The topic of this chapter is religion in liberal politics, and “liberalism” is the name of an unruly family of doctrines. So let me tighten the focus further. My concern is with the place of religious conviction in the dominant form of contemporary liberalism known as “justificatory liberalism.” Before explaining what justificatory liberalism is, two preliminary remarks are in order. First, my discussion is internal to liberalism. I am not concerned here with the question of whether liberalism is an adequate framework for political theory. The issue, rather, is whether justificatory liberalism is the right liberalism. Certain critics say that justificatory liberalism’s view concerning religious conviction demonstrates that it is not properly liberal, and I will here defend it against this charge. Second, the issue at hand is conceptual. Questions concerning the political behavior of religious citizens and the social benefits of religious institutions are indeed important, but beside the point; and so are constitutional concerns regarding public expressions of religiosity. The issue at hand is whether strictly religious reasons are ever sufficient to justify coercive law. The justificatory liberal says they are not, and I think that is the right view for liberals.
A lot needs to be said in order to specify what is at stake. Accordingly, the first part of the chapter is aimed at nailing down the issue. The second part sketches a critique of justificatory liberalism proposed by Christopher Eberle. The third part develops a version of justificatory liberalism that evades Eberle’s criticism. Finally, in the fourth part, I compare the resulting version of justificatory liberalism with the more familiar Rawlsian version, arguing that the view I propose is, in the end, roughly equivalent to the Rawlsian position. It seems, then, that on the question of the place of religious reasons in public discourse, Rawls was right after all.

**LOCATING THE ISSUE**

Like all liberalisms, justificatory liberalism sees the political world as (ideally) a fair system of cooperation among equals. Thus it shares with garden variety liberalism a commitment to the freedom and equality of all citizens; it recognizes the familiar schedule of basic liberties, and supports all of the usual views about distributive justice, the rule of law, and representative government. It sees political power as inherently coercive and offers an account of when coercion is permissible. Justificatory liberalism is, like all liberalisms, a view about legitimacy.

This is where the distinctive element of justificatory liberalism emerges. Justificatory liberals hold that, as John Rawls puts it, “a legitimate regime is such that its political and social institutions are justifiable to all citizens—to each and every one—by addressing their reason, theoretical and practical.” To get a flavor of the distinctness of the justificatory version, contrast it with a more traditional liberalism. In *On Liberty*, Mill proposes “one very simple principle” for demarcating permissible from impermissible coercion. Mill’s claim is that coercion is permissible only when it is necessary to prevent harm to others. A liberal regime coerces its citizens only in such cases; a state that does otherwise is despotic, illegitimate.

By contrast, the justificatory liberal distinguishes permissible from impermissible coercion by appealing to a different kind of criterion: coercion is permissible only if it is *justifiable* to “every last individual.” Note that this justifiability requirement is not a consensus or unanimity requirement. A coercive law or policy might be justifiable to all even
though it in fact enjoys little or no popular support. A justifiable policy might yet be rejected, and rejected for good reason; but when a justifiable policy is enacted, one’s rejection of it is not sufficient to defeat its moral bindingness. Think of Socrates in Plato’s *Crito*: the personified Laws do not convince him that he should want to be executed; they convince him that he is morally required to obey their verdict by a certain conception of justice that he himself endorses. There is a difference between a law being *endorsed* by all and its being justifiable to all. Arguably, a law that is *endorsed* by all is not coercive, because such a law would require what everyone agrees must be done anyway. Consequently, to claim that a law is justifiable only if it is *endorsed* is to deny that coercion is ever permissible; and that is the philosophical anarchist’s position, not the liberal’s. Laws indeed *force* people to do what they otherwise would not do, and, according to the liberal, exercise of this force is, under certain conditions, morally permitted; the justificatory liberal claims that force is morally permitted only when it is justifiable.

Hence the justificatory liberal must give an account of justifiability. On all versions of the view, the justifiability of a law is a matter of the kind of reason that can be proposed in its support. The justificatory liberal holds that for a coercive law to be justifiable to all, it must be recommended by a reason that is “accessible” to all. Justifiability is accessibility.

There’s the rub. What does it mean for a reason to be accessible? Justificatory liberals are divided. Some say that accessible reasons are “public”; others say they are “common,” “intelligible,” or “acceptable to all qualified points of view”; some appeal to reasonable rejection, or reasons that “can be shared”; and others speak of reasons that “any rational adult can endorse” or reasons that “citizens can accept on the basis of their common reason.” Despite the significant differences between these accounts, theorists often move merrily from one formulation to the others, as if they were equivalent. But I need not attempt to adjudicate this issue, because, fortunately, justificatory liberals agree that strictly religious reasons are not accessible in the relevant respect.

