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Political Liberalism and the Fate of Unreasonable People

Cover Page Footnote

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POLITICAL LIBERALISM AND THE FATE OF UNREASONABLE PEOPLE

*Fuat Gursozlu**

An unavoidable issue for every liberal democratic theory is the question of how liberals should engage with those who reject the fundamental values and principles of liberal democracy. In John Rawls's political liberal project, this issue centers on the discussion of unreasonable people.¹ The difficulty is that although the distinction between reasonable and unreasonable has a central place in political liberalism, Rawls does not provide a clear answer to the question of how liberals should engage with unreasonable people.² Apart from the exclusion of the unreasonable people from the social contract meaning,³ Rawls's concern in *Political Liberalism*⁴ is to work out which constitutional essentials would be justifiable to reasonable people; there is not much in Rawls's political thought on this issue.⁵ Rawls's remarks, such as the famous footnote in which he states that liberals should contain unreasonable doctrines like war and disease, only add to the ambiguity of his position.⁶

Those who attempted to disambiguate Rawls's position on the fate of unreasonable people have proposed radically different accounts.⁷ Despite their differences, however, these attempts center on the discussion of the question of whether rights and liberties of unreasonable people may be infringed in a liberal democratic regime.⁸

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¹ JOHN RAWLS, *POLITICAL LIBERALISM* (expanded ed. 2005).

² *Id.*

³ *Id.* at 276.

⁴ JOHN RAWLS, *POLITICAL LIBERALISM* (expanded ed. 2005).

⁵ *Id.* at 230.

⁶ *Id.* at 64.

⁷ See generally Marilyn Friedman, *John Rawls and the Political Coercion of Unreasonable People*, in *THE IDEA OF POLITICAL LIBERALISM* 16 (Victoria Davion & Clark Wolf eds., 2000); see also JONATHAN QUONG, *LIBERALISM WITHOUT PERFECTION* (2011).

⁸ Friedman, *supra* note 7, at 22; QUONG, *supra* note 7, at 290.

In this article, I suggest that conceiving the place of unreasonable people in political liberalism in terms of the limitation of their rights and liberties provides a crucially incomplete account. My claim is that by focusing on the question of the rights of unreasonable people, the attempts to reconstruct Rawls's position on unreasonable citizens fail to recognize a larger dynamic in political liberalism that sheds light on the fate of unreasonable people. To illustrate my point, I concentrate on Marilyn Friedman's and Jonathan Quong's attempts to reconstruct Rawls's position on the place of unreasonable people.⁹ Friedman argues that political liberalism authorizes restricting the rights of unreasonable people, particularly their freedom of expression, in order to contain unreasonable doctrines and secure the stability of the regime.¹⁰ Jonathan Quong criticizes Friedman's interpretation of Rawls and suggests that Rawls proposes a very narrow range of cases in which the rights of unreasonable people may be justifiably restricted.¹¹ According to Quong, in a politically liberal society unreasonable citizens would not be denied the benefits of citizenship.¹² Differing from these interpretations, I present an alternative account implicit in late-Rawls's thought. I argue that to reconstruct an accurate account of the fate of unreasonable citizens, one should shift the focus from a rights-based approach to the educative effects of political liberalism on unreasonable citizens. This shift reveals the transformative influence of the political liberal regime on unreasonable citizens and brings to the fore an account of containment as transformation.

The aim of this paper is to challenge the widely accepted interpretations of Rawls and to provide a more accurate account of the fate of unreasonable people in political liberalism. The paper will start with a brief examination of the main idea of political liberalism and explore the emergence of unreasonable people as a problem. I then focus on Friedman's and Quong's accounts of the fate of unreasonable people in political liberalism and show that both approaches fail to provide a satisfactory account. In the third and fourth sections, I present a fuller account of the fate of unreasonable people in political liberalism. I first locate the origin of this account in *A Theory of*

⁹ Friedman, *supra* note 7; QUONG, *supra* note 7.

¹⁰ Friedman, *supra* note 7, at 23.

¹¹ QUONG, *supra* note 7, at 292.

¹² *Id.* at 293.

*Justice*¹³ and then turn to *Political Liberalism* to show that Rawls's position on the status of unreasonable people centers on the reformation of unreasonable citizens over time.¹⁴

I. POLITICAL LIBERALISM AND UNREASONABLE PEOPLE

Rawls's *Political Liberalism* starts with the premise of the existence of a pluralism of incompatible, yet reasonable, comprehensive doctrines.¹⁵ Rawls suggests that in a democratic society, with its guarantees of basic rights and liberties, a diversity of conflicting comprehensive doctrines will always exist.¹⁶ This fact of pluralism is the result of free exercise of human reason.¹⁷ Under the conditions of pluralism, a society united on a comprehensive religious, moral, or philosophical doctrine is possible "only by the oppressive use of state power."¹⁸ As such, Rawls argues that the account of stability defended in *A Theory of Justice*, which centers on an ideal of a well-ordered society united by a comprehensive philosophical doctrine, is unrealistic.¹⁹ Having recognized these facts about a modern democratic society and the problem with his account of stability in *A Theory of Justice*, Rawls defines the aim of *Political Liberalism* as to answer the question of "[h]ow is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?"²⁰ Given the fact of reasonable pluralism, Rawls suggests that only a political conception of justice could be the focus of an overlapping consensus, and thereby, provide the stability of a democratic society divided by conflicting comprehensive doctrines.²¹ A political conception, unlike a comprehensive doctrine, has limited scope and freestanding character.²² While a comprehensive doctrine applies to all or almost all areas of life and deals with issues of the

¹³ JOHN RAWLS, *A THEORY OF JUSTICE* (rev. ed. 1999).

¹⁴ RAWLS, *supra* note 1, at 199-200.

