**Politically Unbecome:
Rawls, Connolly and Fondness for the Dead**

by

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Abstract

In his discussion of the insufficiency of conventional pluralism, William Connolly strongly criticizes the work of the liberal theorist of justice John Rawls. This thesis reconsiders Connolly's account of Rawls, proposing a more generous reading of Political Liberalism with which to engage Connolly's criticisms. It aims to explore both the sufficiency and insufficiencies of Rawls' conception of justice, ultimately suggesting some ways in which the Rawlsian model is successfully inclusive and the ways in which it falls short of that goal. It explores the hypothetical emergence of an obscure constituency, the ways in which Rawls' model might accommodate such an emergence as well as the obstacles such a constituency would likely face. It proposes that despite the obvious differences, Rawls' and Connolly's models bear some similarities, and finally contends that elements of Rawls' project may well be recoverable and of use for Connolly.

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Introduction

What if justice is not enough? What if justice is insufficient in its own right to hear the cries of many who seek its protection? What if no generalized principle(s) of justice or abstracted conditions of consensus are capable, by themselves, of allowing new kinds of suffering attached to stigmatized, demonized, or unrecognized possibilities of being from reaching the “register of justice?”¹ What if the attempt to construct such models or generalized principle(s), meant to accommodate all suffering, by their very nature occlude that which is not yet understood to be suffering? What if justice is not enough?

It is these uncomfortable questions (among many others) that William Connolly asks in the pursuit of his project to “rework, *and to render ourselves available to reworkings of*, the pluralist imagination....”² When describing the *pluralist imagination*, Connolly focuses on expanding the scope of diversity and difference recognized, rather than on the potentiality of pluralist models. Connolly contends that conventional pluralism “celebrates diversity within settled contexts of conflict and collective action.”³ Even though he concedes that such pluralist instincts are admirable, he is concerned with those that lie outside these settled contexts.

Connolly notes that outside “the warm, protected spaces of the normal individual and the territorial state, conventional pluralists project a lot of abnormality, anarchy, and cruelty in need of exclusion and regulation.”⁴ He also maintains that such projections

¹ Connolly, William E. “Suffering, Justice, and the Politics of Becoming” in Moral Spaces: rethinking ethics and world politics, David Campbell and Michael Shapiro [eds] (University of Minnesota Press, Minneapolis. 1999) at page 136

² Connolly, William E. The Ethos of Pluralization (University of Minnesota Press, Minneapolis. 1995) at page xix [emphasis added]

³ Ibid at page xiii

⁴ Ibid at page xiii - xiv

serve to obscure new and emerging constituencies. The fact that Connolly is concerned with these obscured constituencies, combined with his focus on them, has drawn me inextricably into his work. Connolly's aim in expanding the conventional pluralist landscape is to facilitate what he calls the "politics of democratic agonism." As Connolly explains:

A democracy infused with a spirit of agonism is one in which divergent orientations to the mysteries of existence find overt expression in public life. Spaces for difference to be established through the play of political contestation. Distance becomes politicized in a world where other, topographical sources of distance have closed up. The terms of contestation enlarge opportunities for participants to engage the relational and contingent character of the identities that constitute them, and this effect in turn establishes one of the preconditions for respectful strife between parties who reciprocally acknowledge the contestable character of the faiths that orient them and give them definition in relation to one another.⁵

Connolly suggests that to facilitate such a democracy, the pluralization of conventional pluralism is needed. He hopes that this will foster an "ethic of critical responsiveness"⁶ that is sensitive to "the recurrent disjunction between the injuries suffered by particular constituencies and the barriers to their rectification posed by cultural codes of morality and normality."⁷ To this end, Connolly describes the processes through which various constituencies struggle to redefine their relative identities. He also describes the ways in which such struggles disrupt established identities already sedimented within, and that are supported by, societies' congealed moral codes. Connolly describes these struggles for positive recognition and movement onto the register of justice as the "politics of becoming."⁸

⁵ Connolly, William E. Identity/Difference: Democratic Negotiations of Political Paradox (University of Minnesota Press, Minneapolis. 1991) at page 211

⁶ Supra note 2 at page xvi

⁷ Ibid at page xvi

⁸ Supra note 1 at page 136

Throughout his project, Connolly is critical of the many conventional theorists he places within his “ontopolitical matrix.”⁹ Yet, despite his continual assertion of a desire to retain an agonistic respect for such competing ontopolitical perspectives (even while attempting to disrupt them), Connolly is often cursory and dismissive in dealing with such alternatives. In particular, the seminal work of John Rawls is addressed in an unsettlingly brief manner. Of course, Connolly is not alone in his cursory address of Rawls. The limited attention to Rawls could well be seen as the most conventional component in Connolly’s theory.