By strictly religious reasons, I mean reasons that derive exclusively from some particular religious perspective. The justification for a law forbidding torture that draws from considerations of human dignity
need not run afoul of the justifiability requirement, because the idea that we are morally required to recognize such dignity is not exclusive to any particular religious perspective, but is in fact common to many perspectives, religious and secular. By contrast, laws forbidding homosexual sodomy fail to be justifiable because there is no case for forbidding homosexual sodomy that does not depend ultimately upon some sectarian religious doctrine. To put the matter differently: in order to appreciate the reasons for prohibiting homosexual sodomy—in order to see the proposed reasons as even relevant—one must be committed to a religious view that, in a liberal society, citizens are free to reject. Consequently, justificatory liberalism implies that accessible reasons are secular.\textsuperscript{18}

So the justificatory liberal holds that the exercise of the coercive force of the state is improper when it cannot be justified by the right kind of reason, and strictly religious reasons are reasons of the wrong kind. Complications emerge when we consider cases in which the state offers as its reason for law L a strictly religious reason, but L also enjoys the support of reasons that are not strictly religious. Justificatory liberals disagree about whether the state’s stated or motivating reason must be accessible. Some say that the state may legislate on the basis of a strictly religious reason just in case there is also an accessible reason available that supports the legislation;\textsuperscript{19} others go further, adding that the accessible reason must be not only available but sufficient to motivate the legislation.\textsuperscript{20} The issue is tricky, and I confess to being wary of speaking of states in this way. Fortunately, I can bracket most of this too; justificatory liberals agree that coercive laws that are supportable only by strictly religious reasons are illegitimate.

To feel the force of this view, consider a law forbidding the eating of pork on certain specified days of the year. It is hard to imagine a justification for such a law that is not strictly religious. And this seems to render the law illegitimate in a way that even vegetarians should recognize. But why? Notice that such a law is not a clear violation of the Establishment Clause; a law forbidding pork-eating on a few days of the year hardly establishes a church.\textsuperscript{21} Arguably, the law does not harm anyone; it is not clearly a violation of anyone’s rights; and probably very few people will feel coerced in any strong sense by it. Yet something is amiss. The justificatory liberal’s account of the problem
is intuitive: the only reasons that count in favor of the law are reasons that do not count.

There are distinctive advantages to a view that enables us to criticize a proposed law on the grounds that the reasons which support it are not of the right kind. We do not want the legitimacy of a law to turn on the question of which religion is correct. We want a way to object to the law’s legitimacy that does not require us to argue the merits of the religious perspective that recommends it. We want to avoid having to say to our fellow citizens that their deepest religious convictions are false, yet we also want to retain the means by which we can reject the idea that everyone should live in accordance with those convictions. Justificatory liberalism fits the bill.

But the claim is not simply that coercive laws based solely on strictly religious reasons make for inconvenient or messy politics. The claim is that such laws are objectionable. Why? The justificatory liberal claims that such laws are disrespectful of those who must live under them. What drives this view of disrespect is another staple commitment of justificatory liberalism, namely, acknowledgment of what Rawls called “the fact of reasonable pluralism.”22 The claim is that deep disagreement over fundamental moral, religious, and philosophical commitments is not necessarily due to ignorance, foolishness, or wickedness; rather, responsible and intelligent persons doing their epistemic best and attending to all the relevant available considerations may nonetheless disagree deeply about fundamental matters. In short, reasonable pluralism is the inevitable result of liberal institutions.23 A liberal polity must recognize that there are many doctrines that are consistent with responsible citizenship, despite being inconsistent with one another. Laws that can be supported only by strictly religious reasons disrespect citizens—they coerce solely on the basis of reasons that citizens are at liberty to dismiss.24

I take it that on almost any liberal view this much is commonplace, perhaps even unobjectionable. But things get murkier when we examine the matter from the point of view of the political activity of citizens.25 Consider a simplified case: Abby votes for a coercive law L on the basis of her strictly religious reasons, knowing that no other kind of reason supports L. Has Abby acted wrongly?

The justificatory liberal claims that Abby has acted wrongly. To wit: in a democratic polity, citizens share political power equally—they
vote, campaign, lobby, and engage in other activities designed to direct the coercive power of the state. Let’s use the term “advocacy” to cover all of these varied activities. If a coercive law is illegitimate when it is not justifiable, then citizens’ advocacy on the basis of strictly religious reasons is morally suspect, especially in the case of advocacy for policy that is supportable only by strictly religious reasons. When citizens engage in advocacy of this kind, they exercise their meager share of political power in a way that directs the state to coerce on the basis of reasons of the wrong kind. If it is wrong for the state to enact laws that are not justifiable, then it is wrong for citizens to exercise their political power such that, were the effort successful, the state would unjustly coerce. What is wrong for the state to do is wrong for the citizen to direct the state to do.26

Admittedly, the analogy between legislation and advocacy is imperfect. Whereas state coercion is illegitimate when it is not justifiable, Abby’s advocacy is simply immoral.27 When a state coerces for reasons of the wrong kind, it commits an injustice; when Abby advocates for a law that can be supported only by the wrong kind of reason, she violates a duty of citizenship. However, the justificatory liberal holds that both cases involve the same kind of wrong: just as the state disrespects its citizens when it enacts unjustifiable coercive laws, a citizen who advocates for an unjustifiable coercive law disrespects her fellow citizens.