¹⁵ *Id.* at 3-4.

¹⁶ *Id.* at 4-6.

¹⁷ *Id.* at 4, 36.

¹⁸ *Id.* at 37; JOHN RAWLS, *JUSTICE AS FAIRNESS: A RESTATEMENT* 34 (Erin Kelly ed., 2001).

¹⁹ RAWLS, *supra* note 1, at xvii.

²⁰ *Id.* at xviii.

²¹ *Id.* at 134-37.

²² *Id.* at 12, 175-76.

good life, value, personal character and virtue, a political conception is worked out “for a specific subject, namely, the basic structure of a constitutional regime” and is neither derived from nor justified by reference to a particular comprehensive religious, philosophical, or moral doctrine.²³ The distinction is crucial for political liberalism. By distinguishing political conceptions from comprehensive doctrines, Rawls could defend the view that citizens endorsing conflicting comprehensive doctrines can endorse a political conception of justice without giving up their support of their comprehensive doctrines. Thus, Rawls recasts justice as fairness in political terms and argues that as a political conception of justice, it could gain the support of all reasonable citizens.

The promise of political liberalism is that even under the conditions of pluralism, it is possible to justify certain principles of justice that could be affirmed as part of an overlapping consensus. One of the fundamental characteristics of a democratic society—the plurality of irreconcilable comprehensive doctrines—does not undermine the possibility of a legitimate and stable liberal political order. An overlapping consensus is possible because reasonable citizens recognize the fact of reasonable disagreement and understand that political legitimacy cannot rest on one comprehensive doctrine, as there is no one doctrine that is affirmed by all or nearly all citizens. As Rawls notes, in a democracy, political power is the power of the public and the citizens’ exercise of power can only be fully proper “when it is exercised in accordance with a constitution 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 their common human reason.”²⁴ Reasonable people affirm this liberal principle of legitimacy and the relation of reciprocity it fosters with each other. They accept the idea that “[i]t is unreasonable for us to use political power, should we possess it, or share it with others, to repress comprehensive views that are not unreasonable.”²⁵ They are willing “to propose fair terms of cooperation and to abide by them provided others do.”²⁶ As such, they would support a political conception of justice worked out as a freestanding view because it is reasonable.

As Rawls recognizes, free institutions do not only generate a

²³ *Id.* at 11, 13-14, 175.

²⁴ RAWLS, *supra* note 1, at 137.

²⁵ *Id.* at 61.

²⁶ *Id.* at 54.

variety of reasonable doctrines, but they tend to generate a variety of comprehensive religious, philosophical, and moral doctrines.²⁷ Not everyone in a democratic society will be able to accept freestanding liberal principles of justice and a political order based on these ideals.²⁸ For Rawls, anyone who refuses to cooperate with others on terms that all can accept and who rejects reasonable pluralism is unreasonable.²⁹ And the comprehensive doctrines affirmed by unreasonable people are unreasonable.³⁰ Unreasonable people may not be willing to forego their claims for using the coercive power of the state in order to establish the hegemony of their own ideas.³¹ Rawls acknowledges that there will always be those who struggle to impose the whole truth of their comprehensive doctrine in politics.³² For Rawls, insistence on the whole truth in politics is incompatible with the ideal of democratic citizenship.³³ Political liberalism replies to these people by stating that, given the plurality of reasonable doctrines, it is unreasonable to use a comprehensive doctrine as the basis of constitutional essentials.³⁴ For instance, from the perspective of political liberalism, those who may claim that outside the church there is no salvation, and thus, the constitutional essentials based on liberal values must be rejected, are politically unreasonable.³⁵ They propose to use political power to reshape the constitutional essentials by forcibly imposing a comprehensive religious doctrine that citizens differ uncompromisingly.³⁶ Rejecting reasonable disagreement would imply the idea that the proponents of one comprehensive doctrine have priority over the others in using the coercive power of the state.³⁷ However, the alleged priority cannot be justified given the fact of reasonable pluralism.³⁸ In political liberalism, the idea of politically reasonable replaces the idea of truth and right based on com-

²⁷ *Id.* at 3-4.

²⁸ *Id.* at 60.

²⁹ RAWLS, *supra* note 1, at 61-62.

³⁰ *Id.* at 62.

³¹ *Id.* at 64-65.

³² *Id.* at 50.

³³ *Id.* at 243.

³⁴ RAWLS, *supra* note 1, at 138.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at 138-39.

³⁸ *Id.* at 138.

prehensive doctrines.³⁹ Unreasonable people claim that the truth of their comprehensive doctrines, religious or philosophical, outweighs the politically reasonable.⁴⁰ Rawls underlines that “political liberalism does not engage” with people who think in this way.⁴¹

Political liberalism is interested in which principles of justice would be justifiable to reasonable people and it addresses reasonable people for an overlapping consensus.⁴² This means that the views of unreasonable people are simply irrelevant from the outset.⁴³ The reasons provided for the defense of political liberalism are neither aimed at unreasonable people nor would succeed in convincing them.⁴⁴ Yet, there will always be those who believe that the institutions that govern their lives are based on values and ideas that they cannot endorse.⁴⁵ These citizens will recognize that the political regime sees them as a threat to its own existence.⁴⁶ As Rawls points out, actual societies “will normally contain numerous unreasonable doctrines” and these doctrines are a threat to democratic institutions.⁴⁷ Moreover, Rawls adds, “[t]heir existence sets a limit to the aim of fully realizing a reasonable democratic society with its ideal of public reason and the idea of legitimate law.”⁴⁸ Unreasonable people create a problem for the stability and unity of the liberal political regime as well as its full realization.⁴⁹ They cannot support a democratic regime and

³⁹ See RAWLS, *supra* note 1, at 488 (noting that the idea is that politically reasonable is sufficient when the issue is of matters of basic justice and constitutional essentials).

