawls’s *Liberal Principle of Legitimacy*:

LPL The exercise of political power “is proper and hence justifiable” only if it is exercised “in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational” (Rawls 2005, 217).

According to LPL, political power is legitimate—hence non-oppressive, or non-dominating—only if it accords with ‘reasonable’ principles and ideals. But this refers to principles and ideals that are justifiable *as* reasonable by a ‘reasonable’ conception (or theory) or political justice. What makes a conception of political justice reasonable?

Over the years, Rawls has offered a number of interconnected answers. E.g., he claims that a reasonable conception of political justice must be capable of a reasonable overlapping consensus, that it must be able to attain some degree of *pro tanto* and full justification, that it must be stable under the social conditions that it prescribes, and so on. However, what matters here is only what arguably is the systematically most fundamental answer. This answer invokes Rawls’s doctrine of reflective equilibrium, and it implicates an idea of public justification. How so?

Rawls writes that any conception of political justice,  $\phi$ , “to be acceptable, must accord with our considered convictions, at all levels of generality, on due reflection, or in what I have called elsewhere ‘reflective equilibrium’” (Rawls 2005, 8), where “[w]e decide whether  $[\phi]$  is acceptable by seeing whether we can endorse  $[\phi]$  upon due reflection” (ibid, 94). Accordingly, the test of reflective equilibrium tests how well such a conception

as a whole articulates *our* more firm considered convictions of political justice, at all levels of generality, after due examination, once all adjustments and revisions that seem compelling have been made. A conception of justice that meets this criterion is the conception of justice that, so far as *we* can now ascertain, is the most reasonable *for us*. (Ibid, 28.)

Who does ‘our’, ‘we’, or ‘us’ refer to? Arguably, Rawls refers to *actual reasonable citizens*: he takes it that the reasonableness of a conception of political justice depends on its coherent acceptability by actual reasonable citizens, and he assumes that he and (some of) his readers are reasonable in a relevant sense (I say more about this sense of ‘reasonable’ shortly). This suggests we attribute to Rawls the following requirement—call it ‘APJ’, for *Actualist Public Justification*:

APJ  $\phi$  is reasonable if and only if  $\phi$  is coherently acceptable by (relevant) reasonable citizens,

where ‘reasonable’ has a meaning to be elaborated on below, and where ‘reasonable citizens’ refers to actual people. As the label indicates, APJ expresses an *actualist* requirement of *public* justification. What does this mean?

Public justification is an interpersonal acceptability-based form of justification: roughly, to say that  $\phi$  is *publicly* justifiable is to say that  $\phi$  is authoritatively (e.g., rationally, reasonably, coherently, and so on) acceptable, or non-rejectable, by relevant people; alternatively, it is to say that  $\phi$  is justifiable by *public* reasons, i.e., reasons that are so acceptable. Public justification is *actualist*, in turn, if it includes in its constituency *actual* people. Note that actualist public justification can employ standards that idealize (in one sense of ‘idealize’): by itself, the claim that  $\phi$  must be authoritatively acceptable by actual people leaves open what idealization value the authoritativeness constraints have, or should have, that public justification employs.

It is plain that APJ displays both features:  $\phi$ ’s reasonableness depends on  $\phi$ ’s authoritative acceptability (i.e., coherent acceptability) by actual people (i.e., actual reasonable citizens).

### 3. Reasonableness, political liberalism

This view of political legitimacy faces an obvious problem. The view applies to actual democratic societies with their ordinary levels of diversity and discord, but in such societies, it seems, *no* currently available conception of political justice will be coherently acceptable by *every* relevant citizen. If that is so, it would seem that *no* set of political principles or ideals is ‘reasonable’ in LPL’s sense, and hence *no* exercise of political power will satisfy LPL. This would be a perfectly respectable (but perhaps not very useful) anarchist conclusion, but of course it is not Rawls’s conclusion. For Rawls, only a political liberalism (if anything), can serve as a basis for a legitimate exercise of political power. How can he claim this?

To cut a long story short: Rawls does not see a conflict between APJ and the project of a political liberalism, but assumes that APJ *calls for* that project, since he assumes that the reasonable citizens that APJ refers to—say, citizens that are reasonable in Rawls’s politically basic sense—*can* coherently accept defining commitments of political liberalism. These commitments include, amongst others, commitments to views such as

- (i) political power must be justifiable in terms that are coherently acceptable by all reasonable citizens (a commitment to *political constructivism*);
- (ii) political power must be justifiable in terms that are not the subject of reasonable disagreement between reasonable citizens (a commitment to *justificatory neutrality*);
- (iii) political power must be justifiable exclusively in terms of values that are liberal in content and only apply to the domain of the political (a commitment to *liberal content* and a *limited scope of application*);
- (iv) political power must be justifiable exclusively in terms of the political values of the public culture of a Western democracy (a commitment to *political values*).

I return to Rawls's political values in the next section. For now, I note that, as entailed by the conjunct of (i), (ii) and (iv), Rawls stipulates that (some, if not all) political values are coherently acceptable, if not non-rejectable, by all reasonable citizens. At any rate, in his view, all variants of political liberalism are committed to (i)–(iv), while his own conception of political justice, *Justice as Fairness* (or JF), is one variant of political liberalism amongst others.

But consider: if any of APJ's reasonable citizens was unable to suitably accept the defining commitments of political liberalism—i.e., things like (i)–(iv), above—APJ would rule out, rather than call for, political liberalism. Yet, it is safe to assume, Rawls presents JF as a political liberalism because he believes that JF, if it can be presented thus, *can* meet APJ. The assumption seems to be, then, that the reasonable *can* coherently accept things like (i)–(iv). This suggests that Rawls ties politically basic reasonableness to the defining commitments of political liberalism: only citizens who *can* coherently accept these commitments will count as 'reasonable' in his politically basic sense.