I contend that Rawls is of particular importance because of the similarities between his later work in Political Liberalism and that of Connolly’s. Like Connolly, Rawls is dissatisfied with traditional accounts of pluralism and seeks to expand several conventional understandings. In fact, Rawls’ entire project in Political Liberalism is to rework several of his earlier conceptions from A Theory of Justice, given what he calls “the fact of reasonable pluralism.”¹⁰ As Rawls describes it, his project in Political Liberalism is to discover:

How is it possible for there to exist over time a just and stable society of free and equal citizens who remain profoundly divided by reasonable religious, philosophical, and moral doctrines?¹¹

Certainly, Rawls’ approach to pluralism and democracy is substantially different from Connolly’s. However, I wish to suggest that the manner in which Connolly addresses Rawls’ work misses an opportunity to explore that work and discover if anything of use might be recoverable from it.

⁹Supra note 2 at page 16 [The term ‘ontopolitical’ is used by Connolly to describe the ontological elements of all political theory. Connolly adds the ‘onto’ to ‘political’ in reference to sets of fundamentals that he suggests every political interpretation sets out, either explicitly or implicitly.]

¹⁰ Rawls, John. Political Liberalism (Columbia University Press, New York. 1993/ 1996 revised with additional materials) at page 4

¹¹ Ibid at page 4

Connolly suggests that Rawls' work is insufficient, and ultimately obscures the obstacles blocking the politics of *becoming*. While I sympathize with Connolly's position, I am dissatisfied with the limited attention that Rawls' work is granted. I contend that such a dismissive attitude—toward a competing perspective as prominent as that of John Rawls—represents a gap in Connolly's otherwise convictive position. However, I am by no means suggesting that Connolly's criticisms of Rawls are inaccurate. On the contrary, I often agree with the critiques that Connolly mounts against the particular Rawls with whom he engages. However, I do contend that the Rawls, with whom Connolly chooses to engage, is neither the only, nor the most useful, Rawls plausible.

The idea of more than one available Rawls, while perhaps somewhat counterintuitive, is directly inspired by Connolly's work. In discussing the post-Nietzschean character of his work, Connolly defends what he describes as *his* Nietzsche against other colder and crueller reductive interpretations. After laying out the five primary Nietzschean tenets he supports, Connolly contends:

I do not, then, endorse numerous themes represented today under the name 'Nietzsche,' but I do subscribe to the five stated above. Call them if you wish, *my* 'democratization of Nietzsche',¹²

Likewise, I do not identify with the restrictive liberalism often associated with Rawls, but rather suggest a more generous account of Rawls with a focus on his later revisions to Political Liberalism. Not unlike Connolly's Nietzsche, *my* Rawls is characterized by a more benevolent interpretation based on a preceding perspective. In my case, that perspective is three-fold. My perspective is one that is sympathetic both to Connolly's goal of a democracy imbued with the spirit of agonism, and to Rawls' focus on a way to

¹² Supra note 1 at page 136

secure a just and stable society given the fact of reasonable pluralism. My perspective is also one that is interested, along with Connolly, in those “culturally marked constituenc[ies], suffering under [their] current social constitution....”¹³

While Connolly’s treatment of Rawls might well be motivated by his desire to avoid distraction from his own project, the Rawls he chooses to present (and the perfunctory manner in which he engages it) could be interpreted as constitutive of a disregard for the agonistic respect which Connolly promotes. It could also be a symptom of the very ontopolitical determinism that he so carefully seeks to avoid. More importantly, the cursory way in which Connolly engages with Rawls robs him of an opportunity to explore a seminal project that, while quite divergent in its pursuit, shares several important commonalities in its underlying objectives. For these reasons, I reiterate that Connolly’s limited engagement with an unsympathetic account of Rawls represents a substantive gap in his otherwise compelling disquisition.

My aim for this thesis is to attempt to fill this perceived gap by engaging elements of Connolly’s work with a more generous and sympathetic account of Political Liberalism. My interest, very much in line with Connolly’s, is in the way that those constituencies, who currently lack sufficient positive recognition, emerge as legitimate identities in a given social or political context. Even more so, I am particularly interested in the ways that said constituencies might be able to emerge as legitimate; the barriers and obstacles such potential emergences might face; and the ultimate plausibility of their inclusion in a (more or less) liberal model of democracy. In presenting *my* Rawls, and engaging such an account with elements of Connolly’s work, I hope to explore the obstacles and barriers the Rawlsian model might pose to *becoming*. I also hope to

¹³ Ibid at page 129

experience the opportunity of seeing if anything can be recovered from the Rawlsian model that might be of use in Connolly's project.

With this in mind, Chapter I begins by setting out and describing Connolly's ontopolitical foundations; his analysis of the limitations of contemporary pluralism; and his contentions regarding justice, suffering and the politics of *becoming*. I proceed by unpacking and exploring Connolly's implied category of the *un-become*; considering some of the distinctions that can be drawn between its many varied constituents; and finally, exploring the ways in which such specificities might be of use in the subsequent exploration of Rawls.