⁴⁰ *Id.*

⁴¹ *Id.* at 442.

⁴² RAWLS, *supra* note 13, at 339-40.

⁴³ *Id.* at 340 (asserting that so long as reciprocity is fulfilled, the views of the unreasonable people are cancelled out by the majority).

⁴⁴ See Jean Hampton, *The Common Faith of Liberalism*, 75 PAC. PHIL. Q. 186, 210-11 (1994) (arguing that the idea of reasonable has illiberal tones); see also Steve Scalet, *Legitimacy, Confrontation Respect, and the Bind of Freestanding Liberalism*, 41 J. SOC. PHIL. 92, 95-96 (2011) (arguing that by avoiding a comprehensive intellectual exchange liberals disrespect unreasonable people).

⁴⁵ Scalet, *supra* note 44, at 94.

⁴⁶ See Martha Nussbaum, *Political Soul-Making and the Imminent Demise of Liberal Education*, 37 J. SOC. PHIL. 301, 307 (2006); Martha Nussbaum, *Perfectionist Liberalism and Political Liberalism: A Response to Joseph Raz*, UNIV. OF CHI. LAW SCH. FAC. BLOG (Nov. 08, 2008, 2:15 PM), <http://uchicagolaw.typepad.com/faculty/2008/11/perfectionist-1.html>. Nussbaum uses the concept of ‘expressive subordination’ to describe the status of non-liberal citizens living in a perfectionist liberal society. Yet, she fails to recognize that unreasonable citizens living in a political liberal regime live under similar conditions.

⁴⁷ RAWLS, *supra* note 1, at 488-89.

⁴⁸ *Id.* at 489.

⁴⁹ *Id.*

they are not part of the overlapping consensus.⁵⁰ Political liberalism argues that a consensus albeit a limited one is possible even under the conditions of plurality, but it does not say much about the status of unreasonable people in a well-ordered society.⁵¹ We are left with several significant questions. How should liberals deal with those who oppose a liberal order? What is the status of reasonable citizens in a well-ordered society? What is awaiting the unreasonable people in a political liberal regime?

II. THE STATUS OF UNREASONABLE CITIZENS: TWO ACCOUNTS OF CONTAINMENT

Does Rawls's political liberalism have something to say regarding the fate of unreasonable people in a well-ordered society? Reconstructing Rawls's position on this issue is a challenging task because Rawls does not give a clear answer to the question of how liberals should deal with the unreasonable people. Commentators have tried to provide a coherent account by focusing on the very few passages in *Political Liberalism* where Rawls addresses the issue.⁵² These efforts have led to two main interpretations—one by Marilyn Friedman and the other by Jonathan Quong—that are in conflict with each other.⁵³

Friedman first draws attention to the exclusionary implications of political liberalism and then proposes an account of *strong containment* by arguing that for those who endorse unreasonable doctrines there is more at stake in Rawls's political liberalism than simply being excluded from the constituency of political liberalism.⁵⁴ Friedman claims that the political autonomy of the unreasonable citizen is violated by Rawls's legitimation methods.⁵⁵ According to Friedman, the consent or dissent of the unreasonable people are irrelevant for the legitimacy of the politically liberal regime since the le-

⁵⁰ Hampton, *supra* note 44, at 210.

⁵¹ RAWLS, *supra* note 1, at 487.

⁵² *Id.* at 483, 489.

⁵³ Friedman, *supra* note 7, at 16-33; Jonathan Quong, *The Rights of Unreasonable Citizens*, 12 THE J. OF POL. PHIL. 314 (2004).

⁵⁴ Friedman, *supra* note 7, at 22.

⁵⁵ *Id.* at 17 (concerning the political autonomy and freedom of the unreasonable citizens who withhold their consent from political liberalism. The fact that one is unreasonable does not mean that one will not endorse the system, though their consent would be irrelevant for the legitimacy of the regime).

gitimacy of the liberal democratic institutions solely depends on the consent of the reasonable people.⁵⁶ Unreasonable people are excluded from the “legitimation pool”, that is, they are not part of “the pool of persons whose endorsement would confirm the legitimacy of Rawls’s political liberalism—or whose rejection would confirm its illegitimacy.”⁵⁷ For Friedman, it follows that not only the opinions of the unreasonable people are irrelevant, but also that the state is entitled to exercise its coercive power over unreasonable people without their consent.⁵⁸ The important point here, for Friedman, is that exclusion of the unreasonable people from the legitimation pool is only part of what is awaiting the unreasonable people in political liberalism.⁵⁹ Pointing out the well-known footnote in which Rawls says that unreasonable doctrines should be contained like war and disease, she suggests that in daily life unreasonable citizens “will be denied the full protection of the system’s basic rights and liberties, particularly freedom of expression.”⁶⁰ As such, she concludes, those who reject the basic freedoms “will be treated like the bearers of a pestilence.”⁶¹

In response to Friedman, Jonathan Quong argues that Friedman’s interpretation of Rawls is “obviously incorrect” since for Rawls “there is not one account of toleration for reasonable doctrines and another for unreasonable ones.”⁶² As Quong points out, Rawls clearly states that “[b]oth cases are settled by the appropriate political principles of justice and the conduct those principles permit. . . .”⁶³ The fact that unreasonable citizens are excluded from the constituency of public justification does not mean that benefits of citizenship do not extend to them.⁶⁴ For Quong, Friedman and those who endorse a similar interpretation of Rawls simply misunderstand the social contractarian reasoning.⁶⁵ Quong notes that the principles of justice derived in the original position holds for everyone “and not just those

⁵⁶ *Id.* at 16.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Friedman, *supra* note 7, at 17.

