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E Pluribus Unum? Liberalism and the Search for Civility in America

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E PLURIBUS UNUM?

LIBERALISM AND THE SEARCH FOR CIVILITY IN AMERICA

By

Jeannemarie Curran Halleck

A Thesis submitted to the Department of Philosophy in partial fulfillment of the
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ABSTRACT

This paper explores issues of civility in liberal democracy, and in particular, how civility and civic engagement must be regenerated in order to forward the democratic ideals of equal rights, citizen equality and collective self-government in a meaningful way. Liberal democracy presupposes a level of civility in order to uphold standards of individual liberty and freedom, however as a theory it fails to compel citizens to support levels of mutual respect.

An etymological exploration of the term civility introduces the work of puritan theologian Roger Williams, whose early writings on individual liberty as well as the role of civility and civic engagement can inform popular conversations about civility in modern democracy. This leads to an analysis of Rawlsian liberalism, where Rawls seeks to construct a robust civil society by tying individual duty of civility to an idealization of citizenship.

Final analysis explores the possibility of a modern civil liberalism, as influenced by Roger Williams. A liberal civil realm must recognize the mutual reliance between individual freedom and a collective common good; this will compel citizens to choose to preserve the freedom of all citizens through civil engagement and dialogue. This ideal shares important intersections with Jürgen Habermas' theory of deliberative democracy, but Williams' replaces Habermas' notion of higher-level intersubjectivity with an appeal to individual freedom of conscience. By doing so, the preservation of individual freedom of conscience requires citizen-commitment to an active and engaged civil sphere, making the ideal of civility richer than that of Habermas' theory. Replacing the duty of civility with a commitment to the preservation and protection of individual liberty through civil dialogue is the best way to rescue modern liberal democracy from its current state of incivility, which threatens the liberty and freedom of citizens and undermines the collective common good.

EXECUTIVE SUMMARY

This paper explores issues of civility in liberal democracy, and in particular, how civility and civic engagement must be regenerated in order to forward democratic ideals of equal rights, citizen equality and collective self-government in a meaningful way. Liberal democracy presupposes a level of civility in order to uphold standards of individual liberty and freedom, however as a theory it fails to compel citizens to support levels of mutual respect. As a result, civility has become an ideal that suggests a desired respect between citizens, but is too variably defined to be useful.

The introduction considers the current state of civility in America, and presents reasons for exploring the notion of civility in modern liberal democracy. This leads to an exploration of the definitions of civility in Chapter Two, including the many different definitions used in modern conversations about the role and significance of civil conversation. An etymological exploration of the term is provided in Chapter Three, where the critical significance and complicated relationship of civility within liberalism is revealed. Civility was first equated with the appropriate action and behavior of public citizens, as modeled by the Renaissance courtier, whose skills and behavior forwarded the interests of the state. The Enlightenment altered the relationship of citizens to the state by dividing the civil and political spheres, shifting the notion of civility from appropriate behavior of individuals in the political-public realm for the good of the state to the civil behavior of equal citizens engaged in the civil realm.

Chapter Four introduces the historical figure, Roger Williams, whose early writings as the founder of Rhode Island reflect this shift and anticipate the ideal of a state responsible for the preservation and protection of individual freedom. Williams argued that the preservation of the liberty of all citizens required a commitment to both pluralism and tolerance, which necessitated a robust notion of civility and an engaged civil sphere.

Nearly three centuries later, philosopher John Rawls furthered this shift by constructing a liberal political realm not reliant on the ethical self-understanding of any one community but intended to be narrow enough to be acceptable to all reasonable and rational persons. Rawls argues that citizens will willingly commit to a principle of public reason as more than a *modus vivendi* because, as citizens, they understand that a theory of justice is necessary to create a strong and vibrant liberal political society. However, by attaching the duty of civility to an idealization of citizenship, Rawls fails to compel ordinary citizens to uphold the level of civility necessary to forward liberal principles of justice. As a consequence, liberalism risks falling into a more traditional model, where individual rights are viewed *vis à vis* the state and other citizens, risking the subjugation of individual freedom to a competitive market economy, and jeopardizing the individual freedom of citizens.

Chapter Five explores the arguments of critics of liberalism who contend that the best way to regenerate civility is to reconnect the civil and the political spheres. Only then, they argue, can the good of the individual be meaningfully connected to the good of the greater political public. However, collapsing the civil and political back together risks overvaluing the community at the expense of individual freedom and threatens a return to civil majoritarianism as well as greater levels of oppression and subjugation.

In conclusion, I argue that Williams' commitment to individual freedom of conscience and tolerance creates a civil realm that recognizes the mutual reliance between individual freedom and a collective common good, and as such, encourages a political public that engages in the process of preserving individual freedom of all citizens. This ideal shares important similarities with Habermas' theory of deliberative democracy. However, where Habermas argues for a notion of higher level intersubjectivity with an appeal to individual freedom of conscience, Williams' argues that it is the preservation of individual freedom of conscience that requires citizens to commit to a civil sphere

that protects individual liberty for all citizens. This necessitates a set of common values, such as a sense of mutual dependency, which are arguably forged through an awareness of the vulnerabilities associated with a respect for individual liberty. In this way, Williams can inform Rawls' theory of justice by replacing the duty of civility with a commitment to the preservation and protection of individual liberty through a greater commitment to civil dialogue.

CHAPTER 1. INTRODUCTION: CIVILITY, CIVIL RIGHTS AND LIBERAL DEMOCRACY

“In 2011, a survey reported that seventy-six percent of people reported that Americans are less civil.”
- Linton Weeks, “Please Read This Story, Thank You,” NPR¹

On July 30, 1956, President Dwight D. Eisenhower signed into law a Joint Resolution of the 84th Congress of the United States, replacing the national motto *E Pluribus Unum*, meaning *Out of Many, One*, with the maxim *In God We Trust*.² At the height of the Cold War, this was one of several measures enacted by the Eisenhower administration to affix the word God to national idioms, including the 1954 inclusion of *under God* to the Pledge of Allegiance. While the effort to reinvigorate a public religiosity was looked upon at the time as an act against the allegedly dangerous and radical secularity of communism, Congress’ removal of *E Pluribus Unum* foreshadowed the next half-century of American politics.

The democratic ideal of freedom and equality for all persons as outlined in the Declaration of Independence states that it is “self-evident truth that all persons are created equal.” From the Civil Rights Act of 1964 to the repeal of “Don’t Ask Don’t Tell” in 2011, the United States government has worked to secure and protect the rights of marginalized citizens through policies, laws, and judicial actions - civil rights legislation attempts to prevent discrimination and protect the individual liberties of all citizens. As a result, in the last sixty years citizens of the United States have

¹ Linton Weeks, “Please Read This Story, Thank You,” *National Public Radio*, accessed March 12, 2012, <http://www.npr.org/2012/03/09/148295675/pleaseread-this-story-thank-you>

² “History of ‘In God We Trust,’” U.S. Department of Treasury, accessed April 3, 2012, <http://www.treasury.gov/about/education/Pages/in-god-we-trust.aspx>

experienced a marked increase in rights guaranteed to previously unprotected citizens who are now granted more equal treatment under the law.

However, despite accomplishing greater legislative equality for minorities, women, the disabled, the elderly and increasingly the LGBT community, civil rights legislation has not resulted in the actualization of domestic tranquility or a unified democratic polity. While modernity, including limited government and free market capitalism, has led to a radical decrease in physical violence in society, the last sixty years has also demonstrated that civil rights laws do not necessarily promote higher levels of civil behavior.³ Much media attention, scholarship and hand wringing in recent decades has been dedicated to a society increasingly blackened by political extremism, legislative vitriol, political action committees, congressional non-cooperation and unprecedented levels of partisan antics. The current crisis in civility has been attributed to everything from the loss of religion in the public sphere, to the acceptance of modern multiculturalism, to extremists in Republican Party and the decrease in federal funding for the Humanities. There is much contention over who or what the culprit is, and, not lacking in irony, much of the disagreement has not been particularly civil.

There is some agreement, however, that the crisis in civility is both urgent and pervasive. At an event in 2009, Jim Leach, Chair of the National Endowment for the Humanities stated that the United States is on the brink of “a civility crisis at home, and a civilization crisis abroad.”⁴ The crisis Jim Leach refers to in his speech emphatically argues that this predicament is not limited to politics, but reaches beyond the walls of governance into all aspects of society including the anonymous arenas of the internet, city streets, schools, and even into the home. In the last half-century, an

³ Steven Pinker, “Interview about the book *The Better Angels of Our Nature*,” *The New Scientist*, accessed April 2, 2012,

⁴ Jim Leach, “With Malice Toward None” Convocation of State Humanities Council, Omaha, Nebraska, November 6, 2009. National Endowment for the Humanities, accessed April 2, 2012, <http://www.nch.gov/whowere/speeches/11062009.html>

important point has been repeatedly considered by those who have chosen to address issues of civility in liberal democracy: in the United States, civil rights are not synonymous with civil treatment.

In the following essay I will explore the theoretical constructions of civility in modern liberal democracy, with the hope of further informing the debate around what it means to be civil in a society where individual liberty is primary. Ultimately, I will argue that civility must be reconceptualized as a fundamental and necessary component of liberalism. Without a greater commitment to civility - and in particular civil conversation - the individual freedom so central to modern democracy is at risk of being lost. In order to clearly articulate this argument, it is particularly important to examine this issue from within the historical and contextual boundary of the United States, as the role of civility in American society can inform this particular moment in time, where the fight for civil rights is at odds with an increasingly divided political public.

In order to argue that civility must play a more central role in liberalism, it is important to first consider some of the current popular rhetoric about the civil crisis in order to initiate a more serious exploration of the many definitions of civility, including an etymological exploration. The historical significance of civility, and in particular its relationship to the role of individual liberty in pre-democratic and early liberal democratic theory, includes the much overlooked work of puritan theologian and founder of Rhode Island, Roger Williams. Analysis of Williams' work reveals an interesting role of civility in modern liberal democratic thought, particularly within the work of philosopher John Rawls. Much of the criticism of liberalism in general, and of Rawls specifically, is focused upon the overvaluation of the individual at the expense of the common good in modern liberalism, which opponents argue is the central force of the crisis of civility. Theorists such as Michael Sandel and Benjamin Barber argue, in different ways, that liberalism is itself inherently incapable of upholding the civility necessary for self-governance. Rawls himself has a difficult time

finding a way to compel liberal citizens toward greater levels of civility, despite its central role in his theory of justice. Civility, in its current liberal state, is a duty only for those who strive to achieve an ideal of citizenship. In order to find a way to keep individual liberty at the center of liberal democracy, there must be a better way to compel liberal citizens to uphold levels of civility above the standard common in modern liberal democracy. The best way to do this, I ultimately argue, is to reconnect the notion civility to individual liberty in such a way that democratic citizens are compelled to uphold greater levels of civil conversation in order to maintain democratic freedom. This means, above all else, committing to a more civil form of liberalism, while upholding ideals of civil rights and individual liberty necessary to maintain a fair democratic society.

Through an exploration of civility in modern liberal democracy, the following questions must be addressed: in what ways is civility a component of modern democracy? Can citizens of a liberal democracy cultivate greater levels of civility while still maintaining individual liberty, or are civil rights and civil conversation at odds? Is it possible for citizens to reclaim civility while upholding the balance between the “many” and the “one”? How can a greater understanding of civility inform our democratic project moving forward? Ultimately, I hope that this essay, focused specifically on the American democratic experience, may be applied to democracies beyond the United States. Issues of civility, citizenship and individual liberty are certainly not unique to one nation.

As such questions seem to affect the lives and livelihoods of all citizens, it is surprising that civility has not been a more popular topic in modern philosophy. Only in the last two decades has there been an increase in the volume of research, scholarship and discourse on civility in America in mainstream conversations, from political campaigns to media outlets and academic quarterlies. These considerations are most commonly focused on the derisive nature of partisan politics,

attributed to U.S. Congress but present in state and local politics as well.⁵ Increasingly, however, discussions about civility are reaching beyond the political realm to elicit greater consternation about the ways in which citizens treat each other. In some cases, concern over the decline in civility is construed as trite and inconsequential, as compared to greater human rights issues in the United States and abroad. Poor cell phone etiquette, aggressive drivers and tales of disgruntled workers quitting their jobs with fanfare, for example, may be viewed as proof of an elitist, over-privileged society. In a way, such complaints have complicated the conversation about civility since, as critics say, these are not the concerns of a society in real crisis. This is an important point, since civility is not always equitable to violence, and the civil crisis is not always easily linked to human suffering as grave as homelessness, displacement or famine. However, while complaints about etiquette may sound trivial, such concerns for uncivil behavior underscore the broad scope and consequence of incivility. At its core, the current concern about the state of civility instigates an important conversation about how citizens choose to treat one another, whether in politics, at rallies or baseball games, and in classrooms — and how these choices impact us all, as citizens of the United States.

As an example, in light of the increasing debates about the role of civility in America, Krista Tippet, in 2011 the founder and host of National Public Radio's *On Being*, embarked on a series of conversations to explore civility in America with a variety of political and religious leaders. In the introduction to the series, Tippet explained her motivation:

My own deepest despair at present is not about the vitriol and division per se — as alarming as they are. It is about the fact that we seem to be losing any connective tissue for engaging at all, on a human level, across ruptures of disagreement.... What we once called the red state, blue state divide is now more like two parallel universes where understandings of plain fact are no longer remotely aligned. This leads to a diminishing sense of the humanity of those who think and live differently than we

⁵ As an example, in December of 2010, Jacksonville's Human Rights Commission appointed Dr. Parvez Ahmed, a professor at UNF, to their board. The anti-Muslim group ACT America protested the appointment. <http://www.actionnewsjax.com/content/topstories/story/Witch-hunt/GTNJr2RXA0OSWSu6U1fPTA.csp>

do. And that is the ultimate moral slippery slope, for everyone on it and for the fabric of our civic life.⁶

Through an exploration of the definition and evolution of civility in the United States, Tippet's concern for challenging role of civility in contemporary America is be properly addressed with the following questions: Is it possible for liberal democracy to foster greater notions of civility while upholding rights of citizens who often think and live radically different lives? What does civility mean in a diverse civil-political environment? In modern liberal democratic society, is *E Pluribus Unum* a lost ideal? An etymological exploration of the definition introduces the slippery and complicated role of civility in modern history leading to a greater appreciation for its place in modern liberalism.

⁶ Krista Tippet, "How do we live and honor each other despite our differences?" *Being Blog* (blog) accessed August 21, 2011. <http://blog.onbeing.org/page/4>

CHAPTER 2: THE MANY DEFINITIONS OF CIVILITY

“Aristotle’s claim: Civility’s closest kin is friendship. Albeit a watered down version.”
- Robert Pippin, “The Ethical Status of Civility” From *Civility*, Page 105

2.1 THE ALCHEMY OF A DEFINITION

Much scholarship on civility begins with the qualification that civility is difficult to define, and nearly impossible to define neatly. To appreciate the challenge of developing a succinct and satisfactory definition of civility, historian and feminist philosopher Virginia Sapiro notes, “it would take an advanced degree in alchemy, not political science to draw a tidy but reasonably comprehensive definition out of the literatures to which one must turn to learn about civility as it is understood today.”⁷ A search of New York Times articles easily illustrates this point. The paper’s headlines use the term in a variety of ways, including “Obama Calls for Civility at Prayer Breakfast,”⁸ also “Facebook Wrestles with Free Speech and Civility”⁹ and “A Last Bastion of Civility, the South Sees Manners Decline.”¹⁰

What these titles reveal about civility is not inconsequential. The term, when used in discussions of race, issues of free speech, and manners, links disparate subjects together with one thin linear relationship — the engagement (or lack of engagement) with others. Beyond this thin

⁷ Susan Herbst, *Rude Democracy: Civility and Incivility in American Politics* (Philadelphia: Temple University Press, 2010), 12.

⁸ Jeff Zeleny, “Obama Calls for Civility at Prayer Breakfast” *Caucus Blog, New York Times*, November 2, 2011, accessed January 3, 2012, http://www.nytimes.com/2011/11/02/us/southern-manners-on-decline-some-say.html?_r=1&scp=6&sq=civility&st=cse

⁹ Miguel Heft, “Facebook Wrestles with Free Speech and Civility” *New York Times*, December 12, 2011, accessed January 3, 2012, <http://www.nytimes.com/2010/12/13/technology/13facebook.html?scp=8&sq=civility&st=cse>.

¹⁰ Kim Severson, “A Last Bastion of Civility, the South Sees Manners Decline,” *New York Times*, November 1, 2011, accessed January 3, 2012, <http://www.nytimes.com/2011/11/02/us/southern-manners-on-decline-some-say.html?scp=6&sq=civility&st=cse>.

association, no single definition, regardless of its complexity, encompasses all the ways in which civility is conceptualized. Human rights, respect, manners, social cooperation and accountability all fall under the umbrella of civility in popular nomenclature. For her definition, Shapiro divides civility into three categories: as related to character and virtue, manners and behavior, and “as constructive engagement with others through argument, deliberation and discourse.”¹¹ Definitions like Shapiro’s, which attempt to be simultaneously broad and nuanced, do less to fully articulate a definition than make it easier to identify when civility has been undermined or breached.

Much of the disagreement about civility is argued from within the understanding that civility is some normative feature of a democratic society; disputes about civility rarely hinge on its normative significance, but revolve around what it means to be civil and how best to construct (or reconstruct) civility within modern democracy. However, a few important arguments challenge popular suppositions about civility, including the notion that civility is a necessary part of a modern democratic political society and that, consequently, incivility is an accurate gauge of modern civil society in decline.

2.2 DEBATING THE ROLE OF CIVILITY IN MODERN DEMOCRACY

Against popular opinion, some theorists argue that elevated levels of incivility are not a source of concern but a natural part of liberal society, where uncivil behavior is the consequence of a more equal and competitive liberal populace. Others argue, more radically, that the current civil crisis is a fabrication conjured by the political elite to distract citizens from concentrating on the greater inequalities in the United States. To that argument, the popular political magazine, *The Nation*, led its December 1996 issue with an article titled, “Seduced by Civility: Political Manners and the Crisis of Democratic Values.” Its author, Benjamin DeMott, argues that the current crisis in civility is not the consequence of a society in moral decline, an argument often forwarded, but a plot

¹¹ Herbst, *Rude Democracy*, 19.

by the ruling elite in the United States, who refuse to take responsibility for the perpetuation of civil disparities, and instead spend their time focused on the lack of civic participation and unity. DeMott argues that the ruling elite animate the current preoccupation with civility, with the understanding that it drives citizens to concentrate on the civil behavior and ignore the more egregious threats to their lives, including economic inequality and other corrupt political practices. DeMott implores American citizens to shift their focus away from the deceptive political infighting and concentrate their energy on stopping the real culprits of civil strife. He states:

The incivility railed at by the elite should be seen as a protest by Americans outside the ranks of the publicly articulate against the conduct of their presumed betters. The current orthodoxy on volunteerism and immoderacy shuts its ears to this protest, simultaneously beautifying the undeserving and sapping democratic energy and will. Sold as diagnosis or nostrum, civility is in fact a theater of operations — the classless society’s new class war zone.¹²

DeMott claims that the restraints of incivility must be turned and used against the engineers of this falsified civil crisis. Civil discontent in the United States should not be viewed as destructive to the fabric of our society, but as its potential savior. It is an appropriate and necessary response by Americans against the wrongful acts of the political elite; fighting against this alleged incivility stifles the protestations of the common classes and allows the elite to continue without confrontation, much to the detriment of the American populace.

While this argument is compelling, DeMott fails to recognize the greater role of civil behavior in modern democracy in an attempt to argue for incivility as an act of protest. Even if the fight against uncivil behavior is misplaced blame by the privileged upon “Americans outside the ranks of the publically articulate,” justice for common Americans might still be best achieved through a reinvigoration of civil avenues, which would undermine the political elite better than fighting uncivil fire with fire. Combating elevated levels of incivility may best reveal the issues of

¹² Benjamin DeMott, “Seduced by Civility: Political Manners and the Crisis of Democratic Values,” *The Nation*, 263.19 (1996): 11.

inequality and prejudice stoked by the political elite. DeMott attempts to motivate discontented citizens by disqualifying the argument for greater civility, without recognizing that greater political accountability may itself require an increased commitment to civil behavior.

Hoping, perhaps, that *The Nation* article had been forgotten, political analyst and self-described ‘paleoconservative’ Pat Buchanan more recently published a book titled *The Suicide of a Superpower: Will America Survive to 2025?* In an interview with Diane Rehm in 2011, Buchanan explained that he believes overvaluing diversity is to blame for our current crisis of civility in America. In the interview, Buchannan stated:

We have a deadlock on Capitol Hill that is total and ideological and our politics are acrimonious and poisonous. But that's not the central problem to me. The central problem is our society is disintegrating. It is coming apart. We are Balkanizing, breaking down along the lines of race, culture, religion, and philosophy... I think that the argument that diversity is a strength is a canard, it is nonsense. What makes us strong is when we rise above our diversity to national unity.¹³

In the book, Buchanan argues that the loss of a ‘common faith’ and a decrease in assimilation in the United States are to blame. For Buchanan, “Diversity is another word for multiculturalism,” and the culprit in the disintegration of what he argues was a once-unified country. He yearns for something akin to the pre-Civil Rights era, suggesting that the salvation of our country depends on our ability to reign in the freedom and liberty of religious minorities and immigrants. According to Buchannan, in order to ‘survive to 2025’ we must reinstate what he calls the common principles of most Americans — specifically Judeo-Christian, conservative and anti-immigration ideals. These are, unsurprisingly, the values of Buchanan and his conservative allies.

Buchannan does well in supporting DeMott’s argument that the political elite have misappropriated civility to suppress equality and equal status in the United States. Buchannan’s

¹³ Patrick Buchanan, “Suicide of a Superpower: Will America Survive to 2025?” Interview by Diane Rehm. *The Diane Rehm Show, National Public Radio*, October 25, 2011, accessed October 25, 2011, <http://thedianerehmshow.org/shows/2011-10-25/patrick-buchanan-suicide-superpower-will-america-survive-2025/transcript>

argument is antithetical to the project of reinvigorating civility in the United States; the hard-fought civil rights of women, African Americans and other minorities are themselves a realization of the individual liberties entrusted to a society of free and equal citizens. Therefore, casting multiculturalism aside in the name of peace and unity is antithetical to liberal democracy.

Still, the competing arguments of Pat Buchanan and Benjamin DeMott highlight a critical point in the consideration of civility. If the idea of civility is malleable enough to the construction and deconstruction of ideals of respect, is it dangerous or detrimental to make civility a normative expectation for a modern democratic society? In the book, *Rude Democracy: Civility and Incivility in America*, political scientist Susan Herbst argues this very position. She contends that the role of civility should be reevaluated, not as a normative value, but as a strategic communicative tool of public-political life. Herbst argues that constructing civility as a set of norms constrains and confounds its purpose and its potential; it confines it to a static definition, conflates it with culture, tethers it to a context and removes its connection to a communicator. She believes that the normative constraints of civility are not conducive to modern communication, including social media or the internet. Approaching civility as a strictly communicative tool, in contrast, allows it to be seen as temporary and changeable, easily singled out, fluid in use and a useful tool for modern communication.

Removing the normative constraints on civility, Herbst argues, frees citizens from the unnatural bounds of civility and allows it to be used strategically and effectively. This eliminates the pressure on citizens to constrict their socio-political conversations, meant to be sustained by normative standards of civility but instead are constrained by citizens' own inner fears of confrontation, discomfort and unhappiness. Limiting the considerations of civil discourse to individual conversations or a specific medium, such as the internet — instead of situating it within greater context of an era or a particular culture — eliminates what she considers the hysteria over

Americans' fear that citizens are increasingly mean-spirited and confrontational and that the culture as a whole is disintegrating. Herbst claims that making civility a strategic tool would assuage any tendency toward political nostalgia and the easy sentiment that culture and language of modern technology is to blame for our collective civil failure.

Herbst concludes that without civility as a normative expectation, citizens are free to engage in honest and often challenging conversations using a variety of tools of deliberation, including divisiveness and harsh language, and would allow other, highly-civil strategies such as listening to exist simultaneously in what deliberative theorists call "an economy of moral disagreement."¹⁴ Politicians and citizens would be forced to take responsibility for their actions and would no longer be able blame poor behavior on an 'uncivil' environment, or on an unaccountable culture of rudeness and disrespect. Understanding civility as a normative construct of a civil society, Herbst argues, creates an unattainable set of societal ideals and alleviates the responsibility of those who fall far short of such ideals.

Herbst's attempt to extricate civility from the confines of normativity is compelling. However, her argument conflates the challenges and shortcomings of modern civility with the flaws of a normative ideal. Herbst states, "there is no question that changes in media infrastructure, the rise of the Internet, and [Americans'] seemingly endless need to take our personal and collective emotional temperatures demand that we evaluate civility and its future in new ways."¹⁵ Such new and innovative ways of communication do not necessitate the extrication of the civil ideal from its normative roots, however. Instead, civility must be theoretically conceptualized to fit this new era. Changing factors in society, such as popular media and technology, impact how citizens are connected to one another, but this need not change the moral, normative expectations of how

¹⁴ Herbst, *Rude Democracy*, 23.

¹⁵ Herbst, *Rude Democracy*, 11.

citizens interact. Relegating civility to a strategic communicative tool unnecessarily truncates debate and scholarship over how citizens want to be treated, and how they choose to treat others.

Further, a normative ideal of civility is not incompatible with frank speech, challenging debates, harsh words and protests, which are qualities Herbst upholds as strengths of her theory of communicative civility. In fact, the Constitution of the United States and legal interpretation thereof generally prioritize individual freedoms such as speech, religion and association in order to protect the rights of citizens regardless of the popularity or acceptance of their beliefs in the greater culture. Liberal democracy warrants freedom through individual rights; in so doing, it supposes that citizen behavior will primarily be regulated through normative understandings of culture and conduct. Individual liberties and civil behavior are not always compatible, and situations of civil disobedience or uncivil acts prompt important public conversation about the relationship between human rights and civic engagement. As a normative ideal, citizens are able to assess and evaluate the complicated considerations of civility as related to citizenship, civil society and the greater good. Relegating civility to strategy would not elicit more honest conversation, but would lose the chance to forge new understandings of civility in a liberal democratic society.¹⁶

Lastly, according to Herbst, making civility a strategic communicative tool equates civil behavior to strategic bargaining and negotiation. However, even when civility is most basically defined an act of respect, it cannot be used as a tool to gain individual or collective advantage. Acting in any particular way for one's sole benefit is not an act of respect but of deceit, undermining

¹⁶ The perplexing correlation between uncivil behavior and freedom in liberal democracy is demonstrated in part by the 2011 Supreme Court ruling in support of The Westboro Baptist Church of Topeka, Kansas. The Church has protested at hundreds of military funerals in the United States with signs that read, "God Hates Fags" and "America is Doomed". The Church believes that God is punishing the United States for its tolerance of homosexuality by killing United States soldiers in foreign conflict. The Supreme Court ruled that while the actions of The Westboro Baptist may be perceived as distasteful, destructive and painful to the friends and families of the deceased and the state of civility in the United States, the Church did not break the law. Therefore, the Church members' right to free speech was upheld in an eight-to-one decision. See Mark Sherman, "Westboro Baptist Church Wins Supreme Court Appeal over Funeral Protests" *The Huffington Post*, March 2, 2011, accessed January 9, 2014, http://www.huffingtonpost.com/2011/03/02/westboro-baptist-church-w_n_830209.html

the authenticity of civil behavior. This is the argument of philosopher Robert Pippin, who contends that civil expectations in a society must be normative expectations. He reasons, “[Civility] would be misunderstood if reduced to social strategies of interest satisfaction. If I offer you signs of respect and trust only because I want you to offer them to me, and that only because that will simply get me what I want, then we are not being civil but pretending to be civil in order to gain a certain end.”¹⁷ Against Herbst’s argument, civility contains something deeper, more fundamental to the relational experience of citizens. Beyond that - whether civility is best conceptualized as a virtue, a moral or religious code or a social expectation, as a duty of citizenship or the guarantor of individual liberty — is where much of the controversy blossoms.

2.3 THE MANY DEFINITIONS OF CIVILITY

Coming up with a succinct definition of civility applicable liberal society is where Sapiro’s advanced degree in alchemy would be particularly useful. In the introduction of *Rude Democracy*, Herbst considers several definitions of civility, stating:

While some scholars and authors have been brave enough to define ‘civility’ and have made wonderful contributions as a result, existing definitions are imperfect, owing to the complexity of the concept. Some definitions seem a bit too intimate, focused on interpersonal interactions — how we treat our friends and neighbors, or even strangers on the street. Others are too impersonal, using high-flying rhetoric of democracy, but forgetting that citizens are living, breathing people. None of the definitions seem quite right, so scholars and writers have — logically — chosen to orient their work around definitions that make sense for the level and nature of their empirical or theoretical work.¹⁸

Coming up with a definition to fit a broad body of work is a particular challenge. Those who take liberalism seriously attempt to define civility and the corresponding ideal of civil society with as much freedom of conduct as possible. Philosopher Lawrence Cahoon defines civil society as a cooperative partnership of citizens whose aim is living. He argues that civility allows citizens “to

¹⁷ Robert Pippin, “The Ethical Status of Civility” in *Civility*, ed. Leroy S. Rouner (Notre Dame: University of Notre Dame, 2000), 107.

¹⁸ Herbst, *Rude Democracy*, 12.

regard members and their society as the logically prior and morally independent association for which the state exists, hence to grant society a degree of ‘autonomy’ from the state, and its members a degree of freedom and equality with respect to each other.”¹⁹ Cahoone’s definition is closest to my own understanding of civility, however it seems to have a problem of origin. Civility rightly results in a free and equal liberal citizenry, separate from the state; and yet, how does Cahoone define the civility that constructs the free civil society? If civil society is framed as the seal upon which citizens are safeguarded from the state, citizens must be capable and motivated to prioritize the freedom and equality of others in order to live outside state authority. This ignores the permeable relationship between civil society and the state in liberal democracy, where civil rights are protected against the potential for a majoritarian rule. Cahoone’s definition of civil society rests too much on an assumed presupposition of civility and ignores the integral relationship of individual freedom and a collective common good. His civil society feels right for this project; however, he fails to answer question of how to construct such a civil populace.