Of course, reasonableness must also be *insular*, as Estlund puts this: APJ's 'reasonable' citizens must be able to accept that the reasonableness of conceptions of political justice turns *exclusively* on what *they* can coherently accept. (Below, I often use 'reasonable\*' to refer to reasonableness in Rawls's politically basic sense.)

The following is suggested. All other things equal, if citizen Betty cannot (or can) coherently accept a given candidate conception of political justice,  $\phi$ —or, say, any of the liberal political values in terms of which  $\phi$  justifies salient political principles—then this will negatively (or positively) contribute to  $\phi$ 's public justification status, or  $\phi$ 's reasonableness, only if (or perhaps only insofar as) Betty is reasonable\*. This means that only reasonable\* citizens are here being accorded a fully enfranchised, justificatory say in co-determining what conceptions of political justice, and hence what political principles, exercises of political power must accord with in order to count as legitimate in LPL's sense.

Another way to put this: only reasonable\* citizens here have full discursive standing as equal *authorities* or *co-authors* of public justification, while non-reasonable\* people at most have the status as *recipients* or *clients* of public justification. This, of course, does not mean that a 'reasonable' conception of political justice cannot prescribe that non-reasonable\* people be benefitted politically—e.g., it might justify political principles as reasonable that prescribe that these citizens, too, be allocated suitably resourced and protected political rights, opportunities, or resources, and so forth. But it does mean that non-reasonable\* people have no say, or no equal say, in determining what conception of justice the exercise of political power over them should accord with.

I return to this difference in discursive standing in Sections 6 and 7, below. For now, I address the culture-centric element of Rawls's political liberalism.

#### **4. Political values**

APJ indexes political legitimacy, and the reasonableness of conceptions of political justice, to Rawls-type politically basic reasonableness—or, for short, reasonableness\*. By the same token, Rawls's view indexes these things to what he construes as *public culture*. How so?

This brings us to Rawls's 'political values'. Upfront: he refers to them as 'values' in a loose sense of 'value': e.g., he refers to principles, ideals, requirements, conceptions, or ideas, such as the 'fundamental ideas' (Rawls and Kelly 2001, 27; Rawls 2005, chapter 1) that political liberalism draws on, as political 'values'. Relevant now are in particular two features of political values.

A first relevant feature is that political values are part of the political tradition, or what Rawls calls the 'public political culture', or simply 'public culture', of a Western liberal democratic society (Rawls and Kelly 2001, 27)—his focus is on a society like the USA of his

time. Rawls does not use a particularly sophisticated idea of public culture. In essence, he sees it as a social repository of values that can be collected into a conception of political justice. Political values, then, are part of this social repository of values. He stipulates, as well, that a conception of justice, when it only contains political values, can (or, perhaps, must) be liberal in content and apply only to the domain of the political. Thus, for Rawls, political liberalism's commitment to political values and its commitment to liberal values that are suitably limited in their scope of application support each other.

A second relevant feature of political values has to do with, say, the weight of the values that Rawls identifies as political values. For Rawls, some values are such that all reasonable citizens can coherently accept them, and some values are such that no reasonable citizen can coherently reject them (call them 'reasonably non-rejectable' values). And he stipulates that only political values have membership in both groups of values: thus, if  $\delta$  is a political value,  $\delta$  is reasonably acceptable by all reasonable citizens, or reasonably non-rejectable, or both. I take it that the phrase 'reasonable citizen' here refers to citizens who are 'reasonable' in Rawls's politically basic sense—the sense of reasonableness\*. Thus, political liberalism's commitment to political values accords with its commitment to political constructivism.

These features of political values are assumed when Rawls says that political liberalism starts by "looking to the public culture itself as the shared fund of implicitly recognized basic ideas and principles," in the hope that these political values can "be combined into a political conception of justice congenial to our most firmly held convictions" (Rawls 2005, 8). And so political liberalism is formulated

in terms of fundamental ideas familiar from, or implicit in, the public political culture of a democratic society: for example, the idea of society as a fair system of cooperation and the idea of citizens as free and equal. That there are such ideas in their public culture is taken as a fact about democratic societies (Rawls and Kelly 2001, 27),

where the assumption is that these fundamental ideas are political values that are suitably acceptable by APJ's reasonable citizens.

Why attach authority to the values of a given political culture, or index political legitimacy to them? Rawls's answer is hard to pin down. But it seems to boil down to this:

A1 Political values are "very great values" (Rawls 2005, 139) that are relevantly acceptable by each of the reasonable citizens that APJ fully enfranchises (i.e., the reasonable\*). To meet APJ, therefore, a conception of political justice must (only) contain political values.

But note that this is not a good answer: it effectively begs the question. Part of what identifies reasonable\* citizens as reasonable\* is that they can accept the relevant political values. And one feature of such values is that they are acceptable by all reasonable\* citizens. These two things sit well with each other, but they effectively suppose that these values have authority, or that political legitimacy may be indexed to them. We are left with the assertion that these values are 'very great values'. But even if you and I agree with Rawls that these values *are* very great values—e.g., consider the ideas that society should be a fair system of cooperation and that citizens should be respected as free and equal—this will not justify their special status, or convince others who disagree.