In the second chapter of this thesis, I attempt to set out what I have described as *my* Rawls. This more sympathetic and generous account of Rawls begins by situating its focus on Political Liberalism, both in relation to A Theory of Justice as well as its relevance to Connolly's work. I then set out *my* Rawls through his accounts of the fact of reasonable pluralism, the idea of an overlapping consensus, and the ideal of public reason. Subsequently, through the traditional critiques of Seyla Benhabib and Iris Marion Young, I describe my more sympathetic account of Rawls' comprehensive doctrines. I also focus on what Rawls describes as "the more inclusive view" of the limits of public reason. I chose Benhabib and Young as vehicles for these more generous interpretations of Rawls' elements, and also as contrasts to them. Once my more sympathetic account of Rawls is laid out, I return to Connolly and consider his implicit and explicit criticisms in terms of *my* Rawls. I attempt to investigate the ways in which this account gains some sufficiency as an inclusive model of liberal democracy. I also attempt to consider the ways in which it ultimately remains insufficient to accommodate Connolly's *un-become*.

In my third and final chapter, I explore a hypothetical case of a newly-emerging constituency in terms of both Rawls' and Connolly's perspectives. Here, I lay out a fictional account of the attempted emergence of a constituency of politically and socially self-identifying necrophiliacs. Although the example remains hypothetical, I explore the fictional constituency in terms of the ways in which the constituency might consider itself as "suffering" in contemporary North-American context. I also present some of the potential issues they might wish to raise. Drawing on specific medical discussions of the preference, current legal codes on the practice, and narrative accounts of some historical practitioners, I explore some of the medical, moral and legal matters such a constituency might have to contend with. I also address some of the issues for which such a group might seek political redress. Then, I briefly explore this hypothetical self-identifying constituency of necrophiles in terms of Connolly's and Rawls' projects. I also attempt to discern some of the potential obstacles and barriers such a constituency might face, given the concerns and issues I suggest they might bring forward. Finally, I examine some of the similarities between Rawls' and Connolly's projects, accentuated in the hypothetically considered emergence of the necrophile-other. I also examine elements of the Rawlsian model most potentially recoverable, and of use, for Connolly.

As a whole, this thesis attempts to fill a perceived gap in Connolly's project, and generally contribute to that project in three related ways. First, my thesis aims to present a more generous account of Rawls in the context of its engagement with Connolly's project. This type of account focuses on Political Liberalism and the considerably inclusive amendments made to it in its most recent revisions. Secondly, this thesis hopes to provide an opportunity to explore any potentially recoverable components of the

Rawlsian model that might be of use to Connolly's project. This is not to suggest an *ad hoc* combination of the two very different approaches. Rather it draws attention to some of the complementary notions in the Rawlsian project, and explores the ways in which the two projects might be seen to intersect. Finally, I hope to explore some of the potential barriers and obstacles an emerging identity claim might face through the hypothetical case of an emerging constituency of necrophiliacs. As I consider this fictional emergence—in terms of Connolly's and Rawls' perspectives—I aim to conclude my thesis by considering some of the potentially recoverable elements of the Rawlsian model (which might be of use to Connolly). I also hope to raise some potentially interesting questions regarding the possible difficulties of including the *un-become* in a liberal democratic model, both generally and in terms of the fictional emergence of the necrophile-other.

Chapter I: Enter the (*ontopolitical*) Matrix

As discussed in the introduction, this project proposes to fill what I perceive to be a gap in William Connolly's otherwise compelling contentions regarding the expansion of the "conventional pluralist imagination." The project will do so by engaging elements of Connolly's theory with a more generous reading of John Rawls' major work, Political Liberalism. My primary interest in this project, and the concern that has drawn me inextricably into Connolly's work, relates to the position of identities and the constitutive elements therein—considered repugnant by traditional moral standards in contemporary justice and democratic theory. There has been significant attention paid (and legitimately so) to the inclusion of marginalized and excluded voices into the symphony of conventional pluralism. However, my concern goes beyond the claims of those whose voices are heard (but not considered), to the cries that go unheard, and the voices not even recognized enough to be ignored. Connolly is very much concerned with these unheard voices, and critiques the conventional pluralist approach for being unable to accommodate them. In particular, Connolly targets John Rawls' Political Liberalism as a prime example of the limitations of the conventional approach. However, I contend that the way in which Connolly addresses the work of John Rawls is characterized by a narrow reading of Political Liberalism, and ultimately blinds him to the potential recoverable elements of this mainstream liberal model. I propose that by presenting and considering a more generous and sympathetic account of Political Liberalism, Connolly's position can be strengthened, and the perceived divide between these two theorists

lessened. Therefore, in this first chapter, I aim to draw, from Connolly, a collection of *ontopolitical* conceptions, strategies of disruption and unsettlement, and, as well, his ideal of a “culture of pluralization,”¹ for subsequent consideration with my more generous account of Rawls in Chapter II.