Those with a less liberal persuasion define civility *vis à vis* virtue, including acts of self-restraint and self-sacrifice, as taught through religion, family and social customs. Juxtaposed to Cahoone, American law professor Stephen Carter’s work titled *Civility* argues that “we cannot construct civility in America without a revival of religion as force both in our public and private lives.”²⁰ His definition calls on a substantive obligation, namely the necessity of religion, to revive civil behavior. For Carter, civility requires a fundamental understanding of civil behavior as religious behavior. In this way, Carter seems to share Buchanan’s inclination to argue for a public notion of civility that has substantive, and in some cases, personal value. Carter himself argues that disciplining children by slapping their bottoms or hands “for truly dangerous infractions” need not be

¹⁹ Lawrence Cahoone, “Civic Meetings, Cultural Meanings” in *Civility*, ed. Leroy S. Rouner (Notre Dame: University of Notre Dame, 2000), 45.

²⁰ Stephen L. Carter, *Civility: Manners, Morals and the Etiquette of Democracy* (New York: Basic Books, 1998), 73.

considered uncivil; still, parents are supposed to show self-sacrifice toward their children so that they will try “to act out of the same sense of sacrificial love” toward others.²¹ To maintain that corporal punishment is civil represents the often confusing and complicated understandings of the various definitions of civility.

Other examples help illustrate the complication that accompanies a more situated concept of civility. For example, in his article “Is Civility a Virtue?” philosopher James Schmidt offers a theoretical and practical definition.

Civility is a belief which affirms the possibility of the common good; it is a belief in the community of contending parties within a morally valid unity of society. It is a belief in the validity or legitimacy of the governmental institutions which lay down rules and resolve conflicts. Civility is a virtue expressed in action on behalf of the whole society, on behalf of the good of all members of the society to which public liberties and representative institutions are integral. Civility is an attitude in individuals which recommends that consensus about the maintenance of the order of society should exist alongside the conflict of interests and ideals.²²

To argue that civility involves affirming of the legitimacy of governmental institutions and legislative rules suggests that for Schmidt, civility includes a commitment to a common good and the institutional foundations that seek to establish consensus amongst conflict. While civil virtue seems to naturally value consensus building among citizens, the danger for upholding governmental institutions as the arbiters of conflict resolution is the possibilities for majoritarianism, abuse of power and forced conformity. While Cahoon argues that civility generates citizen autonomy from the state, Schmidt contends that the state can be used as the arbiter of collective common good. Challenges to Schmidt’s argument are found in historical examples where the government perpetuated civil abuses, from Dred Scott and Jim Crow to Tuskegee and Don’t Ask, Don’t Tell. Further, in the instance of the Civil Rights Movement, which challenged the de jure racism of the

²¹ James Schmidt, “Is Civility a Virtue?” from *Civility*, ed. Leroy S. Rouner (Notre Dame, Indiana: University of Notre Dame, 2000), 35.

²² Schmidt, *Civility*, 34.

American South, the state did not arbitrate conflict in the hope of establishing consensus but perpetuated human rights violations in the control of a morally corrupt moral majority.

Lastly, some definitions of civility rely on robust conceptions of moral value and virtue. Like Carter, philosopher Adam McLellan relies on more rigid values that one must adhere to in order to follow constituted rules of civility. McLellan states, “Civility is a disposition that one individual may have towards another, or increasing the scope, a mood that obtains a given group of individuals or a society with the following set of criteria: recognizes the full humanity of him/herself and the ‘other,’ recognizes interdependence with other, desires to make common cause with other.”²³ This is one of the strongest and most definitive criteria for civility. However, the trouble with equating civility with the ‘full humanity’ of political or social adversaries and the desire to make common cause with others suggests that individuals cannot choose civility and *not* engage with others, nor can they respectfully articulate why finding common cause is difficult or impossible. McLellan’s argument is left with strong allusions to the Christian argument of self-sacrifice for the good of others, much like Carter. These arguments demonstrate why Herbst is so squeamish about normative definitions of civility. She could rightfully ask of McLellan: what does it mean to ask a diverse population to recognize the ‘full’ humanity, or the common cause of those with whom they share diabolically opposed beliefs? What if accepting the full humanity of an individual or population means abandoning or compromising one’s own deepest beliefs? Are greater commitments to mutuality, reciprocity and the common good the only possible saviors for a liberal civil project?

Such questions lead to a working definition of civility for the purposes of this essay. As considered above, definitions of civility range greatly with respect to varying ideals of scope, purpose and intent, moral responsibility and virtue. The thread that joins most of the above designations, however, can be stated most simply as *respect for others and respect for oneself*, where respect is defined as

²³ Adam McClellan “Beyond Courtesy: Redefining Civility” in *Civility* ed. Leroy S. Rouner (Notre Dame: University of Notre Dame, 2000), 81.

regard for the feelings, wishes, rights, or traditions of others.²⁴ Respect encompasses both sentiment and action; similarly, civility as respect can be defined both as moral virtue and as a social norm. This definition of civility may include social behaviors, such as politeness and courtesy, but not necessarily so, since civility can be respectful while still being harsh, challenging, and confrontational. Just as respect does not necessarily mean acting in a strictly polite manner, civility is sometimes, but not always, courteous. To act with civility, then, permits Cahoon's ideal to flourish; civility allows civil society to maximize individual freedom and will grant a higher degree of autonomy, where citizens can enjoy greater freedom and equality with respect to each other.

Still, defining civility as respect for others and respect oneself may at first seem too vague to be useful and too quixotic to be informative. What it highlights is the relationship between civility, civil rights and citizenship. While civil rights protect the rights of citizens and civil law regulates interactions between individuals, they do so only to the extent that punishment can be allocated when the rights of citizens have been violated. However, democracy asks for a greater degree of civility than tepid interactions between competitive individuals who are committed to nothing more than following the law. Civility must act as the safeguard that further optimizes freedom for all citizens, beyond laws and statues. A civil society is comprised of citizens who are, at least to some extent, interested in their own lives and the lives of their fellow citizens; civility must be both respect for oneself *and* respect for others. Considering civility as respect introduces the question of what responsibility citizens' have to each other. This is a useful point upon which to begin an exploration of the etymology of civility, including how liberal democracy has used, confused, and sacrificed notions of civil engagement in the name of individual liberty.

²⁴ Oxford English Dictionary Online. *Oxford University Press*, accessed January 8, 2014, http://www.oxforddictionaries.com/us/definition/american_english/respect?q=respect

CHAPTER 3: THE ETYMOLOGY OF CIVILITY: FROM COURTIER TO COURTEOUS AND BEYOND

“Let thy ceremonies in Courtesy be proper to the Dignity of his place with whom thou converses
for it is absurd to act the same with a Clown and a Prince.”
- Rule #42 of *110 Rules of Civility & Decent Behavior in Company & Conversation*

3.1 THE CASE FOR COURTESY

In modern democratic structures, the relationship between individual freedom, civility as respect, and the state is especially relevant. In particular, the relationship of the citizen to the political realm informs the how citizens choose to treat each other and to an ideal of a collective common good. As considered above, consigning the interactions of citizens to polite gestures, refined manners or courteousness seems to oversimplify the complicated relationship of citizens in a liberal democratic society, the concepts of civility and courtesy have a strong etymological connection, one that shapes how we think about the relationship of citizens to each other. It is not surprising then that, despite the notion that modern conceptions civility are more complicated than common refined behavior or courteousness of citizens, the Oxford English Dictionary definition of civility includes, “relating to culture and civilized behavior” involving “the state or condition of being civilized, [...] culture, refinement, good breeding; cultured refined or scholarly education,” and “an act or expression appropriate to civilized behavior; *esp.* an act or expression of politeness, a courtesy.”²⁵

The etymological connection between polite behavior and civility, as exemplified by the Oxford definition, underscores an evolving conception of civil behavior over four centuries of political thought, from the polite behavior of the renaissance courtier to current interactions

²⁵ Oxford English Dictionary Online. *Oxford University Press*, accessed July 9, 2012, <http://www.oed.com/viewdictionaryentry/Entry/33581>

between citizens in a liberal democracy. This construction of civility highlights the complicated relationship of citizens to each other, as well as the tension between the good of individual and the greater good. Civility is at once defined as the status of citizen and a collectivity, orderly behavior by a citizen and the act or expression of politeness toward another. Alarming, perhaps it is this *last* ideal of civility that seems to have failed to evolve with modern politics. Or, more skeptically, perhaps civility itself was lost in the evolution. Philosopher Charles Taylor carefully traces the historical connection between courtesy and civility, and illustrates why the courtesy itself plays an important role in an understanding of the modern liberal struggle for civility.

3.2 THE ETYMOLOGY OF CIVILITY AND THE ROLE OF THE COURTIER

In his work, *Modern Social Imaginaries*, Taylor leads the definition of courtesy back to the Renaissance concept of the *courtier*, or court advisor. Prior to the Renaissance, Taylor explains, “courts were places where semi-independent warriors congregated from time to time for jousts and hierarchical displays around the royal household.”²⁶ The turn of the sixteenth century introduced a rapid transition for the court warrior and the court itself. By the publication of Baldassare Castiglione’s *Il Cortegiano* (The Book of the Courtier) in 1528, the courtier had been transformed from independent warrior to model member of the court, “described as having a cool mind, a good voice (with beautiful, elegant and brave words) along with proper bearing and gestures... [to have retained] a warrior spirit, to be athletic, and have good knowledge of the humanities, Classics and fine arts.”²⁷

It is these qualities of the courtier that link courtesy to civility; and it is the translation of Aristotle’s *Politics* in 1438 by the Italian humanist Leonardo Bruni that introduced the term ‘civil society’ into our modern lexicon. In his interpretation, Bruni used the Latin “*civilis societas*,” or civil

²⁶ Charles Taylor, *Modern Social Imaginaries* (Durham, NC: Duke University Press, 2004), 35.

²⁷ “The Book of the Courtier” Wikipedia, accessed January 9, 2014, http://en.wikipedia.org/wiki/The_Book_of_the_Courtier#cite_ref-1

society, to translate Aristotle's *koinonia politike*. For Aristotle, the 'political community' exists within the *polis*, or public - this is where men reach their fullest potential through participating in politics. Thus, the root of the term civility originated here, within the Latin translation of the Greek word *polis*, or *civitas*.

There was a Renaissance-era revitalization of the republican *civitas*, motivated predominantly by a desire for military and economic dominance and precipitated by a highly functioning republic. Several key features of the Renaissance *civitas* are now familiar attributes of our modern statehood: then, leaders argued that civil society necessitated a governing body to maintain order under a code of law.²⁸ In order for civil society to thrive, a functioning governing body required higher degrees of domestic peace and less toleration for rowdiness, unauthorized violence or public brawls. Courty behavior, or the behavior of a *courtier*, became the model for the ideal citizen; in the *civitas*, citizens were increasingly expected to behave with courtesy toward others, for the good of the state.

The evolution of civility from the royal court to the modern civil state took nearly four centuries. In its early inception, the re-initiation of Aristotelian civil society during the Renaissance required much reorienting of societal expectations - not just of the 'savages' in early America or the lower castes in Europe, uneducated and uninterested in the merits of self-governance - even members of the aristocracies were new, sometimes reluctant subjects to the political rule. Still, the stronger political order had great effects. In the period between the Renaissance and the early 1800s, Western advances in scholarship included innovations in the arts and humanities, the sciences, technology, and the increase of religion in society. All of these advances necessitated a society of men conducting themselves appropriately in public. Manners were important, and courtesy required.

²⁸ Here, Taylor points out that the argument that a civil society can only thrive under the jurisdiction of a governing body suggested that 'savages' could not thrive without a concentration of power. In fact, this could easily be untrue. This conception, however, led to the makings of what we think of as a modern state, "A continuing instrument of government in whose hands was concentrated a great deal of power over society, so that it was capable of remolding this society in important ways." This became a defining feature of an *et t* police.

To act civilly meant following a set of codes that dictated particular conduct in order to uphold the function and the stability of the *civitas*. This code of conduct was generated, dictated and enforced by the ruling elites, with increasing involvement from the Church. As a result, religion played an increasingly important role in civil society; Christian leaders infused the civility with restrictions of moral imperatives. Protestantism and its ethics represent an interesting culmination of the relationship between civil behavior and a relationship to God.²⁹

As the success of civil society relied heavily the behavioral codes of men in the public sphere, it is not surprising that a sixteenth century French manuscript, titled “110 Rules of Civility and Decent Behavior in Company and Conversation” played a role in the civic education of George Washington. By sixteen, Washington had copied the entire manuscript by hand and the manuscript has been credited as one of the “earliest and most powerful forces to shape America’s first president.”³⁰ In the essay “Is Civility a Virtue?” James Schmidt begins with an anecdote about the 1998 incoming class at Hamilton College who were handed a copy of Washington’s “110 Rules” upon their arrival. Schmidt explains that the book was an admirable attempt by the College administration to generate honest, important discussion amongst incoming students about the “requisite arts of listening, understanding and negotiating”³¹ in academia. However, Washington’s manuscript serves the greater purpose of highlighting great changes in civic education over the last three centuries than used as a tool for teaching appropriate collegiate behavior. As Schmidt states,

²⁹ Taylor, *Modern Social Imaginaries*, 39.

³⁰ Richard Brookhiser, “George Washington’s Rules of Civility: 110 Maxims Helped Shape and Guide America’s First President,” *National Public Radio*, May 11, 2003, accessed June 20, 2012 <http://www.npr.org/templates/story/story.php?storyId=1248919>.

³¹ Schmidt, *Civility*, 17.

“With all due respect to the Father of Our Country... Washington’s maxims cannot but strike the modern reader as rather odd.”³² A few examples from the manuscript illustrate this point well:

4th. In the Presence of Others Sing not to yourself with a humming Noise, nor Drum with your Fingers or feet.

20th. The Gestures of the Body must be Suited to the discourse you are upon.

53rd. Run not in the Streets, neither go t[oo s]lowly nor wit[h] Mouth open go no Shaking y[ou]r Arms [kick not the earth with your feet, go] not upon the Toes, nor in a Dancing [fashion].

104th. It belongs to the Chiefest in Company to unfold his Napkin and fall to Meat first, But he ought then to Begin in time & to Dispatch [w]ith Dexterity that the Slowest may have time allowed him.³³

Such maxims provide little guidance for modern understandings of civility — they do not convey a sense of timelessness for Washington’s wisdom, or a universal understanding civility. Instead they eloquently demonstrate how the conception of civil behavior has changed over time. It is no longer uncivil for a university student to commence a meal before an upperclassman has unfolded his napkin; public humming is now permitted, as is running, drumming and dancing. Only in restrictive social settings, such as military academies, are constraints on casual behavior and social interactions asserted without a raised eyebrow. If Washington’s 110 rules were modernized for incoming college students to include regulation on cell phones as well as suggestions of appropriate dress and permissible foods to be eaten in public, such agreed-upon conventions would still be found less significant to conversation than concerns regarding appropriate use of language, conflict resolution, listening skills and tolerance practices. The modern irrelevance of Washington’s manuscript reveals an important point: over the history of American democracy, civility has evolved from a set of behavioral codes and etiquette meant to secure social hierarchy, inform civil education and control

³² Schmidt, *Civility*, 17.

³³ Schmidt, *Civility*, 18-19.

social interaction in the political-public realm, to the modern understanding of civility as respect through fair and equal treatment of others.

This civil evolution occurred over three centuries, as modern democracy transitioned from small, self-governing republics of the Renaissance to the larger, more centralized project of U.S. liberal modern democracy. In this transition, conceptions of civility and the civil society were abstract enough to survive the transition relatively unscathed; however, the *civitas* as the locus of political life changed radically.³⁴ Washington's 110 rules of civility were intended for men who understood the public behavior of citizens as directly connected to the greater political weal. In early America, one's behavior reflected individual and family and position in society and civil conduct was practiced as a way to secure the political stability and future of the state. And yet, in the early foundations of democratic society, the relationship between citizens, citizenship and the state began to shift. Alongside it, the notion of civility experienced a transformation.

3.3 THE ENLIGHTENMENT AND THE SHIFT FROM CIVIC TO CIVIL

In particular, the notion of civility was radically changed by the political shifts of the Enlightenment. The scholarship of the seventeenth and eighteenth centuries resulted in a transition in political philosophy from the Aristotelian roots of republicanism toward an ideal of respect *without* necessary shared ends, from “civic to civil, from polis to politeness”.³⁵ Importantly, this shift is well documented in two particular nineteenth century works; the writing of German philosopher Georg Friedrich Hegel and the work of French Historian Alexis de Tocqueville. Both theorists articulated a split in the republican notion of *civitas* — a liberal division of the binary public-political and private spheres into tripartite realms of state, civil society, and the private realm.

³⁴ Schmidt, *Civility*, 28.

³⁵ *Ibid.*

In the 1821 publication of *The Philosophy of Right*, Hegel conceived of a *bürgerliche Gesellschaft* or civil society, “which stood between the private, biological realm of the family and the public, political realm of the state, all three constituting *Sittlichkeit*, the complete embodiment of ethical life.”³⁶ Separate from the state, the civic domain is a largely economic endeavor where the citizen is free to concern himself with his own, competitive interests and where he “pursues these interests in a market where all other individuals are likewise concerned with the pursuit of their own interests.”³⁷ In Hegel’s civil realm, the citizen is *burgher*, not *citoyen*, and the interest of the state remains separate from the competitive interest of the citizens.

In drafts of *Democracy in America*, Alexis de Tocqueville also observed a crucial division within the democratic state, but with slightly different delineations. Tocqueville distinguished the partition as follows: first is political society, which includes the relationship between the federal and state government as well as the government with the citizens; second, civil society, including citizens’ relationship with one another; and lastly, religious society, including the relationship of clergy to the citizens. Because Tocqueville believed that voluntary associations were under the auspices of civil society, later editions of *Democracy in America* often collapsed religious association into the civil sphere.³⁸

With two different approaches, Tocqueville and Hegel drew similar theoretical conclusions. By the nineteenth century, societal delineation was no longer the division of the political-public (*civitas*) and the private realm, but civil, political and private. In the binary division of the political-public and the private, civil behavior was the virtue of the good citizen. However, without the state as the center of public life, the notion of civility shifted to the non-political, economic realm of the

³⁶ Taylor, *Modern Social Imaginaries*, 44.

³⁷ Schmidt, *Civility*, 29.

³⁸ Eventually Tocqueville concentrated so much of *Democracy in America* between two categories of Political Society and Civil Society that religion became one example of a broader class of “civil associations.” See Schmidt, *Civility*, 30.

civil sphere. This new frontier of civil society had supporters and opponents; Tocqueville considered this a positive shift, a freedom from the confines of European aristocracy. He believed that such shift was the natural consequence of a new ethnically, culturally and religiously diverse society without old, patrician rules and limitations:

Democratic manners are neither so well thought out nor so regular [as those in aristocracies], but they often are more sincere. They form, as it were, a thin, transparent veil through which the real feelings and personal thoughts of each man can be easily seen. Hence there is frequently an intimate connection between the form and the substance of behavior; we see a less decorative picture but one truer to life.³⁹

Similar outlooks on this uncharted realm of civility in American democracy were less rosy.

Nineteenth century German philosophers Ferdinand Tönnies and Max Weber, and some of their

European colleagues, took a dimmer view of civility in industrial societies.⁴⁰ In his 1887 work

Gemeinschaft und Gesellschaft (Community and Society), Tönnies articulated a great shift of the

Industrial Revolution the civil sphere of democratic industrial society is distinct from the traditional *polis* and, like Hegel's civil state, is rooted in the increasingly competitive free-market economy. For

Tönnies, the civil sphere was not a new center of free and honest association. Instead:

All conventional sociability may be understood as analogous to the exchange of material goods. The primary rule is politeness, an exchange of words and courtesies where everyone appears to be concerned for everyone else and to be esteeming each other as equals. In fact, everyone is thinking of himself and trying to push his own importance and advantages at the expense of the rest.⁴¹

Where Tocqueville argues that the new society of American democracy allowed for a plurality of

citizens to live genuinely through open and honest dialogue between equal citizens, Tönnies feared

³⁹ Alexis de Tocqueville, *Democracy in America*, ed. J.P. Mayer (Garden City, NY: Anchor Books, 1969), 607.

⁴⁰ Herbst, *Rude Democracy*, 19.

⁴¹ Ferdinand Tönnies, *Community and Society*, ed. Jose Harris (Cambridge: Cambridge University Press, 2002), 65.

that the great achievements of contemporary industrial society would “crush the emotional, humane remains of community based society.”⁴²

Despite their differences, both Tonnies and Tocqueville articulate an important moment in modern relationship between civility and democratic theory. Prior to the division of civil society from the political-public, the conduct and civil behavior of citizens was inextricable from the *civitas*. However, as the Age of Enlightenment shifted ideals of freedom, statehood and citizenship, and as the liberal democratic project began to take shape, civility was decreasingly influenced by the character of the courtier and increasingly defined by notions of autonomous and self-interested citizens of the state. Civil behavior evolved from the conscripted guidelines of citizens participating in the public-political realm, to the new and uncharted jurisdiction of civil society. Along with it, the relationship between individual freedom and collective self-governance shifted indeterminately.

Much of the debate surrounding political liberalism exists here, in the moment where civility was unhinged from the realm of the collective self-governance and placed in the non-political realm of the civil sphere. Critics of modern liberalism contend that the Age of Enlightenment relegated the political sphere from the site of common good and individual actualization to an entity dedicated solely to the protection of individual liberty and freedom. This move diminished the chances for successful democratic self-government by disconnecting individual liberty from the political realm and severing the relationship of individual freedom and liberty from the ideal of a collective common good. Consigning the once-political values of civility and citizenship to the non-political civil realm, critics argue, resulted in an overvaluation individual liberty and prosperity at the expense of common values, and misplaced the important collective-will necessary for democracy.

The historical shift from the civic to the civil is imperative to the modern civil debate, particularly because liberalism now dominates contemporary democratic ideology. The ‘great divide’

⁴² Herbst, *Rude Democracy*, 18.

between modern republicans and democrats hinges on methodological, not ideological, differences over how to maximize individual freedom and the ideals of life, liberty and property. Regardless of which side of the modern politics one stands, the divided political binary rests in the apex of how much of one's personal wealth or freedom is relinquished to the federal government and for what cause. In this modern democratic structure, a liberal citizen, even a citizen committed to self-interest alone, is always at once an individual and member of the populace; and yet liberalism does not necessarily hold the interests of each in equal balance. Critics are right to claim that liberalism struggles to retain a strong commitment to common good while offering priority to the promotion and preservation of individual freedom and liberty.

Despite the current political climate, the relationship between the common good and the good of an individual need not be adversarial in liberalism. As a citizen is simultaneously an individual and a member of a greater community, the ideals of each are interconnected. Liberal theory must recognize that the stronger the commitment to a common good, the stronger the possibility of individual freedom for all citizens, as promulgated in the Constitution of the United States. The question is whether liberalism is able to induce increased levels of civility without collapsing the civil realm and political realm, to compel citizens to commit to greater levels of civility and commitment to the common good without compromising the ideal of citizen-freedom to pursue one's own life, liberty and property upon which liberalism rests. Two important considerations, expounded nearly three centuries apart, attempt to build such an important case for liberalism. More recently, the contemporary theory of theorist John Rawls, struggles to find an appropriate place for a duty of civility in modern liberalism. First, however, the historical theologian and public leader Roger Williams, whose theories helped shape the ideals of tolerance and religious freedom, can help to inform issues of modern civility. Williams' theories are rarely used in civil debates, though they offer important insight into the potential strengths and weaknesses of our

modern liberal structure. Because Williams' philosophical work was part of his greater project as a public leader, Chapter Three begins with an examination of his works within a historical context as a comparative introduction to the modern alternative of Rawlsian liberalism.

CHAPTER 4: LIBERALISM AND THE CRISIS IN CIVILITY

“My conscience is an avalanche; majestic, bewildering, and wholly careless...”
-The Bowerbirds

4.1 WILLIAMS AND THE FREEDOM OF HUMAN CONSCIENCE

Early champions of liberty in America argued for freedom, tolerance and respect among free and equal citizens. Much of the credit is now extended to the classical liberal philosopher John Locke, whose writings, particularly the *Two Treatises of Government* and *A Letter Considering Toleration*, inspired James Madison, Thomas Jefferson, George Mason, Benjamin Franklin and John Adams among other early democratic theorists.⁴³ Early Democratic-Republicans incited Lockean liberal ideals of a natural right to life liberty and property against the Federalist ideals, which Jefferson and his allies were concerned favored aristocratic elitism and social privilege. Democratic-Republicans were committed to principles of universal civic duty in opposition to political privilege and corruption. Ensuring individual freedom and liberty, they believed, would best guarantee that the power of government remained in the hands of the farmers and ordinary citizens, the ‘plain folk of the old south’. Securing citizens’ freedom to participate in government meant constructing a system of rules and regulations that granted all citizens equal protection under the law. The project of creating a unified nation of states committed to liberty and equality required a nation of participants committed to common freedom of citizens. As such, the traditional notion of citizenship, liberated from the behavioral constructions of European aristocracy and state interest, shifted away from socially ‘appropriate’ behavior and toward an ideal of a plurality of citizens freely enjoying equal

⁴³ Jim Powell, “John Locke: Natural Rights to Life, Liberty and Property” *The Freeman*, published by the *Foundation for Economic Education*, Vol. 46 Issue 8 (1996), accessed October 1, 2012, <http://www.thefreemanonline.org/features/john-locke-natural-rights-to-life-liberty-and-property/>

rights and access to property and prosperity. The new American ideal of civility among citizens evolved from politeness to respect for individual rights; or from the interest of the state to the good of the people.

One of the earliest and most provocative crusaders of tolerance and civil respect is often excluded from the great civility debate. Roger Williams (c. 1603-1683), founder of the Providence Colony and one of the forefathers of the Baptist faith in America, is remembered best as a radical and often unpopular Puritan leader. His rigid interpretations of religious ideology isolated him from the ruling elite in the Massachusetts Bay Colony and buried much of his scholarship in controversy. When Williams is referenced at all, it is often for his unyielding stance on the separation of church and state, though the more eloquent writings of Jefferson and Madison eclipse even this work. In error, historians assume that Williams' writings on the separation of church and state represent his role as an incorrigible democrat and contentious figure in early America and a precursor to transcendentalism. It is widely understood that his advocacy of religious tolerance that resulted from his distaste for the religious orthodoxy of Puritanism and his sympathy for the pagans and agnostics with whom he became friendly.

In recent years, reassessment of Williams' contribution to the discussion of liberalism and civility has surfaced, much owed to the theologian James Calvin Davis who has transcribed and analyzed Williams' prolific, emotional and often impenetrable works. Davis, along with philosopher Martha Nussbaum, reveal Roger Williams as a man who was foremost a theologian and public servant, dedicated to one inspiring political project: creating a society built on freedom of conscience, conversation and mutual respect. Examining the life and lifework of Roger Williams in the context of early American Democracy reveals a clearer and more substantial ideological relationship between liberal freedom and civility.

Roger Williams and his wife arrived on the shores of the Massachusetts Bay Colony in 1630. A child of English merchants, Williams' precociousness earned him the early attention of Sir Edward Coke, chief justice of the King of England's Bench. Coke arranged Williams' education, first at Sutton's Hospital in London and then at Cambridge University. Williams received a degree in the Classics focused on Stoicism, popular in the early part of the seventeenth century. Upon graduation, Williams accepted orders in the Church of England and was appointed a chaplaincy in Essex.

At his post, Williams earned a reputation for strong criticism of the Anglican Orthodoxy and a contentious devotion to the Stoic ideals of individual sovereignty and freedom of conscience. Williams was an outward supporter of the separatist movement of the Anglican Church, which argued for a break from the corruption. In 1629, Williams witnessed the imprisonment and torture of another leading Puritan reformer. Fearing his own safety, Williams fled England for the New World.⁴⁴ Williams and his wife were warmly welcomed in Massachusetts, and Williams was offered an assistant ministerial position at the prominent Church of Boston. He displeased the colonial leadership by declining the post, citing his disapproval with the congregation's continuing connection with the Church of England; many early leaders of the Massachusetts Bay Colony were members of the 'non-separatist' movement, who believed reform was best implemented from within the Church. Several neighboring communities were sympathetic to Williams' arguments, and offered him a ministerial post. Williams spent several years in Salem where he sermonized freely, wrote political pamphlets and cultivated relationships with the local native tribes, learning several of their languages.

As a leader in the church, Williams was particularly critical of the Massachusetts colonists' claims to all Indian Territory. He published literature sarcastically commenting, "Christian kings (so calld) are invested with Right by virtue of their christianitie to take and give away the Lands and

⁴⁴ Martha Nussbaum, "The First Founder," *The New Republic*, (September, 2008): 3.