One way to sum this up: Rawls's view is culture-centric in a *weak* sense: it privileges relevant cultural values (i.e., Rawls's political values) not because, say, they are *cultural* values—this would make the view, say, *strongly* culture-centric. Instead, it privileges them because, Rawls assumes, they are very great values that are suitably acceptable, if not non-rejectable, by the citizens that APJ fully enfranchises. Importantly, though, Rawls's view is

culture-centric in a *non-critical* sense: it is not the case that it privileges the relevant cultural values, or attaches authority to them, only insofar as it can justify them.<sup>1</sup>

I conclude the present section by marking a contrast. Consider:

A2 A conception of political justice,  $\phi$ , must be coherently acceptable by all reasonable citizens—i.e., citizens who are ‘reasonable’ in a suitably inclusive sense (e.g., consider a moderate epistemic sense on which we can count as ‘reasonable’ even if we reject political liberalism’s defining commitments). But values are properly ‘political’ only if they are coherently acceptable by all such citizens, while a culture is properly ‘public’ only insofar as it contains such values. Therefore:  $\phi$  must contain (only) ‘political’ values.

If values are ‘political’ only if they are suitably acceptable by all citizens who are reasonable in a more inclusive sense (e.g., a moderate epistemic sense), it is doubtful, or at least open, whether ‘political’ values, if there are any, are liberal in content and apply (only) to the domain of the political. Hence, it is doubtful, or at least open, whether any actual political culture is ‘public’ in A2’s sense, and whether  $\phi$ , if it only contains ‘political’ values, could be a Rawls-type political liberalism.

A2 has appeal. A2 does not index political legitimacy to reasonableness\*, or any given political culture. And A2 allows us to accept a more inclusive version of LPL and APJ, while opting for a critically culture-centric view of political legitimacy—one that adopts a constructive idea of the politicality of values or the publicness of political culture. A key task for such a view must be to specify an idea of reasonableness that *may* be treated as politically basic (see Besch 2012; 2013; 2020)—which would ask us to add a layer of justification, or reason-giving, to the structure of political legitimacy that LPL defines.<sup>2</sup>

In what follows, let us bear in mind that Rawls’s answer is *not* A2: his actual answer, A1, *lacks* the surplus of inclusiveness and criticality makes A2 more attractive than A1.

## 5. Exclusionary legitimacy?

For Rawls, then, legitimate political power over *all* citizens must accord with a conception of justice that needs to be publicly justifiable to *reasonable\* citizens only*. Or, contracted:

R1 Legitimate exercises of political power over all citizens need to be publicly justifiable to *reasonable\* citizens only*.

As many have argued, R1 is objectionable.<sup>3</sup> In any Western society, there are (epistemically) reasonable people in good moral standing who respectably reject things Rawls ties to reasonableness\*. And, all else equal, these people, too, should have a meaningful say, if others do, in co-determining what principles or ideals legitimate political power must accord with. To say the least: where people respectably reject, or are unable to accept, things that the reasonable\* can accept, or cannot reject, this should not be regarded as grounds to deny them

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<sup>1</sup> This is so despite political liberalism’s aim of overlapping consensus or the value it places on ‘full’ justification (Rawls 2005, 386). Upfront, these things suggest that Rawls privileges political values only insofar as each reasonable citizen can accept them as justified in light of her own comprehensive doctrine. But he does not make the authority of the political values that mark defining commitments of political liberalism depend on their acceptability by reasonable citizens. Instead, he makes the reasonableness (reasonableness\*) of citizens (or their comprehensive doctrines) depend on their ability to accept these values. Thus, while Rawls values their justified or motivated endorsement, he from the ground up supposes their authority. On overlapping consensus, full justification, and political values: see Besch 2020, 1787ff, and 2022, 53ff.

<sup>2</sup> See Besch 2012 and 2013.

<sup>3</sup> Concerns about political liberalism’s lack of inclusiveness have been raised since the early days of Rawls’s political turn: see Hampton 1989 and 1993; Campos 1994; Friedman 2000.

a (full) say in public justification, but as something that puts in need of justification these things, or their role in APJ-public justification.

This returns us to the theme of domination. If we assume, *pace* political liberalism, that political power does not dominate only if it is publicly justifiable, then, it seems, we should also assume that political power dominates citizens who have no say in public justification to begin with. One way to capture this intuitive point is *Domination Conjecture*:

DC Non-domination political power must be publicly justifiable. But how can it be publicly justifiable to citizens who lack a say in public justification? Underneath its justification-centric surface, political liberalism prescribes that the values of public culture be imposed on the unreasonable\*: it prescribes that they be dominated.

DC helps to fix ideas. But we should take it with a grain of salt: questions arise in relation to (i) the say of the unreasonable\*, (ii) the kind of domination that is involved, if any, and (iii) the role of political values vis-à-vis ‘cultural’ domination.

As to (i), on a reading that I will follow later (Section 7), the problem at hand is not that the unreasonable\* would *lack* a justificatory say in public justification altogether, but that their say is greatly *diminished* in discursive influence, or its ‘discursive purchase’, as I shall call this. Sections 6 and 7 elaborate on ideas of discursive standing, discursive purchase, and discursive equality, that will help to conceptualize the diminished say of the unreasonable\* in public justification.

As to (ii) and (iii), it is unclear how a diminished say in public justification maps onto social or political practice. Consider: even if some people lack a full say in co-determining what political principles exercises of political power must accord with, the people who do have a full say might still agree that these principles must allocate the disadvantaged people, too, statuses or powers to relevantly influence how the state acts—as defined by the political rights, opportunities, resources, and so on, that such principles allocate to citizens. The point: in a political order that complies with publicly justifiable political principles, a diminished say in public justification *need not* translate into a denial political statuses or powers under publicly justifiable political principles—although, of course, it *can* translate into this.