In The Ethos of Pluralization, Identity/Difference, and Why I am not a Secularist, William Connolly provides a useful collection of understandings, disruptions, and understandings of those disruptions, concerning several traditional *ontopolitical* perspectives. This type of analysis is of particular value to any project that critically seeks to engage with, and possibly unsettle, conventional treatments of *otherness*. Based on his liberal post-Nietzschean perspective, Connolly intertwines a normative ideal of positive engagement with a Nietzsche-inspired agonism seeking to thaw the conceptual ice of what Nietzsche described as *winter doctrines*. In this way, Connolly presents what he describes as a liberalization of Nietzsche and democratization of post-Nietzschean thought—ultimately providing a uniquely optimistic account of the role of his agonistic perspective in addressing some of the most troubling tensions in contemporary liberal doctrine.²

With this in mind, I begin this chapter by situating myself within the broader body of Connolly’s work. I explore some of his key founding assertions, including the proposed *ontopolitical* matrix, his liberalization of Nietzsche, and the non-fundamental nature of all things. I examine Connolly’s call for the pluralization of pluralism,

¹ Connolly, William E. The Ethos of Pluralization (University of Minnesota Press, Minneapolis. 1995) at page xxx

² Connolly describes his agonistic perspective as a Nietzsche-inspired view in which antagonism is infused with a respect for the adversary because of an acceptance of the contingency implicit in both participants exposed through such conflict.

democracy, and as well, what he contends with his proposed “politics of becoming”³ and “ethos of critical responsiveness.”⁴ Finally, drawing on these elements of Connolly’s work, I explore the implied category of what I will call *the unbecome*. While not explicitly described by Connolly, I maintain that such a category is implicit in Connolly’s work on political *becoming*, and of particular value to my later consideration of his criticisms of Rawls.

Fundamentally, nothing is Fundamental

I have already referred to one of the key concepts that Connolly raises in The Ethos of Pluralization: the notion of the *ontopolitical*. As noted above, Connolly presents the notion of ontopolitical interpretation to describe the ontological elements he suggests are present in all political interpretation. Ontology, as Connolly describes it, refers to the study of a fundamental logic underpinning in the real world. Connolly suggests that this is too narrow a conception to describe his concerns. Therefore, he adds the *onto* to *political* in reference to the underlying assumptions about being, which he proposes are inherent in all political interpretation. As he suggests:

To say either that something is fundamental or that nothing is fundamental, then, is to engage in ontopolitical interpretation. Hence, every interpretation of political events, no matter how deeply it is sunk in a specific historical context or how high the pile of data upon which it sits, contains an ontopolitical element.... Political interpretation is ontopolitical: its fundamental presumptions fix possibilities, distribute explanatory elements, generate parameters within which an ethic is elaborated, and center (or decenter) assessments of identity, legitimacy, and responsibility.⁵

Since all political interpretations are in some way *ontopolitical* for Connolly, it is not the *ontopolitical* element of political interpretation that he is concerned with. Rather,

³ Connolly, William E. “Suffering, Justice, and the Politics of Becoming” in Moral Spaces: rethinking ethics and world politics, David Campbell and Michael Shapiro [eds] (University of Minnesota Press, Minneapolis. 1999) at page 136

⁴ Ibid at page 142

⁵ Supra note 1 at page 1-2

Connolly is concerned with the ways in which certain interpretations (specifically secular interpretations in the modern context) often deny the ways in which they are, in fact, *ontopolitical*. Connolly describes a number of strategies of denial, including critical characterization of other perspectives implicitly privileging the criticizing perspective; the claim that the nature of modernity itself has in some way transcended the need to address *ontological* questions; and, as well, the call for “ontological minimalism”⁶ (a position he accuses Rawls of being complicit in).

Even more troubling than these strategies of denial, Connolly identifies a position in modern social theory that attempts to entirely circumvent the issue of the *ontopolitical*—a position that makes claims regarding the *primacy of epistemology*. According to Connolly, such a position suggests a privileged access to criteria of understanding and knowledge that preclude *ontological* questions, or a neutral test by which *ontological* questions can be definitively answered. Connolly finds this notion problematic, and describes the approach as follows:

The primacy of epistemology short-circuits ontological issues by assuming that once the right procedure for attaining truth as correspondence or coherence or consensus is reached, any remaining issues will either be resolved *through* that method or shown to be irrelevant. The primacy of epistemology thereby treats ideas of subjects, objects, representation, and knowledges as if they were already fixed in their range of application. The attraction of this perspective resides in its claim to bypass issues that might otherwise contaminate, derail, or confound the operational self-confidence of the human sciences.⁷

Of course, the irony that Connolly quickly points out is that the claim of a *primacy of epistemology* occupies a contestable *ontological* position. Once again, this reiterates the suggestion that all political perspectives contain *ontopolitical* components.