Countries of other men.”⁴⁵ Eventually Williams’ radical sermons, open criticism of the King of England, and his kindness with native peoples earned him the ire of the Massachusetts authorities. In 1635, Williams was tried in the General Court, convicted of “diverse, new and dangerous opinions” and sentenced to banishment.⁴⁶ Williams was outraged by what he believed to be an outright attack on his religious ideology, which he argued was a direct violation of conscience.⁴⁷ John Cotton, pastor of the First Church of Boston, who would become a lifelong adversarial correspondent of Williams, justified such religious persecution as an act of civil order. Nussbaum states,

It was [] God's will, Cotton said, in order to separate the diseased element of society from the healthy element. Heretics and dissidents are like Satan in our midst. Even if they behave peaceably, they are enticements to sin. Cotton urged imprisonment, banishment, and other harsh penalties for the unorthodox.⁴⁸

Williams was alerted to his forthcoming punishment by an ally, and in the winter of 1636 fled to the shores of the Narragansett River with a small following of loyal supporters. Welcomed by the Narragansett Chief Canonius whom he had befriended during his tenure in Salem, Williams established Providence Colony, named for his deliverance from the unchristian treatment of the Massachusetts Bay. Later, Providence and neighboring communities were chartered as the Rhode Island Colony and Providence Plantation. As the leader of Rhode Island, Williams finally achieved liberty from the Anglican orthodoxy and commenced what would become his lifework: developing a fair balance between the sacredness of individual liberty and a tolerant, peaceable society.

⁴⁵ Nussbaum, “First Founder,” 3.

⁴⁶ Roger Williams, *The Correspondence of Roger Williams*, ed. Glenn LaFantasie (Providence: Brown University Press, 1988), Vol. I, 12-23.

⁴⁷ There is some debate as to whether Williams’ exile was motivated by the treasonous tones of his separatist rhetoric and the fear on behalf of the leaders of any potential wrath from England. Williams believed that the accusation of treason was illustrative of the conspiracy between the non-separatists and the Massachusetts governing body.

⁴⁸ Nussbaum, “First Founder,” 2.

Early examples of Williams' commitment to freedom and liberty are well documented. The Charter of Rhode Island was the first case of an official policy of religious liberty, stating:

[N]oe person within the sayd colony, at any tyme hereafter, shall bee any wise molested, punished, disquieted, or call in question, for any differences in opinione in matters of religion, and doe not actually disturb the civill peace of sayd colony; but that all and every person and persons may, from tyme to tyme, and at all tymes hereafter, freely and fuly have and unjoye their owne judgments and conscienes, in matters of religious concernments, throughout the tract of lande hereafter mentioned; they behaving themselves peaceable and quietlie, and not useinge this libertie to lycentiousnesse and profanenesse, nor to the civill injrye or outward disturbance of others; any lawe, statute, or clause, therein contained, or to be contained, usage or custome of this realme, to the contrary hereof, in any wise, notwithstanding.⁴⁹

In 1652, Rhode Island was the first colony in North America to ban black and white chattel slavery, following earlier bans on witch-hunts and capital punishment. As word spread of Williams' tolerant practices, Rhode Island increasingly became a haven to persecuted peoples including Baptists and Quakers, who sought the freedom to pursue religious practice. In 1658, fifteen Jewish-Portuguese families arrived in Rhode Island and were granted full religious sovereignty — astounding given that Jews in Britain were granted full civil rights nearly two centuries later.

Historians inaccurately attribute Williams' commitment to individual liberty and tolerance as a break from his own religiosity or a theological disillusionment with the Church of England. In fact, Williams remained deeply committed to religion and spent the full duration of his life as a Christian theologian and dedicated public leader. His support for a statehood rooted in religious freedom and individual liberty was not a desertion of faith, nor was it an indication of his valuation of human atomism at the cost of community. Williams pursued an ideal individual liberty, not at the *expense* of the common good but defended the integrity of the freedom of human liberty and toleration as the foundation upon which to build a strong community. At a time when the powerful hand of the Church of England reached across the Atlantic to threaten religious proliferation and freedom of

⁴⁹ Williams, *The Correspondence of Roger Williams*, Vol II, 541.

speech and religion, Williams' commitment to religious pluralism was unprecedented, and for the political elite in Massachusetts, quite unwelcome.

This was the foundation of Williams' lifework, an ideal upon which he focused with unwavering commitment. He believed, above all else, in the dignity and value of the human conscience. Influenced by his scholarship on Stoicism, Williams contended that human beings were endowed with a capacity for moral knowledge and ethical reasoning, accessible through exercise and education of the human conscience. For Williams, the "conscience played the same role that faculty of moral choice plays in Stoicism; conscience [...] is a seat or faculty of searching and choosing... It is, Williams holds, the main source of our identity as agents: it is 'indeed the man.'"⁵⁰

Combining Christian theology and natural law theory, Williams argued that God endowed a "most precious and invaluable Jewel" to all humans: liberty of the conscience and the natural capacity for moral knowledge. Similar to the Stoic ideal of faculty of conscience, Williams believed the human conscience exists in the virtuous and non-virtuous alike, in those whom he deemed believers and 'anti-Christians', pagans and Jews. All persons possess a type of moral goodness, even if they do not appeal to God; and because every human is capable of exercising a basic level of morality, they are also capable of civility. In other words, according to Williams one need not be Christian to be a good moral citizen.⁵¹

Williams argued this ideal both theologically and empirically. His understanding of the human capacity for civil morality was underscored by his personal experience with persecution. Williams wrote "...I observe to prove that a Subject, a Magistrate, may be a good subject, a good Magistrate, of civil or morall goodnes which thousands want, and where it is, it is commendable and

⁵⁰ Martha Nussbaum, "Equal Respect for Conscience?: Roger Williams on the Moral Basis of Civil Peace" *History of Philosophy, The Harvard Review of Philosophy*, vol. XV (2007): 8.

⁵¹ John Calvin Davis, "A Return to Civility: Roger Williams and Public Discourse in America," *Journal of Church and State* 43, no. 4 (Aug 2001): 693.

beautiful, though Godlines which is infinitely more beautiful, be wanting...⁵² Throughout his writings and letters, Williams often recanted stories of persons, societies and tribes who were wholly ignorant of Christianity but idyllically peaceable, nonviolent and mild-mannered. He challenged those who argued that civility thrived solely in Christian cultures to recall “so many stately Kingdomes and Governments in the World [who] have long and long enjoyed civill peace and quiet, notwithstanding their Religion is so corrupt...”⁵³

Three critical conclusions were drawn from Williams’ conviction that humans are universally capable of moral knowledge. First, if all humans contain equal potential for freedom of conscience than citizens are *inherently equal* and must be treated as such. As Nussbaum eloquently states, Williams imagined that “everyone has inside something infinitely precious, something that demands respect from us all, and something in regard to which we are all basically equal.”⁵⁴ Second, because of the equal status of humanity, Williams argued that all citizens rightly deserved the freedom and opportunity to pursue the realization of their individual conscience, which required space for the conscience to grow without threat of coercion, persecution or imprisonment. Here, Williams made a break from the Stoics who argued that the inner conscience is an unmovable being, held within the soul of an individual and unharmed by outside influence. For the Stoics, this meant that the inner conscience is always safe from outside forces, giving individuals the fortune of personal freedom irrespective of circumstance. Williams rejected this ideal, arguing that the faculty of the human conscience is instead a fragile component of the human spirit, an entity needing protection and expansiveness in order to thrive. While the Stoic ideal of inner freedom is attractive, an argument for

⁵² Roger Williams, *The Bloody Tenant of Persecution*, ed. Samuel Caldwell (an O-P Book Authorized reprint of the original edition, produced by Microfilm-Xerography by the University Microfilms, Ann Arbor, MI), 246.

⁵³ Williams, *The Bloody Tenant*, 251.

⁵⁴ Nussbaum, “Equal Respect,” 9.

an untouchable conscience does not support a reasonable argument against enslavement or for egalitarianism. Stoics fell mostly silent on matters of citizen equality and freedom.⁵⁵

Williams' case for the fragility of human conscience strengthened his third argument: that appropriate space for the freedom and dignity of all citizens must be rigorously protected. All citizens have an equal capacity for freedom of conscience and such capacity, critical to the expansion of humanity, requires philosophical space and physical expansiveness unthreatened by persecution in order to thrive. Because the human conscience must be protected in order flourish, Williams found it an indefensible crime against humanity to allow civil and religious freedom to some but not to all. Such a violation of the human conscience is equitable to imprisonment and "rape of the soul," an act to which he states "no Uncleaness, no Adulterie, Incest, Sodomie, or Beastlitie can equal, this ravishing and forcing (explicitly or implicitly) the very Soules and Conscience of all the Nations and Inhabitants of the world."⁵⁶ It is insufficient to merely declare such persecution immoral; Williams shuddered at the individual who spoke "so tenderly for his owne, [yet] hath yet so little respect, mercie, or pitie to the like consciencious perswasions of other Men[.]" His dismay lead him to ask two further questions: "Are all the Thousands of millions of millions of Consciences, at home and abroad, fuell only for a prison, for a whip, for a stake, for a Gallowes? Are no Consciences to breathe the Aire, but such as suit and sample his?"⁵⁷

To complement his philosophical arguments for the freedom of individual conscience, Williams argued an additional procedural point. Individual persecution does not only jeopardize the "most precious and invaluable Jewel" of human conscience, it is also an ineffective strategy to inspire an internal shift in belief. An individual forced to falsely affirm a set of mandatory beliefs

⁵⁵ Ibid.

⁵⁶ Roger Williams, *The Bloody Tenent Yet More Bloody* from *The Complete Writings of Roger Williams*, ed. Perry Miller (New York: Russell & Russell, 1963) Vol. III, 495.

⁵⁷ Williams, *The Correspondence of Roger Williams*, 338.

without a soul conversion will not transform their own ideals to satisfy their oppressor, but rather harden their commitment to their own inner ideology, making it less likely that they will amend their inner ideological principles upon deliberation. This argument later becomes central to the case of toleration made by John Locke.⁵⁸ This point is well avowed but less significant for Williams; as a theologian he was most invested in saving the precious conscience of the soul, not shifting ideology through argument. In the colony of Rhode Island, Williams sought to create a society of religious tolerance and individual freedom where individuals were treated equally and where individual conscience flourished in the absence of persecution.

These ideals formed the foundation of Williams' argument for which he is best known: the separation of the church and the state, or what he called a "hedge or wall of separation between the garden of the church and the wilderness of the world."⁵⁹ Williams argued this model as a rebuttal to the Massachusetts theologian John Cotton, who contended, "The established Church *must* hold high authority in the civil realm, and should be superior to all civil magistrates, if peace is to be preserved."⁶⁰ Williams argued that such the allowance of church authority in a civil society would necessarily threaten citizens with religious domination. Allowing one religious ideology authority over all citizens jeopardizes the freedom of individuals by confining ideology and practice. In the

⁵⁸ Nussbaum, "Equal Respect," 13. I encourage anyone who would like to know more about the relationship between Locke and Williams to read this article. It is quite interesting, but the similarities are beyond the scope of this paper.

⁵⁹ The term 'separation of church and state' is a derivation of the phrase, "[A] hedge or wall of separation between the garden of the church and the wilderness of the world," written by Roger Williams in 1644. The phrase is more commonly attributed to President Thomas Jefferson, who used it in a letter to the Danbury Baptist Church in 1802, nearly two centuries after the death of Williams. Jefferson's text reads: "*Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion, or prohibiting the free exercise thereof; thus building a wall of separation between Church and State.'*" The phrase itself does not appear in the United States Constitution; the closest reference is the First Amendment, which secures the freedom of religious exercise. Nussbaum is quick to point out that Williams used the phrase once, and only in a letter — not in any of his major works. For more see Nussbaum, "Equal Respect for Equal Conscience."

⁶⁰ Nussbaum, "Equal Respect," 11. Also, Williams, *Bloody Tenant of Persecution*, 221-222.

interest of safeguarding individual freedom and liberty of all citizens, a just society cannot rightfully endorse a state religion, but instead must cultivate a sense of peace and a shared ideal of the common good through other means.

Williams expanded upon his ideal of a ‘model’ society beyond the separation of church and state. He argued that human activity falls into two particular realms, the civil and the spiritual, with corresponding jurisdictions. The civil authority is responsible for protecting the rights of citizens in pursuit of the liberal ideals of life, liberty, property and security. Citizens elect civil magistrates, and authorities are permitted to use force when necessary in order to compel the freedom of the citizenry. The spiritual realm, on the other hand, is non-democratic. It is the place of “soul and safety.”⁶¹ In the spiritual realm, use of coercion and punishment is both inappropriate and dangerous. Williams states, “civill weapons [are] not only improper, but unnecessary in spirituall cases.”⁶² Williams believed the Church and its clergy should maintain authority in the spiritual domain, but they should not use force and should govern by persuasion only. The two realms would live peaceably together as long as this divisional relationship was appropriately maintained and the boundaries between the civil state and the religious realm were not blurred. Thus the religious realm could not appropriately interfere in civil law or restrict an individuals’ pursuit of individuals’ right to life, liberty and property.

Williams’ work predates that Enlightenment tripartite division of state, civil and private realms but his theory shares relevant connections to later political models. Most obvious is his ideal of the separation between religion and the civil sphere. For Williams, the hedge dividing the ‘garden of the church’ from the ‘wilderness of the world’ was not intended to be an impassable divide; instead, the civil sphere was charged with constructing a boundary around ‘the garden’, in order to

⁶¹ Nussbaum, “Equal Respect,” 11.

⁶² Williams, *The Bloody Tenent*, 246.

protect the location of spiritual flourishing and the sacred space of the human spirit. Any civil force in the spiritual sphere was most unwelcome for Williams, so the civil sphere became the site of laws protecting the freedom of citizens, including the free exercise of religion and the oversight of appropriate punishment for religious intolerance, violence and coercion. Thus the civil realm was charged with defending the rights of individuals in both domains, not through statements of judgment or religiosity, but through acts intended to protect civil freedom. Williams explains:

Laws respecting Religion may be such as merely concern the Civill State, Bodies and Goods of such and such persons, professing these and these Religions viz. that such and such persons, notorious for Mutinies, Treasons, Rebellions, Massacres, be disarmed: Again, that no persons Papists, Jewes, Turkes or Indians be disturbed at their worship (a thing which the very Indians abhor to practice any)... These and such as or of this nature, concerning the bodies and goods of such and such Religious persons, I confesse are merely Civill.⁶³

This exchange does not work in reverse. Religious laws and policies, including regulations of worship practices and appointments of religious leaders, must not be introduced or regulated within the civil realm. Religious policies must regulate only religious spheres and cannot be forced upon citizens who choose to follow religious practices. Religious institutions and leaders may preside over the spiritual realm but only insofar as they lead by persuasion and argument, not by force, meaning that they cannot force citizens in the civil realm to follow their religious teachings. For Williams, then, civil laws were never meant to be religious in origin, or as Nussbaum references Williams, “To say that [religious laws] should be civil laws ‘is as far from Reason, as that the Commandments of Paul... were civil and earthly constitutions.’”⁶⁴

Without religious laws to guide civil laws, the civil sphere was no longer the center for human flourishing for Williams, but the site where individual freedoms were meant to be protected by magistrates and by a citizenry committed to freedom and equality. The separation of the church

⁶³ Williams, *The Bloody Tenent*, 252.

⁶⁴ Nussbaum, “Equal Respect,” 12.

and the civil realm was not intended to keep the values of individuals out of the public realm; Williams recognized that it would be “weird and tyrannical,” as Nussbaum argues, to expect citizens to extract the moral standards they agree to in the civil realm from their own comprehensive religious doctrines. Ethical principles and ideals agreed upon in the public realm may be, for many, deeply embedded with religious meaning and justification. However, Williams’ argued that freedom of conscience would be preserved only when a plurality of citizens agreed upon a set of ethical standards without expecting that the origins must also be shared. Nussbaum puts it plainly, “All we need to do is to acknowledge that someone might actually have those ethical virtues, in the way that is relevant for politics, while not sharing our own view of life’s ultimate meaning.”⁶⁵

Williams concluded that the ideal of individual freedom and liberty could only be achieved when social cooperation was actualized, and this was only possible when open and honest conversation was allowed to occur in the public sphere. Again, the public realm was the place where citizens chose how best to safeguard personal freedom and liberty, to live well together. In order for social cooperation to be realized, the civil realm necessitated an open dialogue between citizens all of whom must be allowed to articulate their most valued religious and moral convictions without threat of disqualification or persecution. “Williams’ principle of tolerance was not intended to sanitize religiosity in public, but instead encouraged the freedom to hold, develop, change and articulate beliefs in public forums, and respect for this freedom was a procedural requirement upon which civility depended.”⁶⁶ Williams sought to prevent any one particular religious authority from monopolizing the moral truth of a society, which would disallow open discourse in the public sphere. Instead, with deference to individual freedom of conscience, Williams encouraged citizens of Rhode Island to engage in honest deliberations in the public sphere.

⁶⁵ Nussbaum, “Equal Respect,” 13.

⁶⁶ Davis, “A Return to Civility,” 692.

With the division between the civil and spiritual clearly realms revealed, Williams' ideal of civility is better understood. Without a particular religious ideology to hold 'high authority' over the civil sphere, citizens of a society must agree to a set of moral norms to guide the spirit of the public realm. The best way to ensure that the individual conscience of each citizen is protected from the 'wilds of the world' was to construct the civil state on moral foundations that did not originate under the jurisdiction of one particular religious ideology. Williams recognized that a plurality of citizens would not and should not necessarily agree on a complex set of norms, but argued that all citizens, capable of moral citizenship and committed to individual liberty and freedom, would be compelled to discover some mutually agreed upon standards, including courteous conversation, listening with integrity, respect for one's opponent, refraining from personal insults.⁶⁷

Williams recognized that the New World was already a plurality of communities with diverse religions, cultures and ideologies. This was the new uncharted reality of American democracy, articulated later in the writings of de Tocqueville. In a society of citizens with divergent ideologies, values and commitments, it seemed immoral, illogical and counterproductive to demand that all citizens accept one particular core ideal or set of moral truths. Instead Williams' ideal of civility meant to respect the individualism of all citizens, cultivating a commitment to human equality and motivating a civil community to form a public space, where freedom and individual liberty were maximized. The civil sphere was not to be the space where profound ideals of truth and enlightenment were to be discovered, neither alone nor with a community of like-minded individuals. Such ideals were relegated to the private gardens of religion. The public sphere was the place where the values of individual freedom were agreed upon and protected by the strong bond between disparate citizens. In other words, common commitment to a public sphere was not the place to actualize a set of common truths that would constitute the ideal of a 'good society'; the

⁶⁷ Davis, "A Return to Civility," 693.

purpose of the public sphere was to safeguard the individual freedom of all citizens who could in turn discover and actualize a good life for themselves. In order to ensure freedom of conscience for all citizens, the civil sphere included an agreed-upon set of ideals, a common respect for others, a commitment to individual freedom, and full equality of all citizens in the public realm. These are the very core foundations of Williams' ideal of civility. Civility was the commitment and actions of a society where diversity was respected, civil conversation was courteous, and "the tasks of living together as a civil community [were] engaged in a cooperative spirit."⁶⁸ Thus, religious tolerance, the ideal attributed most to Roger Williams, was not intended as a particular ideology but meant as a norm of civil behavior.

The ruling elite in Massachusetts represented the antithesis of Williams' robust and cooperative civil sphere, where tolerance was primary and the protection of individual freedom was foundational. Not only was the Massachusetts Colony corrupt, Williams argued, societal construct dominated by one powerful congregation destroyed any possibility of a peaceable, pluralistic civil sphere. He feared that any society where religious authority reigned over the civil sphere would lead to a culture of power politics and undermine a common cooperative civil movement. As Davis articulates, Williams rightly worried that power politics inherently breeds incivility:

Intolerance in public discourse short circuits conversation, handicaps the powers of persuasion and genuine consent, and ultimately threatens violence and political chaos. Civil exchange disappears, hope for consensus evaporates, and political interaction dissolves into dangerous wrestling for the loyalty of whatever political machinery will allow one to 'win'. Thus, those who successfully obtain the allegiance of political institutions employ them as the 'executioners' of their own intolerance while those without such friendships in high places are led to believe that violent disruption is the only way for them to achieve freedom. From both directions intolerance brings civil conversation to an end and threatens a society's political stability.⁶⁹

⁶⁸ Davis, "A Return to Civility," 692. Here Davis notes that a "vision of a peaceable and cooperative society is what Williams often referred to as 'civility.'"

⁶⁹ Davis, "A Return to Civility," 696. Also, Williams, *The Bloody Tenant Yet More Bloody*, 204-205.

While the current levels of incivility in the United States have not yet descended into violence, Williams' concern over the cost of a civil structure relegated to the power politics of a 'political machinery' is suggestive of the current civil climate. For Williams, the ideals of religious tolerance, respect for individual freedom and liberty are not only the ideals that solidify the qualities of a common civil sphere, but they are the foundation of a peaceable, successful pluralistic society.

Whether the civil principles Williams espoused in Providence colony influenced the foundation of democracy in America beyond the idea of a separation of church and state is unproven. However, threads of Williams' arguments for individual freedom of conscience were extant in early American constitutional ideals. The founders of the United States argued for individual freedom as a primary and prioritized right; today the U.S. Constitution protects citizens against the civil authority of any religious doctrine, and citizens are free to defend themselves against a dictatorial or oppressive government. At a time when individual religious freedom was unprecedented, Williams wrote early statutes protecting the freedom of individuals in the civil sphere. In Rhode Island, "Jews did not have to testify on Saturday; sects that objected to oaths did not have to swear; Quakers and Mennonites were exempt from military conscription."⁷⁰

Boston pastor John Cotton forwarded two important challenges to Williams, which reverberate through contemporary critiques of liberal civility. First, Cotton claimed that peaceful civil society ultimately fails without a common bond to incite citizens' commitment to civil behavior.⁷¹ Moral behavior, dictated by religious belief, is the most stable foundational construct of a successful civil sphere. Without a common bond and with opposing ideologies, citizens easily become adversaries. Citizens cannot be bonded by law or boundary but by common cause, and such

⁷⁰ Nussbaum, "Equal Respect," 15.

⁷¹ This is why Cotton argued that the authority of the Anglican Church should hold superiority over the civil magistrates, as referenced above.

unification occurs only when citizens have reason to trust and commit to one another through religiosity and faith.

Williams was an early champion of the realities of pluralism, where the greatest hope for civility was not unity through faith, which would have forced non-Christian communities to relinquish their own beliefs, but a common respect for individual freedom of conscience and religion. Williams argued that the greatest threat to peace and tranquility in the civil sphere was indeed *not* pluralism itself but threat of persecution, brought upon a society by a dominant religious orthodoxy. "...[A] breach of civil peace may arise, when false and idolatrous practices are held forth & yet no breach of civil peace from the doctrine or the manner of holding forth but from that preposterous way of suppressing, preventing, and extinguishing such doctrines or practices by wrath and blood whips stockes death &c by which men commonly to convert Heretickes and to cast out uncleanne spirits which onely the finger of God can doe..."

Cotton's second argument draws closer to the issue of moral truth and civil leadership. Against Williams' notion of civil magistrates, Cotton argued, "Being a good citizen and being a good civil magistrate are inseparable from having the right religion. We simply do not want our public life to be run by sinners, because they are making very important decisions, and if they are sinners they will do so sinfully, and badly."⁷² As with his response to Cotton's first objection, Williams' rebuttal is founded by commitment to humanity and civil goodness irrespective of religion. He uses the aforementioned anecdotes about non-Christian civil societies as evidence that citizens in the public realm will choose to act civilly and in the best interest of all as long as individual freedom and liberty remain primary. Williams' argued eloquently that the authority of the magistrate must not be "Religious, Christian, &c. but natural, humane and civil."

⁷² Nussbaum, "Equal Respect," 12.

Whether or not there is a right religion inseparable from moral goodness is a difficult debate. More important to Williams was the reality of a diversely religious colonial America. Even if Cotton successfully argued that a society could only be civil if all citizens share religious beliefs, the process by which the colonial leadership in Massachusetts chose to regulate and compel the beliefs of non-Anglicans could not be defended as civil. Even under moral auspices, persecution, imprisonment and banishment, like that to which Roger Williams was subjected, were not a display of common humanity or respect. For Williams, civility was both an ideologically and procedurally right.

Williams' concluded that commitment to moral truth must not be the basis of respect in a pluralistic public. Where moral truth is personal and private, civility is procedural and public. In his own life, Williams remained highly devoted to Christianity and debated publically with other religious sects, including the Quaker community in Rhode Island, that the holy practices of other faiths were morally erroneous.⁷³ Williams welcomed such disagreement and debate; he believed that tolerance, as a procedural foundation of civil behavior, was the best way to allow for fundamental disagreements while preserving the liberty and freedom of all citizens. He argued that a plurality of individuals, mutually committed to civility, provides the space for honest and open conversation in public without fear of coercion, corruption or persecution. Williams maintained that allowing a singular orthodoxy to reign over the civil lives of others through force not only undermined the civil project of peace and prosperity, but it vainly attempted to do the work of God.

This is an essential building block in the consideration of a liberal argument for civility, as introduced by Williams. If moral truth is rightly separate from respect for others, commitment to the notion that the freedom to pursue one's individual spirituality must be at least equally as important

⁷³ Williams' relationship with the Quakers extended beyond differences in religious ideology. Williams found the behavior of the Quakers boisterous behavior during debates about religion disconcerting. "He vehemently objected to their habit of interrupting his arguments, shouting him down, attempting to humiliate him personally with name-calling and ridicule, misrepresenting his convictions and displaying a noted lack of truthfulness in their own arguments." See Davis, "Return to Civility," 697-698.

as moral truth itself. Civility based on the ideals of respect for the freedom, tolerance and accommodation of all citizens will safeguard society against any authority that limits such freedom and liberty. This ideal is not unique to Williams; unfortunately, his argument for tolerance as the common value that protects individual freedom and liberty is too often ignored.

Williams' convictions are a profound example of how tension between a moral right and citizen freedom is rooted in the foundation of American history. As Williams' theory tried to convey, democratic ideals must be primarily committed to safeguarding the individual liberty and freedom of all citizens. However, ideals in the public realm are often adjudicated against the spiritual and religious ideals of a majority religion, or even mainstream cultural beliefs. This creates the dilemma of how to reconcile public reason with personal doctrine: if citizens are required to suppress moral truths from their personal beliefs for the benefit of public weal, then individual freedom is undermined and the liberal project is diminished. Likewise, if a society sets policy based on beliefs established and supported by a comprehensive doctrine, then the rights of citizens will be limited by religious ideology with which they may not agree, and the liberal ideal is again violated. In both instances, the rights of some are sacrificed and hope for freedom and equality is broken.

The tension between moral truth, personal liberty and a commitment to the common good is a central issue for the role of civility within liberalism. Unfortunately, the contest between individual liberty and the public weal is often only tangentially considered. A major thinker in the tradition of liberal political philosophy who shares important intersections with Williams in considering the relationship between civility and individual liberty is the contemporary American philosopher John Rawls. His work, written nearly three centuries after Williams, is considerably more sophisticated than the emotional writings of his philosophical predecessor. Still, comparison between Rawls and Williams offers important insight into the potential reconciliation between the primacy of individualism and a liberal commitment to civility. It may help to illuminate the reasons

for the prevalence of incivility in liberal democracy, and better unite ideals of individual freedom and a liberal commitment to civil behavior in the United States.

4.2 JOHN RAWLS AND THE DUTY OF CIVILITY

The theories of both John Rawls and Roger Williams originate from the right of human equality, and both argue for principles that guarantee extensive autonomy. In the introduction to *Political Liberalism*, Rawls presents the following dilemma, particular to Rawls relevant to both theorists: “The problem [...] is to work out a political conception of political justice for a constitutional democratic regime that a plurality of reasonable doctrines, both religious and nonreligious, liberal and nonliberal, may freely endorse, and so freely live by and come to understand its virtues.”⁷⁴

Rawls argues, similar to Williams, that citizens in a constitutional democracy inhabit two worldviews, categorized as political and comprehensive. The comprehensive conception includes notions of “what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct, and in the limit to our life as a whole.”⁷⁵ Religious and cultural doctrines vary in conceptual scope, but the comprehensive sphere encompasses what Rawls considers all nonpolitical values and virtues. Like Williams’ ‘garden of the church’, the realms of comprehensive doctrines are the messy venues of citizen development, where the deliberation can take place freely and growth takes on whatever form it requires, civil or otherwise.

The political conception, on the other hand, aims at the much narrower scope of public-political life. A political conception has justification by reference to one or more comprehensive

⁷⁴ Rawls, *Political Liberalism*, (New York: Columbia University Press, 1993), xxxviii.

⁷⁵ John Rawls, *Political Liberalism*, 13.

doctrines and is neither presented as, nor derived from, a doctrine applied to a basic structure of society. Rawls assumes that all citizens affirm a comprehensive doctrine to which the political conception they accept is somehow related. Still, “a distinguishing feature of a political conception is that it is presented as free-standing and expounded apart from, and without reference to, any such wider background.”⁷⁶ The set of political values that comprise the political conception and to which citizens may appeal in the political realm are what Rawls considers a family of political conceptions of justice.

The relationship between the nonpolitical comprehensive realm and the public-political realm is critical to Rawls’ theory of political liberalism. A set of political ideals, agreeable to all regardless of their comprehensive doctrine, must be used as the basis of the explanations that citizens offer one another in public discussion; they must be reasonable and rational, and immediately related to matters of public concern. For Rawls, this political conception of justice is generated as a fair system of cooperation, one that offers citizens the actualization of freedom and liberty without fear of outside oppression or coercion. The reasons individuals offer in public must be agreed upon under conditions of pluralism, recognizing the likelihood of “persistent disagreement among citizens about basic matters of fundamental value.”⁷⁷ Because of the unfamiliar, non-coercive and diverse relationships among citizens in a political structure, Rawls, like Williams, argues that it is iniquitous and impracticable to force a plurality of citizens to comply with any one particular comprehensive doctrine.

Here, Rawls confronts a fundamental argument; similar to the challenges forwarded by John Cotton to Roger Williams. Cotton argued that a peaceful civil society ultimately fails without the common bond of a comprehensive doctrine to motivate a citizen-commitment to civility. Further,

⁷⁶ Rawls, *Political Liberalism*, 12.