⁶⁰ *Id.* at 22-23.

⁶¹ *Id.* at 23.

⁶² Quong, *supra* note 53, at 316.

⁶³ *Id.*; see generally QUONG, *supra* note 7, at 290-314.

⁶⁴ Quong, *supra* note 53, at 316.

⁶⁵ *Id.* at 317.

citizens who happen to endorse their premises.”⁶⁶ Therefore, Quong concludes, in Rawls’s political liberalism there are no *a priori* reasons to deny unreasonable people the benefits of citizenship.⁶⁷

As Quong states, even if the unreasonable people are not excluded from the benefits of citizenship, there “may be *additional* reasons why we would be justified in” denying the basic rights or other liberties of unreasonable citizens.⁶⁸ Quong advances his account of *weak containment* which suggests that Rawls proposes a very narrow range of cases in which the rights of the unreasonable people may be justifiably restricted.⁶⁹ At this point, Quong rightly points out that, according to Rawls, the normative stability of the liberal democratic regime depends on whether it is capable of generating its own support.⁷⁰ If citizens do not see the fundamental institutions of liberal democracy as worthy of their support and enough people reject the basic rights and liberties, then an overlapping consensus becomes impossible.⁷¹ Therefore, Quong concludes, it is “essential that doctrines which deny the freedom and equality of persons not become so prevalent that they threaten to undermine the essentials of a liberal democratic regime.”⁷² On this reading of Rawls, the normative stability of liberal democracy justifies containment of unreasonable doctrines as a legitimate political objective. Put differently, unreasonable doctrines need to be contained since they threaten the stability of the regime.

To uncover the implications of Rawls’s position, it is imperative to understand what containment of unreasonable doctrines entails. Unfortunately, nowhere does Rawls explain what exactly he means by “contain”; thus, as Quong points out, “we are forced to *decide*” what he means.⁷³ Quong suggests that containment of unreasonable doctrines can be described as “*any policy whose primary intention is to undermine or restrict the spread of ideas that reject the fundamental tenets of liberal democracy. . . .*”⁷⁴ The question then is when it is permissible to implement policies to restrict the spread of

⁶⁶ *Id.* at 316.

⁶⁷ *Id.* at 317.

⁶⁸ *Id.*

⁶⁹ Quong, *supra* note 53, at 324-25.

⁷⁰ *Id.* at 324.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.* at 323 (emphasis added).

⁷⁴ Quong, *supra* note 53, at 323.

unreasonable doctrines. Quong concludes that apart from the most extreme circumstances, such as when subversive advocacy is “both directed to inciting imminent and unlawful use of force and [is] likely to achieve this result,” there is no other case in which the rights of the unreasonable citizens may be justifiably infringed for the sake of the normative stability of the regime.⁷⁵

III. EXPLORING THE TENSION

Both accounts of containment seem to recognize the tension in Rawls’s political theory between the need to contain unreasonable doctrines and the rights and liberties that Rawls’s theory accords to all citizens. But, they approach the tension in different ways.

Based on Rawls’s remarks on the practical political task of containing unreasonable doctrines, Friedman proposes an account of strong containment by suggesting that containment requires “regulating and controlling the media in which it is expressed and promulgated – books, magazines, cyberspace, and so on” as well as “suppressing those who hold the doctrine, in particular, suppressing their expression [of] and/or enactment of it.”⁷⁶ In doing so, Friedman decides to deepen the tension, rather than exploring it by asking whether there are other ways to interpret containment that could be supported by the Rawlsian framework or whether there are aspects of Rawls’s theory that limits her interpretation of Rawls.⁷⁷ However, as Quong rightly points out, she seems to ignore certain points in Rawls’s theory that undermine her interpretation.⁷⁸ Recognizing the tension in Rawls’s thought, Quong decides to resolve it by arguing that, according to Rawls, the argument for the normative stability of the regime might justify violating the rights of the unreasonable people.⁷⁹ Thus, the need to contain unreasonable doctrines like war and disease appears as a legitimate political objective, thereby accommodating the tension between the framework of rights and liberties and containment of unreasonable people.

Quong’s account of the status of the unreasonable people in political liberalism seems to be the widely accepted one. Joshua Co-

⁷⁵ *Id.* at 323-24 (quoting RAWLS, *supra* note 1, at 348).

⁷⁶ Friedman, *supra* note 7, at 22-23.

⁷⁷ *Id.*

⁷⁸ Quong, *supra* note 53, at 316-17.

⁷⁹ *Id.* at 314.

hen, for example, points out that Rawls's remarks on the need to contain unreasonable doctrines does not "imply that we may do whatever we judge appropriate for containing objectionable views, any more than we can fight a disease by simply quarantining people who are sick."⁸⁰ Similar to Quong, Cohen refers to Rawls's discussion of the right of subversive advocacy as well as his discussion of the tolerating the intolerant to support his point.⁸¹ Martha Nussbaum also points out Rawls's discussion of subversive advocacy while endorsing the account of weak containment.⁸² For Nussbaum, "Rawls's highly protective doctrine of free political speech suggests that [the speech of the unreasonable people] may be limited only in the sort of emergency that amounts to a constitutional crisis."⁸³ According to Nussbaum, containment refers to the need to entrench the major liberties in a constitution, "and thus doctrines that propose the elimination of one or more of these liberties cannot come up as simple legislative proposals."⁸⁴

At first glance, the account of weak containment seems to be a satisfactory interpretation of Rawls's position. A significant problem with this interpretation appears when Rawls's argument for the normative stability of the liberal democratic regime is taken seriously.⁸⁵ Quong rightly points out that Rawls's argument for the normative stability of the regime is based on the idea that normative stability calls for a reasonable, overlapping consensus which is impossible if enough people reject the basic values of political liberalism.⁸⁶ As such, it is essential that unreasonable doctrines do not become so prevalent "that they threaten to undermine the essentials of a liberal democratic regime."⁸⁷ This argument justifies infringing the rights of unreasonable citizens in certain cases. And Rawls suggests a very narrow range of cases in which the argument for containment applies and, as Quong also recognizes, these cases, such as imminent revolt,

⁸⁰ Joshua Cohen, *A More Democratic Liberalism*, 92 MICH. L. REV. 1503, 1538 n.134 (1994).