⁶ Ibid at page 3

⁷ Ibid at page 6

Although Connolly goes on to describe a number of other subsidiary strategies of bypassing major *ontopolitical* issues, his concerns remain constant. His primary concern lies with the ways by which one might engage with a theory that purports to bypass the *ontopolitical*. He asks:

By what means are ontopolitical presumptions probed in these cases? By what means are ontopolitical presumptions implicitly brought into play? Does the narrative and rhetorical structure of the text, for example, covertly spread the very infection the author pretends to cure?⁸

Here, Connolly is suggesting that the problem with perspectives that definitively claim either to solve or to bypass the major *ontological* questions inherent in their political perspectives is that they result in covert *ontopolitical* perspectives. Such perspectives succeed only in concealing their assumptions and, in doing so, often reinforce many other problematic assumptions they seek to avoid.

Connolly's position on the *ontopolitical* character of *all* political interpretation is central to his work, as well as to my use of much of his theory. The idea that no perspective can sustain a claim to having a privileged relationship with what is 'true' or what is 'real'—and the ways in which Connolly suggests this can inform an ethic of engagement between different (but equally un-privileged) perspectives—is pivotal to my claim that there is something to be gained from Connolly's consideration of a more generous reading of Rawls' political account of liberalism. Connolly's proposition that all political perspectives are *ontopolitical*, and thus all contestable, does raise some important difficulties. However, if all positions are equally contestable, on what grounds does one promote one's own perspective over another? How does Connolly suggest his own perspective surpasses those he critiques?

⁸ Ibid at page 7

Connolly doesn't suggest that his own perspective solves the issue of *ontopolitical* contestability that he identifies in other perspectives. He does, however, differentiate his approach from the other perspectives. According to Connolly, it is the *acceptance* of the contestable and unprivileged position that all political interpretation (and most importantly his own work) occupy that separates his work from many he would critique. Additionally, he suggests that this understanding both draws from and allows for a more generous reading of many post-Nietzschean theorists—broadly and (according to Connolly, unfairly) often accused by others as being nihilistic, amoral or deconstructionist. Among these, Connolly includes Michel Foucault, Jacques Derrida, Judith Butler, and Chantal Mouffe, as some of the most renowned victims of disparaging, reductive readings.⁹ Yet this is not to suggest that Connolly claims that the above authors in some way disprove their critics, or that they present some “counter-transcendental” argument that lays waste to their critics’ frameworks. Rather, Connolly (siding with his reading of Foucault) suggests only that:

...no set of arguments actually delivered (rather than promised for that near future perpetually receding into the next future) has ruled [anyone's] perspective out as a viable position on the field of contestation.¹⁰

It is the tendency of many theorists to obscure (whether intentionally or not) the *ontopolitical* nature of their perspectives, with which Connolly is concerned. He also suggests that a discernable pattern of interaction can be seen to emerge from many of these theorists—a sort of self-complementing framework that reinforces certain common *ontological* assumptions and forecloses many of the possibilities issued from the post-Nietzschean camp.

⁹ Ibid at page 24

¹⁰ Ibid at page 16

To describe this pattern of interaction, Connolly creates what he calls (with some intended “tongue and cheek”) his “first and only matrix.”¹¹ This chart, which he formally entitles “*the ontopolitical matrix of Anglo-American discourse in the late-modern time*,”¹² is reproduced below.

Connolly’s ontopolitical Matrix¹³

Connolly proposes that a matrix of this nature can show the ways in which many *ontopolitical* perspectives share a certain common desire for *ontological* compensation. The desire is to make up for the loss of the traditional “expressivist/enchanted” *ontological* understandings in late-modernity. He further contends that the confines of

¹¹ Ibid at page 16

¹² Ibid at page 16

¹³ Ibid at page 16 [The matrix is reproduced here both because of its importance in the development of Connolly’s broad critiques of traditional pluralism as well as to draw attention to Rawls’ conspicuous placement at the very center of the matrix.]

the matrix imply the boundaries of conventional perspectives, going as far as to suggest that “[t]he matrix (almost) sets the boundaries outside of which the untruth of contemporary political discourse resides.”¹⁴

Connolly does not suggest that his theory is any less *ontopolitical* than those identified in his matrix. But, he does differentiate his work by his willingness to accept the problematic and contestable nature of his (and all) political interpretation. However, this is not to suggest the sort of nihilistic conclusions that some reductive readings of post-Nietzschean theory propose. Instead, through appeal to what he describes as his liberalization of Nietzsche, Connolly suggests:

Post-Nietzscheans cannot prove their case by rising above the level of reason achieved by their opponents; we make it through detailed engagement with assumptions and priorities insinuated as a matter of course into alternative interpretations. We cannot command the motivation to pursue our priorities; we can only tap into counterexperiences and latent dispositions that may be already there in a protean form. Of course, our own presuppositions acquire the status of quasitranscendentals. But we then seek to problematize these too, acknowledging that our best efforts to state our own presuppositions perpetually fall short of the mark and insisting that the presumptions we do elaborate are also contestable responses to persistent mysteries of existence.¹⁵