⁷⁷ Eric Brown, “Rawls and the Duty of Civility,” in *Locations of the Political*, ed. S. Gorman, Vienna: IWM Junior Visiting Fellows Conferences, Vol. 15 (2003): 2.

he argued that being a good citizen is inseparable from having the right morality or religion, and citizens should not be required to share power with those with whom they do not share a common moral commitment. In a way, Cotton asks of liberalism: is a political realm built upon the universalizable doctrine of the 'right', strong enough to create a viable commitment to a common good?

This challenge reveals an important point of divergence between Williams and Rawls. For Williams, the fundamental argument for equality derived from a theistic conviction that God created every human with a capacity for moral knowledge, allowing all citizens the capacity for civil behavior. Williams argued, "a Christian, a Captaine, Christian Merchant, Physician, Lawyer, Pilot, Father, Master and (so consequently) Magistrate, &c. is not more than a Captaine, Merchant, &c. of any other Conscience or Religion."⁷⁸ It is not a commitment to Christian faith that grants citizens the moral fortitude to act civilly, but the intrinsic capacity for civil knowledge, even in the absence of spirituality. Thus for Williams, granting citizens freedom of conscience is to honor the holy integrity of all persons, the diversity granted by God. It is possible that citizens could agree with Williams' ideal of individual conscience without sharing his religious justification. However, if a citizen's comprehensive doctrine contradicts Williams' conception of justice, or if citizens do not agree that humans are capable of civil behavior without a commitment to a specific religion or ideology, Williams' ideal of civil society falls into jeopardy.

Rawls attempts to elude the pitfall of justifying equal treatment for all citizens through comprehensive doctrine, which he argues is illiberal in that it jeopardizes civil treatment for all citizens. According to Rawls, even iconic theorists such as Mill and Kant fail to avoid appealing to a comprehensive doctrine entirely. Both Kantian and Millsian theories of justice possess ideals about morality and the good life not necessarily shared by all persons. "Mill justifies the idea of toleration

⁷⁸ Williams, *Bloudy Tenent*, 245.

by reference to the value of a life of continuing questioning and experimentation, and Kant by reference to the principle of acting only on principles that the individual has rationally chosen for himself.”⁷⁹ Individuals and communities whose comprehensive doctrine embrace cultural and religious norms as epithets of a good life may find such justifications problematic and thus not supportable as a “basis of respect for mutual agreement on political values.”⁸⁰ In order to do this, Rawls creates a liberal argument for justice and equality without roots in any one comprehensive doctrine in order to justify fair terms of cooperation. In *Political Liberalism*, Rawls introduces a narrowly structured theory of liberalism, which he argues “can be justified purely by reference to the internal moral characteristics of the basic structure, that is, the vast majority of citizens in a liberal society can affirm liberal political values by reference to certain basic moral features of liberal political institutions which do not belong to any particular comprehensive doctrine.”⁸¹

Rawls argues that political liberalism, as a political conception of justice and equality, is narrow enough to be compatible with most reasonable comprehensive doctrines without relying on or adhering to any particular one, and therefore secure enough to ensure long-term political stability, even in a culture of shifting comprehensive doctrines and beliefs. Liberalism does not seek justification through consensus, but instead through common commitment. It is a political view that aims at being acceptable to all citizens who are reasonable and rational as well as free and equal and therefore it is not about coercion or persuasion. In fact, Rawls states, “If justice as fairness were not expressly designed to gain the reasoned support of citizens who affirm reasonable although conflicting comprehensive doctrines — the existence of such conflicting doctrines being a feature of

⁷⁹ Tony Fluxman, “Critical Remarks on Rawls’s Burdens of Judgment” *South African Journal of Philosophy*, Vol. 17, Issue 4 (Nov. 1998): 364.

⁸⁰ Fluxman, “Critical Remarks,” 364.

⁸¹ Fluxman, “Critical Remarks,” 365.

the kind of public culture that liberal conception itself encourages — it would not be liberal.”⁸² The political liberal model is not reasonable unless it is able to earn the support of citizens by addressing shared moral truths as situated within the comprehensive framework of all reasonable and rational doctrines.

Thus, Rawls answers Cotton’s first challenge to Williams, how a political society can be constructed without the shared foundation of one comprehensive doctrine but applicable to most reasonable and rational doctrines, and further, how this is necessary to ensure justice and equality of all citizens in a liberal society. Cotton’s second challenge for Williams — why citizens should choose set aside the moral truths of their comprehensive doctrines for the sake of public deliberation and risk being led by those whose moral truths are misguided, or worse, morally deplorable — this is what Rawls calls the paradox of public reason. The resolution of the paradox is found in a common commitment to the ideal of liberal citizenship and, most importantly, a duty to respectful, civil behavior.

Rawls begins Lecture VI, section 2 titled “The Idea of Public Reason” with an articulation of the paradox of public reason:

[Citizens] ask: why should citizens in discussing and voting on the most fundamental political questions honor the limits of public reason? How can it be either reasonable or rational, when basic matters are at stake, for citizens to appeal only to a public conception of justice and not to the whole truth as they see it? Surely the most fundamental questions should be settled by appealing to the most important truths, yet these may far transcend public reason!⁸³

If left unresolved, the paradox of public reason undermines the liberal political project that Rawls seeks to construct. With the paradox in place, citizens “have no reason to refrain from appealing to the idiosyncrasies of their comprehensive doctrines when voting or deliberating on

⁸² Rawls, *Political Liberalism*, 143.

⁸³ Rawls, *Political Liberalism*, 216.

public matters.⁸⁴ For Rawls, this would be disastrous. This sentiment echoes Williams' trepidation that without civil behavior as the primary foundation of a diverse public, the political sphere would devolve into power politics and civil unrest. Allowing the paradox of public reason to stand unaddressed presents citizens with an irreconcilable conflict between two values: first, a citizen's "own attachment to some part of her comprehensive doctrine (or the whole of it) and the political conception's values of liberalism that she sincerely affirms."⁸⁵

More critically, allowing the paradox to stand unresolved could cause citizens to publically argue issues from within their comprehensive doctrines, eroding the cohesion created by an overlapping consensus, and jeopardizing stability. Rawls argues that a duty of civility saves citizens from the paradox of public reason. The duty of civility is "an overriding value which would decide, on universally acceptable grounds, the conflict between the two values of the citizen's comprehensive doctrine and the political conception, and would provide a publicly recognizable moral standard that would serve the purpose of sustaining stability."⁸⁶ Therefore, a commitment to civility is critical to Rawls' thesis. Without a duty to civility, citizens' commitment to the liberal project could disintegrate along ideological and religious lines. Rawls argues that a commitment to the duty of civility through the ideal of citizenship can resolve the paradox of public reason and sustain the liberal political project.

Therefore, Rawls' argument for the success of political liberalism necessitates the duty of civility. Despite the central importance of civility to his liberal theory, Rawls' discussion of civility is limited to one section of a chapter in *Political Liberalism*, where he confronts the paradox of public reason, resolves it quickly with a justification for the duty of civility through the ideal of citizenship,

⁸⁴ Brown, "Duty of Civility," 4.

⁸⁵ Brown, "Duty of Civility," 5.

⁸⁶ Ibid.

and moves on. In an article titled “Rawls and the Duty of Civility,” philosopher Eric Brown creates a comprehensive argument for Rawls’ duty of civility and its integral role in political liberalism, and ultimately challenges Rawls’ contention that the duty of civility, as connected to the ideal of citizenship, can resolve the paradox of public reason. This, Brown argues, has potentially dire consequences both for public reason and civil engagement, and threatens the sustainability of political liberalism in its entirety.

Brown outlines the scope of the argument for the duty of civility with five elements of political liberalism, and then constructs a fully considered, cohesive definition for civility as it relates to the liberal ideal of citizenship. The five elements are as follows: first is the ideal of citizenship. The liberal ideal of citizenship is inscribed to individuals who are reasonable and rational, have a sense of justice, the moral capacity for a conception of the common good, and who are “normal and cooperating members of society over a complete life.”⁸⁷ Second, the duty of civility relates to context in which civility is exercised, namely a democratic framework in which citizens accept political power as always coercive and shared by citizens as a body; it is a context in which a common commitment to the democratic project is presupposed and where ideas of emigration and secession are eliminated.⁸⁸ The third is the liberal principle of legitimacy, or the notion that “political power is fully proper only when it is exercised in accordance with the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational.”⁸⁹

The fourth element is the relationship between the reasonable and the principle of legitimacy in a democratic society. Political power must be restricted by a reasonable constitution that

⁸⁷ Rawls, *Political Liberalism*, 81.

⁸⁸ Brown, “Duty of Civility,” 6. Also, see Rawls, *Political Liberalism*, 216.

⁸⁹ Rawls, *Political Liberalism*, 217.

incorporates liberal principles such as freedom of conscience. Liberalism therefore relies on ideals of reason, including the criterion of reciprocity, which argues that political power is proper only when citizens offer reasons for political action that can be accepted by all. In other words, political legitimacy relies on citizens' commitment to the ideal of citizenship including the desire to be reasonable. The last element is the duty of civility itself, which includes "a willingness to listen to others and a fair-mindedness in deciding when accommodations to their views should reasonably be made."⁹⁰

Brown uses these five elements to argue for Rawls' duty of civility, which works summarily as follows: the ideal of citizenship is the reason for citizens to desire to and make an effort to be reasonable and rational. Rawls considers it an ideal for two reasons, first, because it is admired for its excellence and inspires citizens to achieve its qualities in such a way that it is preferred over other wants and desires; this is what Brown calls an 'attractive ideal'. Second, since citizenship as an ideal is the best possible scenario, above all other possibilities, it has legitimate claim to be more like itself. Citizens act on the reasons of an ideal of citizenship under the constraints of a liberal democratic framework, in which citizens are committed to the democratic process. Power is regulated by the principle of legitimacy and is only proper when citizens are treated equally. Further, it is compatible with liberal values as specified by the criterion of reciprocity, as the exercise of power occurs via public discussion and voting on the part of public officials and citizens, respectively. The basis of public reason is related to the criterion of reciprocity, therefore citizens act on reasons provided by the ideal of citizenship in public discussion and vote by appealing to the liberal values in public. In

⁹⁰ Rawls, *Political Liberalism*, 217. Also, see Amy Gutmann and Denis Thompson, "Moral Conflict and Political Consensus," in *Ethics 101* (Chicago: University of Chicago Press, 1990); 76-86.

order to do so, citizens must comply with the duty of civility and explain to others how the policies for which they advocate can be supported by public reason.⁹¹

From Brown's explanation, the burden for Rawls' duty of civility rests upon the principle of legitimacy and the ideal of citizenship. The principle of legitimacy serves as a template for Rawls drawing the limits of public reason, and he relies on the duty of civility even more so.⁹² In order for the duty of civility to succeed, the ideal of citizenship must be more attractive to citizens than the other ideals to which a citizen may be obligated, such as private moral or religious ideals; in a normative sense, it must prove itself as an ideal to which citizens are always obligated, in some way, to live up to above all others. If the ideal of citizenship cannot achieve one of these requirements, then Rawls' argument ultimately fails. As Brown states, "This is so because Rawls claims to have shown that there is a *duty* of civility — an unconditional obligation. If the ideal is not necessarily overridingly attractive to a citizen, then the duties that are associated with that ideal do not apply to that citizen any more than the duties of a NASCAR pit crew member apply to a brain surgeon who is not attracted to autoracing."⁹³

If the ideal of citizenship is not sufficiently compelling, then the parameters upon which the principle of legitimacy is founded are also undermined. Thus, the ideal of citizenship must provide an overriding reason for citizens to commit to a duty of civility, to compel citizens to abide by the parameters of public reason. Public reason ascribes values like equal opportunity, social equality and liberal guidelines for public inquiry, reasonableness and a readiness to honor the duty of civility. If an ideal of citizenship is undermined, then citizens have no motive to follow limits of public reason, and the liberal legitimacy of political power is compromised.

⁹¹ Brown, "Duty of Civility," 8.

⁹² Ibid.

⁹³ Brown, "Duty of Civility," 9.

Brown recognizes two qualifications to the limits of public reason as they pertain to the duty of civility. The first is an allowance for what Rawls calls an ‘inclusive view’ on the limit of public reason. An ‘exclusive view’ is consistent with extrapolating the political from comprehensive worldviews in the public realm, however, Rawls concedes that an idea of an ‘inclusive view’ is a more reasonable approach to a diverse and unconstrained ideal of public reason. An inclusive view allows citizens “in certain situations, to present what they regard as the basis of political values rooted in their comprehensive doctrine, provided they do this in ways that strengthen the ideal of public reason itself.”⁹⁴ Rawls argues that the inclusive view is suitable for liberal democracy, since under different political and social conditions with different doctrines and practice, the ideal of public reason will be advanced in different ways. An inclusive view allows for greater flexibility and variation, and can better achieve the ideal of public reason.⁹⁵ Brown proposes that this allowance is not so much a qualification of the duty of civility but “rather the idea that we can violate an obligation (the duty of civility) for the sake of furthering some set of values and norms that includes, supports, or enjoins fulfillment of the obligation itself.”⁹⁶ The inclusive view, therefore, does not reinforce Rawls’ argument for public reason but suggests a weak point in the ideal.

The second qualification is that Rawls argues that much of what is commonly considered political discussion is not political per se, but important to the nonpublic-political realm or what he calls the “background culture” of civil society including church communities, associations, universities, professional societies, clubs and teams. Political discussion that occurs in the background culture remains outside the boundaries of the duty of civil discourse, allowing for citizens opinions and ideals to be formed and challenged in constructive ways. In the political realm,

⁹⁴ Rawls, *Political Liberalism*, 247.

⁹⁵ See Rawls, *Political Liberalism*, page 250 for an important and interesting examination of the benefit of “inclusive view.”

⁹⁶ Brown, “Duty of Civility,” 9.

citizens may introduce the content of background culture in a public deliberation as long as they are “ready to explain the basis of their actions to one another in terms each could reasonably expect that others might endorse as consistent with their freedom and equality.”⁹⁷ Rawls argues that the ideals of public reason need not be isolated from comprehensive doctrines, but that the very principles that comprise a civil society are so fundamental, and so narrow in scope, as to be agreeable to citizens without specific reference to one doctrine or belief. This is similar to Williams understanding that citizens can share principles of freedom and equality in a way that is relevant for politics, while not necessarily sharing life’s ultimate meaning. However, for Rawls this exception still does not allow citizens to argue from the vantage point of their comprehensive doctrine, and therefore, even with the allowed qualifications, a duty of civility is still necessary to uphold the principle of public reason and the legitimacy of liberal democratic structures. How to compel citizens to aspire to the ideal of citizenship and the duty of civility is left unanswered.

Ultimately, Rawls relies on the moral motivation of the ideal citizen to resolve the paradox of public reason. Rawls addresses the moral psychology of citizens in a section of *Political Liberalism* titled “The Powers of Citizens and Their Representation”. The moral psychology Rawls speaks of is philosophical, not psychological; it is drawn not from the “science of human nature but from a scheme of concepts and principles for expressing a certain political conception of the person and an ideal of citizenship.”⁹⁸ The relationship between the moral psychology of the citizen and the ideal of citizenship is fundamental to Rawls’ argument for duty of civility, and ultimately vitiates his ability to

⁹⁷ Rawls, *Political Liberalism*, 218.

⁹⁸ Rawls, *Political Liberalism*, 86. For a closer examination of the differentiation between philosophical and psychological moral psychology, see Lecture II, Section 8, pg. 86-88.

resolve the paradox of public reason; this jeopardizes the very foundation of a liberal political project.⁹⁹

Concerning the moral sensibility of the reasonable and rational citizen, Rawls argues that there are three kinds of desires that inform an ideal of citizen. First are object-dependent desires, which are objects of desire or affairs that can be described without moral conceptions, reason, or rational principles. Most desires are object-dependent: for example, the desire for food, drink and sleep, as well as social desires such as aspirations for status, property, power and wealth and affections, loyalties and devotion of all kinds. Second are principle-dependent desires. The difference between object and principle desires “is that the object or aim of the desire, or the activity in which we desire to engage, cannot be described without using the principles, rational or reasonable as the case may be, that enter into specifying that activity.”¹⁰⁰ Only those who can understand and apply reason have the capacity for principle-dependent desires. Rational desires include the desire to adopt the most effective means to ends, and to select the best option, all things considered. Rational principles guide citizens in a single rational deliberation. Reasonable principles include how a plurality of citizens conducts themselves in relationship with each other. This includes principles of justice and fairness, as well as principles associated with moral virtues such as common sense, truthfulness and fidelity.¹⁰¹

The most important desires to liberalism are the third-tier desires, or conception-dependent desires. These desires “can be described by saying that the principles we desire to act from are seen as belonging to, and as helping to articulate, a certain rational or reasonable conception or a political

⁹⁹ In his article, titled “Rawls and the Duty of Civility” Brown offers an interesting and in-depth critique of Rawls’ effort to construct a binding conception of the duty of civility on citizens, as derived from an idealized moral psychology and an associated ideal of citizenship, including an assessment of Rawls’ use of idealization and his hermeneutic connection to Kant. Unfortunately such specific topics are beyond the scope of this essay and must be tabled.

¹⁰⁰ Rawls, *Political Liberalism*, 82.

¹⁰¹ Rawls, *Political Liberalism*, 83.

ideal.”¹⁰² Conception-dependent desires rely on an ordering of principle-dependent desires, and thus they have priority over principle-dependent in that citizens form principle-dependent desires and then act upon them with consideration of a greater conceptual context. If citizens desire to conduct themselves in the manner of persons who are reasonable and rational, they will first act from a set of principle-dependent desires and not simply from object-dependent desires, which are habitual and customary. Further, they will form a corresponding conception of actions and consider how to order their principle-dependent desires in such a way as to conduct allow them to be a reasonable, rational citizen. Rawls states:

When we say [...] that not only are citizens normal and fully cooperating members of society, but further they want to be, and to be recognized as, such members, we are saying that they want to realize in their person, and have it recognized that they can realize, the idea of citizens.¹⁰³

Citizens with ‘good moral will’ are able to order her principle- and conception-dependent desires in accordance with the force of the principles to which they are attached. The hierarchical categorization of desires is dependent upon an antecedent hierarchical categorization of the principled reasons.¹⁰⁴ Principled desires are not ordered by what is most convenient or more rewarding but by what is most appropriate, and the weight of principle- and conception-dependent desires is attributed entirely to the force of the principle to which the desire is attached and not to the psychological strength of the desire itself. Therefore, in the case of the ideal of citizenship, citizens will order their principle-dependent desires in order to be recognized as good citizens and to be viewed as rational and reasonable. Not only does the ideal of citizenship hold normative weight

¹⁰² Rawls, *Political Liberalism*, 84.

¹⁰³ Rawls, *Political Liberalism*, 84.

¹⁰⁴ Brown, “Duty of Civility,” 13.

above lesser desires, but the psychological strength of the desire to be a good citizen should outweigh all lower desires, including private, religious and object-dependent desires.¹⁰⁵

An attractive ideal of citizenship encourages citizens to satisfy the ideal of citizenship, to engage in a political relationship with others. Compelled by the duty of civility, the ideal citizen is motivated by the ideal of citizenship and orders her principles in accordance with the concept of a liberal democracy. Citizens will uphold the principles of public reason and present their principles in a way that treats others as free and equal, as long as they are assured that others will do the same. A group of ideal citizens will work cooperatively to share in equal power in a liberal democracy, which itself reinforces the principle of legitimacy. Ideal citizens understand that “trying to meet [the] condition of [public reason] is one of the tasks that this ideal of democratic politics asks of us. Understanding how to conduct oneself as a democratic citizen includes understanding an ideal of public reason.”¹⁰⁶

The ‘attractive’ ideal of citizenship, then, is an idealization. In reality, not all citizens in liberal society find the ideal of citizenship important enough to give its corresponding principles, including reasonableness and fair-mindedness, overriding weight above all matters of private concern. To uphold the attractive ideal of citizenship, citizens must uphold conception-dependent principles above the individual principle-dependent desires of faith and religion, and the object-dependent desires of money, property and power. This seems unrealistic—and current front-page news stories suggest that it is. It also seems overly demanding of a liberal theory to assume that a singular ideal of citizenship must include strong self-referential motivation to fulfill an ‘attractive ideal’ of citizenship.

Rawls has two counterarguments against this claim. First, similar to Williams, Rawls asserts that the political values that exist in the public sphere are “very great values and not easily

¹⁰⁵ Ibid.

¹⁰⁶ Rawls, *Political Liberalism*, 218.

overridden and the ideal they express are not to be lightly abandoned.”¹⁰⁷ The ideal of citizenship should be attractive to citizens, in part because of the limit of its scope; it is supposed to be a minimal set of agreed upon values, applicable to all reasonable doctrines. Because of the fundamental nature of the values exercised in the public sphere, citizens are not asked to give up their comprehensive doctrines entirely in the public sphere, but remain partially situated within them while fulfilling requirements of public reason in deliberation and dialogue. As Rawls states,

Citizens affirm the ideal of public reason, not as a result of political compromise, as in a *modus vivendi*, but from within their own reasonable doctrines... Political liberalism relies on the conjecture that the basic rights and duties and values in question have sufficient weight so that the limits of public reason are justified by the overall assessments of reasonable comprehensive doctrines once those doctrines have adapted to the conception of justice itself.¹⁰⁸

To resolve the paradox of public reason, Rawls argues that liberalism asks only that citizens provide answers for questions so fundamental to the idea of justice and equality as to be reasonably extrapolated from all comprehensive doctrines. However, the moral psychology of ideal citizenship requires citizens to privately order their conception-dependent desires into rights and duties necessary to the ideal of liberalism, making them universalizable. Thus, the ideal of citizenship requires more of citizens than simply the extrication of basic rights and duties from their comprehensive roots but asks citizens to first choose which rights and duties should be included in public reason and which ideals must remain in the nonpolitical realm of comprehensive doctrines. Citizens who want to argue first from within their comprehensive doctrines in order to decide what rights and duties will be universalizable are not following the ideal of citizenship and do not uphold Rawls’ duty of civility.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

Importantly, the second argument proclaims that citizens, who do not embrace the ‘attractive’ ideal of citizenship and do not follow the ideal of public reason, must not understand what it means to be a citizen, “and therefore do not understand that their status as a citizen... commits them to the ideal of citizenship.”¹⁰⁹ The ideal of citizenship could be an obligation of citizenship if it had a normative claim — if it could be argued as the best possible solution to the paradox of public reason, it could be understood as the normative ideal of citizenship, one that citizens, *as such*, would be compelled to follow. Brown argues that a normative argument for an ideal of citizenship is also an idealization, not of the moral psychology of citizens as is the attractive ideal, but of the social conditions fostered by the moral psychology of ideal citizens. Under ideal circumstances, the ideal of citizenship would inspire a political-public in which individuals were reasonable and rational and in which a sense of justice cultivated a robust conception of a common good built from the equal treatment of all citizens.

This is far from the social conditions of our political public. Instead, the modern democratic reality of the United States is an amalgamation of citizen participation in accordance with, and in direct violation of, the ideal of public reason. This stresses a further weakness in Rawls’ duty of civility. The ideal of public reason itself presupposes the criterion of reciprocity, by which citizens are expected to be reasonable *only* when they believe that others will do the same. The criterion of reciprocity is what Brown calls an essential reference to actual social conditions that make the elevation of reasonableness and the normative ideal of citizenship binding only under the idealized social condition in which the principle of reciprocity is widely acknowledged. Under realistic social

¹⁰⁹ Brown, “Duty of Civility,” 15.

conditions, the principle of reciprocity is in effect much more a principle of impartial altruism — a principle to which Rawls himself does not think citizens should be held.¹¹⁰

There is a critical distinction in political liberal theory between altruism and reciprocity. While the practice of selfless concern for others may play an important role in comprehensive religious and ideological doctrines, it is categorically antithetical to liberal theory to support a notion of altruism at the risk of subjugation or disrespect. Liberalism cannot ask citizens to suffer the risk of incivility and exploitation, even for a principle as great as such as civil peace. Brown explains:

Only if we idealize our social conditions and assume a false predicate of society — that the principle of reciprocity is widely acknowledged — do the principle of reciprocity and the normative ideal of citizenship hold. But under realistic conditions, I would risk becoming the victim of other people’s assertion of their comprehensive doctrines in public discussion. For some this may be a reason to not aim at the ideal of citizenship. For others, it may be a reason to act on a rather different conception of citizenship, or simply in their own rational self interest.¹¹¹

Citizens may only be expected to uphold the criterion of reciprocity — to propose fair and reasonable terms and uphold liberal values — when others can reasonably be expected to do the same. The catch lies in the fact that, as Brown aptly argues, the discussion of and agreement upon fair terms precludes cooperative *action*. If citizens cannot be trusted to act reasonably and on fair terms, this undermines any reason for offering and discussing fair terms of social cooperation.¹¹² Therefore, a normative ideal of citizenship based on reasonableness and reciprocity cannot be an unconditional or overriding reason in a hierarchy of reasons for citizens. This undermines the argument for a normative claim on an ideal of citizenship.

In the introduction to the section of *Political Liberalism*, “Public Reason and the Ideal of Citizenship,” Rawls asks the following questions: when may citizens exercise coercive political

¹¹⁰ Rawls, *Political Liberalism*, 15.

¹¹¹ Brown, “Duty of Civility,” 16.

¹¹² *Ibid.*

power over one another when fundamental questions are at stake? Under which principles and ideals must we exercise such power in order make our actions justifiable to others as free and equal? To which political liberalism replies: political power is proper and justifiable only when it is exercised in accordance with a constitution, the essentials of which are accepted by all citizens as rational and reasonable. Since the exercise of political power must be legitimate, the ideal of citizenship imposes a moral duty of civility on all citizens to respect one another by explaining how the principles they advocate and vote for can be supported by the values of public reason.¹¹³

In a liberal democracy, citizens may ideally accept the basic constitutional principles of liberty and equality as a basic political structure. However, not all citizens strive for or achieve the ideal of citizenship. There are times when there will be “conflicts of value encountered in the practical reasoning of citizens between the demands of reasonableness, which are in some non-overriding form often acknowledged by citizens, and other values unique to the citizen’s comprehensive doctrine.”¹¹⁴ In reality, citizens may choose their comprehensive doctrine over the value of public reason. In this case, if the duty of civility is offered as the only possibility for rational resolution of such conflicts, then the conflicts become rationally unviable and the duty of civility is broken.

4.3 THE CONSEQUENCES OF A FAILED DUTY OF CIVILITY

Because of the failure to resolve the duty of civility within his own theory, Rawlsian liberalism as it stands may not be the paramount theory of liberalism in the modern democratic United States. Still, Rawls provides the best insight into current tensions between liberalism and civil behavior. While little conversation is dedicated to the risks associated with the failure to engender greater civility in citizens, the consequences of such a failure are calamitous. Without a commitment

¹¹³ Rawls, *Political Liberalism*, 217.

¹¹⁴ Brown, “Duty of Civility,” 18.

to civil behavior, citizens are indifferent to the idea of engaging others in rational political discourse, the criterion of reciprocity is violated, political power is illegitimated and the liberal political project is undermined.

Rawls seeks to create a political theory justified purely by reference to the internal moral characteristics of the basic structure so that a society of diverse citizens can affirm liberal political values without reference to one particular doctrine. Rawls does not root the duty of civility in religious belief, as does Williams, or in natural law, as does as Kant, but uses liberalism itself to argue for the duty of civility. In order to maximize their freedom and independence, citizens must commit to the ideal of citizenship to ensure that public reason will be upheld and power is legitimated. Thus, as citizens we must comply with the duty of civility to fulfill the purpose of liberalism, which is the maximization of individual freedom and liberty.

Absent from Rawls' attempt to resolve the paradox of public reason is an understanding of the *reason* for civility itself, including a consideration of the consequences of compromised or broken civil engagement. In Rawlsian liberalism, any citizen unmotivated by the ideal of citizenship is unbound by the duty of civility, and as a result, citizens who strive for the ideal of citizenship are confronted by those who chose not to abide by the principles of public reason, nullifying the criterion of reciprocity and the duty of civility. Committing the duty of civility to the self-referential ideal of citizenship undervalues the importance of a common commitment to civil behavior for the preservation of the liberal ideals of freedom and equality of all citizens, and endangers the project of liberalism itself. Rawls at once overvalues individual commitment to civility and underestimates the role civility must play in maintaining the principle values of liberal democracy, including freedom and equality.

As a consequence, citizens in the United States want to argue that civility is essential to the democratic project without full understanding or agreement about what civility means and how it

must be protected. As exemplified in the previous chapter, the notion of civility is most often considered and used as a vehicle for citizens to articulate the difficulties of living in a diverse and competitive political structure, and as an explanation for how a citizenry with such vast allowances for liberty and freedom can or cannot exist without a commitment to one unified moral or religious project. Citizens criticize one another for a lack of civil behavior, and thus may feel justified in their subsequent lack of civil conduct since, as Rawls contends, civility in the absence of civility is altruism. Civility is discussed as a set of uncertain, dynamic ideals, and yet there is constant criticism that civility is diminished, lost or destroyed. This is where an ideal of civility as respect for others and respect for oneself may be too broad without a greater context; in the context of the current political climate, respecting others may too-often be rightly considered an act of self-sacrifice.

Rawlsian liberalism leaves citizens without a road map for civility in liberalism and without a way of engaging in a constructive dialogue about what it means to respect individual liberty and to construct a collective common good in a diverse citizenry. According to Rawls, citizens are supposed to be self-motivated to be respectful to others with whom, in certain circumstances, they share little more in common than a set of laws and a physical border. Civility without greater context means that citizens are asked to strive for an ideal of citizenship without the greater understanding that a duty to civility ensures citizens the very freedom that enables them to make such a choice.