Accordingly, it is not clear whether the say of the unreasonable\* would involve *domination*. Much here turns on how we construe domination, and not all views of the phenomenon will sit equally well with DC. E.g., take the view that the state dominates its citizens if they cannot control, or share in controlling, how it exercises power over them. If we see things through this lens, we might conclude that the say of the unreasonable\* involves domination only if it involves a denial of statuses or powers to relevantly influence how the state acts. But it need not entail this. That some people lack a (full) say in public justification does not mean that publicly justifiable political principles prescribe that they be denied statuses or powers to relevantly influence how the state acts. How, then, can ‘domination’ be construed for DC’s purposes? I return to this in Sections 8 and 9, below.

Accordingly, it must be unclear in what sense, if any, the say of the unreasonable\* would involve some kind of ‘cultural’ domination. What is clear, though, is that Rawls’s view assigns to cultural values an important role in determining whether people should have a (full) say in public justification. As we have seen, Rawls’s political values are values of public culture that are acceptable, or non-rejectable, by all reasonable\* citizens. Thus, if citizens cannot accept some of these values, they are not reasonable\*, and so do not qualify for a (full) justificatory say in public justification. Hence, in some sense at least, the unreasonable\* are here being denied a (full) justificatory say on *cultural* grounds—where this must be construed in the weak but *non-critical* sense identified in Section 4. Would this involve ‘cultural’ domination? I return to this in Section 10.

## 6. Discursive standing and purchase

On the itinerary of this and the next section are the notions of discursive standing, discursive purchase, and discursive equality that I will use to conceptualize the say of the unreasonable\* in public justification. I begin with two kinds of discursive standing and the notion of discursive purchase.

For a point of departure, consider political liberalism's idea of equal respect, or the idea of equal respect modelled by the conjunct of LPL on APJ (Besch 2020; 2023). For Rawls, political power respects citizens as free and equal only if it is legitimate; but to be legitimate, it must accord with a reasonable conception of justice—one that *depends* for its reasonableness on its acceptability. Arguably, this construes equal respect as a form of 'discursive respect' (Besch 2014): Rawls assumes that equal respect requires that relevant people be accorded a justificatory say in some matters, or what I call elsewhere 'constitutive discursive standing' (ibid; Besch 2019a, b). What is that?

If JP, a justification practice, accords  $\alpha$  constitutive discursive standing in relation to a salient moral or political thing,  $\phi$ , it does two things. First, JP accords  $\alpha$  discursive standing: JP attaches value to  $\phi$ 's authoritative acceptability by  $\alpha$ . Second, JP assumes a justification-constitutive direction of fit between  $\phi$ 's acceptability and  $\phi$ 's authority: in JP,  $\phi$  depends for its authority on its authoritative acceptability. Both things typically are in play where people are seen as *co-authors* of justification. This contrasts with weaker, 'derivative' forms of discursive standing. If JP accords  $\alpha$  derivative standing, JP attaches value to  $\phi$ 's acceptability, or what JP counts as valuable forms of acceptability, but JP does not take  $\phi$  to depend for its authority on its acceptability. People here have the standing of *recipients* or *clients* of justification, but not as its co-authors.

Next, a justificatory say can vary in its 'discursive purchase'. Roughly, the purchase of a say is determined by the influence it allows an agent to exert in justification. Consider JP1 and JP2, two justification practices that adopt the same standard of justification,  $S$ , but premise it on different authoritativeness constraints:

- $S$   $\phi$  is valid (or reasonable) only if  $\phi$  is justifiable by reasons that relevant people cannot authoritatively reject.
- JP1  $\alpha$ 's rejection of  $\phi$  is authoritative if and only if  $\alpha$  cannot actually accept  $\phi$  coherently.
- JP2  $\alpha$ 's rejection of  $\phi$  is authoritative if and only if  $\alpha$  would still reject  $\phi$  if ideally rational.

JP1 and JP2 attach justificatory weight to authoritative rejections: say, they count them as (defeasible) evidence against  $\phi$ 's validity, or as negatively contributing to  $\phi$ 's justification status. But for average adults, a justificatory say in JP1 has more purchase than one in JP2. How so?

Assume that Betty, an average adult, rejects  $\phi$  because she cannot actually accept  $\phi$  coherently. In JP1, her actual rejection reason qualifies her rejection as authoritative, or as a rejection that has justificatory weight. Thus, what JP1 counts as Betty's *authoritative say*—or what she would say if she met the relevant authoritativeness constraints—will track her *actual voice*, or what she actually is committed to say, given her actual perspective and deliberation resources. By contrast, JP2 counts toward justification only what *ideally rational Betty* would say. Thus, actual Betty's actual rejection reason will not qualify her rejection as authoritative, and what JP2 counts as Betty's authoritative say might not track her actual voice at all.

The idea of discursive purchase helps to conceptualize this difference.  $\alpha$ 's discursive standing is higher or lower in purchase depending on the extent in which it allows  $\alpha$  to bring to bear her *actual voice* in justification as something that has justificatory weight, or positively or negatively contributes to the justification status of relevant things. And it is



plain that a justificatory say in JP1 allows Betty to do so in a way in which her say in JP2 does not. In this sense, Betty's say is higher in purchase in JP1 than it is in JP2.