⁸¹ *Id.*

⁸² See generally Martha Nussbaum, *Perfectionist Liberalism and Political Liberalism*, 39 PHIL. & PUB. AFF. 3 (2011).

⁸³ *Id.* at 23.

⁸⁴ *Id.* at 24.

⁸⁵ Quong, *supra* note 53, at 324.

⁸⁶ *Id.*

⁸⁷ *Id.*

are not that relevant today in modern constitutional democracies.⁸⁸ Yet, it seems rather odd that given the argument for the stability of the regime and the need to contain unreasonable doctrines to preserve the unity and justice of society, the only practical political suggestion Rawls seems to consider is the restriction of the rights of the unreasonable people when the unreasonable become strong enough to act to overturn the institutions of the regime itself. The point is not that Rawls proposes more cases in which restricting the rights of the unreasonable is justified, rather it is that given the centrality of the normative stability of the regime, the issue of containment may not only be about restricting the rights and liberties of unreasonable citizens. When one considers Rawls's argument for the normative stability together with Quong's account of weak containment, one cannot help but wonder whether this is all Rawls says on the issue.

According to Quong's interpretation of Rawls, in a political liberal regime unreasonable people would enjoy their basic rights and liberties until they grow very strong and decide to act to overthrow the institutions of liberal democratic regime.⁸⁹ But, Rawls clearly states that "[u]nreasonable doctrines are a threat to democratic institutions, since it is impossible for them to abide by a constitutional regime except as a *modus vivendi*."⁹⁰ Once Rawls identifies the main threat to the liberal democratic regime, he acknowledges that their existence is a "permanent fact of life, or seems so."⁹¹ And since a well-ordered society requires that the dominant and controlling citizens endorse a reasonable political conception of justice, "[t]his gives us the *practical* task of containing them –like war and disease– so that they do not overturn political justice."⁹² However, if containment, as Quong suggests, refers only to policies that restrict or undermine the spread of ideas that reject basic values of liberal democracy, then it seems that Rawls emphasizes the need to restrict or undermine the spread of unreasonable doctrines so that they will not become prevalent and threaten to undermine the essentials of a liberal democratic regime, which calls for policies that can only be effective over relatively long time periods, while arguing that it is justified to contain

⁸⁸ *Id.* at 324-25.

⁸⁹ *Id.* at 314, 317, 323-24, 334-35.

⁹⁰ RAWLS, *supra* note 1, at 489 (emphasis in original).

⁹¹ *Id.* at 64 n.19.

⁹² *Id.* (emphasis added).

unreasonable doctrines only when there is immediate danger.⁹³ Quong's interpretation by coupling containment with the issue of rights of unreasonable citizens creates another tension in Rawls's thought which Quong fails to recognize. It is important to notice here that Rawls's concern is not whether the liberal majority has the right to restrict the rights of the unreasonable minority, which is an issue he briefly discusses elsewhere.⁹⁴ Rather, it is the development of reasonable citizens in appropriate numbers to maintain an enduring liberal society.⁹⁵ By centering his account of containment around the issue of rights and liberties of unreasonable people, Quong fails to explore whether Rawls's theory could support an alternative account of containment.⁹⁶ In doing so, he downplays the force of the argument for normative stability as well as Rawls's concern for the normative stability of the regime.⁹⁷

The argument for the normative stability draws attention to the fact that if enough citizens reject basic values of political liberalism and become prevalent stability is impossible. So, the aim is to prevent the unreasonable from becoming so prevalent that they threaten to undermine the essentials of a liberal democratic regime. Thus, a liberal political regime should generate sufficient support for itself and thereby establish and preserve stability. An account of containment that is supported by Rawls's political thought should take seriously the importance of this core idea. Seen from this perspective, Rawls's political liberal project offers another mechanism to contain the unreasonable thereby ensuring that dominant and controlling citizens are reasonable. In the rest of the article, I suggest that to understand what the argument for containment amounts to it is necessary to explore the tension rather than trying to overcome or deepen it.

⁹³ Quong, *supra* note 53, at 314-15, 323-24, 326-29, 334-35.

⁹⁴ See RAWLS, *supra* note 13, at 197 (introducing the possibility that Rawls's suggests working towards the improvement of reasonable citizens rather than constraining those who are unreasonable).

⁹⁵ Quong, *supra* note 53, at 328.

⁹⁶ *Id.* at 314-18, 322-31.

⁹⁷ *Id.* at 314, 324-26, 328-30, 334. This is rather surprising since Quong later appeals to Rawls's argument for the normative stability to argue that it might be used to justify restricting or withholding the rights of unreasonable people when the issue at stake is education of children and the dissemination of hate speech and literature. *Id.* at 326.

IV. THE CORE OF CONTAINMENT AS TRANSFORMATION

The dominant interpretation advanced by Quong is correct insofar as one proposes an account of containment that solely centers on the issue of rights of unreasonable people. One who follows Quong's steps in reconstructing Rawls's account of containment could arrive at the conclusion he proposes. However, once one turns to the educative effects of the liberal political regime on the lives of citizens and the role it plays in Rawls's political liberalism, a different account of containment comes to the fore.⁹⁸ Seen from this perspective, what Rawls means by contain and the fate of unreasonable citizens in political liberalism takes on a different meaning. And the dominant interpretation proves to be lacking a significant dimension of Rawls's account of containment.