Hence the justificatory liberal contends that citizens have a moral duty to withhold advocacy in the case of coercive laws that are supportable only by strictly religious reasons. To do otherwise is to disrespect one’s fellow citizens; to use Rawls’s term, it is to be “uncivil.” Importantly, civility is a moral duty, not a legal one;28 citizens who violate it are subject to blame, not sanction. Furthermore, the duty of civility constrains political advocacy, not speech per se. There is no duty that precludes citizens from publicly expressing or discussing the strictly religious reasons that support their favored laws. The duty of civility applies only when we exercise our powers of citizenship to direct the coercive power of the state.29

Civility becomes troublesome once we consider that, for many citizens, religious commitment is constitutive; religious citizens often see their convictions not only as beliefs they have, but also as what they are.30 For many citizens, their religious convictions specify what
justice is, what deserves toleration, and what proper citizenship consists in. Many citizens take their obligations to God to be overriding and “totalizing”; it is part of their religious conviction that religious obligations trump all other obligations.31

In requiring citizens to withhold advocacy from laws that can be supported only by their strictly religious reasons, justificatory liberalism imposes on religious citizens serious conflicts of conscience: they are required to recognize a political obligation that overrides what they take to be their religious obligations. In some cases, this seems to interfere with the free exercise of religion: some believers claim to have a religious obligation to engage politically in a way that manifests their faith. Thus to endorse an ethic of citizenship that would require violations of conscience seems disrespectful.32

Although I think that this particular line of criticism is misguided, it is easy to see why it has gained traction. Consider Macedo: “If some people . . . feel ‘silenced’ or ‘marginalized’ by the fact that some of us believe that it is wrong to seek to shape basic liberties on the basis of religious . . . claims, I can only say ‘grow up!’”33 This remark is unique in its overt intemperance; however, the potential for disrespect that lies within justificatory liberalism is often overlooked. And, as Eberle rightly observes,34 this no doubt has to do with the fact that in the literature, the imagined religious opponent of justificatory liberalism is frequently found advocating for the legal prohibition of homosexual sex or contraception, or for some other policy that liberals have independent reasons to think odious. The badness of the desired policy output is projected on to the input.35

So let’s consider an example borrowed from Eberle that helps to focus on the inputs. Betty is an agapic pacifist. Agapic pacifists hold, for strictly religious reasons, that “waging war is always morally prohibited,” even in self-defense and even in order to save innocent lives.36 Moreover, agapic pacifists hold that they are morally obligated to politically prevent war, and so they advocate for a Twenty-Eighth Amendment to the U.S. Constitution that would strip the federal government of the power to wage war.37 Let us suppose that this extreme pacifism can be supported only by the strictly religious reasons provided by the agapic pacifist’s unique brand of Christianity. Thus the issue: the justificatory liberal contends that in advocating for Amendment Twenty-Eight, Betty disrespects her fellow citizens. Is the justificatory liberal correct?
Again, this is a conceptual question. Some have suggested that it is a misguided question since there is, in fact, no real-world policy proposal that is supportable solely by strictly religious reasons. Indeed, the familiar cases of conflict between religion and politics seem to be cases in which citizens advocate on the basis of strictly religious reasons for policies that are supportable by other reasons as well. Now, I happen to believe that a citizen who advocates solely on the basis of strictly religious reasons is morally blameworthy as a citizen, regardless of whether her favored policy also enjoys the support of accessible reasons; yet this is, again, a complicated matter that I cannot try to settle here. But one thing is clear: if Betty’s advocacy is morally aboveboard, then strictly religious advocacy in the real-world cases will be too. That is, if Betty’s advocacy is permissible, then it will be difficult to make the case that strictly religious reasons against such things as same-sex marriage, abortion, euthanasia, and contraception are non-justificatory. So it is important to begin with the artificial but more clearly defined case. If it can be shown that Betty’s advocacy is disrespectful, then there will still be an argument to be had concerning the real-world cases.

**EBERLE’S ATTACK ON JUSTIFICATORY LIBERALISM**

Eberle has launched a sophisticated two-stage attack on justificatory liberalism. The first stage exposes a flaw in the structure of justificatory liberalism. The second stage presents a compelling conception of respect that can be satisfied even by citizens advocating for laws that are supportable only by strictly religious reasons. To be sure, Eberle’s view is not *radically inclusive*—it declares certain kinds of religious advocacy disrespectful—but, crucially, it permits Betty’s advocacy. I think that both stages of Eberle’s attack fail; and that is what I shall argue below. Here, I provide a quick sketch of the core of Eberle’s view.