Critics of liberalism are therefore quick to condemn the liberal democratic project for overvaluing the individual at the expense of community. Rawlsian liberalism, in particular, has received increasing attention from critics, as it has become what Michael Sandel calls “the theory most thoroughly embedded in the practices and institutions most central to our [modern] public life.”¹¹⁵ Critics of Rawlsian liberalism claim that it is not the failure of liberal theory to compel

¹¹⁵ Michael Sandel, “The Procedural Republic and the Unencumbered Self” *Political Theory*, Vol. 12 No. 1 (Feb. 1984) pp. 81-96. <http://links.jstor.org/sici?sici=0090-5917%19840202912%3A19C381%C81%3ATPRATU%3E20CO%3BK2-X>

citizens to the duty of civility, but it is the very expectation that citizens are able, and will ultimately decide to put the right prior to the good that is fallacious. A brief survey of communitarian criticism of liberalism in Chapter Four will argue that the priority of individual freedom at the expense of the greater good has led to a particular crisis in civility, and conclusively, how the alternative of collective common good is not the appropriate resolution. Ultimately, integrating Williams' understanding of civility in a modern Rawlsian liberal democratic structure, closest to current theories of deliberative democracy, will create strongest a sense of community and common good among individuals, as it is the best insurance that individual freedom and liberty will not be compromised for the sake of the greater good.

CHAPTER 5: THE CRITICS OF LIBERAL CIVILITY

“Political community is more than an association for residence on a common site, or for the sake of preventing mutual injustice and easing exchange. The end and purpose of the polis is the good life, and the institutions of social life are means to that end.”
- Aristotle, from *Justice: A Reader*, by Michael Sandel

5.1 THE NEW CRITICS OF LIBERALISM

In the essay “Is There a Common American Culture?,” philosopher Robert Bellah proclaims Williams’ Rhode Island the birthplace of American individualism and that the religious toleration, found in the groundwork of American democracy, led to modern obsessions with individual prosperity, material excesses and a depleted sense of the common good in the United States. Bellah argues that any political theory with a primary commitment to individual freedom and liberty precludes interdependence and commonality and jettisons the possibility for a guiding spirit of civil behavior between citizens. Primacy of individualism erodes a sense of a common political will and the hope of a shared civil project. Bellah considers the consequences of Williams’ Rhode Island:

[Williams’] inattention to public identity and solidarity created a void in [his] own colony to which economic individualism quickly filled, establishing a marriage between moral and economic atomism that threatened Rhode Island’s political stability and ever since has eroded appreciation for collective destiny and interdependence in American Society...Rhode Island under Williams gives us an early and local example of what happens when the sacredness of the individual is not balanced by any sense of the whole or concern for the common good.¹¹⁶

As outlined above, the accusation that individualism is to blame for the mangled ideal of a collective good is a common refrain among critics of modern liberalism. Bellah considers Williams’ ideal of toleration as *the* chasm in modern political thought that eventually degenerated the entire

¹¹⁶ Robert N. Bellah, “Is there a Common American Culture?” Reprinted with written permission from the Oxford University Press. Originally published in *The Journal for the American Academy of Religion*, Volume 66, No. 3 (1998): 613-625. Accessed September 22, 2012. http://www.robertbellah.com/articles_6.htm

democratic political project. In particular, Williams' commitment to toleration elicited two effects that coarsened American democracy toward its current state of incivility: first, prioritizing the rights of individuals allows personal conviction and individual conscience to trump standards relative to which even long-established practices can be overturned.¹¹⁷ This overinflates the value of the individual at the risk the greater good by altering social norms and cultural practices without consideration for the society that such standards protect and secure. Second, as citizens are drawn to value individualism over the common good, commitment to the commonweal is supplanted by a devotion to individual prosperity and its promise of individual happiness. In particular, the competitive nature of the modern free-market economy creates disharmony, perpetuates false ideals of individualism and arouses adversarial attitudes toward fellow citizens. Common culture becomes a baseless proposition as conceptions of wealth and wellbeing are increasingly perceived not as communal but individual. As a consequence, state regulation is increasingly needed to referee between adversarial and competitive entities. Echoing the earlier concerns of Hegel, Bellah argues that the priority of individualism in modern liberal society, inspired by Williams and proliferated through liberalism, produced a nation of reluctantly cooperative adversaries, civil only for the benefit of self-interest and absent of any commitment to the greater good of society as a place of common life. Society built primarily upon an ideal of individual liberties is destined to descend into antagonism and individually-motivated competition.

The reinvigoration of a shared sense of common good must therefore be generated from a core commitment to religious and civic institutions. For Bellah, this is the greatest chance the United States has to revitalize a notion of civility, respect and a shared commonality. To answer his title question, "is there a common American culture?" Bellah argues that the reinvigoration civic and religious institutions, which are structures of shared community and a commitment to others, must

¹¹⁷ Ibid.

take charge of cultural commonality. Such venues represent the intersections of community in American culture, and must be strengthened and expanded. Otherwise, Bellah predicts, radical individualism as represented by fracturing civic and religious institutions, will usurp any potential for a shared American culture. The United States will lose the last scraps of cultural connectivity and any chance at a revitalized common culture.

Bellah's argument condemning Williams as the early architect of a democratic shift from an ideal of citizenship for the good of the republic to a state responsible for protecting the individual rights of citizens is both a poor representation of Williams' theory of individual liberty and an unfortunate overvaluation of the role of the Rhode Island colony in the future of American political thought. However, it represents a view that in different ways has found affirmation and support in the work of influential communitarian, republican or other critiques of liberalism. Before considering the elements of an account of liberal civility, it seems important to first give such criticisms proper consideration. To do so, I will examine three versions of the critique of a liberal approach to civility: the communitarian views of Michael Sandel, the theory of participatory democracy of Benjamin Barber, and the multicultural theory of a civil society associated with Iris Young. In proceeding in this way, I wish to do more than review each of the three positions. I plan to use the positions of the latter two thinkers to forward serious criticism of the first; their proposed alternatives underscore the weaknesses of liberalism with regard to civility, and ultimately reveal how Rawlsian liberalism must turn to the theories of Roger Williams order to create a notion of liberalism that will allow civility to exist while upholding the tenets of individual liberty and freedom so central to modern democratic ideals. Only here is Williams' theory fairly recognized; contrary to Bellah's argument, it was not the theories of Williams that introduced liberal ideals into American democracy, but those of the Enlightenment, which share ideological ties to Williams but produced distinct consequences for the future of American democracy.

Through Enlightenment thinkers such as John Locke, ideals of individual liberty and freedom proliferated through early American political theory. The Lockean ideal that "no one ought to harm another in his life, health, liberty, or possessions," was so fundamental to early American democratic thought that a derivative of this principle is offered in the first lines of the Declaration of Independence.¹¹⁸ This was not due to the direct propagation of Williams' theories, however his advocacy for religious toleration and individual freedom has made him a favored target for modern critics of liberalism generally, and particularly those who find the separation of religion from civil institutions to be detrimental to the greater ideal of civil behavior and a shared common good.

5.2 THE LIBERALISM-COMMUNITARIANISM DEBATE

Bellah's analysis of Williams' influence on the role of individualism in modern liberal society, while misrepresented, reveals important insight into modern criticisms of liberalism. In particular, Bellah represents a movement in modern political thought that philosopher Amy Gutmann calls the "revival of communitarian criticism of liberal political theory". This revival confronts issues of individualism with arguments distinct from earlier communitarian critiques. According to Gutmann, the first communitarian critics of modern liberalism, originating in the 1960's and inspired by the radical Marxist critiques of individualism and statehood, argued for collective property ownership and equal political power. Early critics condemned patriotism as "an irrational sentiment that stood in the way of world peace" and "defended deviations of moral majoritarian morality in the name of nonrepression".¹¹⁹ Such philosophical ideals reflected the sociopolitics of the sixties and included the philosophical views of Hume as well as Marx, specifically the notion that human beings necessarily must exist as a community. Embedded in these early ideals was an understanding that life is only made possible through the mutual dependence of social and economic relationships, despite the fact

¹¹⁸ While he was influenced by Locke, Jefferson argued that freedom was equitable to the right to "life, liberty, and the pursuit of happiness" moving away from the primacy of property as a human right.

¹¹⁹ Amy Gutmann, "Communitarian Critics of Liberalism," *Philosophy & Public Affairs* Vol. 14, No. 3 (1985): 309.

that such relationships are rarely acknowledged in modern society. Marx claimed that any illusion of citizenship through state power or religion is capable of transcendence only when a genuine community of social and economic equals is created.¹²⁰ Early communitarians challenged the role of the individual in liberalism for its failure to recognize the consequences of the loss of collective common ideals such as shared property rights and political power, for leaving “no other nexus between man and man than naked self interest”.¹²¹ Likewise, they condemned modern divisions of civil and political spheres for allowing the political to interfere with the civil realm through false competition, damaging social convention and social and economic repression.

The second wave of communitarian critics emerged in the 1980s and culminated into a movement in the early nineties, producing an assortment of social and political organizations still active today.¹²² New communitarian critics are not galvanized by Marx, but reference the earlier theories of Aristotle and Hegel. As Gutmann explains, “whereas the good society of old critics was one of collective property ownership and equal political power, the good society of the new critics is one of settled traditions and established identities.”¹²³ Ideals reviled by 1960’s communitarians, such as traditional family values, patriotism and moral majoritarianism, are now defended by a new generation of communitarians as integral to the recovery of civic engagement and civil society.

The implication of communitarian critiques on the liberal subject is of particular importance. Specifically, the new critics of liberalism recognize that the Hobbesian notion of the natural state of life for man as solitary, poor, nasty, brutish, and short is no longer the primary focus of liberal

¹²⁰ Jonathan Wolff. "Karl Marx," *The Stanford Encyclopedia of Philosophy Summer 2011 Edition*, ed. Edward N. Zalta, accessed June 10, 2012, <http://plato.stanford.edu/archives/sum2011/entries/marx/>

¹²¹ Benjamin Barber, *Strong Democracy* (Berkeley: University of California Press, 1984), 23.

¹²² See *The Responsive Community Platform and the Institute for Communitarian Policy Studies* (<http://www.gwu.edu/~ccps/platformtext.html>) and *The Communitarian Network* (<http://communitariannetwork.org/>).

¹²³ Gutmann, “Communitarian Critics,” 309.

theory. Instead, “the new critics recognize that Rawls’ work has altered the premises and principles of contemporary liberal theory. Contemporary liberals [no longer] assume that people are possessive individualists; the source of their individualism lies at a deeper more metaphysical level.”¹²⁴ This new notion of individualism is what theorists such as Edward Shils has argued is the lasting hallmark of the Enlightenment Period, an ideal intended to free the individual “from the obligation of unquestioning obedience and of a self-derogatory deference to its his betters... to make the human being into a personality, into a ‘true individuality’” - what Shils calls the elevation of the subject into a citizen.¹²⁵ Motivated by liberal ideals of human autonomy, new critics argue that the slow extrication of the citizen and civil realm from under the auspices of the political, as first observed by Tocqueville and Tönnies among others, eventually gave way to modern era of Rawlsian liberalism that has flourished in democratic theory since the later half of the twentieth century.

Of the many faults in the foundation of modern liberalism, it is the construction of the liberal notion of the self, the ‘true individuality’ of personhood, that is the most calamitous to notions of civility, citizenship and a shared common good for modern communitarians and civil republicans. Arguments forwarded by critics of liberalism, and their subsequent quests to reinstate certain republican ideals of citizenship and collective common good, contain important implications for discussions about the current state of civility in modern democracy. New communitarian critics contend that the relationship of the liberal subject to modern conceptions of justice has forced what Shils calls “substantive civility” out of the political realm: in order to preserve the ‘true individuality of personhood’ for all citizens, substantive civility has been detached from the political sphere, and citizens are now asked to uphold ideals of individual freedom without publically engaging in conversation about the principles, liberties and rights worthy of preservation. Such critics argue that

¹²⁴ Gutmann, “Communitarian Critics,” 310.

¹²⁵ Edward Shils, *The Virtue of Civility: Selected Essays on Liberalism, Tradition and Civil Society* ed. Steven Grosby (Indianapolis: Liberty Fund, 1997), 9.

the Rawlsian construction of the citizen as subject relegated necessary political conversations about the good life to the private realms of religious and associative communities. Substantive civility for Shils and his fellow critics is about more than just the preservation of individual liberty; it is about introducing conversations about citizenship, community and the common good back into the realm of the political in order to create a citizenry committed to the levels of civic engagement and civil behavior that liberty itself requires. For the critics, then, it is liberalism's commitment to the 'true individuality of personhood' that undermined the entire liberal civil project.

This is a particularly attractive argument for a citizenry preoccupied with dismal state of civility in modern democracy. But what does this mean for modern liberalism? Constructive responses to Sandel and Bellah reveal that an attempted communitarian resolution for the civil crisis in America fails to appropriately undermine the liberal political project. More importantly, Sandel and Barber both argue for a type of participatory civil engagement that may threaten the rights of individuals that democracy so carefully seeks to defend. Still, Gutmann and Young recognize that these critics reveal important shortcomings within modern liberal theory, inadequacies that must be appropriately addressed in order to repair civility in modern democracy. Taking such criticism seriously, the potential for Williams' understanding of civil liberalism to inform a more constructive modern relationship between civility, citizenship, and the liberal state must be considered. In fact, a synthesis of Williams and Rawlsian liberalism may be the best way to create greater levels civility within liberal democracy; such an amalgamation would share important and interesting ties with deliberative democracy. First it is imperative to understand what Gutmann calls the deeper, more metaphysical conception of the individual as proliferated by Rawlsian liberalism, and the consequences that such ideal has had on modern conceptions of civility. This is where Michael Sandel's criticism of Rawls begins.

5.3 SANDEL AND THE QUANDARY OF TRANSCENDENTALISM

At the center of modern liberalism, Sandel argues, is the notion of the right over the good. This ideal argues that a just society must not seek to promote any one particular conception of the good but must enable citizens to pursue their own conception of the good, consistent with a similar liberty for all. To do this, the regulative principles of liberalism are built on a concept of justice that does not intend to “maximize general welfare, or cultivate virtue, or otherwise promote the common good, but rather [...] conform to the concept of the right, a moral category given prior to the good, and independent of it.”¹²⁶ In other words, what comprises a just liberal society is not the purpose or ends for which it aims, but its agnosticism regarding any particular set of shared ends. This allows, “in its constitution and its laws... a framework within which its citizens can pursue their own values and ends, consistent with a similar liberty for others.”¹²⁷

Such an understanding of justice departs from the earlier political ideals, which argued for a particular conception of human purposes and ends. Enlightenment thinkers, including John Locke and Thomas Hobbes championed a new ideal of political sovereignty as freedom from harm in life, health, liberty, and possessions.¹²⁸ This shifted political theory away from the republican ideal of the state as the site of human flourishing and closer to an ideal of the state as the executor of individual liberty. A reconceptualization of individualism by German idealist Immanuel Kant shifted this ideal further. Kant’s late eighteenth century philosophical works influenced notions of individual liberty in political theory and radically changed the liberal conversation, most notably through the ideals found in the 1971 publication of John Rawls’ *A Theory of Justice*.

In *A Theory of Justice*, Rawls bases his argument for the conception individual freedom upon the Kantian notion of the self as an inviolable being, prior to and independent of the elements that

¹²⁶ Sandel, “The Procedural Republic and the Unencumbered Self” *Political Theory*, Vol. 12, No. 1 (1984): 82.

¹²⁷ Sandel, “Procedural Republic,” 82.

¹²⁸ Sandel, “Procedural Republic,” 82.

situate one in the world. Kant's notion of the self allowed Rawls to argue that individuals are free moral agents, subjects above ideology, situation, position and relationships. This understanding of the self replaces the conception of the individual as a collection of ends to an end in itself, and gives an individual the power to choose for him or herself the ends worth pursuing and the desires worth having. The central notion for Kant is autonomous self-legislation, where freedom is understood in opposition to heteronomy. Freedom for the transcendental self is integration into the world in a way that "enables the individual to participate in an ideal, unconditioned realm, wholly independent of [...] social and psychological inclinations."¹²⁹

While Kant's ideal of the self formed a foundational conception upon which to build his theory of justice, Rawls argues that traditional transcendentalism itself had theoretical limits in modern political theory. Rawls' greatest concern is that transcendentalism fails to free itself from the moral contingencies it rejects, as Kant's principles of justice are themselves founded by "acting only on principles that the individual has rationally chosen for himself."¹³⁰ For Rawls, Kantian metaphysics cedes too much to the transcendental understanding of self, making justice primary only by denying the human situation. Instead, Rawls seeks to create "a viable Kantian conception" of justice, where "the force and content of Kant's doctrine [is] detached from its background in transcendental idealism and recast within the canons of reasonable empiricism."¹³¹ Rawlsian liberalism seeks to place the core of Kant's moral and political theory within modern democracy and

¹²⁹ Sandel, "Procedural Republic," 84.

¹³⁰ Fluxman, "Critical Remarks," 364.

¹³¹ John Rawls, "The Basic Structure as Subject," *American Philosophical Quarterly* (1977): 165.

to replace the “Germanic obscurities with a domesticated metaphysic more congenial to the Anglo-American temper.”¹³²

The result is Rawls’ theory of liberalism as described above, where justice is the first virtue of social institutions, and where the principles used to govern are derived from the original position, a political vision that “tries to provide what Kant’s transcendental argument cannot — a foundation for the right that is prior to the good but still situated in the world.”¹³³ In order to construct a theory for justice that does not presuppose any particular ends, the original position asks citizens to imagine the principles they would choose if they did not already know their status in the world, and to govern with such principles, separate from one’s own circumstances and so thin as to be agreeable to all reasonable and rational citizens. “By requiring us to abstract from our particular but not our shared interests, the original position with its ‘veil of ignorance’ and ‘thin theory of the good’ avoids reliance on both existing preferences and a priori considerations in reasoning about justice.”¹³⁴ If successful, such principles do not presuppose any particular ends, but allow citizens to choose the ends they believe best. For Rawls, understanding citizenship as separate from one’s constitutive identity is intended to be used as a hypothetical device to spell out basic principles, or what Rawls considers the basic structure, of a democratic society. However, Sandel argues that a political structure that allows citizens to choose their own ends and desires with similar freedom for all has become the ultimate promise of the liberal ideal.

Rawls recognizes that a political public without a common commitment to a good or a set of goods must commit citizens to each other through different means. Rawls argues, “among individuals with disparate aims and purposes a shared conception of justice establishes the bonds of

¹³² Sandel, “Procedural Republic,” 85.

¹³³ Sandel, “Procedural Republic,” 85-86.

¹³⁴ Gutmann, “Communitarian Critics,” 312.

civic friendship; the general desire for justice limits the pursuit of other ends. One may think of a public conception of justice as constituting the fundamental charter of a well ordered human association.”¹³⁵ The notion of civic friendship for liberalism, then, is a common commitment to Rawls’ two principles of justice: the first principle of basic equal liberties for all citizens, and the second principle, called the difference principle which argues that all social and economic inequalities must benefit the least advantaged. Intended to exist somewhere between utilitarianism’s failure to respect individual liberty and libertarianism’s “failure to recognize the arbitrariness of fortune,” the difference principle argues that as the liberal self is antecedent to one’s ends and desires, all constitutive qualities of personhood must be considered, at least in part, the product of moral luck.¹³⁶ Citizens cannot be denied their just deserts for the good of the whole, as argued by utilitarianism, yet if one’s position in life is at least partially arbitrary then it is reasonable to ask those “who have been favored by nature” to “gain from their good fortune only on terms that improve the situation of those who have lost out. In justice as fairness, men agree to share one another’s fate.”¹³⁷

This, Sandel argues, is the great quandary of liberalism. Liberal citizens cannot at once view themselves as individuals whose constitutive ends are always descendent from their identity and at the same time be required to share their ends with citizens who are substantively and necessarily other. Rawls’ attempt to reconstruct the transcendental vision of an external vantage point for a just theory from which to assess social issues — what he calls his Archimedean point — means that individuals are left with morality that lacks both social context and implication and undermines the

¹³⁵ Rawls, *A Theory of Justice*, 5.

¹³⁶ Sandel, “Procedural Republic,” 88.

¹³⁷ Rawls, *A Theory of Justice*, 101-102. See also Sandel, “Procedural Republic,” 89.

very conception of the self.¹³⁸ Theorist Peter Critchley furthers Sandel's point: "[The Rawlsian] account of identity is metaphysically questionable in its assumption that individuals can abstract from their particular attributes and still exist as significantly distinct individuals, since these identities are constituted by the social attachments that individuals form."¹³⁹ For Sandel, citizens without constitutive attachments are not 'unencumbered'; they are persons wholly without character.

Sandel argues that the Rawlsian commitment to Kant's ideal of freedom requires the citizen subject to *always* be antecedently individuated, beyond relational experiences. Otherwise, "were I a wholly empirical being," Sandel argues, "I would not be capable of freedom, for every exercise of will would be conditioned by the desire for some object. All choice would be heteronomous choice, governed by the pursuit of some end."¹⁴⁰ In order to maintain a commitment to freedom, the subject must always be prior to and independent of one's experience. In opposition, Sandel contends that self-knowledge is untenable without the socio-relational context that connects individuals to each other; that an individual's sense of self is dependent upon the constitutive ties that situate one within family, congregation, community and nation. The individual in modern liberalism is so separated from the qualities of that make one human that Sandel argues it is difficult to conceive of an individual at all within Rawls' ideal of a 'veil of ignorance'.¹⁴¹

And yet the liberal self, so liberated, is concurrently expected to support the difference principle, which asks citizens to share their lives with others. The difference principle then becomes a system of social and economic redistribution since, Sandel argues, the 'unencumbered' self is too

¹³⁸ In *A Theory of Justice*, Rawls states that "embedded in the principles of justice... is an ideal of the person that provides and Archimedean point for judging the basic structure of society." See Rawls, *A Theory of Justice*, p. 584.

¹³⁹ Peter Critchley, "John Rawls: Justice and the Search for Community" from *The City of Reason Vol. 6 The Social Concept of the City*: 6-7.

¹⁴⁰ Sandel, "Procedural Republic," 85.

¹⁴¹ Michael Sandel, *Liberalism and the Limits of Justice*. (Cambridge: Cambridge University Press, 1998): 182-183.

thin a moral entity to uphold a political-public structure that embodies both moral notions and constructive community. Justice as fairness is never rooted in a shared sense of commonality or collective common good, but dependent upon a set of procedures created by rational agents in ‘the original position’. For Rawls, the notion of civic friendship is found in a common commitment to the fair procedures in a just society; for Sandel, such an ideal is impossible in a political model where individuals are only free when they are separate from, and yet indebted to, others. Thus, Sandel argues, Rawls is unable to successfully argue a version of Kantian metaphysics that overcomes the conceptual nature of transcendentalism. Instead, the Rawlsian theory of justice undermines citizens as moral agents and inhibits genuine reciprocity between citizens by relying too heavily on abstractions of individualism and the instrumental rationality of modern society. The greatest mistake for Rawlsian liberalism, Sandel argues, is supposing that individuals as rational-egoistic agents will choose to follow the fair principles of justice.¹⁴²

Despite its philosophical failings, this liberal promise of individual freedom is the reality in which we live today. According to Sandel, the ideals of early liberal theorists aligned more closely with the arguments of modern communitarians; they “looked to the nation, not as a neutral framework for the play of competing interests, but rather [as] a formative community, concerned to shape a common life suited to the scale of modern social and economic forms.”¹⁴³ However, liberal promises of negative freedom and individual prosperity, central to early American democratic ideals,

¹⁴² Sandel’s criticism of Rawls’ is similar to the argument of Eric Brown (Chapter 3). Both argue that Rawls fails to compel citizens to uphold an ideal of citizenship required by liberalism. Brown argues that the shortfall is found in Rawls’ failure to successfully argue for a duty of civility, where Sandel argues that it is the failure to situate transcendentalism within an appropriate political context. While they are argued from different perspectives, both end up at the same critical point —the liberal self as described by Rawls is unachievable and/or unable to uphold the requirements laid out by Rawlsian liberalism. While I believe that Brown’s argument is stronger, Sandel’s criticism of Rawls however, is more broadly recognized than Brown’s and thus needs adequate consideration.

¹⁴³ Sandel, “Procedural Republic,” 93.

eventually usurped any quest for a formative community committed to a common life and gave way to the liberalism now dominant in modern democracy.

The shift within liberalism away from small democratic communities committed to self-rule to a large federal government structure charged with protecting the rights of citizens has much to do with the historical trajectory of the American economy, according to Sandel. Early American communities were interested in maintaining a level of freedom and autonomy from centralized power. However, in the nineteenth century the United States federal government rapidly expanded in order to keep up with the proliferation of private wealth incurred throughout the American industrial revolution. Yet despite efforts by the federal government to control wealth accumulation, underregulated markets led to the devastation of much of the poor and middle class during the Great Depression. In response, President Franklin D. Roosevelt fronted expansive federal programs, including social security and a federal minimum wage in post-depression America, promising Americans safety from the prospect of another financial collapse and avowing greater opportunities for individual prosperity through better access to public education, fair wages and other federal programs. While Roosevelt himself believed in the possibility of a national republic with shared ends, his social policies shifted the course of American politics over the next century. Eventually, Sandel argues, the American public accepted the relegation of power away from small self-governing communities, assured that the federal government could best promote liberty, freedom and equality for all citizens.

Sandel argues that by the late twentieth century, the possibility of such a strong liberal republic had all but run its course. “Except for extraordinary moments, such as war, the nation proved too vast a scale across which to cultivate the shared self-understandings necessary to

community in the formative, or constitutive sense.”¹⁴⁴ Increasingly dislocated from their communities and disempowered by an expansive federal government, modern civil communities are increasingly relegated to small gestures of democracy, no longer connected through practices of democratic self-governance but connected through a commitment to a political system that promises nothing more than to keep the moral lives of citizens out of the public realm. By the time Rawlsian liberalism entered onto the political scene in the early 1970s, any hope for a strong national republic had been eclipsed by a federal government nearly indistinguishable from the large economic institutions it originally set out to control. Evermore disempowered, the modern political public failed to return to small bodies of self-governance, and instead has increasingly pursued modern ideals of liberal freedom. For Sandel, Rawlsian liberalism’s greatest atrocity is its inability to make good on its promise of civic friendship through a shared commitment to justice. Instead, in an era of citizens feeling disconnected from the national community, Rawls solidified the connection between radical individualism and liberal freedom within the American democratic psyche with great consequences for a civil political public.

The struggle to connect citizens to a shared common good was never completely abandoned, according to Sandel. Prominent politicians, from Senator Robert Kennedy to Presidents Jimmy Carter and Ronald Regan, tried in different ways to resuscitate the ‘unencumbered self’ from an ever-increasingly powerful procedural republic. However, any attempt to rejuvenate a public-political spirit has fallen victim to liberal ideals now too strong in modern democratic thought to be forsaken by the dominant and partisan political parties. Now, Democrats cling too closely to the ideal of distributive justice as a human right to challenge federalism, and conservatives remain too closely aligned with free-market capitalism to challenge big business. In all instances, the possibility of political recommitment to common good, or the return to a decentralized civic life has fallen

¹⁴⁴ Ibid.

drastically short. As a result, Sandel argues, citizens in the United States now grapple with a republic that continues to ratify civil rights legislation while alienating citizens with promises of life free from interference and thus absent of the moral capacity and constitutive ties necessary to create a vibrant and civil political community capable of upholding such rights.

Thus, the incivility “now rampant in American life” is a direct result of America’s democratic communities in decline. In a short chapter titled “The Problem with Civility” Sandel argues that America’s small civil communities have been completely separated from, and subjugated by, the political realm in American democracy. “Americans’ worries about incivility express a deeper fear that the moral fabric of community is unraveling around us. From families to neighborhoods to cities and towns and schools, congregations and trade unions, the institutions that traditionally provided people with moral anchors and a sense of belonging are under siege.”¹⁴⁵ Sandel argues that beyond their role as places of scholarship, religion, work, camaraderie and leisure, these institutions have traditionally been sites of civic development. Such institutions are contributory in teaching citizens “to think about the good of the whole, how to exercise responsibility for others, how to deal with conflicting interests, how to stand up for our views while respecting the view of others” and above all, to “draw us out of our private, self interested concerns and get us in the habit of attending to the common good.”¹⁴⁶ Sandel fears that the decline of small American institutions, motivated by the Rawlsian division between the individual and the greater community, has truncated American civic education and endangered the qualities Tocqueville once called the “habits of the heart” upon which American democracy depends.

It is interesting that Sandel cites Tocqueville here. In his nineteenth century work, *Democracy in America*, Tocqueville observed the early beginnings of the inversion within the political structure

¹⁴⁵ Sandel, “The Problem with Civility,” in *Public Philosophy: Essays on Morality in Politics* (Cambridge, MA: Harvard University Press, 2005), 55.

¹⁴⁶ Sandel, “The Problem with Civility,” 56.

of society, a construction directly counterpoint to arguments supported by the new communitarian critics of liberalism. He observed the civil realm shifting out from under the jurisdiction of the political, where citizens galvanized by Enlightenment ideals and no longer constrained by the aristocratic rules of their European counterparts were at liberty to engage in a civil sphere that promoted social and economic interactions between citizens in a free and competitive civil society. To maintain such freedom, the civil realm was charged with limiting the scope and power of the political realm; this was the new responsibility of the democratic citizen.¹⁴⁷ The ideal of the citizen was no longer about upholding civil ideals for the good of a constructive political realm, but about maintaining a democratic political structure that allows individuals the freedom to pursue their own ends with similar freedom for all. Therefore the ‘habits of the heart’ Tocqueville cited were less likely about the formative civil associations that perpetuated the good of a constructive political realm, and more about upholding the liberal freedom of liberty and association.