This is what Connolly calls a “spirit of agonistic respect.”¹⁶ It suggests an acknowledgement of the equally unprivileged state of all positions; recognition of the contestable nature of all perspectives; and, a strategy through which to engage with other perspectives, given this acknowledgement. Connolly then goes a step further, suggesting a type of normative ideal or operational faith intrinsic to his liberal post-Nietzschean perspective, as described below:

¹⁴ Ibid at page 18

¹⁵ Ibid at page 28

¹⁶ Ibid at page 29

The operative faith in a post-Nietzschean problematic, its generally cheerful pessimism, is that interventions it poses may strike responsive chords in some of the constituencies it engages. Its corollary charge is that insistence upon the need to fix a common theistic faith, discover a deep, universal identity, or perfect a set of transcendental arguments prior to ethically informed action fosters either passive nihilism—an inaction born of despair because the world does not provide the moral resources you require—or aggressive nihilism—a repression of those very difficulties and gaps that jeopardize attainment of the transcendental position sought.¹⁷

From this operational faith and the agonistic appreciation for the contestable nature of all positions, Connolly suggests a need for what he describes as “a nontheistic gratitude for the rich diversity of being,”¹⁸ and contends it is “...an ethical source from which a modified vision of pluralism might emerge....”¹⁹

Therefore, as I proceed in mapping out Connolly’s vision of a new, more responsive pluralism, I attempt to do so in a fashion consistent with his “nontheistic gratitude for the rich diversity of being.”²⁰ It is the ways in which Connolly succeeds—along with the ways I propose he stumbles in remembering this gratitude—that have inspired my own work. In the section that follows, I consider Connolly’s contentions (contestable as they are) regarding the insufficiency of conventional pluralism as well as “the possibilities of cultural pluralization”²¹ he proposes. Yet, as I explore these proposed insufficiencies in traditional pluralism and the alternatives Connolly suggests, I attempt to do so in a manner that optimistically presumes to strike chords of resonance within the very frameworks that are disrupted and challenged. As Connolly contends, if nothing is fundamental, practically everything must count for something.²²

¹⁷ Ibid at page 29

¹⁸ Ibid at page 31

¹⁹ Ibid at page 31

²⁰ Ibid at page 31

²¹ Ibid at page xxx

²² Ibid at page 39-40

On pluralism and becoming

I now turn to several of Connolly's *ontopolitical* assertions regarding conventional pluralism—positions by which I seek to identify a new group implied in Connolly's work, and subsequently specify elements of that implied group. This will become useful in my ensuing consideration of John Rawls in the second chapter. (I also will engage directly with Connolly's specific critiques of Rawls later in this chapter.)

I begin first with a general outline of the framework by which Connolly seeks to expand the pluralist imagination and cultivate an ethos responsive to what he contends is the perpetual process of *becoming*.

The themes of inclusion, diversity and democracy are all wound into Connolly's broader project to pluralize the traditional pluralist imagination. According to Connolly, that pluralist imagination has become too "stingy, cramped and defensive for the world we now inhabit."²³ He suggests that conventional pluralism has come to celebrate only the safe diversity within settled constituencies—ignoring countless other more fluid and shifting possibilities of *being*. Connolly also expresses concern about the state-centric nature of traditional pluralism, pointing to the tendency for it to project *abnormality* outside of the protective borders of the nation state. He is interested in the ways that traditional pluralism and fundamentalism necessitate one another. Connolly is also interested in the way that conventional pluralism can be seen as a type of fundamentalism.

In suggesting a "pluralization of the conventional pluralist imagination," Connolly is not interested in engaging with conventional pluralism, per say. Rather, his interest lies

²³ Ibid at page xii

in exposing the implicit confines of conventional pluralism and opening up what he understands to be the closures and obstacles such confines represent. In effect, Connolly's project is to open up pluralism, and to extend it far beyond its conventional scope in the hopes of better engaging with currently marginalized constituencies. As he suggests:

By focusing on the pluralist *imagination*, I do not work hard to locate myself on the contemporary scale of optimism or pessimism.... I give priority to possibility over probability because closures in the pluralist imagination itself help to conceal or marginalize injuries and limits in need of political engagement.²⁴

In this way, the pluralization of conventional pluralism can be understood as a project meant to shift the conventional ethos of pluralization out of the traditional *ontopolitical* matrix it occupies, and broaden its scope through appeal to some of the very perspectives it could not address while bound within such a matrix.