Recall that when Quong argues that Friedman obviously misinterprets Rawls, he refers to the passage in *The Idea of Public Reason Revisited*⁹⁹ in which Rawls states that actual societies normally contain unreasonable doctrines and "how far [they] may be active and are to be tolerated in a constitutional democratic regime" is not a new challenge.¹⁰⁰ Rawls continues by emphasizing that "[t]here is not one account of toleration for reasonable doctrines and another for unreasonable ones."¹⁰¹ Both cases are settled by the appropriate political principles of justice and the conduct those principles permit."¹⁰² In the footnote following this sentence Rawls refers to two critical sections—one in *A Theory of Justice* and the other in *Political Liberalism*—both of which are surprisingly neglected by theorists who endorse the rights based account of containment.¹⁰³ Yet, both

⁹⁸ The literature on the role transformative effects of the political order plays in Rawls' political liberalism is vast. See Ed Wingenbach, *Unjust Context: The Priority of Stability in Rawls's Contextualized Theory of Justice*, 43 AM. J. POL. SCI. 213, 213, 222 (1999); Sheldon Wolin, *The Liberal Democratic Divide. On Rawls's Political Liberalism*, 24 POL. THEORY 98, 98, 111 (1996); e.g. Patrick Neal, *Vulgar Liberalism*, 21 POL. THEORY 623, 623, 626, 635-37 (1993); e.g. Russell Muirhead & Nancy L. Rosenblum, *Political Liberalism vs. 'The Great Game of Politics': The Politics of Political Liberalism*, 4 PERSP. ON POL. 99, 99-100, 102, 105 (1996); e.g. Steven Macedo, *Transformative Constitutionalism and the Case of Religion: Defending the Moderate Hegemony of Liberalism*, 26 POL. THEORY 1-3, 9, 13 (1998); e.g. Cohen, *supra* note 80, at 1504-07, 1530-31, 1546.

⁹⁹ QUONG, *supra* note 7, at 292.

¹⁰⁰ JOHN RAWLS, *THE LAW OF PEOPLES: THE IDEA OF PUBLIC REASON REVISITED* 178 (2002).

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*; RAWLS, *supra* note 13, at 190-94; RAWLS, *supra* note 1, at 197-200.

references are important in understanding the fate of the unreasonable in political liberalism.

First, Rawls references the section “Toleration of the Intolerant” in *Theory*.¹⁰⁴ In this section, Rawls argues that although the intolerant sect has no “title to complain if it is not tolerated,” it still does not follow from this that “tolerant sects have the right to suppress them.”¹⁰⁵ The tolerant have a right to curb the intolerant “when they sincerely and with reason believe that intolerance is necessary for their own security.”¹⁰⁶ The more challenging question is whether the tolerant have the right not to tolerate the intolerant when the intolerant “are of no immediate danger to the equal liberties of others.”¹⁰⁷ Rawls concludes that “when the constitution itself is secure, there is no reason to deny freedom to the intolerant.”¹⁰⁸ The guiding principle should be that the freedom of an intolerant sect should be restricted “only when the tolerant sincerely and with reason believe that their own security and that of the institutions of liberty are in danger.”¹⁰⁹ Rawls continues by pointing out how the question of tolerating the intolerant relate to the stability of a well-ordered society, which reveals the core of the idea of containment as transformation.¹¹⁰

At this point, Rawls indicates that “[i]f an intolerant sect appears in a well-ordered society, the others should keep in mind the inherent stability of their institutions.”¹¹¹ It is important to recognize that protecting “[t]he liberties of the intolerant may persuade them to a belief in freedom” and thus the intolerant acquires an allegiance to the institutions of the well-ordered society over a period of time.¹¹² The underlying assumption is that “those whose liberties are protected by and who benefit from a just constitution will, other things equal, acquire an allegiance to it over a period of time.”¹¹³ Rawls calls this the “psychological principle.”¹¹⁴ An intolerant sect “will

¹⁰⁴ RAWLS, *supra* note 13, at 190.

¹⁰⁵ *Id.* at 190-91.

¹⁰⁶ *Id.* at 192.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ RAWLS, *supra* note 13, at 193.

¹¹⁰ *Id.* at 193-94.

¹¹¹ *Id.* at 192.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ RAWLS, *supra* note 13, at 192.

tend to lose its intolerance . . . provided that it is not so strong initially that it can impose its will straightway, or does not grow so rapidly that the psychological principle has no time to take hold”¹¹⁵ Rawls’s emphasis on the transformative effects of tolerating the intolerant indicates that there is more to the policy of containment than the rights based interpretation entails.¹¹⁶ Rawls’s remarks in this paragraph introduce the possibility of an alternative account of containment which centers around the educative effects of living in a well-ordered regime on citizens’ development and their idea of the good.¹¹⁷ However, Rawls recognizes that the forces that maintain the stability of just institutions cannot always convert the intolerant, especially when the “intolerant sect [is] so strong initially or growing so fast”¹¹⁸ In this case, Rawls says, we are faced with a “practical dilemma which philosophy alone cannot resolve.”¹¹⁹ The just institutions have a natural strength to transform the intolerant, whereas it should not be “supposed that tendencies to depart from them go unchecked and always win out.”¹²⁰ Thus, Rawls suggests, “[w]hether the liberty of the intolerant should be limited to preserve freedom under a just constitution depends on the circumstances.”¹²¹ The important point here is that the tension that both Friedman and Quong deal with first emerges in *Theory* between citizens’ natural duty of justice to uphold a just constitution, which includes protecting the rights and liberties of the intolerant, and the need to preserve “our . . . legitimate interests” and the institutions of the just regime by curbing the intolerant.¹²² Rawls acknowledges the dilemma, yet he does not resolve it.¹²³ It is a practical dilemma, the solution of which depends on how tolerant citizens perceive the circumstances.¹²⁴ It is important to notice here that this practical dilemma need not arise if the liberal democratic regime could successfully transform the intolerant over time.¹²⁵ The educative political implications of tolerating the intoler-

¹¹⁵ *Id.* at 192-93.