It is not Tocqueville with whom the new communitarian critics of liberalism most closely align; instead, the theories of Aristotle and Hegel inform the new critics’ argument for the reformation of civil society, civility and citizenship - each theorist connects the good of the citizen to the good of society in different ways, and Sandel and his communitarian associates closely follow suit.¹⁴⁸ Like his republican predecessors, Sandel argues that just as an individual cannot be understood outside of a socio-relational context, separating the civil society from realm of the political leaves citizens without any substantive connection to the virtues and behaviors necessary for democratic ideals of self-governance. Political theorist James Schmidt explains, “Within the republican tradition, civic virtues aim at taming individual avarice and the building of individuals into a political community. But when civil society is no longer understood as political society, the virtues

¹⁴⁷ Lawrence Cahoon states that for Tocqueville, such ‘art of association’ replaced the hierarchical, paternalistic structures that democratic equality had erased, mitigating an otherwise unbearable individualism.” See *Civility*, 44.

¹⁴⁸ Gutmann, “Communitarian Critics,” 308.

that are to restrain individual idiosyncrasy can no longer be civil ones.”¹⁴⁹ For communitarians, civility is the act of forwarding interests and ideals that pertain to the commonweal; incivility is thus the assertion of particular interests and ends over the community, drawing an impetus from skepticism of the ultimate goodness of the collective common good.

Sandel argues that as democracy dislocated civil society from the political realm, the value-laden communities once at the epicenter of moral education and civic engagement are now constantly undermined by the degradative properties of an unchecked civil realm, including the coarsening effects of popular culture, big government and the welfare state, and most of all, “the corrosive power of an unfettered market economy.”¹⁵⁰ The liberal political realm cannot secure liberty because it upends the very roots that compel citizens to commit to civic commitment and civil behavior. Compounding the problem, the loss of intermediary places of community-building such as town hall meetings, and the abandonment of public spaces are primarily the consequence of a liberal public fearful of majoritarianism and cooption in small self-governing communities; history makes this argument all too easy for liberals. “Too often such communities [were] pockets of prejudice, outposts of intolerance, places where the tyranny of the majority held sway. And so...the liberal project was to use federal power to vindicate individual rights that local communities failed to protect.”¹⁵¹ In liberalism, the individual and the federal government advanced together, leaving the binding forces of the civility and civic engagement behind.

Despite the fact that Sandel seems to choose particular moments of history to assess the consequences of the liberal division between the political and civil realms, his concern resonates well. Without political sites of citizen and community development, individuals are now left to

¹⁴⁹ Schmidt, *Civility*, 30-31.

¹⁵⁰ Sandel, “The Problem with Civility,” 57.

¹⁵¹ Sandel, “The Problem with Civility,” 315.

struggle between the promise of radical independence and a level of deep-seated engagement, neither of which promote a commitment to civility or civil discourse.¹⁵² As a consequence, citizens increasingly choose to engage in private sphere, where political conversations occur almost entirely between those with similar moral and religious philosophies. Communitarians argue that civic engagement and civil behavior have become primarily privatized; in the few arenas where public deliberation still occurs, scenes of citizen collaboration and cooperation for the greater good have become rare. Philosopher and political theorist Ronald Dworkin proclaims that now “[Americans] disagree, fiercely, about almost everything. We disagree about terror and security, social justice, religion in politics, who is fit to be a judge, and what democracy is. These are not civil disagreements: each side has no respect for the other. We are no longer partners in self-government; our politics are rather a form of war.”¹⁵³

Sandel contends that the only way to rebalance the value of individual liberty within a notion of common good, to save civility from the brink of disaster, is to situate the citizen back into the world, and to subsequently reinstate the priority of individual freedom back in the republican ideal of liberty through shared fate. Returning citizen engagement and a commitment to common values back to the political realm will recommit citizens to a sense of shared fortune. Communitarians want the good of the individual to be connected to a greater concern for the common good; arguments for traditional family values and more conservative ideals, such as religious piety, are now lauded as ways to stimulate greater levels of civility by promoting the good of the community over individual prosperity. Releasing the public from the procedural confines of liberalism allows citizens to reinvest in the dialogical processes that shape communities through shared commitment to common values and instills the virtues of citizenship through civic engagement. Importantly, communitarians such as

¹⁵² Sandel, “Procedural Republic,” 92.

¹⁵³ Ronald Dworkin, *Is Democracy Possible Here? Principles for a New Political Debate* (Princeton, NJ: Princeton University Press, 2006).

Sandel argue that such civil ideals have returned to the political realm, if they ever left at all. Instead of denying their relevance within an ethically dislocated political community, they should be addressed with constructive measures and substantive engagement. Former Secretary of Education William J. Bennett, recapitulates this point: “A set of issues once thought beyond the purview of politics — the social issues, the moral issues, the family issues — is now [...] driving the public debate...public policies [must] once again make the connection between our deepest beliefs and our legislative agenda.”¹⁵⁴

For a citizenry struggling to realize even a small version of civility in the midst of paralyzing political vitriol, returning civility back to the political realm through substantive moral and civil values is an attractive proposal. In certain ways, this is the political vision of both the far right and the far left. Communitarians contend that the radical political ideologies, galvanized by corporate financial contributions, political lobbyists and politically radicalized movements, are increasingly polarized because the force of their ideology is stoked by the monocular focus of the private realm. In the private spheres of modern liberalism, opinions and ideals are garnered without any constructive conversations with the opposing side.

Such arguments of new communitarian critics of liberalism are worthy of serious consideration; they are not, however, without fault. In an article titled “Communitarian Critics of Liberalism,” philosopher Amy Gutmann reveals two important shortcomings in Sandel’s case against Rawls. First, Gutmann argues against Sandel’s interpretation of the metaphysical requirements of the liberal subject. Her second point is practical: Sandel does not appropriately recognize the impetus for the split between the civil and the political realms in modern democracy and why such a division is imperative to the liberal ideal. Gutmann concludes that Sandel’s political

¹⁵⁴ Michael Sandel, *Democracy’s Discontent: America in Search of a Public Philosophy* (Cambridge, MA: Harvard University Press: 1996), 326.

project fails to appreciate the importance of the liberal ideal of individual freedom and risks jeopardizing the rights of citizens in the name of a collective common good.

First, Gutmann finds fault in Sandel's argument that Rawls fails to extricate liberalism from Kantian metaphysics. For Sandel, this is "the *core conviction* Rawls seeks above all to defend, the claim that 'justice is the first virtue of social institutions.'"¹⁵⁵ According to Rawls, this is meant to convey a normative conception of justice as the primary responsibility of liberal institutions. Sandel interprets this further, arguing that Rawls is also "making a metaethical claim: that the foundations of justice must be independent of all social and historical contingencies without being transcendental."¹⁵⁶ For Gutmann, Sandel's subsequent reading of Rawls is mistaken. Surely, Rawls argues that within the principles of justice is an ideal of the liberal citizen that provides an Archimedean point for judging the basic structures of society. This does not mean, however, that the grounds of justice must necessarily be noncontingent. In fact, such an assertion ignores the greater purpose of Rawls' Archimedean point: principles of justice, including the 'original position' and 'veil of ignorance' allow for reasoning about justice without any reliance on *a priori* considerations. Gutmann explains:

The resulting principles of justice, then, clearly rely on certain contingent facts: that we share some interests (in primary goods such as income and self respect), but not others (in a particular religion or form of family life); that we value the freedom to choose a good life or at least have the freedom from having one imposed upon us by political authority. If we do not, then we will not accept the constraints of the original position.¹⁵⁷

The contingent nature of the Rawlsian principles of justice, including the original position and its veil of ignorance, are constructed to be upheld *only* if they accommodate citizens' firmest convictions. Rawls' rationale for justice as fairness is that it is a "common sense conviction," an ideal

¹⁵⁵ Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge University Press, 1982) pp. 16-17.

¹⁵⁶ Gutmann, "Communitarian Critics," 311.

¹⁵⁷ Gutmann, "Communitarian Critics," 312.

that is universal enough to exist simultaneously inside and outside citizens' *a priori* considerations. Gutmann argues that for Rawls that there is not, and need not be, a greater claim for justice as fairness than "given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us. We can find no better charter for our social world."¹⁵⁸

Instead of arguing against Rawls' assertion that liberalism is the best option for democratic citizens, or contending that such principles of justice are derived from faulty understandings of citizens' social and political particularities, Sandel charges that Rawls must prove that claims of justice are always non-contingent, prior to the citizen experience. However, Gutmann argues that if this is what constitutes Kantian metaphysics, then it is a metaphysics Rawls adamantly denies. Instead, Rawls argues that a theory of justice does not presuppose one particular comprehensive morality, but is intended to be a theory that is narrow enough to be agreeable to reasonable and rational persons, including those who have competing interests.¹⁵⁹ Gutmann argues that Rawlsian liberalism "regulates our social institutions, not our entire lives. It makes claims on us 'not because it expresses our deepest self-understandings,' but because it represents the 'fairest possible *modus vivendi* for a pluralistic society."¹⁶⁰

While Rawlsian liberalism does not adhere to one particular belief or moral system, it does not mean that it applies to *all* metaphysical or metaethical views. Sandel is right in arguing that Rawlsian liberalism is not compatible with a metaphysical conception of the self that is radically situated, that is, a conception that makes the makes "the good of the community... so

¹⁵⁸ Gutmann, "Communitarian Critics," 312-313.

¹⁵⁹ Gutmann, "Communitarian Critics," 313. Here Gutmann argues that Rawls and others have argued that liberalism does not presuppose metaphysics. It is important to note that in his later writings, Rawls recognizes that his notion of political liberalism is based in part on his own sense that his theory of justice is rooted in some kind of "comprehensive doctrine." See also Rawls, "The independence of Moral Theory," *Proceedings and Addresses of the American Philosophical Association*, Vol. 48 (1975): 5-22.

¹⁶⁰ Gutmann, "Communitarian Critics," 313.

thoroughgoing as to reach beyond the motivations to the subject of motivations.”¹⁶¹ Instead, liberalism is dependent upon the ideal that liberal citizens are committed to the freedom to pursue one’s own comprehensive doctrine in such a way that they can maintain their doctrinal beliefs while upholding the rights of all citizens to do the same. Rawls must admit this much metaphysics — that liberal citizens are situated in life in such a way that our sense of justice is not reliant on “an order that is antecedent to and given to us” but is consistent with a deeper understanding of the self and our subsequent aspirations.¹⁶²

If Sandel means to argue that Rawlsian liberalism is incompatible with the metaphysics of the radically situated self, but compatible with other rational and reasonable doctrines, then he fails to successfully argue that the liberal political project is unsuitable for a pluralistic political public. His failure lies in the fact that he does not successfully argue that the radically situated self, incapable of a conception of justice outside of one’s own personal experiences, is the only comprehensive doctrine for a successful modern democratic society. Gutmann concludes, “If [the radically situated self], rather than Kantian dualism, is the metaphysics that liberal justice must admit, Sandel’s critique collapses. Rawls need not (and he does not) claim that ‘justice is the first virtue of social institutions’ in *all* societies to show that the priority of justice obtains absolutely in those societies in which people disagree about the good life and consider their freedom to choose a good life an important good.”¹⁶³ If citizens in modern pluralist democracies recognize that the freedom to choose one’s own ends with similar liberty for all is better than the possibility that a singular shared good or set of goods then Rawls’ ideal of justice as fairness stands.

¹⁶¹ Gutmann, “Communitarian Critics,” 313.

¹⁶² Gutmann, “Communitarian Critics,” 314.

¹⁶³ Ibid.

What does this mean for Sandel's argument for civility in modern democracy? Sandel contends that Rawlsian liberalism undermines civility by abolishing democratic communities with its monocular vision of the citizen as subject and the only way to recommit citizens to a more civil democracy for communitarians is to reinstate the ideal of the civil realm back into the political sphere, to allow substantive civility back into the political public. In a brief positive argument for communitarian politics, Sandel suggests that communitarians do not support such liberal institutions as the free market or the welfare state; instead they are likely to defend the freedom of small, self-governing communities to instantiate the best policies for their community. Sandel picks a controversial example, claiming that communitarians might support a local community banning pornographic bookstores "on the grounds that pornography offends their way of life and the values that sustain it."¹⁶⁴ Gutmann responds: "[Sandel's] answer to the liberal worry that such a policy opens the door to intolerance in the name of communal standards is that 'intolerance flourishes most where forms of life are dislocated, roots unsettled, traditions undone.'¹⁶⁵ For Sandel and others, citizens are more likely to support policies that promote greater levels tolerance, community and civility in a small political-civil realm. Such a commitment to the greater good reinvigorates republican possibilities once implicit in the American political tradition, but that has faded over time. This line of reasoning leads to Gutmann's second reproach against Sandel's communitarian argument: there is little historical support for the forwarding of republican ideals in the name of increased civility and greater freedom for all.

Surely, Gutmann argues, Sandel must not mean the earlier republican traditions in the United States, a politics dominated by a white, protestant male upper class that subjugated the working poor, women, and religious and ethnic minorities. For Gutmann, there is "little reason to

¹⁶⁴ Sandel "Morality and the Liberal Ideal," *The New Republic*, (May, 1984): 17.

¹⁶⁵ Gutmann, "Communitarian Critics," 318.

doubt that the liberal politic of rights is morally better than that kind of republicanism.”¹⁶⁶ In *The Virtue of Civility*, Shils suggests that more recent constructions of a republican political project embody greater levels of inclusion, recognizing that the common good can be realized only when a more inclusive collectivity is represented. Still, he argues, when two antagonists reach a compromise through recognition of common interests they redefine themselves as members of the collectivity, “the good of which takes precedence over their particular objectives.”¹⁶⁷ To suggest the good of the community is more important than the interests of each individual sounds suspiciously utilitarian; as a caveat, Shils argues that the good “accorded by [such a] decision might be no more than the continued existence of the collectivity in which they both participate.”¹⁶⁸ At least minimally, adversaries committed to engaging in substantive conversation support an ideal of the collective common good. Still, such an argument does not support Sandel’s thesis that a community committed to a collective common good will better tolerate differences in speech, race, religion and orientation of other, minority citizens. Gutmann follows:

A great deal of intolerance has come from societies of selves so ‘confidently situated’ that they were sure repression would serve a higher cause. The common good of the Puritans of seventeenth century Salem commanded them to hunt witches; the common good of the Moral Majority in the twentieth century commands them not to tolerate homosexuals. The enforcement of liberal rights, not the absence of settled community, stands between the Moral Majority and the contemporary equivalent of witch hunting.¹⁶⁹

Sandel fails to prove that liberal civility is unachievable because the premise of the ‘right over the good’ requires individuals to uphold implausible metaphysical views of the self, counterpoint to a commitment to the collective common good. Still, Sandel’s argument highlights important

¹⁶⁶ Gutmann, “Communitarian Critics,” 319.

¹⁶⁷ Shils, *Virtue*, 345.

¹⁶⁸ Shils, *Virtue*, 345.

¹⁶⁹ Gutmann, “Communitarian Critics,” 319.

shortcomings in modern liberal democracy. Most importantly it exposes the possibility that liberalism, which does not successfully argue for a commitment to civility separate from one's comprehensive doctrine, may rely on certain communitarian values, such as commitment to family and community, in order to compel an ideal of civility above the liberal construction of a "society in which no one does more or less than respect everyone else's liberal rights."¹⁷⁰ Sandel aids in the argument that liberalism must do a better job of inspiring greater civil commitment among liberal citizens in order to achieve the levels of civility necessary to maintain a constructive democratic ideal. Before considering in the concluding chapter how liberalism can compel greater civility without the substantive connections of Sandelian communitarianism, it is first important to highlight a second line of criticism against liberalism, one that is distinct from the new communitarian ideal, but that shares interesting and important intersections with Sandel and others. Political theorist Benjamin Barber espouses a concept of strong democracy that does not focus its criticism on the metaphysical promises of the unencumbered self, but forwards a theory of participatory democracy, opposed to the ideals of liberty that liberalism currently supports.

5.4 THE PROMISE OF CIVILITY IN STRONG DEMOCRACY

In his work, *Strong Democracy*, Barber centers his criticism of liberalism on the promise of negative liberty in modern democracy, reasoning that such a conception of freedom has had calamitous effects on citizenship, civility and the democratic ideal. Like Sandel, Barber argues that constructions of citizenship and civic engagement cannot be relegated to the private spheres of associations and personal relationships, as they are in the current liberal democratic model. Instead, Barber contends that civic participation must be re-grounded in the public environment of a strong democratic community, which "grows out of participation and at the same time makes participation

¹⁷⁰ Gutmann, "Communitarian Critics," 320.

possible; [and] educates individual how to think publicly as citizens even as citizenship informs civic activity with the required sense of publicness and justice.”¹⁷¹

Barber argues that the current liberal political realm is a weak system without a citizenry committed to self-governance; a small-minded theory of citizenship with a poor relationship to civic participation and disregard for the importance of civic responsibility. Much of the blame for this, according to Barber, must be placed upon the liberal commitment to negative liberty, as it equates freedom with the notion of being left alone. Barber argues that this ideal of non-interference has become “what liberal democracy does best... When it must interfere or interdict, it does so in the name of leaving alone. Protection, preservation, and the security of private interests, including life, liberty and property are the entirety of the modern liberal agenda.”¹⁷² Liberalism’s constructed dialectic between power and freedom restricts productive engagement and self-governance by citizens, as any movement of the political realm beyond its role as the arbiter of liberty can be interpreted as an act of oppression, or at worst, as a move towards despotism. Liberal citizens have accepted the role of political representation as the best protection of liberty, believing that such a structure forwards freedom for all individuals without recognizing that it instead undermines the potential for strong self-governance, including a commitment to citizenship, community and civility.

This liberal commitment to negative liberty, for Barber, is rooted in the radical overvaluation of individualism, “with its myths of solitary beatitude (godliness) [which] has persistently underrated the human need for association, community and... identification” and undermined potential for strong democratic self-governance.¹⁷³ The conviction that citizens are both capable and desirous of being atomistic has created a system intended to protect the rights of individuals, without civil

¹⁷¹ Barber, *Strong Democracy*, 91.

¹⁷² Ibid.

¹⁷³ Barber, *Strong Democracy*, 112.

conversation over what rights and freedoms are worthy of protection.¹⁷⁴ In liberalism, citizens are the subjects but not the authors of their rights, making liberalism incompatible with liberal democratic principles, including freedom, equality and justice. For Barber, freedom in liberal democracy is undermined because representational government means that citizens have limited access to self-legislation; equality is compromised by the abstract nature of a politics that disconnects citizens from the issues and ideals particular to them; justice is denied when citizens and communities are not allowed to participate directly as instruments of fairness and equality. Any attempt to construct a democracy that allows citizens to live without directly engaging in the political process is, according to Barber, not just false advertising; it is anti-political and undemocratic.

As an alternative, Barber constructs a theory of strong democracy where a political community committed to public dialogue and self-rule is strengthened by notions of collective common good. Strong democracy is not intended to be a representative politics but a strictly participatory democracy. It is a theory that involves citizens committed to resolving conflict through strong democratic self-governance. In this way, strong democracy intends to transform the notion of dependent, private individuals into active, participatory citizens, and converts partial and private interests into public goods.¹⁷⁵ Collapsing the division between citizens and the representative political realm allows Barber to argue for a system of self-governance that is strongly rooted in participation. In strong democracy there are no preconceived notions of a democratic ideal and no political experts; it is a politics of amateurs. Such ideals reflect the sentiments of the earlier, progressive president Theodore Roosevelt, who stated in a 1912 address that “the majority of the plain people of the United States will, day in and day out, make fewer mistakes in governing

¹⁷⁴ Here Barber criticizes a more traditional version of liberalism. As explained above, Rawls argues a deeper, more metaphysical argument. However, much of his resulting criticism can be directly applied to Rawlsian liberalism, particularly his commitment to direct self-governance as the antithesis of what he argues is the radically individualistic notion of representative democracy.

¹⁷⁵ Andrew Buchwalter. “Participatory Democracy” (Class Outline, University of North Florida, 2013), 3-7.

themselves than any smaller class or body of men, no matter what their training, will make in trying to govern them.”¹⁷⁶

Barber distinguishes the positive liberties of strong democracy from the negative freedom of liberalism with two critical differences; the construction of the self as it relates to others, and the role of conversation in shaping political community. Both differences inform the ideal of civility for strong democracy. First, the understanding of the self as citizen is different in strong democracy than in liberalism, which equates citizenship with the freedom to pursue one’s own interests and desires with similar freedom for all, and which, Barber argues, has led to the deteriorative effects of negative liberty. In strong democracy, the ideals and interests of the self as juxtaposed to others are dissolved when citizens are no longer assigned their rights by a political sphere, but are collectively responsible for defining the rights and responsibilities of citizenship. Such an ideal of citizenship is no longer not static, nor is it an abstract notion conceived of and handed down by a political elite. In strong democracy it is intended to be a fluid concept, continuously defined, debated and amended through citizen-participation in the political realm. Barber argues that such constructive political conversation inspires a sense of community, and through this community, citizens come to understand their own identity *qua* citizens. Thus, although “citizenship by no means exhausts people’s social identities,” for Barber, “it takes moral priority over all social activities in a strong democracy. The pursuit of particular interests... must take place within the framework of community and common vision established by the public realm.”¹⁷⁷ When citizens’ identities are created through the formation of community, freedom cannot be defined as non-interference, as it is in liberalism, since identity is constructed through engagement with other citizens.

¹⁷⁶ Theodore Roosevelt, from “The Right of the People to Rule,” Carnegie Hall, New York City (excerpts), March 20, 1912. November 11, 2013. <http://teachingamericanhistory.org/library/document/the-rights-of-the-people-to-rule/>

¹⁷⁷ Iris Marion Young, “Polity and Group Difference: A Critique of the Ideal of Universal Citizenship,” from *Ethics* 99 (1989), 251.

Beyond constructing the identity of the citizen through self-legislation, the universality of participation in strong democracy alters the role of community itself. When citizens are joined in political conversation through the process of achieving goals and resolving conflicts, community is no longer a group of individually motivated citizens invested in their own freedom, but a venue with which to develop a sense of mutuality and civility necessarily for the strong democratic processes of bargaining and negotiation. Barber argues that the vagaries of notions of ‘me’ and ‘you’ develop into a sense of ‘us’ when community is invested in self-legislation. For Barber, then, constructive democratic conversation allows the roles of kinship and friendship as well as the relationship of adversaries and antagonists to be properly conceptualized and demarcated in the public realm. This makes the public sphere not only a place to forward one’s own interests and uphold the negative freedoms of citizens, but the site of community and individual will formation.

The role of political conversation in creating community for strong democracy underscores the importance of deliberation for the strong democratic ideal, and redefines the relationship between citizens and civil behavior. While the emphasis on dialogue in democracy is not unique to strong democracy, Barber stresses the purpose of dialogue in a particular way. For him, the false ideal of human autonomy in liberalism has allowed talk to be reduced to symbolic exchange between “materialistic but prudent beasts,” which radically undermines the possibility of a strong civil commitment in a liberal democratic society. Interest-based liberalism constructs a political-public realm intended to maximize the free exchange of personal interests in free-market, encouraging primary allegiance to selfhood without the necessary connection to the greater community. Barber argues that this has led to a civil public willing only to engage in tepid, artificial conversation between citizens intent only on forwarding their own interests in the civil sphere. Conversation for the purpose of individual gain sacrifices community at the hand of individual freedom and creates an environment where any attempt to use language to forge a democratic community is consistently

overshadowed by liberalism's allowance for "speech reduced to the articulation of interest by appropriate signs."¹⁷⁸ In this way, Barber articulates the concerns of Ferdinand Tönnies, who feared that the exchange of kinship and community for a free-market would eventually leave citizens to mimic civil behavior for self-gain. Conversation without a commitment to the greater political project, argues Barber, is doomed to perpetuate adversarial relationships and restrict citizen-freedom to state-regulated engagement between citizen-antagonists.

In order for strong democracy to succeed, for Barber, civility must reach beyond liberalism's definition as the reticent forwarding of one's own interest and the interest of others, to incorporate a greater commitment to a collective common good. Here he argues that liberal democratic theory is missing, *in particular*, the critical elements of self as defined through the commitment community and the universality of participative democracy. Where the political realm of liberal democracy promises to do nothing more and nothing less than leave citizens alone, in so doing it dismantles the collective common good and compromises democratic communities and limiting individual freedom. For him, civility means a citizen commitment to constructive dialogue and an enhanced democratic project that will "build community as well as maintain rights and seek consensus as well as resolve conflict" and will offer, "along with meaning and significations, silenced, rituals, symbols, myths, expressions, and solicitations, and a hundred other quiet and noisy manifestations of our common humanity."¹⁷⁹ Citizens must recognize that there is no definitive conception of the individual juxtaposed to the others, and that shared ideals of citizenship and freedom must originate within the political dialogue before processes like negotiation and deliberation can safely occur. A rare allusion of civility in Barber's work furthers this point:

¹⁷⁸ Barber, *Strong Democracy*, 174.

¹⁷⁹ Barber, *Strong Democracy*, 177.

World leaders meeting at a summit will frequently devote an initial session to getting to know one another in very much [an informal, casual] fashion, before they get down to the business of bargaining and exchange. And it is much more than protocol that motivates them; indeed, even protocol is a form of ritual in which civility is given its due, where there may be little more than civility to hold adversaries together.¹⁸⁰

Though rarely mentioned in *Strong Democracy*, it is clear from this passage that civility is the mortar that enforces the foundation of the democratic process, the ideal that compels citizens to the public realm and create a system of governance about more than the reticent leaving alone of citizens, but about developing a level of freedom discovered only through direct and participatory self-legislation.

Although Barber's theory shares similar criticisms of liberalism with communitarianism, Barber is careful to distinguish strong democracy from its communitarian counterparts. In particular, Barber criticizes communitarian theorists, like Sandel, for making the fatal mistake of forcing conformity in order to uphold ideals of unanimity. At first communitarianism seems to avoid the pitfalls of representative government, along with strong democracy, by allowing decisions to be made not through an interest-based political structure, but through communal will formation, which is intended to include the interests of a symbolic collectivity. However, according to Barber, communitarianism fails to actualize such a participatory system because communitarians focus on the import of a singular, collective common good. This has allowed room for demagogues, rather than citizens, to determine the destiny of the populace. Communitarianism's failure to generate universality of participation thus undermines its ability to support genuine discourse and deliberation. Therefore it is not truly political, since it eliminates conflicts not through inclusion, but through conformity obstruction and exclusion. In opposition, strong democracy is not about unanimity nor is it conformist in nature. Barber makes it clear that strong democracy is first and foremost about self-legislation through dialogue.

¹⁸⁰ Barber, *Strong Democracy*, 184.

Yet despite their differences, Barber's ideal of strong democracy finds similarities in Sandel's communitarian ideal, particularly through commitment to the republican notion of a "civic minded" political public. Both theorists wish to collapse the political and the civil realms back together, both argue that the civil and political spheres must be constructed in such a way so that citizenship and civic activity exist on one hand, and the private realm of particular identities, roles, affiliations, and interests exists on the other.¹⁸¹ Otherwise, both theorists argue, citizens will understand freedom and liberty as individual rights prior to and independent of the greater community, and as a consequence, will not be motivated to uphold the civic strands of political discourse. For both Barber and Sandel, civility in the public sphere will be reconciled only when it means more than the reticent respect for others. Civility for both theorists represents a common commitment to a formative political project of democratic self-governance; it is the purposes of each project that differ. For Sandel and Barber, it is only when an inextricable connection between civic engagement and personal freedom has been created will civility be reinstated as tantamount to the public good. Otherwise, reliance on representation and a commitment to market-based competition in liberalism makes democracy ever vulnerable to corruption by corrosive interest groups, further threatening the future of civic life in the United States.

Beyond the practical issues of scope, size and uncertainty, there are challenges for reinvigorating Barber's robust conception of a communal good in the modern, pluralistic and free-market society of liberal democracy. However, the most critical questions of strong democracy are similar to the criticisms Barber argues against Sandel. In a heterogeneous society like the United States, where minority voices have gained salience only within the last century, it is imperative to ask if there is a risk of homogenization and marginalization of minorities collapsing the public and civil realms. Barber's strong democracy is meant to oppose unitary democracy, where conflicts and

¹⁸¹ Young, "Polity," 251.

“dissensus” are constitutive parts of the never-ending processes of a problem-solving community’s deliberation and decision-making. However, it is unclear how, in this strong democratic process, the voices and lives of minorities are to be protected in public conversations about the destiny of the political community. If political participation is meant to be the very instrument by which individual liberty is realized, how can a country with a long history of marginalizing citizens guarantee that public political conversation will remain accessible to all? Participants in self-governance must be guaranteed both full agency and fair representation in the political realm. Barber argues that placing the constructions of civic engagement, citizenship and civility back into the political realm is the best formula for self-governance leading fair democracy; he claims that universal participation in political conversations is the best way to allow citizens greater opportunity to express ideals and exercise their freedoms, especially when the interconnectedness of individuals is recognized and individual freedom is understood as dependent upon self-rule. However, liberalism split the political and civil realms to guarantee that the individual freedom for all citizens would be upheld by a limited political structure. So, where is the guarantee in strong democracy that collapsing the political and civil realms back together will not return the political structure to a time when the dominant political class controlled the political-civil domain? Such questions are at the center of feminist theorist Iris Marion Young’s criticism of Barber. In particular, in her work “Polity and Group Difference: A Critique of the Ideal of Universal Citizenship” Young uses the criticism of Barber to develop a theory of representation that she argues allows for greater levels of democratic inclusion without the potential for losing the voices of the underprivileged and marginalized in a political-civil sphere.

5.5 YOUNG AND THE PROMISE OF GROUP REPRESENTATION

These are some of the concerns of feminist theorist Iris Marion Young, who argues, against Barber, that any ideal of citizenship based on dialogical structures of citizen participation leaves the rights of individuals vulnerable to coercion from the enfranchised few who control the public

sphere. For her, citizenship can too easily become the voice of the privileged, unreachable to those without the political power to access the conversation. To this line of criticism, Barber's counterargument is clear: if citizens are defined by and existent within personal and political relationships with others, then such a reevaluation of citizenship must leave greater room for them to address all aspects of freedom and liberty through civic engagement, in contrast to the "protection, preservation and the security of private interests [in modern liberalism]... a small agenda tailored to the small men its theories portray."¹⁸² *Strong Democracy* does not bracket the concentricity of the civil and political realms, and as stated above, Barber argues that an attempt to construct a democracy that allows citizens to live without engaging in political dialogue is anti-political and undemocratic.