One upshot: whatever use or value our inclusion in a practice of public justification has, much depends on the purchase of our discursive standing in that practice. Accordingly, much depends on the degree in which the practice hypotheticalizes, or idealizes (in at least one sense of 'idealize'). Purchase and idealization are interdependent: all other things equal, the higher the idealization value of salient authoritativeness constraints is relative to our actual perspective and deliberation resources, the less purchase will our discursive standing have under these constraints; and the more purchase our standing under these constraints is to have, the lower must be their idealization value relative to our actual perspective and resources.

## 7. Two kinds of discursive (in)equality

To bring this back to political liberalism: APJ allocates reasonable\* citizens high-purchase constitutive discursive standing. They have a justificatory say, and one that is like Betty's say in JP1, rather than her say in JP2. What of the unreasonable\*?

We can interpret their discursive standing in either of two ways:

1. In APJ, the unreasonable\* do *not* have constitutive discursive standing: what justifies is coherent acceptability by the reasonable\* *only*.
2. In APJ, the unreasonable\* *do* have constitutive discursive standing, but discursive input counts as authoritative only if it is reasonable\*: what justifies is reasonable\* (and coherent) acceptability.

I shall follow Larmore's reading. He understands Rawls as claiming that legitimate political power must be justifiable not only to the reasonable, but to citizens more widely on the (perhaps counterfactual) assumption that they are reasonable (Larmore 2015, 83; 1999, 609f). This fits to (2): public justification does not deny the unreasonable\* a justificatory say, but considers what they would or could say if they were reasonable\*. This means that the say of the unreasonable\* hypotheticalizes, or idealizes, in a way in which the say of the reasonable\* does not. Reasonable\* citizens have high-purchase standing, like Betty in JP1. But unreasonable\* citizens have *low*-purchase standing, more like Betty in JP2: what they say contributes to public justification only if it accords with what they would or could say if they were reasonable\*.

Thus, option (2), above, replaces the 'reasonable\* citizen' bracket around APJ's (primary) constituency with a 'reasonableness\*' constraint on the discursive input that APJ counts as authoritative in public justification. And this effectively denies, or at least greatly diminishes, the ability of the unreasonable\* to meaningfully reject or contest in public justification Rawls's political values—which, by stipulation, are values that all reasonable\* citizens can accept, or cannot reject, or both. To put this bluntly: the unreasonable\* have a justificatory say, but their say effectively mutes their actual voice where that voice is not suitably aligned with the political values of the reasonable\*.

It does *not* follow, however, that APJ denies unreasonable\* citizens discursive equality altogether. What follows is more nuanced: APJ accords them standing that is *formally* equal, but unequal in a purchase-sensitive, *substantive* sense. This draws on a distinction between formal and substantive discursive equality (Besch 2019b, 473ff):

- FE *Formal Discursive Equality*: a justification practice, JP, accords  $\alpha$  and  $\beta$  discursive standing that is equal *formally* if and only if it accords  $\alpha$  and  $\beta$  discursive standing of the same overall kind (e.g., constitutive discursive standing) and applies to  $\alpha$  and  $\beta$  the same authoritativeness constraints (e.g., authoritative input must be reasonable\*).

SE *Substantive Discursive Equality*: JP accords discursive standing that is equal *substantively* only if it this standing is equal in discursive purchase.

If we read Rawls in terms of (1), above, the standing of the unreasonable\* is unequal in FE's formal sense. But if we read him in terms of (2), as I do here, it is equal formally, but *unequal* in SE's substantive sense.

Not least, consider how this sits with the equal respect that is modelled in LPL and APJ, or what I called equal 'discursive' respect. If extending equal discursive respect to  $\alpha$  and  $\beta$  requires that they be accorded an equal justificatory say, how, we may ask, can political liberalism's commitment to equal discursive respect cohere with the diminished say of the unreasonable\*? That is, if political liberalism already concedes that the unreasonable\* should be included in the constituency of public justification, must it not also accept that they be accorded a justificatory say that is *not* substantively unequal?

Not quite. Arguably, political liberalism is committed to two views:

- (i) equal discursive respect for  $\alpha$  and  $\beta$  requires that their discursive standing *not impermissibly* differ in discursive purchase;
- (ii) the discursive standing of reasonable\* and unreasonable\* citizens *does not* impermissibly differ in discursive purchase.

I argue elsewhere that (i) holds (Besch 2019b, 475f; 2020, 1795ff). The issue hence is (ii): Rawls assumes, rather implausibly, that it *is* permissible to accord the unreasonable\* a justificatory say that effectively mutes their actual voice where it does not accord with the political values of reasonable\* citizens.

## 8. Discursive domination

This returns us to DC (Section 5, above). Would the substantively unequal, low-purchase say of the unreasonable\* in public justification involve domination?

In reply, I will suggest that their diminished say would involve (i) a form of domination in discursive status, or *discursive* domination, and (ii) a form of *political* domination, i.e., what we might call 'wide' political domination. Things here are complicated by the fact that it is contested what domination is, how it should be construed, and what social arrangements instantiate it. But I will think of it in terms that suit DC. The first suggestion, then, will draw on James Bohman's status-centric view of domination. The second suggestion, which is independent from Bohman's view (but compatible with it), draws on the broadly republican insight that whether a state dominates its citizens largely turns on what statuses or powers they have to relevantly influence how the state acts. In the present section, I first introduce elements of Bohman's view to then address the first suggestion. Section 9 tends to the second suggestion. The say of the unreasonable\* would involve, I shall suggest, 'wide' political domination. Section 10 then asks whether wide political domination would here instantiate 'cultural' domination.