¹¹⁶ *Id.* at 192.

¹¹⁷ *Id.* at 192-93.

¹¹⁸ *Id.* at 193.

¹¹⁹ RAWLS, *supra* note 13, at 193.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.* at 192.

¹²³ RAWLS, *supra* note 1, at 198.

¹²⁴ *Id.*

¹²⁵ *Id.* at 195.

ant constitute the core of the account of containment, which takes a more complex form in *Political Liberalism*.¹²⁶

V. CONTAINMENT AS TRANSFORMATION

The second reference in the footnote -Lecture V section 6.2 in *Political Liberalism*- points out a similar, but subtler version of transformation and thus it is essential for an accurate understanding of the fate of the unreasonable in Rawls's political liberalism.¹²⁷ In this section, Rawls discusses the question of whether justice as fairness is fair to the conceptions of the good. The issue is that "if some conceptions [of the good] will die out and others survive only barely in a just constitutional regime," it may seem unfair to them.¹²⁸ And it might even appear "unjust to the people whose conceptions they are, or might be."¹²⁹ Rawls's reply to this criticism provides the first dimension of the politics of containment.¹³⁰ Rawls states that the political conception of justice is not "unfair to them [because] social influences favoring some doctrines over others cannot be avoided by any view of political justice."¹³¹ Referencing Berlin, he says that "there is no social world without loss."¹³² One may lament the limited space of the social worlds, but one must recognize that every social world has to exclude some ways of life. The basic structure of the regime, shaped by the two principles of justice, "inevitably encourage[s] some ways of life and discourage[s] others, or even exclude[s] them altogether."¹³³ To be sure, political liberalism is neutral in terms of its aims since it does not do anything intended to favor or promote any particular comprehensive doctrine or assist those who pursue it. This does not mean that political liberalism is neutral in terms of its effects on society. The basic structure *unintentionally* has "important effects and influences as to which comprehensive doctrines endure and gain adherents over time."¹³⁴ As Rawls notes, there is nothing that can be done about it but for accepting "the facts of commonsense

¹²⁶ *Id.* at 200.

¹²⁷ *Id.* at 198.

¹²⁸ RAWLS, *supra* note 1, at 197.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ RAWLS, *supra* note 1, at 195.

¹³⁴ *Id.* at 193.

political sociology.”¹³⁵ Accordingly, seeking neutrality of effect or influence is futile and impractical. As such, political liberalism abandons the idea of neutrality of effect. The inevitable effects are the effects of culture and social structure; it is the “culture and institutions [that] prove[] too uncongenial.”¹³⁶ So, political liberalism is not biased towards certain comprehensive doctrines. Yet, some comprehensive doctrines and especially those that are in conflict with the basic values of the liberal democratic regime may “fail to gain adherents under the political and social conditions of a just constitutional regime.”¹³⁷

The discussion of the transformative effects of political liberalism continues with the discussion of the education of children, which constitutes the other dimension of the account of containment as transformation. The issue here is the education of the children of the religious minorities who “oppose the culture of the modern world and wish to lead their common life apart from its unwanted influences.”¹³⁸ Rawls states that political liberalism requires that children’s education should include such things as knowledge of their constitutional and civic rights, “prepare them to be fully cooperating members of society, and enable them to be self-supporting [while] encourag[ing] [] political virtues so that they want to honor the fair terms of social cooperation in their relations with the rest of society.”¹³⁹ At this point, it is important to note that Rawls’s list of virtues include tolerance, civility, reasonableness, and fairness.¹⁴⁰ These four political virtues capture the fundamental ideas of political liberalism. For Rawls, the political virtues serve as the means “through which those principles [of justice] are embodied in human character and expressed in public life.”¹⁴¹ To secure citizen’s allegiance to the basic values and institutions of a fully just democratic society these virtues must be cultivated and encouraged.¹⁴²

Many political theorists have argued that the educational implications of Rawls’s political liberalism is “substantially same” with

¹³⁵ *Id.*

¹³⁶ *Id.* at 197.

¹³⁷ *Id.* at 196.

¹³⁸ RAWLS, *supra* note 1, at 199.

¹³⁹ *Id.*

¹⁴⁰ *Id.* at 139, 157, 163, 195, 217, 224.

¹⁴¹ *Id.* at 147.

¹⁴² *Id.* at 467.

the aims of comprehensive liberalism. For instance, Eamonn Callan argues that teaching the political virtues of political liberalism is no different than teaching the substantial ethical idea of autonomy.¹⁴³ Richard Dagger suggests that political liberalism educates “children in the light of a particular conception of the good.”¹⁴⁴ Rawls acknowledges that this may happen. His reply is that those who argue that once their children have been subjected to the civic education required by the political conception their way of life will not survive by emphasizing that, “the unavoidable consequences of reasonable requirements for children’s education may have to be accepted, often with regret.”¹⁴⁵

For Rawls, education at home is an important part of children’s education.¹⁴⁶ Elsewhere, he remarks that “[t]he family must ensure the nurturing and development of such citizens in appropriate numbers to maintain an enduring society.”¹⁴⁷ “The family is part of the basic structure of the society” and one of its aims is the “orderly production and reproduction of society and its culture from one generation to the next.”¹⁴⁸ However, Rawls is very well aware that education at home may also inculcate “habits of thought and ways of feeling and conduct incompatible with democracy.”¹⁴⁹ For instance, the injustices in the family “tend to undermine children’s capacity to acquire the political virtues required of future citizens in a viable democratic society.”¹⁵⁰ If that is the case, the principles of justice can be invoked to reform the family. What is at stake here is to inculcate political virtues thereby shaping children’s beliefs, thoughts, and desires from the early ages both at home and in school. As Nussbaum rightly indicates, one of the most important educational tasks of the Rawlsian state is the cultivation of “sentiments and attitudes required by the political conception and its replication over time.”¹⁵¹ The aim

¹⁴³ Eamonn Callan, *Political Liberalism and Political Education*, 58 THE REV. OF POL. 5, 22 (1996); EAMONN CALLAN, CREATING CITIZENS: POLITICAL EDUCATION AND LIBERAL DEMOCRACY 40 (2004).