Young remains unconvinced. In the article "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship" she argues that despite his best efforts, Barber seeks to realize an ideal of citizenship that ignores or denies certain minority groups by asking citizens to "assume the same impartial, general point of view transcending all particular interests, perspectives, and experiences" in a civil-political public. Strong democracy asks citizens to transcend their particular interests for the good of the public; otherwise, Barber argues, a participatory citizenry cannot function "if its members are concerned only with their private interests."¹⁸³ Such line of reasoning leads to the ideal of universal citizenship, which divides the personal interests of individuals in the private realm from the public-spirited political civil realm. Young argues that Barber makes a critical error by confusing the qualities of a pluralistic citizenry with the detrimental effects of privatism. As Young contends, it is one thing to ask citizens to be public spirited and willing to engage in dialogue more ardent than 'speech reduced to the articulation of interests by appropriate signs'; it is quite

¹⁸² Barber, *Strong Democracy*, 91.

¹⁸³ Young, "Polity," 252.

another to suggest that the only way to construct a more civil and civil political public is to ask citizens to subordinate their own personal identity and group affiliation to the realm of the political public. She follows, “The repoliticization of public life should not require the creation of a unified public realm in which citizens leave behind their particular group affiliations, histories and needs to discuss a general interest or a common good.”¹⁸⁴ Such ideology perpetuates an important failing in republicanism and its modern civic and communitarian counterparts; the expectation that citizens who choose to engage in public life must be willing to accept a dichotomy between public and private realms, where ‘publically minded’ citizens are assessed by standards too often defined by a dominant political class unaware of, or unconcerned with the interests of minorities.¹⁸⁵

This argument reveals important implications for the role of civility within a civil-political public. In *The Virtue of Civility*, Edward Shils argues that a well-organized, repoliticized civil society maintains freedom for all citizens by upholding certain democratic institutions, including competing political parties, representative electorates, and a free press to safeguard civil society from the potential overreach of state power; in this way, a politicized civil society does not embody the state but presupposes its existence and dictates its limits. To succeed in its role as the arbiter of freedom, civil society is also responsible for imposing limits on individuals, organizations and movements that may potentially subvert or undermine the political project. Shils argues that a politicized civil society encourages personal gain and allows for criticism of the social and political order, but must prohibit any actions “which would abrogate the civil order of society by breaking laws and acting to establish, gradually or suddenly, an uncivil society.”¹⁸⁶ Civil republicans locate freedom in the act of participating in a politicized civil realm, where the parameters of civility and citizenship are decided

¹⁸⁴ Ibid.

¹⁸⁵ Young, “Polity,” 251.

¹⁸⁶ Shils, *Civility*, 333-334.

by public deliberation. Here, civil behavior becomes synonymous with civil order; incivility the moral violation of the laws of civil society.

For Young, the question of access to public deliberation, including the establishment and perpetration of the civil realm, is paramount. The creation of civil precedent by a dominant political class without the input of minorities threatens the ability of citizens or groups to challenge the constructed laws of civil society without being censored, silenced or persecuted for acting in opposition to the collective common good. For Young, there is an essential difference between the extension of rights and liberties by a dominant political class and equal access to the political public realm where such decisions are made. This is why, she argues, “the extension of equal citizenship rights has not led to social justice and equality.”¹⁸⁷ The repoliticized civil public of Strong Democracy and Shils’ republicanism, committed as they are to universal understandings of the common good, risks confusing gestures of civility with the preservation of standards upheld by a dominant hegemony, and risks homogenizing the ideal of citizenship at the exclusion of or discrimination toward minority groups.¹⁸⁸

Still, Young agrees that the current depoliticized structure of modern liberal society is not the better alternative. She forwards Barber’s argument that the liberal construction of a narrow political realm, separate from civil society, has succumbed to interest group pluralism, privatizing public policy and relegating much of the political process in the United States to “back room deals and autonomous regulatory agencies and groups.”¹⁸⁹ To protect the rights of all citizens, liberal politics seeks only to defend the right for citizens to pursue ends and desires with similar rights for

¹⁸⁷ Young, “Polity,” 248.

¹⁸⁸ The Civil Rights Movement immediately comes to mind; a movement against the status quo of society in the southern United States prior to 1963, which fought for the respect of equal rights for all citizens. The “civil” in civil rights then goes against Shils’ definition of civility, since many participants in the Civil Rights Movement broke laws and acted against the status quo in the Jim Crow South in order to gain civil liberties and freedom for minority citizens.

¹⁸⁹ Young, “Polity,” 249.

all. According to Young and others, this has failed to create greater equality in the United States, despite the passage of civil rights legislation. Instead, the narrow political realm left the political process to issue-driven partisanship, which invites corporate, military and other powerful interests to reign above the interests of the general populace. The interest group-based politics of modern liberalism encourages a system that truncates civic participation, encourages ideology above inclusivity, values individual avarice over the greater good and allows an egoistic, self-regarding view to mire the political process. The dire state of democracy “requires that citizens of welfare corporate society awake from their privatized consumerist slumbers... and collectively take control of their lives and institutions through processes of active discussion that aim at reaching collective decisions.”¹⁹⁰

As an alternative to Barber’s strong democratic model, Young seeks a theory of a participation in the political public that does not “require the creation of a unified public realm in which citizens leave behind their particular group affiliations, histories, and needs to discuss a general interest or common good.” Instead of the ideal of universal citizenship, Young proposes a theory of “group differentiated citizenship and a heterogeneous public,”¹⁹¹ arguing that a true democratic republic will succeed only when minority and other underprivileged groups are equally represented within the political civil-public sphere. She follows:

A general perspective does not exist in which all persons can adopt and from which all experiences and perspectives can be understood and taken into account... No one can claim to speak in the general interest, because no one of the groups can speak for another, and certainly no one can speak for them all. Thus the only way to have all group experience and social perspectives voiced, heard, and taken account of is to have them specifically represented in the public.¹⁹²

¹⁹⁰ Ibid.

¹⁹¹ Young, “Polity,” 252.

¹⁹² Young, “Polity,” 255.

Young's project seeks to reengage citizens in the political realm in order to counteract the polarization and privatization of liberalism, including arguments for impartiality and generality. To do this, Young argues for a participatory democracy centered on group differentiation and equal representation, or as she states, a democratic public that provides the "mechanisms for the effective representation and recognition of the distinct voices and perspectives of those of its constituent groups that are oppressed or disadvantaged within it."¹⁹³

Young's theory of a politicized participatory public realm with priority for differentiated groups and fair representation offers important implications for conversations about the construction and understanding of civility in modern democracy. In a way, Young's democratic ideal expects more of citizens than even its civil republican counterpart. Both theories recognize that responsible citizens must be concerned with more than their own interests, or the interests of their immediate community, but must recognize greater conceptions of justice and equality, acknowledging that others' needs are as important as one's own and that "the needs and interests of everyone must be voiced and be heard by the others, who must acknowledge, respect and address those needs and interests."¹⁹⁴ The problem for universal citizenship, of course, is that the expectation of transcending individual interests for the good of the community allows Barber and others to promote an ideal of civility that ignores or denies the rights and needs of other citizens and consequently repudiates any protestations of inequality as a violation of civil code. Forwarding the civil republican ideal of generality in the political public fails to uphold even a minimal understanding of civility as respect for oneself and respect for others.

¹⁹³ Young, "Polity," 254. Young continues to argue that such representation requires institutional mechanisms and public resources that support self organization of disadvantaged groups including the ability to voice of how public and social policies affect them, the ability to devise, analyze and communicate their own proposals and to have veto power where specific policy changes will affect them directly. See Young, "Polity," 254-255.

¹⁹⁴ Young, "Polity," 255.

In opposition, the explicit structural inclusion of differentiated groups in a participatory democracy requires that citizens engage with each other in ways not yet seen in modern democracy. For Young, civility is not the passive acceptance of a political structure that preserves the freedom of all citizens through rights legislation, but rather requires the active inclusion of disenfranchised groups in shaping fair procedures and policies in a politicized civil realm. Enfranchised citizens of a dominant political class must be willing to recognize the benefit of including ideals of differentiation and particularity into democratic procedures; most importantly, they must be willing to step out of their place of privilege and recognize the voices of those who have traditionally been silenced. This means that civility can no longer support the tacit acceptance of a civil-political realm that caters to interest-group politics, nor retain the virtues of a political public committed to unified citizenship. For Young, civility is the recognition of civic plurality and the willingness to allow preferential representative status for groups to engage in policymaking, alongside the traditional forms of democratic representation. The intention is not create greater chasms in our political structure nor is it to pit one group's interests against another; on the contrary, Young argues that incorporating the reality of difference into our political structure does not embolden expressions of narrow self-interest, but creates "the best antidote to self-deceiving self-interests masked as an impartial or general interest."¹⁹⁵ For her, interest group politics wanes when enfranchised and disenfranchised groups are equally required to argue just cause for their interests or desires, and where policies are decided by those who are most affected.

Young confronts what she calls a problem of origin that no philosophical argument is capable of solving.¹⁹⁶ In order to succeed, group affiliation requires a guarantor, an individual or body to choose what groups are entitled to fair representation in the politicized civil sphere of

¹⁹⁵ Young, "Polity," 256.

¹⁹⁶ Young, "Polity," 257.

participatory democracy. To do so, a political public must already be configured to decide what groups deserve representation. Who is entitled to such authority, and who must decide on the set of procedures to make such a decision? A predefined jurisdictional body would undermine the self-generating project of participatory democracy, yet Young argues that it would be both less than ideal and impractical to open up the opportunity to all groups. So who gets to participate? Here, Young makes an important clarification: the self-organization of groups is only one aspect of group representation. Members of a group must meet together in democratic forums to discuss relevant issues and formulate positions and proposals. Group development and representation is meant as part of a greater reformulation of the democratic model, where increased participation in neighborhood meetings and district assemblies also allows greater opportunities for citizens to participate in democratic discussion and decision-making. In a participatory democracy, separate assemblies would also be offered to members of oppressed groups in order to delegate group representatives for the local meetings, ensuring that all voices are heard.¹⁹⁷

However, if participatory democracy is the representation of different, and often competing, social groups in a political public, it is difficult to comprehend how differentiated citizenship is unlike a slightly more egalitarian version of the interest group pluralism Young and others so fiercely reject. The differences, according to Young, are found in the definition and purpose of such differentiated groups. Young argues that group representation describes the “major identities and major status relationships constituting the society or particular institution... which are oppressed or disadvantaged.” Groups such as the Friends of Whales and the National Association of Advancement of Colored people do not have the equal status in participatory democracy, as they do in interest group pluralism. Secondly, in participatory democracy social groups do not have a particular agenda or goal, but must encompass a comprehensive identity and way of life that gives

¹⁹⁷ Ibid.

the group a distinct perspective or understanding of society and social issues. The groups Young considers “groups” are assembled solely because of shared experiences of social injustice. As she explains, invoking Heidegger, they are people who are “thrown” into an identity; because of their “thrownness,” they are in a position to address broader elements of societal justice. Lastly, where the interest groups in the current democratic structure choose to forestall or interfere with public discourse and decision-making in order forward a singular agenda, they do seek the insight or perspective of the greater community. Instead, Young’s ideal of a heterogeneous public “is a *public*, where participants discuss together the issues before them and are supposed to come to a decision that they determine as best or most just.”¹⁹⁸

This may be an adequate argument to differentiate between Young’s participatory democracy and interest group pluralism, however two additional points are important for the consideration of the argument against liberal civility. Young’s commitment to participatory democracy may succeed in arguing for greater participation for underrepresented minorities than her communitarian and civil republican counterparts. Still, limiting group representation to those who describe major identities within a constitutive society and who are oppressed or disadvantaged seems to limit the scope of her theory in ways Young is attempting to avoid. Why limit the engagement of social groups who share comprehensive identities and ways of life? Why strike the Friends of the Whales — or, the advocacy group, Parents, Friends and Families of Lesbians and Gays — from the democratic conversation? In a true participatory structure, eliminating interest groups or affiliations from the public conversation limits open dialogue before citizens have the opportunity to choose for themselves what perspectives are worthy of consideration. Further, affinity groups and advocates are important allies for underrepresented minorities and the disadvantaged in democratic conversation, particularly for those who cannot or do not represent themselves, including infants and children, and some adults

¹⁹⁸ Young, “Polity,” 257-258.

including those with severe developmental disabilities. Young wants to dodge the pitfall of interest-based pluralism, particularly instances of private interest groups that use fiscal resources to sway policy. Still, the liability of choosing who is allowed in public conversation should be left to the citizens, who in turn, must exercise their commitment to the democratic political project to decide what individual or groups deserves a voice.

5.6 A LIBERAL RESOLUTION

The issue of citizen commitment to the common good raises a second, more central point about civility and the critics of liberalism. Sandel, Barber and Young each argue that liberalism failed its citizens with the depoliticization of the civil sphere. Such division between the civil and political realms resulted in a weak political sphere committed to nothing more than the achievement and preservation of fair and equal citizenship. Critics of liberalism agree that the liberty and freedom promised to individuals has failed to elevate the status of minority and marginalized citizens to equal status in the political public or lead to greater levels of social justice and equality in modern democracy. While each critic proposes a different resolution to the liberal problem, they similarly constructs an ideal for repoliticizing individual liberty by collapsing the civil and political realms and returning the preservation of individual rights back to the realm of the political, connecting to freedom of citizens to their participation in the public shaping of collective life. This way, critics argue, citizens develop as a feature of individual freedom a greater civic sentiment, and perhaps even a greater sense of mutual respect and obligation. Where liberalism went wrong was in allowing individuals to regard the state as a necessary instrument only to mediate conflict and regulate state action in order to allow individuals the freedom to pursue their private ends. Freedom and autonomy must be relocated in the substantive public activities of citizenship. Critics of liberalism seek to return the virtues of the citizen back to the *polis* where it originated and where good of the

individual is inextricably connected to the good of other citizens as well the good of the greater political project. This, they claim, is how civility will be revived.

However, each alternative ideal for repoliticizing the civil public as outlined above potentially jeopardizes the individual liberty and freedom promised to modern democratic citizens in its own way. Returning to the traditional republican values is certainly not the answer, nor is an ideal of universal citizenship that risks compelling marginalized and minority citizens to shelve their identity, perspectives and group affiliation in order to transcend a collective common good. Even Young's group differentiation gets stuck with substantive arguments for the inclusion and exclusion of certain groups into the political public. Still, the most salient criticism of modern liberalism is that in its failure to incite the duty of civility, citizens have chosen instead to maximize personal prosperity at the expense of a civil realm committed to greater levels of civility, respect and protection for all. Much of this criticism compels Eric Brown's argument against Rawls: that the duty of civility as well as general commitment to the well-being of others in a pluralistic society cannot be left to the ideal of citizenship, since few citizens are interested in achieving such an ideal. In order to not throw the civil baby out with the liberal bathwater, as republicans are wont to do, modern liberals must find a way to compel citizens to commit to greater levels of civility, while allowing each citizen to maintain the 'true individuality' of personhood, and to preserve the separation between the political and civil realms meant to ensure that citizens will remain free to pursue their ends and desires, with similar liberty and freedom for all.

In order to do this, Rawlsian liberalism must look to Roger Williams. In the concluding chapter, I will argue that Williams can best inform a more robust conception of civility within liberalism, with an ideal of democracy that weighs the preservation of individual liberty and freedom in citizens' capability to engage in strong and civil conversations. This ideal of a heightened civil democracy shares important intersections with Habermas' deliberative democratic theory, which

argues for political participation that limits the political structure and preserves a free civil society.

The ideal for civil liberalism is not to create political institutions as the means to a collective understanding of the good life, as Aristotle contends, but to preserve the freedom to pursue the ends and desires of one's choosing through the active respect for citizen differences in a pluralistic democracy.

CHAPTER 6. CONCLUSION: THE QUEST FOR CIVIL LIBERALISM

Knowing what America stands for is not a genetic inheritance. It must be learned, both by the next generation and by those who come to this country. In this way, a nation founded on an idea is inherently fragile. And a nation that celebrates the many ways we are different from one another must remind itself constantly of what we all share.
— Bradley Report, 2008

In an address to the Town of Providence on August 31, 1648, Puritan theologian and founder of Rhode Island, Roger Williams, made the following statement:

Worthy friends. That our selves and all men are apt to differ is no new thing in all Former Ages and All Parts of this world in these parts and in our deare native Countrey and mournful state of England. That either part or partie is most right in his owne eye, his Cause Right, his Carriage Right, his Argument Right, his Answeres Right is as constantly true as the former.¹⁹⁹

Williams recognized in the early days of a burgeoning America that differing but equally confident convictions would persist among citizens. In his writings, Williams sought a society that would find unity, not through consensus or by following one moral or religious doctrine, but through common commitment to protecting the freedom of all citizens to forward their own religion and beliefs. In fact, as John Calvin Davis argues, “This common task of living peacefully and fruitfully, despite diversity, was Williams ultimate concern.”²⁰⁰ Williams believed that a commitment to civility would allow for some consensus among a diverse citizenry, creating a framework for healthy public discourse.

In 2014, we as a nation seems to have all but lost this ideal. While civil rights legislation continues to advance in the United States, increasing partisan politics and a cultural divisiveness

¹⁹⁹ Williams to the Town of Providence, 31 August 1648, *The Correspondence of Roger Williams*, ed. Glen LaFantasie (Hanover, NJ: Brown University Press, 1988), 238. See also Davis, “A Return Civility,” 695-696.

²⁰⁰ Davis, “A Return to Civility,” 699.

leaves citizens to wonder what it means to be civil in a liberal democracy, and how to motivate politicians, opponents and neighbors to commit to the unifying principles of a robust civil sphere. An examination of Rawlsian liberalism reveals that Rawls recognized the importance of a robust civil sphere, but fails to account for a disposition on the part of citizens to uphold the duty of civility. A return to Williams' writings introduces an ideal of civility that protects the freedom of individuals by requiring an emphatic commitment to mutual respect and a citizenry prepared to reflect on conditions needed to ensure such respect. This collective reflection itself serves to forge common bonds between citizens, not based on communal values or ethical self-understanding, but on the interaction of free and equal liberal citizens. Williams' theory of the sanctity of human conscience as tied to Rawlsian liberalism shares important ties with Habermas' theory of deliberative democracy. Comparing the two theories helps to further highlight the importance of a liberal theory committed first and foremost to civility for the preservation of individual rights.

In *Political Liberalism*, Rawls argues that the ideal of citizenship compels citizens to participate in the public realm without using the vantage point of private or personal opinion. According to Rawls, "the union of the duty of civility [combined] with the great values of the political realm yields an ideal of citizens governing themselves in ways that each thinks others might reasonably be expected to accept;" and in turn will "be supported by the comprehensive doctrines that all reasonable persons affirm."²⁰¹ Rawls argues that the aspects of political self-understanding — how citizens view themselves as members of a community and a nation, how they choose to treat others and in what sort of society they desire to live — are important to the political realm and must not be denied to any citizen. However, he argues that in a diverse public, such constitutive values may conflict with one another without any prospect of resolution, creating the potential for "persistent

²⁰¹ Rawls, *Political Liberalism* 217-218.

disagreement among citizens about basic matters of fundamental value.”²⁰² Thus, in order to allow citizens the freedom to uphold their own comprehensive ideals in a constructive and peaceable political society, such values must be counterbalanced in a way that is not affected by ethical discourse, but are instead governed by the principles of public reason.

This ideal of public reason serves to distinguish Rawls’ version of liberalism from earlier theories. Citizens respect one another by publically arguing issues in a universalizable manner, understanding that to do otherwise would potentially violate the interests and values of others.²⁰³ To do so, citizens must be “ready to explain the basis of their actions to one another in terms each could reasonably expect that others might endorse as consistent with their freedom and equality.”²⁰⁴ For Rawls this maintains a well-ordered liberal society; in striving for the ideal of citizenship, citizens willingly come together in the public sphere to choose a set of rights based on universalizable principles that maximize the freedom of all. Citizens will use public reason because they understand that the ideal of citizenship is the best, and perhaps only, way to forward the interests of a free and equal liberal democracy.

Rawls commits this robust public sphere to an ideal of civility, and principles of reciprocity and mutuality shape his idea of public reason. He argues that citizens will commit to principles of justice as more than a *modus vivendi*; unlike earlier liberals, Rawls contends that a political society is stable because citizens uphold principles of civility and reciprocity for more than their own self-

²⁰² Brown, “Duty of Civility,” 2.

²⁰³ In Chapter 5.3 of *A Theory of Justice*, titled “The Duty to Comply,” Rawls argues that the “natural” duty of civility specifically requires citizens to comply with unjust laws “provided that they do not exceed certain bounds of injustice.” It also “imposes a due acceptance of the defects of institutions and a certain restraint in taking advantage of them,” since “without some recognition of this duty mutual trust and confidence are liable to break down.” I believe that this is his recognition that the duty of civility applied to legal statutes when those statutes have been voted by a majority and comply with the principles of justice, even if citizens find the laws imperfect or relatively unjust. I think that Rawls is arguing that the duty to comply is part of the ideal of citizenship — and that citizens choose to participate in the public realm in such a way that advances the duty of civility and the principle of public reason, including the duty to comply with all legal statutes.

²⁰⁴ Rawls, *Political Liberalism*, 218.

interest, because they understand that shared public values are the best way to advance such liberal ideals. In fact, Rawls argues, the concept of public reason shares important similarities with the republican theory of Jean-Jacques Rousseau, who argues that in the political realm citizens must not choose from their own personal preferences, but decide “which [alternative] best advances the common good.”²⁰⁵ Unlike republicanism, however, Rawls’ political liberalism is not intended to create a unified general will but is meant to protect the nonpolitical values and virtues of private citizens, including the freedom to choose “what is of value in human life, and [the] ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct, and in the limit to our life as a whole.”²⁰⁶ According to Rawls, citizens find motivation to uphold the ideal of citizenship and its associated principles, because in prioritizing the right over the good, citizens recognize that it is not a common ethical ideal but a shared conception of justice that establishes the bonds of civic friendship.

The greatest liability for Rawls, as Eric Brown argues in “Rawls and the Duty of Civility,” is not that he does not support a robust civil public sphere; instead, Rawls’ commitment to public reason fails to compel citizens to uphold the public values of liberalism because it *lacks a strong and justifiable reason* to commit to the duty of civility. Rawls wants to argue that citizens are self-motivated to uphold the ideal of citizenship because they have both the psychological capacity and reasoning to do so.²⁰⁷ However, citizens who choose not to endorse an ideal of citizenship may find the duty of civility and the ideal of public reason less compelling than advancing their own private interests. In fact, by making civility a ‘duty,’ liberal citizens may consider the notion to be in direct contrast to

²⁰⁵ Rawls, *Political Liberalism*, 220.

²⁰⁶ John Rawls, *Political Liberalism*, (New York: Columbia University Press, 1993), 13.

²⁰⁷ Rawls states, “When we say [...] that not only are citizens normal and fully cooperating members of society, but further they want to be, and to be recognized as, such members, we are saying that they want to realize in their person, and have it recognized that they can realize, the idea of citizens.” See *Rawls, Political Liberalism*, 84.

their own self-interest, which calls into question how any citizen would be motivated to accept its premise. As a result, the idealization of citizenship fails to compel citizens to follow the duty of civility and Rawls is unable to advance the principles necessary to support the civil public sphere to which he aspires.

Without a clear reason to uphold the duty of civility, Rawlsian liberalism cannot properly account for the reason and motivation to uphold “the great values of the public realm.” As a consequence, liberalism risks slipping into a more traditional model of citizenship, based upon individual rights *vis à vis* the state and other citizens. This is perhaps evidenced best in conversations about the current state of civility in modern democracy. Most worrisome is the notion that individuals are increasingly failing to consider the lives and livelihoods of others when making political, personal and economic decisions.²⁰⁸ Lack of commitment to an ideal of citizenship and a weak commitment to an ideal of public reason leaves a modern democratic political public to wonder if liberalism cannot be at once committed to self-interest and self-respect as well as vigorous, honest and compassionate respect for others.

Conversations about how to correct this civil shortcoming too often fall to rhetoric and idealization, since there is little popular agreement about what we mean when we talk about civility, and how it may best be forwarded within liberalism. As a result, definitions of civility often rely on ideals found within comprehensive doctrines, including religious, ethical or personal ideology, which serve to challenge the principle of public reason. Theorist Stephen Carter exemplifies this point well, arguing, “We cannot construct civility in America without a revival of religion as a force both in our

²⁰⁸ As Krista Tippet stated on the Being Blog, “My own deepest despair at present is not about the vitriol and division per se — as alarming as they are. It is about the fact that we seem to be losing any connective tissue for engaging at all, on a human level, across ruptures of disagreement... What we once called the red state, blue state divide is now more like two parallel universes where understandings of plain fact are no longer remotely aligned.” See Krista Tippet, “How do we live and honor each other despite our differences?” *Being Blog* (blog) accessed August 21, 2011. <http://blog.onbeing.org/page/4>

public and private lives.”²⁰⁹ Definitions like Carter’s support critics of liberalism, who argue that the very instinct to invoke comprehensive ideals signifies that a commitment to civility requires unifying the civil and the political realms so as to forge a stronger positive relationship between citizens and the political community to which they belong. For these critics, a greater commitment to civility means that the formative questions, including how citizens view themselves as members of a community and a nation and how they choose to treat others, must be shared publically and constitutively. For them, shared common ethical ideals and not a shared conception of justice form the bonds of civic friendship and allow civility to flourish. However, for Rawls and other liberals, including Williams, tying civility to any particular set of shared ethical ideals risks limiting the freedom of citizens to choose what ideals have fundamental value. If civility is respect for oneself and respect for others, for liberalism this also includes the freedom for citizens to choose for themselves what ideals are worth following.

The challenge for liberal theory, then, is to create a more reflexive relationship between a notion of civility and the maximization of individual liberty and freedom for all citizens. Rawls expects that citizens will uphold the duty of civility because they understand that the ideal of citizenship and its related principles, including public reason, are the best way to forward liberal ideals. Given that this view does not seem credible, there must be a better way to connect civil discourse and civic engagement to its central place within liberalism. Otherwise, civility will continue to falter, leaving political structures vulnerable to individual private interests that threaten individual freedom and undermine the common good in modern democracy. The writings of Roger Williams help to inform a conception of civility that upholds individual liberty and the commitment to the collective common good.

²⁰⁹ Steven Carter’s definition in *Civility* exemplifies this well: Carter states, “we cannot construct civility in America without a revival of religion as a force both in our public and private lives.” See Carter, *Civility*, 73.

In a recent review of John Calvin Davis' work *On Liberty: Selections on the Work of Roger Williams*, philosopher Martha Nussbaum refers to Williams as "important, above all, as a conversation partner whose humane insights can inform our own divisive debates."²¹⁰ In particular, Nussbaum highlights three aspects of Williams' writings that help form a foundation for conversations about the state of civility in modern democracy. First, Williams possessed a distinct view of the human conscience as the center of individual emotion, imagination, and ethical choice, through which each individual seeks meaning. This notion of individual conscience was what Williams considered the source of human equality, and as such, was worthy of equal respect. This ideal became the premise for Williams' doctrine of liberty, which argued that all political principles must be based upon equal respect for all individuals. This ideal of individual freedom of conscience was rooted in Williams' own religiosity and, as such, may be considered a religiously inspired version of natural law theory. In this way, Williams' theory differs greatly from Rawls, whose political liberalism was constructed so as to not be based in any one comprehensive doctrine, particularly one that appeals to an ideal of human conscience.

Still, Williams' ideal is useful because it emphasizes something that other theorists fail to recognize: the human conscience is delicate, and its fragility requires protection by a public engaged in securing its safety. Williams argued, against the Stoics, that the human conscience was not invulnerable but could "be prevented from acting, and it can also, *more deeply*, be damaged or defiled by what happens to it."²¹¹ He believed that this protection required social resources as well as a citizenry actively attentive to the conditions for such protection. This shaped his theory of freedom, which combined the sanctity of the individual conscience with a robust view of the common good.

²¹⁰ Nussbaum, "The Founder," 2.

²¹¹ Nussbaum, "The Founder," 5. Italics by author.

In other words, individual freedom for Williams required an emphatic commitment to mutual respect as well as a citizenry willing to reflect on the conditions needed to ensure such respect.

This leads to Nussbaum's second point: "Williams believed that equal respect for conscience [entailed] protecting an extensive sphere of freedom around the individual, and that this protection must be impartial, imposing no [one particular] orthodoxy."²¹² Despite his own particular religiosity, Williams argued that individual liberty required a rich and engaged public sphere committed to the individual liberty and dignity of all citizens, and maintained that civil peace among citizens who differ in religion, status and ideology required a moral consensus that is itself was impartial, giving ascendancy to no one particular creed or doctrine. Williams argued that this was possible because citizens have access to a moral sphere separate from competing personal, religious and philosophical realms. This concept of shared moral goodness — not related to any one doctrine but shared by all — meant that citizens could "respect one another's freedom and equality, the deep sources of conscience that lead us through life... But we must base that life on ethical principles that, for many of us, also have a religious meaning and justification."²¹³ To join peacefully with others in a common political life meant that citizens must recognize the possibility of sharing morals and virtues relevant to politics, while not necessarily sharing the same constitutive view of life's greater meaning. As Williams stated, "A Christian Captaine, Christian Merchant, Physician, Lawyer, Pilot, Father, Master and (so consequently) Magistrate, &c. is not more than a Captaine, Merchant, &c. of any other Conscience or Religion."²¹⁴ In other words, the moral virtues upheld in the civil sphere may be supported by many different religious doctrines.

²¹² Nussbaum, "The Founder," 2.

²¹³ Nussbaum, "The Founder," 9.