First, the structural objection. Eberle rightly observes that the core of justificatory liberalism consists of two distinct commitments that are almost always run together. The first is what he calls the “Principle of Pursuit”: “A citizen should pursue public justification for his favored coercive laws.” The second is the “Doctrine of Restraint”: “A
citizen should not support any coercive law for which he lacks a public justification.” Eberle uses “public justification” here to refer to the justificatory liberal demand for reasons that are accessible, and thus justifiable, to all. His charge is that justificatory liberals treat the Doctrine of Restraint as logically equivalent to the Principle of Pursuit, often moving from the one to the other without any notice—or argument—at all. A canvass of the justificatory liberal literature confirms Eberle’s observation. Thus Gerald Gaus captures what seems to be the official justificatory liberal view on the matter when he writes, “the reverse side of our commitment to justify imposing our norms on others is a commitment to refrain from imposing norms that cannot be justified.”

Gaus’s claim that the Doctrine of Restraint is the “reverse side” of the Principle of Pursuit is imprecise; it is difficult to discern what logical relation is being proposed. The Principle of Pursuit does not entail the Doctrine of Restraint, and it is hard to formulate a plausible intervening deontic principle that would license such an immediate inference from a duty to try to a requirement concerning what to do if the attempt fails. So the two commitments are distinct, and there is a gap between them. Again, a survey of the justificatory liberal literature reveals little by way of convincing argument that would close the gap; this has led at least one religious liberal to conclude that the gap cannot be closed.

I will return to the gap below. Eberle’s positive strategy is to show that respect requires Pursuit but not Restraint. On Eberle’s view, “a citizen respects his compatriots . . . only if he accords due moral weight to the fact that they are persons, which in turn requires this fact to make a moral difference to the way he acts.” This requires that we regard our compatriots as “having great and equal worth.” From this Eberle develops a view of what respect requires of citizens when they politically advocate, what he calls the “ideal of conscientious engagement.” According to this ideal, a citizen must “pursue a high degree of rational justification for the moral propriety” of her favored coercive laws, and “withhold support” if she cannot achieve such justification. Furthermore, respect requires a citizen to “listen” to her compatriots’ criticisms of her favored law “with the intention of learning from them” about the moral propriety (or lack thereof) of the law; and, finally, citizens must “sincerely and respon-
sibly attempt to articulate reasons” for their favored laws that their compatriots “regard as sound.”

Eberle’s contention is that Betty, our agapic pacifist, could satisfy the demands of the ideal of conscientious engagement and yet fail to discern an accessible reason for Amendment Twenty-Eight. If she has achieved a high level of rational justification for her favored law and has done her level best to find accessible reasons for it, Betty has, according to Eberle, done everything respect requires. And so with all religious believers: provided that they have achieved a high level of rational justification for their view, and have done their level best to discern accessible reasons for the laws they favor, they may advocate on the basis of strictly religious reasons, even when no other reasons are available. Eberle takes himself to have reconciled the two liberal commitments that justificatory liberals place in opposition, namely, respect for fellow citizens and freedom of conscience. The justificatory liberal’s Doctrine of Restraint is not necessary from the point of view of respect, and thus is, Eberle says, “illiberal.”

Eberle thinks that the agapic pacifist case is especially compelling because Betty is ex hypothesi motivated by a doctrine that accords to every human life an unusually high degree of basic worth, and she advocates for a policy that she rationally believes is required if we are to respect that worth. Betty advocates for Amendment Twenty-Eight precisely because she holds human life in especially high regard. Consequently, Eberle finds the justificatory liberal’s claim that Betty disrespects her compatriots “incredible.”

**IN DEFENSE OF JUSTIFICATORY LIBERALISM**

Although I have skipped over many details of Eberle’s view, the foregoing sketch suffices for our purposes. I will press two responses on behalf of justificatory liberalism. First, the ideal of conscientious engagement itself gives rise to serious conflicts of conscience, and in fact may prove to be more burdensome than the Doctrine of Restraint. The success of this line of response of course should give no great consolation to the justificatory liberal; it is a tu quoque, and so provides no positive support for justificatory liberalism. But a second line of response sketches a conception of respect available to the justificatory
liberal that requires both pursuit of public justification and restraint of nonpublic justification, that is, both of the commitments that Eberle identifies and separates. I will take these two responses up in order.

Eberle’s ideal of conscientious engagement may seem plausible when we consider conflicts between religious reasons and accessible reasons, but difficulties arise when we consider conflicts between religious believers of different faiths. Consider: Stan, the local Satanist, has achieved a high level of rational justification for the moral propriety of a law calling for government-sanctioned hedonism festivals involving public orgies, blood rituals, alcohol consumption, and animal sacrifice. To avoid difficulties concerning the constraint that we treat others as having “great and equal worth,” let’s say that the festival involves no compulsory acts of worship and no forced interpersonal contact, something more like state-sanctioned public frat parties than compulsory church attendance. Although Stan supports this law on the basis of his strictly Satanic reasons, he has done his level best to find accessible reasons and he has engaged sincerely with those who oppose him; however, no accessible reasons have surfaced. According to Eberle’s view, Stan has satisfied his duty to respect his fellow citizens and may now advocate for his law.