¹⁴⁴ RICHARD DAGGER, CIVIC VIRTUE: RIGHTS, CITIZENSHIP AND REPUBLICAN LIBERALISM 190 (1997).

¹⁴⁵ RAWLS, *supra* note 1, at 200.

¹⁴⁶ *Id.* at 199-200.

¹⁴⁷ *Id.* at 467.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* at 470.

¹⁵⁰ RAWLS, *supra* note 1, at 470.

¹⁵¹ Nussbaum, *supra* note 46, at 304.

is to *shape* citizens' doctrines by "inculcat[ed] habits of thought and ways of feeling and conduct" which in turn lies at the heart of political liberalism.¹⁵²

The central idea is the reformation of those whose way of life is in conflict with the basic values of the regime or who reject them outright.¹⁵³ Rawls references these sections while discussing what the liberal democratic regime should do about the unreasonable people.¹⁵⁴ He recognizes the existence of unreasonable doctrines and then points out that how far we should curb them is a complex issue, which is followed by the two references.¹⁵⁵ To be sure, these are not the only sections of *Political Liberalism* in which Rawls discusses the political order's effects on citizens.¹⁵⁶ Rawls's discussion of how political liberalism is possible centers on the educative effects of the political order.¹⁵⁷ In a nutshell, the main idea is that an effective political conception of justice shapes and bends comprehensive doctrines towards itself and moves them slowly "from unreasonable to reasonable."¹⁵⁸ Rawls suggests that as the success of a political conception and just institutions continue over time, citizens tend to develop trust in political institutions and procedures, and gain confidence in one another.¹⁵⁹ This trust, in turn, initiates an allegiance to the principles of a liberal constitution.¹⁶⁰ Rawls envisions that this process happens slowly over time and the unreasonable views tend to change and become reasonable.¹⁶¹ Within this process, "simple pluralism moves toward reasonable pluralism."¹⁶² This larger political dynamic in political liberalism supports the account of containment as transformation. It shows that containment as transformation is not an exception, but part of a larger dynamic that lies at the heart of political liberalism.

¹⁵² RAWLS, *supra* note 1, at 470.

¹⁵³ *Id.* at 467; Callan, *supra* note 143, at 13.

¹⁵⁴ RAWLS, *supra* note 1, at 467.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* at 138-39.

¹⁵⁷ *Id.* at 247-54.

¹⁵⁸ *Id.* at 246 (replying to the criticism that political liberalism is utopian).

¹⁵⁹ RAWLS, *supra* note 1, at 163.

¹⁶⁰ *Id.*

¹⁶¹ *Id.* at 163.

¹⁶² *Id.* at 164.

VI. CONCLUSION

The account of containment in political liberalism is the result of the fundamental concern that the unreasonable minority should not grow so strong and become a threat to the liberal democratic regime. One way to contain unreasonable doctrines is described by Friedman. But, her interpretation is not warranted by Rawls's writings. Quong's interpretation, however, does not take seriously the main idea of Rawls's argument for the normative stability of the regime and thus he does not recognize the traces of another account of containment. Both theorists fail to explore the possibilities of Rawls's thought that could offer alternative mechanisms for dealing with the existence of unreasonable people.

The transformative account moves the discussion of the fate of unreasonable citizens from a rights-based problem to that of developing reasonable citizens in a liberal political regime. This is not to deny the relevance of a rights-based interpretation. Rather, by emphasizing the centrality of the idea of transformation of citizens, it seeks to provide a complete account of the fate of unreasonable citizens living in a liberal political order. The first part of this account refers to the transformative political effects of living in a liberal democratic regime on unreasonable citizens. It brings to the fore the inevitable effects of the liberal democratic regime on citizens' development and their conception of the good. The second is about the education of children at school and at home.

The practical political task of containing unreasonable doctrines is primarily concerned with the reformation of unreasonable citizens over time. Rawls is aware that when unreasonable doctrines grow so strong, it may be too late for the liberal democratic regime. The argument for the normative stability of the regime and the account of containment as transformation points out the need to prevent the unreasonable from becoming strong enough to overwhelm the liberal political regime. Steven Macedo points out that liberalism constitutes a regime that cannot help but shape citizens' lives "deeply . . . and relentlessly."¹⁶³ For Macedo, political liberalism should shape people's commitments and habits "without exactly announcing that purpose on their face."¹⁶⁴ This is a necessary political work that

¹⁶³ STEVEN MACEDO, *LIBERAL VIRTUES: CITIZENSHIP, VIRTUE, AND COMMUNITY IN LIBERAL CONSTITUTIONALISM* 59 (1990).

¹⁶⁴ Macedo, *supra* note 98, at 69.

is beyond any “regret, apologies, or adjustment.”¹⁶⁵ The account of containment as transformation centers on the idea expressed by Macedo: transformation of the unreasonable people living in a liberal political order without announcing that purpose in their face.

¹⁶⁵ *Id.*