²¹⁴ Williams, *Bloudy Tenent*, 245.

Here, Rawls and Williams share important similarities. In fact, Nussbaum notes that certain aspects of Williams' philosophy anticipated the later works of Immanuel Kant, which provided the transcendental template for Rawls' theory of justice. Public reason, as well as concepts of universalizability, autonomy and humanity are found in Williams' writing, particularly "the duty to respect humanity as an end wherever we find it; and the duty to be fair, [and] not to make an exception for one's own case."²¹⁵ Like Rawls, Williams acknowledged that within a diverse polity, ensuring equal freedom meant that the ability to develop and express one's own individual conscience must be at least equal to the values held within.²¹⁶ For Williams, this meant that in order to uphold a fair and reasonable ideal of freedom, the civil realm must rigorously protect the private, internal sphere of the human conscience.

Historians often attribute Williams' argument against a reigning orthodoxy in the political realm as the foundation of the modern separation of church and state. However, when Williams wrote about the "wall of separation" between citizens' religion and their political principles, the ideal was more nuanced than a strict divide between religion and the public sphere. Williams sought separation of jurisdictions between church and state, but where citizens were concerned, he intended to construct the moral values of public life as one part of all comprehensive doctrines — the part that citizens might share with others without trying to convert others to what they believe to be the one true religion.

215 Nussbaum explains, "Just as Kant asks a person to test the principle of his or her conduct by asking whether it could without contradiction be made a universal law for all human beings, so Williams's critique of the leaders of Massachusetts and Connecticut is that their idea cannot pass a test of that sort: they love freedom--but only for themselves. They could not will persecution as a universal law, and their selfishness prevents them from willing freedom of conscience (which could pass the Kantian test) as a universal law." See "The Founder," 6.

216 Republicans, I believe, do not agree with this premise. Instead, they argue that out of the communal process of ethical self-understanding gives weight to both the moral and its origin; both are necessary for democratic self-legislation.

Similar to Rawls, Williams did not want to wholly separate private doctrines and individual religiosity from the public realm. Instead, he argued that the best way to preserve a public realm that preserved the freedom of individuals was to welcome debate in the political public, where citizens might uphold and advocate for their own individual ideals. The public realm for Williams was not meant to be a site of common ethical self-understanding but instead was intended to be the location where citizens engaged in the preservation of freedom through civil debate, deliberation, and a common commitment to individual liberty. An important distinction between this ideal and Rawls' theory is that Rawls' ideal of public reason is the product of theoretical self-reflection. Rawls argues that citizens will privately and personally choose to uphold the ideal of citizenship and duty of civility, along with the help of the veil of ignorance and other theoretical practices, in order to decide which universalizable political values can be shared by all reasonable and rational citizens. The choice to be an ideal citizen is first made through theoretical constructions. However, Rawls begs the question by arguing that citizens will choose to overcome the paradox of public reason and set aside their own comprehensive doctrines for the sake of public deliberation because they, *qua citizens*, choose to embody the ideal of citizenship and its virtues. By contrast, Williams seems to argue that civil conscientiousness flows from the notion that most reasonable and rational citizens understand that freedom of individual conscience is basic to the individual human experience, and are therefore willing to engage in civility and civic dialogue in order to protect it.

For Williams, then, the product of public reason was meant to be constructed, not through idealizations or hypotheticals, but through the actual act of forging civil bonds. Williams argued that citizens would make a principled commitment to a minimal set of universalizable moral norms — what he called “civility” — not as an idealization of citizenship, but because a minimal commitment

was the necessary basis upon which to set the ideals of individual freedom and equality.²¹⁷ Citizens engaged in the political sphere in order to guarantee that the public and private realms did not usurp one another, which protected individual liberty. For Williams, the concept of civility was based upon deliberations of human conscience and the product of public discourse; in this way, civility was meant to bridge individual interests with the greater public good.²¹⁸

This last point highlights Nussbaum's third argument: Williams' appeal to toleration. Because individual conscience was a delicate and corruptible source of human dignity and needed to be protected by a civil state that had a moral foundation but not a primarily religious one, Williams' principle of tolerance "encouraged the freedom to hold, develop, change, and articulate beliefs in public forums, and respect for this freedom was a procedural requirement upon which civility depended."²¹⁹ In his writings, Williams set a precedent for the respect for individual liberty upheld by a commitment to civil community and engaged deliberation. Davis argues that Williams "recognized the need to guard against both the excesses of individual liberty that comprise the common good and the unjustified extension of public interest at the expense of personal freedom."²²⁰ Williams believed this balance to be possible because he argued that a universalizable civil morality and individual freedom were mutually reciprocal. In this way, civility was Williams' recognition that a set of shared moral norms and values must construct the foundation of a durable and civil public society. Davis argues that according to Williams,

Civility preserves public peace and maintains a semblance of order to civil cohabitation. It enables human beings to engage in the cooperative relationships necessary to live together.

²¹⁷ As Davis states, "His idea of what constitutes proper civility was never more than a minimal set of shared morality, but it represented his desire to balance integrity of individual conscience with the importance of the common good." See, "A Return to Civility," 701.

²¹⁸ Davis "A Return to Civility," 705.

²¹⁹ Davis, "Return to Civility," 696.

²²⁰ Davis, "A Return to Civility," 703.

In short, the shared moral norms of civility are, according to Williams, society's way of promoting the common good.²²¹

Williams, like Rawls, recognized that a diverse population of citizens would not necessarily agree on a complex set of moral norms, but believed that a general respect for pluralism and freedom of conscience required a commitment to “appropriateness of tolerance, common courtesy, friendship, and truthfulness as parameters for the very act of engaging in public conversation.”²²² Again, Williams argued that this individual freedom of conscience was delicate and vulnerable to external forces and therefore individuals in the public realm could best protect individual freedom through a set of social and moral norms — what Williams considered civility — which included agreeing to uphold the norms of individual respect and tolerance.

What Williams’ highlighted in his theory, and what I believe liberalism can learn from his writings, is that individual liberty is not invulnerable to persecution, derision or violence and risks being jeopardized if there is not a minimal commitment to civil behavior in the public sphere. Rawls agrees with this, but ultimately leaves the work to theorists and individuals to choose to uphold the principles of public reason, and to demonstrate “a willingness to listen to others and a fair-mindedness in deciding when accommodations to their views should reasonably be made.”²²³ For Williams, maximizing individual liberty and freedom required a recognition that individual liberty was not possible without at least a minimal set of shared moral norms that constituted civil behavior, particularly respect for pluralism and respect for individual freedom of conscience. The notion of a collective common good was grounds for arguing for the toleration of citizens’ individual freedom

²²¹ Davis, “A Return to Civility,” 692.

²²² Davis, “A Return to Civility,” 695.

²²³ Rawls, *Political Liberalism*, 217. Also, see Amy Gutmann and Denis Thompson, “Moral Conflict and Political Consensus,” in *Ethics 101* (Chicago: University of Chicago Press, 1990): 786.

and the “boundary condition on the individual freedoms that toleration protects.”²²⁴ Williams argued that civility balanced the priorities of the state and the pursuit of individual interests, understanding that the overvaluation of one was a direct threat to the other.

Like Rawls, Williams believed that the value to choose one’s own ends was as valuable as the ends themselves. To uphold one’s own liberty and the liberty of others, citizens must participate in a civil public realm that protects individual freedom and creates the boundary conditions that maximize the liberty and freedom of all. This ideal does not rely on the appropriate moral psychology of citizens, nor does it require citizens to uphold an ideal of common good that extends beyond the preservation of their own freedom. Instead, Williams’ theory of civility is based upon the notion of tolerance that encouraged a political community committed at least minimally to public deliberation and civil engagement. Citizens agreed to civil behavior, including appropriateness, common courtesy, friendship, and truthfulness as parameters for the act of engaging in public conversation, not for collective ethical self-understanding, nor to uphold a particular ideal of citizenship, but because they recognized that their own individual freedom depended on it.

Williams’ argument for toleration as the boundary condition for individual liberty highlights a few important points. Williams recognized, as Davis states, that civility must be “the governing principle of public participation,” however he did not argue for a pacification of individual conviction in the civil realm, nor did he require that citizens disconnect the values of civility — including tolerance and respect — from their comprehensive doctrines when arguing in the public realm. By separating “the garden” of ethical self-understanding from “wilds” of the public domain, Williams wanted the public sphere to be free of citizen-coercion or forced religious conformity. Instead, the public realm was intended as a place where citizens, bound by the principles of toleration — including mutual respect for the opinions and rights of others as well as a respect for

²²⁴ Davis, “A Return to Civility,” 701.

pluralism — could engage in honest, civil and challenging discussions about the substantive issues that shaped the public sphere.

Williams made himself an example of this by arguing publically with those with whom he did not agree, perhaps none more vehemently than the Quaker leadership in neighboring Massachusetts. Williams' greatest criticism of the Quakers was not what he considered their faulty religious ideology but their failure to participate in public engagement in a civil manner necessary for civic deliberation. In *George Fox*, Williams chronicled a debate held in 1673 in Newport, where he recalled enduring “‘grievous Language’, ‘insulting’, and inter-ruptions from his opponents, despite his protests ‘that such practices were against the sober rules of Civility and Humanity.’”²²⁵ His concern was not that Quakers expressed their ideals in a public manner, but that the uncivil behavior that accompanied their opinions truncated open and honest deliberation.

For Williams, the notion of civil behavior, including appropriateness, common courtesy and even friendship was not the same as modern definitions of civility that include politeness, social conformity and other passive behaviors. In fact, Williams never intended to limit dialogical strategies such as confrontation, disagreement and even hostility. In this way his particular definition of civility does not always align with current cultural usages of the term, which often equate civility with qualities that may mimic respect for others and respect for pluralism. Davis explains:

Some critics of the recent focus on civility, like U.S. Supreme Court Justice Clarence Thomas have equated civility with ‘moderation’ or compromise of convictions and thus declare that it ‘cannot be the governing principle of citizenship or leadership.’ By contrast, Williams insisted that civility must be the governing principle of public participation, but his insistence on civility was grounded in the belief that the display of mutual respect it implies precludes neither the holding of real convictions nor the public debate of those convictions.²²⁶

²²⁵ Roger Williams, ‘George Fox digg’d out his burrowes’ in *Complete Writings*, v, 308. See also, Teresa M. Bejan “The Bond of Civility: Toleration and its Limits” *History of European Ideas* (2011), 7. doi:10.1016/j.histeuroideas.2011.03.003, 5.

²²⁶ Davis, “A Return to Civility,” 705.

Williams advocated for the actualization of deep moral and ideological beliefs through an environment of tolerance that respects the freedom of all citizens to hold similar convictions. To obtain maximum personal liberty, citizens must participate in an active and engaged public forum with “patience [and] respect for our opponents and a commitment to the social kinship that binds us to even the most different from us.”²²⁷ This minimal commitment to shared notions of civility does not require stereotypical ‘polite’ social politeness or nicety, but more importantly requires that citizens recognize that individual liberty and civil behavior are mutually reliant. Appropriate deference to individual freedom of conscience requires an emphatic commitment to mutual respect as well as a citizenry prepared to reflect on conditions needed to ensure such respect. This collective reflection itself serves to forge common bonds that rely not on presupposed religious or communal values, but on the civil interaction of free and equal citizens.

As an important thinker and advocate of individual freedom, Williams provides critical insight into the reciprocal relationship between civility, individual liberty and the collective common good, particularly for a political theory that does not tie the substantive ethical self-understanding to the good of the public. Still, Williams’ writings are best used to inform, not supplant, the liberal ideology of modern democracy. As Davis argues, “The comparison of seventeenth century notions of civility with invocations of them in the twenty-first century requires considerable care with due deference to shifting nuance in words like ‘civility’, ‘pluralism’ and ‘the common good across historical boundaries.’”²²⁸ Yet despite the potential variances in language and culture, the theoretical relationship between individual liberty, civility and the collective common good in Williams’ arguments relates profoundly to the current American predicament.

²²⁷ Davis “A Return to Civility,” 705-706.

²²⁸ Davis, “A Return to Civility,” 703.

Williams' theory represents an ideal that must be reformed within liberalism in order to change the relationship of the individual to the common good. Liberalism must connect the duty of civility to more than an idealization, or as a concept that citizens will theoretically choose to uphold without any real incentive. To do so means that citizens will not be able to hide civility behind hollow gestures and empty manners, nor will they be forced to choose between self-interest and the self-understanding of a comprehensive collective common good. When individual freedom is intrinsically connected to the preservation of a committed and civil political realm, civility is allowed to flourish while individual liberty remains primary.

A liberal theory that replaces the idealization of citizenship with the reflexive relationship of individual liberty and collective common good aligns most closely with the discourse theory of Jürgen Habermas. Ultimately, Habermas seeks to supplant both liberalism and republicanism with his third alternative, deliberative discourse theory; understanding Habermas' construction and comparing it to Williams' ideals can further highlight the potential positive effects of Williams' theory of civility upon liberalism. In "Three Normative Models of Democracy," Habermas first outlines traditional liberalism and republicanism and compares them to one another. He begins with comparing the structure of the two theories, arguing first that traditional liberalism is divided into distinct spheres. For liberalism, the state is the site of public administration; civil society contains the "market structured interactions of private persons and their labor," and politics — what he calls political-will-formation — "mediates between society and state by bringing social interests against collective goals of state administration."²²⁹ Conversely, in republicanism, politics and society exist

²²⁹ Habermas, "Three Normative Models of Democracy," in *The Political*, ed. David Ingram (Oxford: Blackwell Publishers, 2002): 151.

together in such a way that politics is no longer the mediator of social interests against the state, and the two in conjunction with each other represent “the reflexive form of substantial ethical life.”²³⁰

The structural differences between liberalism and republicanism have broad implications for Habermas. The construction of the traditional liberal political process means that the status of citizenship is based on rights vis à vis other citizens and the state. Citizens receive civil protection to pursue their own interests as long as they are within the boundaries of the legal statutes. In the liberal political realm, citizens assert private interests through elections and private interests are aggregated into political will that affect state administration, including policy and offices. This is the primary role of politics in liberalism and it is the extent to which citizens interact in one another’s lives.

Like Habermas, this is the liberal model that Rawls seeks to revise in *Political Liberalism*. In this way Rawls, Williams and Habermas share a common project, to construct a political theory that creates more than a *modus vivendi* but an ideal that maximizes individual freedom through mutually agreed upon rights. Both Rawls and Habermas compare liberalism to the political rights of republicanism, which are positive rights that guarantee an inclusive process of political-will formation in which free and equal citizens reach an understanding on which goods and norms lie in equal interest to all. From this perspective, Habermas argues, republican citizens may be credited with more than the exclusive concern with his/her own interests.²³¹ However, like Rawls, Habermas recognizes that positive rights may potentially jeopardize the individual rights of citizens.

Beyond structural differences, the republican and liberal models also have disparate concepts of law. For traditional liberalism, the sole purpose of legal order is to decide who is entitled to which rights, and the state is responsible for this oversight. Here, individual rights remain the priority. In

²³⁰ Ibid.

²³¹ Habermas, “Three Models,” 152-153.

republicanism, the legitimacy of law is tied directly to the process by which laws are created. This preserves internal connection between citizens' practice of self-legislation and sway of the law and makes the right to vote a positive one, since inclusion in a community is directly connected to the autonomy of an individual to contribute and take personal positions. Thus, for Republicans, "The authority guaranteed by private law to pursue private, freely chosen goals simultaneously imposes an obligation to respect the limits of strategic action which are agreed to be in equal interest of all."²³²

Lastly, each political theory differs in its relationship to the political process itself. In traditional liberalism, Habermas argues, politics is essentially the struggle to gain political power. He states, "The political process of opinion — and will formation in the public sphere... is shaped by the competition of strategically acting collectives trying to maintain or acquire positions of power."²³³ Success is measured by citizens' approval of elected officials and counted in votes. However, in republicanism, politics is not representative but dialogical. Administrative power can only be exercised on the basis of policy and within the constraints of an active democratic process. Again, Habermas argues that republicanism "has advantages in that it preserves the radical democratic meaning of a society that organizes itself through the communicatively united citizens and does not trace ideals back to 'deals' made between competing private interests."²³⁴ While Habermas believes that politics should not be reduced to the backroom deals of private interest groups, he also contends that politics needs not be concerned with the ethical self-understanding of a community. Aspects of self-understanding are important to politics, however, Habermas argues:

Under conditions of cultural and social pluralism, behind politically relevant goals there often lie interests and values orientations that are by no means constitutive of the political community as a whole, that is, for the intersubjectively shared form of

²³² Habermas, "Three Models," 153-154.

²³³ Habermas, "Three Models," 154.

²³⁴ Ibid.

life. These interests and value-orientations, which conflict with one another within the same polity without any prospect of consensual resolution, need to be counterbalanced in a way that cannot be affected by ethical discourse, even though the results of this nondiscursive counterbalancing are subject to the proviso that they must not violate the basic values of a culture.²³⁵

For traditional liberalism, the democratic process is not constitutive of the political community, but takes place exclusively in the competing form of compromises between private interests; its rules are justified by basic liberal rights including the entitlement to life, liberty and property. And in republicanism, the democratic process takes the form of the ethical discourse of self-understanding. As Habermas states, “Deliberation must rely on a culturally established background consensus of citizens which is rejuvenated by ritualistic reenactment of a republican founding act.”²³⁶

Deliberative democracy, Habermas argues, is the bridge that joins these two disparate theories, and in doing so creates a political model that moves beyond each, based on ideal procedures for deliberation and decision-making. Habermas argues that deliberative democracy is able to move beyond liberalism and republicanism by rejecting the philosophy of the subject that constrain each of them, including the republican notion that citizens must practice self-determination as a macro-subject and the liberal claim that citizens must only practice self-determination within anonymous rule of law. Instead, Habermas argues that discourse theory exists within a higher-level intersubjectivity, and thus weaves together “negotiations and discourses for self-understanding and justice,” and grounds the democratic procedure in “the presumption that under such conditions, reasonable or fair results are obtained.”²³⁷ In other words, deliberative democracy borrows the traditional liberal ideal of universal human rights as well as the republican

²³⁵ Habermas, “Three Models,” 155.

²³⁶ Ibid.

²³⁷ Habermas, “Three Models,” 156.

ethical life of community, and creates for itself rules of discourse, that derives their content and validity from what Habermas calls the structure of linguistic communication. *This is the procedural foundation of a discursive democracy.*

In this way, deliberative democracy differs from republicanism, which collapses the state and society together to create communal and ethical-political will formation as the entirety of the political whole; and it differs from traditional liberalism, which can only guarantee the non-political good of the private citizen against the rights of other citizens in the market-driven civil realm. Instead, discourse theory gives primacy to the process of political will-formation, like republicanism, while upholding the constitutional rights of citizens through the institutionalization of procedures. In order to do this, it does not rely on the notion of unified ethical citizenry as a “macro-subject” nor argue the “autonomous rule of law” to citizens perceived to be independent actors in a competitive market-based society. Habermas argues, “The former approach represents the citizenry as a collective actor which reflects the whole and acts for its sake; on the later, individual actors function as dependent variables in a systemic processes that unfold blindly because no consciously executed decisions are possible over and above individual acts of choice (except in a purely metaphorical sense).”²³⁸

Deliberative democracy recognizes that the intersubjectivity of communication processes exists at once in the realm of democratic decision-making bodies such as congress, and in the “informal networks of the public sphere.” With the emphasis is on the procedural structures of deliberative democracy, there is a new balance of power between the state, the market and the “solidarity from which modern societies meet their need for integration and regulation.” Habermas concludes, “The integrative force of solidarity, which can no longer be drawn from sources of communicative action, should develop through widely expanded autonomous public spheres as well

²³⁸ Habermas, “Three Models,” 157.

as through legally institutionalized procedures of democratic deliberation and decision-making and gain sufficient strength to hold its own against the other two social forces — money and administrative power.”²³⁹ When citizens engage in deliberation at both the institutional level as well as in the informal networks of the public realm, such as journalistic media, social media and sub-political organizations, citizen-solidarity subordinates the liberal market economy as well as the regulative principles of a republican public administration. Rejecting the philosophy of the citizen-as-subject allows individuals to move freely between the two opposing ideals; they can be both a part of the macro-subject, and the subject of an autonomous rule of law. In this way, citizens emerge as the creators and recipients of their liberty and freedom, or as Habermas states, they become both the “author and addressees” of their rights.

This dialectic of public and private autonomy is an important point for Habermas. In “On the Internal Relation between the Rule of Law and Democracy,” Habermas argues that both liberal and republican theories seek a reciprocal relationship between popular sovereignty, “as expressed in rights of communication and participation that secure public autonomy of citizens” and human rights, or “the classical basic rights that guarantee the private autonomy of members of society.”²⁴⁰ Both theories fall short, with liberalism ultimately choosing private rights over public autonomy, and republicanism choosing the opposite. However, the internal relationship between public autonomy and private rights is a necessary one. Habermas explains:

There is no law without the private autonomy of legal persons in general. Consequently, without basic rights that secure the private autonomy of citizens there is no medium for legally institutionalizing the conditions under which these citizens, as citizens of a state, can make use of their private autonomy. Thus public and private autonomy presuppose each other in such a way that neither human rights nor popular sovereignty can claim priority over its counterpart.

²³⁹ Ibid.

²⁴⁰ Jürgen Habermas, “On the Internal Relation between the Rule of Law and Democracy,” from *The Inclusion of The Other: Studies in Political Theory* ed. Ciaran Cronin and Pablo De Greiff, Cambridge, MA: MIT Press, 1998: 253-264. 258.

Citizens may only take advantage of their public autonomy if their rights are adequately protected, and at the same time citizens will only be able to guarantee that their rights are adequately protected if they make use of their political autonomy. In other words, if liberty means that individuals are both authors as well as addressees of their rights, then having rights means shaping and defining what those rights are. This requires democratic will formation in the form of public autonomy, which is not possible with individual rights and private autonomy, including the constitutional rights of freedom of speech and freedom of assembly.

With an understanding of this third model of democracy, a comparison between Williams' notion of civility and Habermas' discourse theory are easily made. Like Rawls, Williams and Habermas argue that negotiations in a democratic structure require a commitment to civility, or as Rawls states, they "presuppose a readiness to cooperate, that is a willingness to abide by the rules and arrive at the results that are acceptable to all parties, though for different reasons."²⁴¹ However, both Williams and Habermas argue this point differently. For Rawls, this commitment to public reason is generated as a private, personal motivation, which is then brought forward into the public political realm. As such, citizen-commitment to impartiality and public reason results from the ideal of citizenship, or the act of citizens choosing to bracket their individual interests in the public sphere. Conversely, for Habermas, it is within the give-and-take of genuine public deliberation that private preferences are adapted, adjusted, and reshaped so as to acquire public certification, while also contributing, through the convergence of values resulting from this mutually adaptive dialogue, to public or shared preferences, not imposed on individuals, but that emerge from within the context of deliberation. In other words, within the dialectic between public and private autonomy, for Habermas, or between individual rights and a commitment to the common good, as argued by

²⁴¹ Rawls, *Theory of Justice*, 355.

Williams, civility is not a private ideal brought to the public, but citizens recognizing that the commitment to individual liberty and freedom and the civil public sphere are mutually reliant.

This notion leads to a second important similarity between Williams and Habermas. Rawls constructs a narrow conception of a political sphere, where individuals are asked to follow the principles of public reason by selecting universalizable principles from their comprehensive doctrines for the purposes of a strong and stable polity. However, both Williams and Habermas argue that the overlapping consensus is not drawn from the theoretical discoveries of the citizen-philosopher, but public ideals are generated through the dialogical interactions of civilly engaged citizens. Principles of public reason are not restricted to the formal structures of a political polity, but occur in everyday interactions of diverse individuals who are mindful of their vulnerabilities and mutual dependencies.

Despite their interesting intersections, there are important distinctions to be made between the theories of Habermas and the writings of Williams. Perhaps most importantly, Habermas rejects the ideal of the natural law theory of individual freedom of conscience, arguing that a theory rooted in a citizen as subject — whether a macro-subject of republicanism or the autonomous subject of liberalism — is always argued at the expense of the other. In this way, Habermas would reject Williams' argument for civility, as his theory proceeds from his particular attention to individual freedom of conscience. Instead, deliberative democracy focuses on anonymous or subjectless procedures that allow for the intersubjective interaction of individuals who deliberate about the ends of public life, yet does not rely on a self-legislating citizenry nor expect that a common identity will ever be achieved.

In certain ways, Williams argued the opposite. He contended that individuals are naturally moral beings and that citizen-recognition of the vulnerability of the human conscience could incite citizens to adopt bonds of civility and commit to a set of behaviors that promote accommodation,

friendship and honest deliberation as the epicenter of a shared common good. For Williams, tolerance as the boundary condition of civility can be seen as the principle that safeguards moral deliberation in a pluralistic public sphere. In prioritizing one's individual freedom of conscience — the freedom to live the life of one's choosing — citizens must also agree to protect the lives and livelihoods of others in a pluralistic society. To do so, tolerance must be prioritized, and citizens will engage in public conversation that will promote mutual respect among citizens. As Davis states, "Civility to Williams was agreement... on the kind of character that furthers public cooperation and the mutual respect that all humans ought to recognize as good."²⁴² Further, for Williams, civility represented human traits including "sociability," allowing humans to live "soberly and justly among their neighbors."²⁴³

To protect one's own individual freedom, then, citizens must recognize that all persons are entitled to such rights and agree to protect these rights in a pluralistic society. This inspires a feeling of mutual reliance in a civil political public interested first and foremost in the protection of individual freedom of conscience. Williams emphasized the fragility and vulnerability associated with conscience regardless of religious provenance, allowing him to argue that the protection of individual freedom of conscience required social resources and civil attention to the formation and preservation of conditions required for such protection, including tolerance for others and a respect for pluralism.

As a consequence, Williams may provide a stronger bond for commonality, since his theory is not based on abstract rules, which presumably are not directly experienced by all citizens, but rather on bonds of relational dependency that are rooted in a collective consciousness of human fragility and conscience-based vulnerability. Such bonds of citizenship are experienced in a more

²⁴² Davis, "A Return to Civility," 698.

²⁴³ Williams, *George Fox Digg'd Out*, 308, 490. See also Davis, "A Return to Civility," 698.

authentic way for Williams than for Habermas, and yet Williams is still able to retain the liberal realities of individuality and individual autonomy.

Williams' theory may lead to a more inclusive and more civil public sphere. Critics of Habermas argue that the ideal of the subjectless structure places marginalized and underrepresented communities, including women and minorities, at a particular disadvantage. If deliberative democracy is strictly procedural — that is, without any foundation in the citizen-subject — all decisions, including the forwarding of civil laws and rights, must be made through deliberation. This leaves the most advantaged communities, including those with high levels of education and advanced deliberative skills, with the greatest advantage since they are likely to have the strongest presence in deliberative conversations and conversely, marginalized individuals and communities may find it difficult to make their voices and opinions heard. Further, the anonymous rule of law in deliberative democracy does not necessarily grant citizens rights *qua* citizens, which means that there is nothing to guarantee disadvantaged communities fair representation. As a result, Habermas' model of deliberation may favor the educated and articulate. By comparison, Williams' model of civility, as it is based on recognition of human vulnerability, allows for greater attention to the marginalized and dispossessed in society. Citizens should find this idea particularly attractive, as the United States is gripped by growing socio-economic inequalities.

Williams' commitment to all citizens may be best represented by his relationship with the Native Americans local to colonial Rhode Island. As Davis explains, Williams argued that friendship was an important virtue of civility, one at which the Native Americans particularly excelled. "The cooperation and the 'friendly joyning' with which they went about their-labors confirmed to Williams that it was 'true -with them as in all the World in the Affaires of Earth or Heaven: By

concord little things grow great, by discord the greatest come to nothing.”²⁴⁴ The Native Americans' capacity for loyalty, productive camaraderie and other virtues of civility, despite differences in culture and religion, affirmed Williams' assertion that a commitment to mutual respect for the rights and lives of others can provide a foundation for human cohabitation and flourishing, even across religious and cultural boundaries.²⁴⁵

Critics of deliberative democracy may find Williams' influence on Rawlsian liberalism easier to support than Habermas' subjectless citizen. Williams' primary commitment to individual freedom of conscience in a pluralistic society means that citizens must commit themselves to a civil sphere that protects the individual conscience of all. This requires some prior set of values, such as a sense of mutual dependency, which is arguably forged through an awareness of the vulnerabilities associated with a respect for individual liberty. In this way, Williams is important in reminding us that civility in the public domain emphasizes the importance of liberal individualism, which is dependent upon an ethic of caring for the rights and lives of other citizens. This is an ideal of civility that must play a greater role in modern liberal democracy.

Hearteningly, organizations that model themselves on more deliberative forms of democracy, including increased sites of public debate and civic engagement, have begun to flourish in different areas of the United States. Programs such as The Citizens Initiative Review Board in Portland, Oregon, The Democracy Imperative at the University of New Hampshire and The Summer Institute for Civic Studies at Tufts University, among others, are bringing together citizens to redefine the ways in which we interact with one another as well as how we engage with the greater political process. More work needs to be done around generating new, constructive conversations about the importance of civic engagement to the freedom of all individuals; these conversations may

²⁴⁴ Roger Williams. *A Key into the Language of America*. Reprint: Bedford, MA. Applewood Books, 1997, 7-10. See also, Davis “A Return to Civility,” 699.

²⁴⁵ Davis, “A Return to Civility,” 699.

be spearheaded by independent organizations, educational institutions or policy initiatives. We must consider what civility means in our modern democratic liberal structures, not as an aspiration or idealization but specifically and realizably. Roger Williams is a great reminder that *E Pluribus Unum* remains relevant: as liberal democratic citizens, we must depend on each other to create a political public that strives to maximize the individual freedom of all, and such an ideal cannot be realized without greater commitment civil conversation, civic dialogue and the collective common good.

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VITA

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