Stan’s advocacy is unlikely to succeed politically. However, Eberle’s view only requires citizens to recognize the *in principle* legitimacy of a law that enjoys no other justification than a Satanic one. And this alone can create a conflict of conscience more severe than the Doctrine of Restraint. For Eberle’s view requires Christian citizens to place themselves under political conditions that would morally permit coercion on the basis of reasons that they not only do not recognize the moral force of, but are religiously committed to denying the moral force of. By accepting the ideal of conscientious engagement as the entirety of what respect requires, religious citizens make themselves vulnerable to justified coercion on the basis of reasons they, from their religious perspectives, must deny are reasons at all.

Imagine that Stan somehow prevails. On Eberle’s view, the Christian citizen has no principled objection to Stan’s law; Stan has satisfied the ideal of conscientious engagement, hence there is nothing defective about the law at all. More importantly, if Stan prevails, Christian citizens would have a *moral obligation* to do what they are religiously obliged to deny they could ever have a *moral* reason to do, namely, to
accept that the government sanction hedonist festivals. I must confess that this seems untenable, bordering on incoherent; at the very least, it places a far heavier burden on the religious believer than the Doctrine of Restraint would.

But the case of Stan is not ideal. One could argue, for example, that Stan’s law is not really coercive, since it requires citizens merely to allow the festivals, or at most be complicit in them. Now, I think the law is coercive, but let’s not get sidetracked by this issue. There is a different case which seems more clear cut. Consider the case of Marco, a Marx-inspired Christian Liberation Theologian. Marco believes with a high degree of rational justification that violent conflict is inevitable in the pursuit of justice, and he sees compulsory conscription into military combat forces as a necessary solidarity-building and conscience-purifying measure. Marco satisfies the ideal of conscientious engagement and finds no accessible reason for his law, but nonetheless advocates on the basis of his strictly religious reasons for universal conscription necessarily involving participation in combat forces.

Suppose that Marco prevails. Where does that leave Betty? She now must see herself as under a moral obligation to participate in combat, despite the fact that she must also regard all combat as impermissible. She could argue for an exemption from the law, but in making her case, she would not be able to complain that in imposing the law, the state would be disrespecting her. And, in my view, this is precisely what Betty should want to say.

It seems to me, then, that religious citizens have good reason to reject the idea that conscientious engagement is sufficient for respect. Where does that leave the justificatory liberal? Let’s return to the gap Eberle identified between pursuit and restraint. Although it is true that the Principle of Pursuit does not entail the Doctrine of Restraint, it seems to me that there is a case to be made for thinking that a properly liberal conception of respect requires both.

A central liberal commitment has it that, in addition to the kind of respect persons owe to one another qua persons, there is a distinctive kind of respect that liberal citizens owe to one another qua citizens. Call this “citizen respect.” Citizen respect involves the recognition of fellow citizens as political equals, that is, as equal sharers in political power and responsibility. Two points are crucial. First, what it is to be a proper citizen in a liberal democracy is to recognize the moral force
of certain reasons when deciding policy. For liberal citizens deliberating about some proposed law L, considerations regarding L’s impact on equality, liberty, freedom, dignity, autonomy, and civil peace must count. Of course, citizens may disagree about how the values referenced in reasons of this kind are to be understood, and how such reasons are to be prioritized. But to deny that reasons of this kind matter is to call into question one’s fitness for liberal citizenship. Hence we can identify a collection of reasons that citizens qua citizens must recognize as relevant when deciding policy. Appropriating a term from Bernard Williams,59 we may say that these are reasons which must count as “internal reasons” for citizens in their role as citizen. I take it as almost definitional that, in a liberal society, strictly religious reasons cannot be internal reasons for citizens as such. To say that considerations such as “the Bible dictates that p” or “Saturday is the Sabbath” must count for citizens qua citizens is to no longer be talking about a liberal regime.

Second, all liberalisms hold that legitimate laws place moral obligations on citizens. When a citizen breaks a legitimate law, we hold her morally blameworthy, and not simply legally sanctionable.60 In this way, imposing coercive laws is analogous to imposing moral obligations generally. Like moral blame in general, blame for violating a law is morally appropriate only when we can say that those who break the law had an internal reason to acknowledge the law. To take others to be morally required to acknowledge obligations that they have no internal reason to acknowledge is not to treat them as moral agents, but, in Gaus’s apt term, to “browbeat” them;61 and to browbeat fellow moral agents is to disrespect them.

Pulling these two considerations together, we can say that liberal citizens are required to recognize—for the purposes of citizenship—certain kinds of reasons as internal reasons. Additionally, citizens are in the business of placing moral obligations on one another in the form of laws. Since laws state moral obligations, citizens who violate the law are morally blameworthy. But assigning moral blame for violating a law is disrespectful when the violator has no internal reason for acknowledging the law. For instance, to impose on Carol a law that she qua citizen has no internal reason to acknowledge is to treat her as a mere subject of legislation, not as a citizen; and this is to disrespect her. And—here is the crucial point—liberal citizens are not required
to regard strictly religious reasons as internal reasons. Therefore, to advocate a law that is supportable for strictly religious reasons is to disrespect one’s fellow liberal citizens.