For Bohman, domination primarily is a matter of unjust or otherwise objectionable status denials, including (but not limited to) status denials that make people (more) vulnerable to coercion or threat:

[W]hat domination is and when it is exercised is a matter of dispute, but the core idea is that I am dominated to the extent that others are able to deny the standing and statuses of other groups that make it possible for them to live without coercion or threat. ...

[W]e ought to see domination less as arbitrary interference and more in terms of the lack of statuses and powers that makes such injustices possible across many different domains. (Bohman 2012, 177.)

Many statuses, or normative powers (ibid, 180f), can be domination-relevant. This can include political, civil, or social statuses defined by rights, duties, or roles, that are socially or institutionally entrenched (ibid, 181), but it can also include discursive-*cum*-moral statuses, such as the status as someone entitled to “address others and to be addressed in turn” (ibid, 178), or to “initiate and to participate in any form of decision-making that imposes duties” (ibid, 181), or as an agent with “normative powers ... over the assignment of duties and obligations as well as over one’s own political and legal status” (ibid).

When will status denials entail domination? Bohman does not offer a systematic reply. Instead, he focuses on status denials that expose people to the harm of making them (more) vulnerable to coercion or threat. Of course, some status denials that involve domination, if they ever do, will expose people to harm of this kind. But it is open whether *all* status denials that involve domination will do so. There is little agreement as to what harms are typical or cardinal domination harms. E.g., some authors tie domination to exploitation harms (Thompson 2018), others tie it to harms of insecurity, exploitation, and undermined self-respect (Lovett 2010, 130-134), or the harm of not being able to enjoy equal status as a free citizen (Pettit 2012, 72, 82), or the harm of ‘noumenal’ alienation (Forst 2017a). At any rate, we should expect that domination can involve a diverse range of harms if a wide range of statuses can be domination-relevant. And it is open which of these harms should count as typical or cardinal domination harms, and whether all of these harms will involve making people (more) vulnerable to coercion or threat.

Moreover, it would seem that domination-relevant harm need not always be a consequence of, result from, or arise in addition to, a relevant status denial, but can consist in the status denial itself. E.g., if the new leader denies  $\alpha$ ’s political status by unjustly denying  $\alpha$ ’s rights, the unjust rights denial can be the relevant harm—even if no further harm results from it. Thus: status denials that involve domination, if they ever do, can do so even if they involve no harm other than the status denial itself.

Still, let me take away from Bohman the suggestion that domination is a matter of unjust or otherwise objectionable status denials that involve harm that is domination relevant (say, from some relevant perspective), such as the harm of making people more vulnerable to coercion or threat, but where that harm can consist in the status denial itself. Would the say of the unreasonable\* involve domination so construed? As I shall now suggest, it would involve a form of domination in discursive status, or discursive domination.

To start with, constitutive discursive standing is a kind of discursive status. But to diminish the purchase of an agent’s discursive standing in a justification practice denies or diminishes her ability to exert discursive influence in that practice—her ability to bring to bear her actual voice as something that has justificatory weight, or that contributes to justification—which, in turn, denies or diminishes discursive status. The upshot: the diminished say of the unreasonable\* in political liberalism denies or diminishes discursive status.<sup>4</sup>

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<sup>4</sup> It is worth contrasting this kind of denial of discursive influence with another, more prominent kind. One theme in the literature on epistemic injustice is that objectionable hearer attitudes, e.g., identity prejudices about speakers, can lead hearers to diminish the ability of speakers to communicate—which can result in the social or political denigration and marginalization of individuals or groups: see Fricker 2007, 2013; Dotson 2014; Catala 2015; Dieleman 2015; McKinnon 2016; Congdon 2017; Liveriero 2019. By contrast, the denials of discursive influence that matter here reflect *ground rules* of discursive practice, not objectionable hearer attitudes. How a justification practice distinguishes between authoritative and other uses of a justificatory say is part of its ground rules (or so I claim). E.g., if JP only counts ‘reasonable’ input as contributing to justification, it is part of JP’s ground rules to attach this weight only to this kind of input. We saw that how ‘reasonable’ is then defined can affect what influence a speaker’s actual voice has in justification. And where denials of such influence result from how the notion is defined, they can persist even if other people, in adhering to JP’s ground rules, do not display objectionable hearer attitudes toward speakers.

This status denial would be objectionable, all other things equal. As noted earlier, at least some unreasonable\* citizens should have a high-purchase justificatory say, if others do, in co-determining what political principles legitimate political power must accord with. Note that the point here is not that public justification must meet substantive discursive equality—it may not be able to do so (Besch 2019b, 475f). Instead, the point is that if some people are to have a high-purchase say, others should not be denied such a say without sufficient reason. But Rawls’s view does not offer such reasons: it *non-critically* denies the unreasonable\* a high-purchase say.

Next, this would involve denigration harm. It would leave the unreasonable\* unable to reject or contest the political values of the reasonable\* in public justification: their actual voices would effectively be muted, or denied all critical bite, in co-determining what political principles legitimate political power must meet whenever what they say does not accord with these values. In relation to these values, then, the unreasonable\* would have standing not as, well, equals, but as second-class citizens, as children, or as people whose sense of justice counts for less, who lack authority as a “voice that cannot be dismissed without independent reason” (Pettit 1997, 91), or who need not be respected as “self-authenticating sources of valid claims” (Rawls and Kelly 2001, 23).