Connolly contends that one of the central questions in his work is “how to reconfigure and renegotiate the constitutive tension between democratic pluralism and pluralization.”²⁵ His critique of democratic pluralism—that is, the conventional liberal pluralist project—is two-fold. Such difficulties, Connolly concedes, are difficult to pinpoint. However, he suggests:

You might say, though, that the conventional understanding first misrecognizes the paradoxical relation between a dominant constellation of identities and the very differences through which the constellation is consolidated and, second, misrecognizes the new possibilities of diversification by freezing moral standards of judgment condensed from past political struggles. These two patterns of misrecognition install an unconscious conservatism at the center of the pluralist imagination.²⁶

Connolly's project is to propose a new ethos of pluralization that avoids these misrecognitions—one that is consequently more prepared to engage with and contest the

²⁴ Ibid at page xiii

²⁵ Ibid at page xiv

²⁶ Ibid at page xiv

“...dominant presumptions within Euro-American culture about the character of the state, the nation, identity, responsibility, morality, monotheism, secularism, and sexuality.”²⁷

Connolly pursues this project, broadly speaking, throughout the course of several of his works. Yet the underlying tensions between pluralism (the conventional viewpoint) and pluralization (a more responsive, expanded ethos) are best described through Connolly’s conception of the “politics of becoming.”²⁸ Connolly suggests that problematic assumptions inherent in conventional pluralism are not the result of some “conservative inertia”²⁹ but rather that “misrecognition of the paradoxical character of identity\difference relations and of the complexities of political judgment installs it at the center of the pluralist imagination.”³⁰ It is through the notion of the *politics of becoming* that Connolly probes the complexities of identity/difference relationships, and the ways acknowledging such relations are central to the building of inclusive political models.

According to Connolly, the *politics of becoming* describes the process by which constellations of identities attempt to shift their relational identities by disturbing traditional understandings of the normal/abnormal couplet congealed in society’s moral and social codes. Essentially, it is the process that shifts claims of what constitutes acceptable identities and expands them to accommodate previously unrecognized (at least in a positive way) identities. As Connolly succinctly summarizes:

The politics of becoming occurs when a culturally marked constituency, suffering under its current social constitution, strives, to reconfigure itself by moving the cultural constellation of identity\difference then in place.... Such a movement, to succeed, must extend from those who initiate cultural experiments to others who respond sensitively to those experiments even while they disturb their own sense of identity.³¹

²⁷ Ibid at page xix

²⁸ Supra note 3 at page 129

²⁹ Supra note 1 at page xv

³⁰ Ibid at page xv

³¹ Supra note 3 at page 129-130

These are the politics by which recognition and respect of identities may be attained; configurations of the *us* and *them* paradigm are shifted; various *thems* contend for positions within the *us*; and by which excluded constituencies are ultimately brought into “the circle of freedom.”³²

For Connolly, the goal of those navigating the *politics of becoming* is to gain more positive recognition that allows them opportunities “to engage the relational and contingent character of the identities that constitute them.”³³ Positive recognition, for Connolly, is very much about enabling full participation in the democratic negotiations of the “fundamental riddles of existence”³⁴ through a “public politics that periodically disturbs and denaturalizes elements governing the cultural unconscious.”³⁵

Prior to achieving this more positively recognized identity, those who have not yet navigated the *politics of becoming* are not only excluded, but are also occluded from conceptions of justice. They are occluded prior to their successful political redefinition because justice, rather than explicitly excluding them, simply does not recognize their obscure sufferings as such. This is what Connolly means when he describes sufferings “below the reach of justice,”³⁶ and he further elaborates on it by suggesting that:

As a movement struggles to cross the magic threshold of enactment, it may introduce a new right onto the register of justice. It thereby exposes retrospectively absences in a practice of justice recently thought by happy universalists to be complete.³⁷

The *politics of becoming* describe such movements, and drives to add new rights to justice’s register.

³² Connolly, William E. *Identity/Difference: Democratic Negotiations of Political Paradox* (University of Minnesota Press, Minneapolis. 1991) at page 205

³³ Ibid at page 211

³⁴ Ibid at page 211

³⁵ Ibid at page 211

³⁶ Supra note 3 at page 143

³⁷ Supra note 1 at page 186

Connolly's interests reside in the ways that dogmatic conceptions of personal and collective identity hinder this important politics. These obstacles arise out of anxieties and tensions born from claims to normalcy or naturalness in collective and individual identities. Such identities are required to continually convert *difference* into *otherness*—relegating, marginalizing and demonizing all identities that might contest their hegemonic claims. While such contestations to congealed identities (or at least the perception thereof) can take many forms, Connolly identifies some of the most problematic cases as arising:

...when people suffer from injuries imposed by institutionalized identities, principles, and cultural understandings, when those who suffer are not entirely helpless but are defined as threatening, contagious, or dangerous to the self-assurance of these identities, and *when the sufferers honor sources of ethics inconsonant or disturbing to these constituencies*.³⁸

Thus, the *politics of becoming* responds to the constant tension between new emerging constituencies seeking to redefine institutionalized identities, and more established constellations which seek to protect the conventional cultural understandings in which their identities have become invested. It is what Nietzsche described as the prominence of *winter doctrines*. *Winter doctrines*, Nietzsche suggested, see the frozen surface of the river and believe it to be static, solid, and unchanging. They don't realize that, just below the surface, the waters are in constant motion—churning and shifting under ice. Static identities can be understood as a house built on that ice and, subsequently and rather understandably, become invested in maintaining the solidity of that temporary foundation.