This kind of disrespect is precisely what is involved in the law favored by Betty. Amendment Twenty-Eight would impose on some citizens a moral obligation that they, qua citizens, have no reason to acknowledge. No matter how well-intentioned Betty is, no matter how high her regard for human life, no matter how much she respects her fellow human beings, the law she proposes fails to recognize the political equality of all citizens; hence it is disrespectful to her fellow citizens. If it would be disrespectful for the state to enact a given law, it is disrespectful for a citizen to direct the state to enact it. Hence advocacy for laws that are supportable only with strictly religious reasons is disrespectful.

We may say, then, that citizenship respect requires us not only to pursue accessible justifications for the laws we advocate, but to succeed at finding such justifications. To do otherwise would be to permit ourselves to impose on our fellow citizens moral requirements that they need have no internal reason to acknowledge. Again, that would be to treat our compatriots as mere subjects of legislation, not as citizens. In short, respect requires restraint.

Eberle has addressed this kind of view. Gaus runs a version of the argument above, claiming that “in order to make genuine moral demands on others . . . you must show that, somehow, their system [of beliefs] yields reasons to embrace your demand.”62 Against Gaus, Eberle denies that moral blame is appropriately assigned only when the purportedly blameworthy agent could be regarded as having a reason of his own for satisfying the moral obligation in question.

Eberle argues by means of two cases. First, Jeffrey is “incapable of controlling his urge to torture his fellow human beings,” and thus is unable to resist violating the moral demand to not torture. Eberle claims that we should not blame Jeffrey for torturing, but we nonetheless “should impose on Jeffrey and others like him our moral demand that citizens not be tortured.” Second, Jill is “incapable of forming the concept of genocide,” and consequently moral obligations to not participate in genocide cannot be justified to her.63 Eberle contends that we nonetheless ought to hold Jill to the moral obligation to not engage in genocide.64
Eberle takes the case of Jeffrey to show that it can be appropriate to impose a moral requirement on someone who cannot satisfy it, and the case of Jill to show that it can be morally appropriate to impose a moral requirement on another who is incapable of appreciating the reasons that support it. Eberle takes himself to have thus provided counterexamples to the view that the imposition of moral requirements is appropriate only when they are justifiable to those upon whom they are imposed.

But I do not see how these are counterexamples. Consider Jill. Eberle claims that, but for her “serious moral blind spot,” she is “an ordinary moral agent.” It is hard to see how someone lacking the ability to form the concept of genocide could be “an ordinary moral agent”; in fact, it is hard to see what we are being asked to imagine. Does Jill have the concept of mass murder? Does she have the concept of an ethnic or cultural group? Does she have the concept of mass murder for the purpose of ridding a particular location of a particular group? It seems that someone having these further concepts would be able to form the concept of genocide. But if she does lack these concepts, it is hard to see how Jill could be “an ordinary moral agent.” At the very least, Jill is not a moral person with respect to genocide. We impose the requirement to not participate in genocide, and this requirement indeed has moral content, but, for Jill, it cannot be a moral requirement; with respect to genocide, Jill is rightly regarded as a mere subject of legislation. The same goes for Jeffrey. Insofar as Jeffrey and Jill are impaired moral agents, they do not serve as counterexamples.

Perhaps Eberle does not mean for these cases to be taken as counterexamples, but to function simply as examples of a different view of how agency and blame are related. Maybe there is a viable view of these matters that permits us to impose moral requirements on those who cannot abide by them or cannot grasp the justification for them. But it is difficult to imagine how a conception of justified state coercion that adopted such a view could be a liberal conception.

Before moving on, it should be noted that under justificatory liberalism, just as under Eberle’s liberalism of conscientious engagement, citizens like Betty are likely to suffer terrible conflicts of conscience. But liberalism does not guarantee a life of moral serenity. And justificatory liberalism permits quite a lot. For example, it allows Betty to pub-
licly express her agapic pacifism, to publicly condemn war, and to participate in peace movements. She may organize, demonstrate, protest, and petition against war, argue for special accommodation concerning how her taxes are spent, and so on. Justificatory liberalism requires only that she refrain from advocating for Amendment Twenty-Eight or for any other policies that can be justified only on exclusively religious grounds. If Betty simply cannot abide this requirement, one wonders whether she would be able to regard any democratic law that conflicts with her agapic pacifism as morally binding. Perhaps in the end Betty is incapable of responsible citizenship. Yet even in this case, if she confines her behavior to what is legally permitted, there is really nothing the justificatory liberal can do beyond holding her morally blameworthy. And surely from Betty’s perspective that is not the end of the world.