Not least, would this harm be domination-relevant? At least as far as domination in *discursive* status is concerned, the intuitive answer is, *yes*. To only have a say in a relevant discursive practice that effectively mutes one’s actual voice, or denies it all critical bite, whenever it does not cohere with the values of others—values, moreover, that one actually is unable to accept—looks like a paradigm of domination in discursive status. And whatever specific denigration harm this inflicts, this harm is, or can be reasonably be seen as, domination-relevant (say, at least from the perspective of the people suffering it).

The suggested conclusion: at least intuitively, the diminished say of the unreasonable\* in Rawls-type public justification would involve domination in discursive status, i.e., a form of discursive domination.

## 9. Wide political domination

Next, would the diminished say of the unreasonable\* in Rawls-type public justification involve *political* domination?

A distinction between narrow and wide political domination is useful here. Consider, then, the broadly republican insight that whether a state dominates its citizens largely depends on what statuses or powers the citizens have to relevantly influence (or to control, or to share in controlling) how the state exercises its power over them. What statuses or powers—or what positions of influence, widely conceived—should count?

A first way to engage this question is to focus on what positions of influence citizens have, and should have, *under* given political principles—whatever political principles are taken to define what statuses, powers, rights, opportunities, and so on, citizens should have in a just political order. Thus, whether a state dominates its citizens here turns on whether the citizens have the positions of influence in relation to how the state acts that they should have under these political principles. Let me say that this construes political (non)domination in a *narrow* sense.

A second way to engage the question at hand is to also consider what positions of influence citizens have *over* relevant political principles, in co-determining what principles should define what statuses, powers, rights, opportunities, and so on, citizens should have in a just political order. Whether a state dominates its citizens now turns on whether they have positions of influence in relation to how the state acts that they should have under relevant principles *and* on whether they have the positions of influence that they should have in co-

determining what these principles are, or should be. Let me say that this construes political (non)domination in a *wide* sense.

(In passing: it stands to reason that denials of positions of influence that citizens should have under relevant political principles and denials of position of influence that they should have over such principles each can involve relevant harm. On this assumption, it should be possible to describe both narrow and wide political (non)domination in Bohman's terms as involving unjust or otherwise objectionable status denials that involve (putatively) relevant harm.)

Neo-republicanism often foregrounds narrow political (non)domination. E.g., take Pettit, who sees (positive) equal influence as republican "bedrock" (Pettit 2012, 25), or at least (positive) equal influence of citizens "who accept that the state should treat citizens as equals" (ibid, 170). For Pettit, state power does not dominate citizens only if it is subject to a system of popular control in which they have equal influence (ibid, 170; 177, 239ff, 302). But he also tells us that equal influence requires no more than equal access to an equal vote under a system of majoritarian voting (ibid, 169), where voting is for electorally responsive deputies (ibid, 201f) and citizens have access to social tools, such as opportunities for political speech or resources for legal challenges, to contest majority decisions (ibid, 213f). But this appears to political influence *under* given political principles, such as principles of republican justice, that define what statuses, powers, rights, opportunities, and so on, citizens should have in the first place.

By contrast, Rawls-type political liberalism places weight on *wide* political (non)domination. Arguably, for Rawls, political power can be oppressive, or dominate, even if citizens have the positions of political influence they should have under a given conception of justice if that conception is not publicly justifiable—where public justification must accord relevant citizens a measure of discursive influence, or high-purchase discursive standing, on what counts as so justifiable. That is, their *actual* voices must have traction on whether a given conception of justice is eligible for the role of defining what statuses, powers, rights, opportunities, and so on, citizens should have. This is part of the emancipatory upshot of Rawls's view of political legitimacy—albeit its flip-side is that it allocates a high-purchase say only to the reasonable\*.

What matters now is only wide political (non)domination. That the unreasonable\* would have a greatly diminished say in public justification means that they would have greatly diminished positions of influence in co-determining what political principles should define what statuses, powers, rights, opportunities, and so on, citizens must have in a just political order. But this would subject them to wide political domination: it would do so not because it entails a denial of positions of political influence that they should have under relevant political principles, but because it entails a denial of positions of influence that they, or at least some of them, should have over these principles, in co-determining what these principles should be.

This (tentative) conclusion has much appeal, or so I submit. It largely turns on a point noted already: at least some unreasonable\* citizens should have a high-purchase justificatory say, if others do, in co-determining what political principles define what statuses, powers, rights, opportunities, and so on, citizens should have in a just political order. Note that the point here is not that wide political non-domination obtains only if *all* citizen have *equal* positions of influence over such principles. The point is that wide political non-domination does *not* obtain where citizens are being denied positions of influence over such principles that, *prior to further argument*, they should not be denied. But Rawls does not provide such argument: his view *non-critically* denies the unreasonable\* a high-purchase say.

Two qualifications are needed. First, the above assumes that public justification is politically efficacious—that it relevantly influences how the state acts. After all, if the practice

of public justification in which the unreasonable\* have a diminished say does not influence at all how the state acts, it would be out of place to single out a *diminished say* in that practice as something that entails wide political domination—rather than, say, the lack of political influence of the practice as a whole. This assumption appears unproblematic in the present context. At any rate, many political liberals and deliberative democrats assume that public political reason-giving is, and at any rate should be, politically efficacious. Still, the above can only suggest that the say of the unreasonable\* would involve wide political domination provided public justification is relevantly efficacious politically.

Second, the above assumes that citizens *should* have positions of influence over the relevant political principles to begin with. If citizens should *not* have any such influence in the first place, then, it seems, denying them such influence will not count toward political domination. This assumption, too, seems unproblematic here. At least political constructivists like Rawls typically assume that (some) citizens should have positions of influence over the relevant principles. Still, the above can only suggest that the say of the unreasonable\* would involve wide political domination provided citizens, including (some) unreasonable\* citizens, should have positions of influence over the relevant political principles.

But let me take it here that these qualifications hold: at least intuitively, then, Rawls-type political liberalism would subject the unreasonable\* to wide political domination.

### 10. Cultural domination?

By way of conclusion, let us ask: would the wide political domination of the unreasonable\* involve *cultural* domination?

One matter that calls for attention surely is the fact (if it is one) that Rawls's political liberalism would expose the unreasonable\* to wide political domination on *cultural* grounds—grounds, moreover, that are privileged *non-critically*. The unreasonable\* would have a diminished say in co-determining the political principles of a just political order since they cannot accept the political values of the reasonable\*—where all such values are values of liberal public culture—while the authority of these values is supposed, rather than justified, let alone justified to the unreasonable\* on grounds they, too, can accept. In this two-fold sense, then, Rawls's view would expose the unreasonable\* to *culture-based* forms of discursive domination and wide political domination.

Now, it is unclear what makes any instance of domination, such as instances of wide political domination, 'cultural'. And depending on what we take this to be, culture-based wide political domination need not involve 'cultural' domination. E.g., perhaps 'cultural' domination is something that occurs only if people are denied cultural rights, opportunities, or resources, that, we take it, they may not be denied. Or maybe what is necessary is not just that people are denied such things, but that they cannot relevantly influence (or control, or participate in controlling) whatever power is exercised in denying them these things. Plainly, culture-based wide political domination need not involve such things—albeit, of course, it can involve them, or be conducive to them. That is,  $\alpha$  might be denied a full say in Rawls-type public justification (in a culture-based manner), while the people who do have a full say agree that  $\alpha$ , too, should enjoy equal cultural rights, opportunities, or resources, or that all citizens, including  $\alpha$ , should be able to relevantly influence whatever power would be exercised over them in denying them such things.

Still, can we be confident that cultural domination is fully absent where the actual voices of otherwise respectable dissenters are being muted, or denied all critical bite, in co-determining the principles of a just order whenever these voices do not accord with salient cultural values—if and when the authority of these values is merely supposed, rather than justified, let alone justified on grounds these others, too, can accept? The issue is not that people are denied a full say in such matters on cultural grounds (albeit this might already

raise red flags). The issue is that if we take others' inability to accept our cultural values as something that is to make this difference to their discursive-*cum*-political influence, then these values and the role we assign to them are in need of justification, and ideally a justification on grounds they, too, can accept. In the absence of such a justification, denying them a full say might merely be a discursive strategy of oppression. In other words: what should give us pause here, if nothing else, is the dogmatism with which Rawls's view draws on certain cultural values to deny the unreasonable\* a full say in public justification, and the *authoritarianism* this seems to have in tow.<sup>5</sup>

Of course, we might agree with Rawls (i) that at least some of the cultural values he draws on here really *are* 'very great values'—e.g., take again the ideas that society should be a fair system of cooperation and that citizens should be respected as free and equal. And (ii) our reasons to accept these values might have little to do with their status as cultural values (if they have that status). Not least, perhaps (iii) public justification must always proceed from starting points and under constraints the wide acceptability of which is (at the time, in the context at hand) merely supposed, and open to question. But (i)–(iii) do not add up to a license to mute the actual voices of otherwise respectable dissenters, or to deny these voices all critical bite, in determining the principles of a just order wherever they do not accord with our cultural values. Nor can (i)–(iii) dispel the suspicion that denying them the relevant discursive-*cum*-political influence amounts to more than an authoritarian imposition of our values on them.

I submit, then, we have reason to doubt that cultural domination is absent—in at least some sense of 'cultural' domination—where people are exposed to wide political domination on cultural grounds if and when the authority of these grounds is merely supposed, rather than justified, let alone justified on grounds that these people, too, can accept. Accordingly, we have reason to doubt that the culture-based wide political domination of unreasonable\* citizens in political liberalism would not involve cultural domination.

In closing: what kind of justification of the relevant values can duly dispel these doubts? This is unclear. Yet not just any kind of justification will do. E.g., trivially, that my values are justified by *my* lights, on grounds *I* accept as right or true, will not ensure that imposing them on you would not be authoritarian. Nor will it do to require my values to be justifiable to you on grounds that you can accept at *some* level of idealization—such as very high levels of idealization that would allow me to deprive your actual opposition to the grounds I invoke all critical bite. The less influence your actual voice has on what grounds I may appeal to—the lower in purchase your discursive standing is—the less reasonable it will be for me to see the justifiability to you of my values as an insurance that my imposition of these values on you would not be authoritarian. If so, there is reason to require my values to be justifiable to you on grounds that are acceptable by you at a suitably *low* level of idealization.

It is a small step from here to the conclusion that the cultural values on grounds of which political liberalism denies the unreasonable\* a full say should be justifiable to them, where justification should accord them a justificatory say that is sufficiently high in purchase (e.g., a justification practice that accords with A2, above). Of course, it is open *how high* in discursive purchase such a say must be to be sufficiently high in purchase, and whether these values are justifiable to the unreasonable\* when their say has such purchase.<sup>6</sup> But so long as these values are not so justifiable, Rawls's political liberalism attracts the worry that it imposes salient cultural values on respectable dissenters in a way that is authoritarian.

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<sup>5</sup> I discuss the problem of public dogma in Rawls-type political liberalism in more detail in Besch 2012, 167-171.

<sup>6</sup> For a view of what level of discursive purchase an agent's discursive standing in public justification should minimally have: see Besch 2019a and 2023.