**WAS RAWLS RIGHT AFTER ALL?**

Thus far, I have argued that Eberle’s ideal of conscientious engagement would engender conflicts of conscience that are perhaps more severe than those occasioned by the Doctrine of Restraint. Moreover, I have proposed an identifiable liberal conception of respect that requires both the Principle of Pursuit and the Doctrine of Restraint. Admittedly, I have not provided arguments for such citizen respect in this chapter. But arguments are easy to anticipate: citizen respect captures core liberal thoughts about citizenship, equality, and democracy; and it also comports well with familiar Strawsonian intuitions about moral responsibility, agency, and blame. Perhaps more importantly, citizen respect accommodates the liberal thought that respect is internally tied to representative and accountable government; that is, citizen respect is able to capture the core liberal commitment that there is something *intrinsically* disrespectful about, say, monarchy.

There is certainly a lot more to say, and I have in the course of this chapter left many important matters hanging. But I want to conclude by taking up a different matter. Although I have avoided adopting the Rawlsian nomenclature, it should be clear that the version of justificatory liberalism I have proposed is closely allied with
the mainline Rawlsian view. Consider that, in developing the idea of
citizen respect, I have appealed to the idea of a kind of reason that
is *intrinsic* to liberal democracy, and correspondingly to a kind of
reason that citizens in their public roles must recognize as *relevant*
to public decision-making; I called reasons of this kind “internal”
reasons for liberal citizens. To resolutely reject the relevance of such
a reason is to call into question one’s fitness for liberal democratic
citizenship. This view of internal reasons for liberal citizens finds
its Rawlsian analogue in the terms upon which the overlapping con-
sensus that Rawls proposed is based. As is well known, Rawls envi-
ioned a collection of principles, norms, and values that could be rec-
ognized from within any reasonable liberal comprehensive doctrine.
An individual who insists that some other kind of reason should be
decisive in deciding a matter of basic justice is, according to Rawls,
*ipso facto* unreasonable and thus not a member in good standing of
a liberal society. So my distinction between internal and noninternal
reasons for citizens tracks Rawls’s distinction between public and
nonpublic reasons.

Now, the Rawlsian view is often criticized for being too vague and
loose when it comes to what look like hard cases. But it seems to me,
and the position I have developed above would allow, that vagueness
and looseness are *precisely* what one should want when it comes to the
hard cases. Remember that the point of justificatory liberalism is to
specify in broad terms how citizens should go about their public delib-
erations; the point is *not* to provide a framework that itself decides the
hard cases or renders certain kinds of public arguments moot. That
Rawlsian public reason, or my own conception of internal reasons for
citizens, might leave crucial policy questions undetermined is to be
expected, and should be a welcome feature of the views. In such hard
cases, our popular deliberations must surely appeal to reasons that
would otherwise look like reasons of the wrong kind. Justificatory lib-
eralism requires simply that such measures be taken only when pub-
lc reasons run out; we must do our best *despite* the unavailability of
decisive public reasons. Thus it seems to me perfectly in keeping with
justificatory liberalism to say that the following kind of consideration
is itself a public reason of sorts: “We must decide a policy with respect
to X, but our public reasons have run out; what other kinds of reasons
can be brought to bear on the matter?”
This raises the related issue of Rawls’s insistence that the requirements of public reason apply only in contexts where we must decide matters of “basic justice” and “constitutional essentials.” I do not here have the space to provide anything approaching a full account, but it makes sense to think about coercive acts as falling on a spectrum of severity, ranging from coercive acts that force people to do what they would not otherwise do, to coercive acts that force people to do what they do not want to do, to coercive acts that force people to do what they think they should not have to do, to coercive acts that force people to do what they think is wrong to do, and so on. We should also think of coercive acts in terms of their different degrees of irretrievability. That is, for coercive acts and policies, we should ask, “How difficult would it be to repeal this policy should it turn out to be seriously flawed?” and “How severe would the damage be to those who are wronged by it?”

With these two dimensions of evaluation in place, we can easily envision a scheme in which the requirements of public reason become increasingly more stringent as the severity and irretrievability of the proposed coercion rise. It seems likely that matters of basic justice and constitutional essentials are likely to involve severe and highly irretrievable coercion; accordingly, such matters should be decided on the basis of strictly public reasons, if possible. Other matters involving less severe forms of coercion and allowing for easier retrieval can be decided on the basis of a looser set of reasons. Perhaps there are cases in which the coercion is so mild and easily retrieved that the question of what kinds of reasons are appropriate does not really matter. The point, I take it, is simply that when liberal democratic states or communities impose on some citizens especially onerous coercion or enact coercive policies that would be difficult to retrieve should they turn out to be flawed, they should deal only in public reasons.

Once again, there is a lot more to say. But I take it that these points are much in the spirit of the original Rawlsian program, and they are easily accommodated in the version of justificatory liberalism I have sketched in this chapter. If I am correct to think that the view I have proposed is roughly equivalent to the original Rawlsian view, then it seems to me that, on the question of religion in politics, Rawls was right after all.
Notes


2. That my discussion is internal to liberalism also means that the critics I will be engaging with are religious liberals; I am not concerned here with the arguments of antiliberal philosophers and theologians.

3. LHPP 13.


5. Mill’s view is in fact much more complicated than this, given that he thinks liberty is owed only to persons who already have certain capacities. See ibid., 15. But the complications need not detain us here.


7. See Plato, Crito, 50d–51c.

8. One could argue, of course, that this justificatory element is present in all liberalisms from Locke onward. And this is surely correct. The difference in the end is one of emphasis and priority.

9. IPRR 766.


19. See especially IPRR 765.

20. See especially Audi, “Liberal Democracy.”


22. *PL* (exp.) 36.

23. See *PL* (exp.) 36.


25. Things get murkier still when we consider the activity of public officials; I leave these complications to the side.


27. The difference no doubt has to do with the fact that when Abby wrongfully advocates, no one is coerced. The matter becomes more complicated when we introduce the consideration that no particular citizen’s vote determines a democratic outcome.


29. Complications arise once we consider that advocacy can have a significant expressive or symbolic component. Moreover, Rawls thought that the constraints of public reason apply only when “matters of basic justice” and “constitutional essentials” are at stake. *PL* (exp.) 214.

30. Hence Nicholas Wolterstorff insists that “it belongs to the religious convictions of a good many religious people in our society that they ought to base their decisions concerning fundamental issues of justice on their religious convictions.” Wolterstorff, “The Role of Religion in Decision and Discussion of Political Issues,” in *Religion in the Public Square*, ed. R. Audi and N. Wolterstorff (Lanham, Md.: Rowman and Littlefield,


32. Further, in placing restrictions on what kinds of reasons are admissible, the justificatory liberal appears to have “fixed” the rules of democratic legislation in favor of certain outcomes. As many have observed, the force of the prolife case is greatly diminished when strictly religious reasons are deemed nonjustificatory. And so, to many religious believers, the restrictions imposed by justificatory liberalism seem unfair and dismissive of religious conviction. In a fateful note in *Political Liberalism*, Rawls contends that “it would go against the ideal of public reason if we voted from a comprehensive doctrine which denied” the rights specified in Roe v. Wade. PL (exp.) 244. Naturally, this has drawn fire from Thomist philosophers, like Robert George and Christopher Wolfe, who liken the task of Rawlsian public justification to “playing a game with loaded dice.” George and Wolfe, *Natural Law and Public Reason*, 66. Feminist and radical democrats have joined with the Thomists on this issue; they claim that the Rawlsian constraints codify existing arrangements and thereby exclude more radical views. See Seyla Benhabib, “Towards a Deliberative Model of Democratic Legitimacy,” in *Democracy and Difference*, ed. S. Benhabib (Princeton: Princeton University Press, 1996), 67–94; Nancy Frazier, “Rethinking the Public Sphere,” in *Habermas and the Public Sphere*, ed. C. Calhoun (Cambridge, Mass.: MIT Press, 1992), 109–42; and Iris Marion Young, *Inclusion and Democracy* (New York: Oxford University Press, 2000), chap. 1.


37. Ibid., 154.


41. I will not supply the documentation here. See Eberle, *Religious Conviction*, 68ff.
44. Cliffordian evidentialism may seem to propose something like this; but the justificatory liberal’s view is stronger than evidentialism. For the justificatory liberal holds that even when a law is fully justified rationally from your own point of view, you may be required to refrain from advocating for it simply because you are not able to justify it to others. Were evidentialism this strong, it would surely be the kind of view only a skeptic could love.
49. Rational justification is, according to Eberle, a “radically perspectival phenomenon”: “whether a citizen is rationally justified in adhering to B depends, at least in part, on his point of view—on the evidence to which he has access by pursuing the appropriate procedures, on the assumptions with which he conducts his inquiry, and so on.” Eberle, *Religious Conviction*, 62.
50. Eberle, “Basic Human Worth,” 165. This is what makes Eberle’s view not radially inclusive.
53. Ibid., 159.
54. Ibid., 160.
55. Ibid.
56. Eberle concedes that Satanists could achieve a sufficiently high level of rational justification for their religious beliefs; he says it would be “bad faith” to deny that they could. Eberle, *Religious Conviction*, 250.
61. Gaus, Justificatory Liberalism, 124.
62. Ibid., 126.
63. Eberle, Religious Conviction, 133.
64. Ibid.
65. Ibid.
66. Moreover, if the suggestion is that Betty must see her non-agapic-pacifist compatriots as persons who are impaired as moral agents, then the proper conclusion seems to be that Betty is incapable of seeing her fellow citizens as equals.
67. Eberle claims that his understanding of the “relations between moral impositions, culpability, and justification” is “very different from Gaus’s.” Eberle, Religious Conviction, 133.
70. Note that it is easy to imagine a dictator meeting Eberle’s ideal of conscientious engagement.
71. PL (exp.) 214.