Drawing on what he describes as his liberalization of Nietzsche, Connolly contends that it is the desire for static identity—a sort of identity fundamentalism—which

³⁸ Supra note 3 at page 129 [emphasis added]

represents the core obstacle to the *politics of becoming* and to diversity or an ethos of pluralization in general. He contends that what is needed is not a new static standard, but rather a fluid respect for the mobility of identity and an acceptance of the paradoxical need for a congealed moral code. Simultaneously, it accepts its contestable nature, ultimately balanced with what he describes as the ethos of critical responsiveness.

Specifically Connolly contends:

An ethos of responsiveness to becoming is never entirely reducible to obedience to a preexisting code of morality. Some elements in the existing code itself must be modified if space is to be created for something new to emerge. In a pluralizing culture two interdependent dimensions of ethics are perpetually poised in tension: the obligation to abide by the existing moral code and the cultivation of an ethos of critical responsiveness to the movement of difference. Without a code, the regularity of judgment deserved and expected by existing constituencies would be lost. But a congealed code also poses dumb, arbitrary barriers to the politics of becoming.³⁹

With this dual requirement, Connolly suggests a way one might facilitate the *politics of becoming* and thus resist the tendency towards processes of *othering*. Essentially, he suggests that we should be building identity boats and not houses on the temporary ice that congeals atop the ever-shifting moral river.

Connolly's ethos of critical responsiveness, and the proposed *politics of becoming* it facilitates, attempts to identify and ultimately engage with the complex interaction of identity/difference relationships which permeate modern existence. The *politics of becoming* doesn't just typify the ways *difference* is converted into *otherness*, and how certain identities feed off that *otherness*. This type of description also disrupts many underlying assumptions about fundamentalism, pluralism, otherness, difference and identity.

³⁹ Ibid at page 138

Additionally, Connolly presents said politics as a sort of gauntlet through which unrecognized groups and individuals must navigate in order to effect changes to their relational identities—effectively *becoming*. On the one hand, *becoming* refers to the never-ending fluidity of relational identity. In another way, *becoming* relates to a more attainable motion toward a state of *becoming more positively recognized*. From the latter understanding, one can postulate the existence of those who are in the process of *becoming* (through Connolly’s described politic); those who have already navigated the politic and have already *become* recognized as legitimate identities; and those who have not yet successfully navigated such a politic effectively in a state of *unbecome*. This understanding is additionally supported by Connolly’s own concerns with obstacles to the *politics of becoming* and by his claim that justice is insufficient in and of itself because it cannot accommodate suffering that has not yet reached its register. Connolly’s focus on obstacles to the *politics of becoming* suggests the possibility of failing to navigate such a politics. Likewise, his claims regarding justice imply that a set of sufferings exist below the current register of justice. This results in constellations of *otherness* from which that suffering emanates—presumably unable, unwilling, or incapable of navigating the *politics of becoming*.

In this way, *the politics of becoming* implicitly suggests the existence of certain unrecognized groups and individuals—understood to be below the register of justice—, effectively *unbecome*. In the section that follows, I elaborate on this implied grouping of *the unbecome*, and consider some of the distinctions that can be drawn between its many varied constituents.

Being, Becoming, and the Unbecome

As I have mentioned above, *becoming* in the *politics of becoming*, holds multiple meanings. Within the paradoxical politics of *becoming*, *becoming* implies both the continual energies required to maintain a relational identity, and the more finite movement from under the register of justice to within it. As Connolly formulates it:

To attend to the politics of becoming is to shift the cultural balance between being and becoming without attempting the impossible, self-defeating goal of dissolving solid formations altogether... The politics of becoming is paradoxical... No positive identity can be judged final in a world where things are mobile at the bottom. Of course, it is also hard not to pretend such a final state has been approximated.⁴⁰

In this way, *becoming* is positioned as a replacement concept to *being*, in so far as the latter implies a teleological notion of finitude. It is meant to suggest the infinite process of identity movement, management and maintenance in a world, as Connolly contends, where things are mobile at the bottom. Yet in another way, *becoming* also relates to the movement towards a positively recognized identity. *Becoming* in this sense relates to the attainable movement from a position where one's suffering is obscured by the current cultural definitions of *difference* and *otherness*, to a place in which such suffering is recognized.

Thus, *becoming* implies two related notions within Connolly's politics. First, *becoming* replaces a static concept of *being* to better describe the constant fluidity of identity, implying a constantly evolving and changing socially relational character to individual and collective identities. Secondly, *becoming* describes the navigation through a politics of recognition, to become more positively recognized. In this sense, *becoming* describes a middle state, juxtaposed between the states of *unbecome* and *become*. In this instance, *becoming* implies a motion through a politics of recognition, and the distinction

⁴⁰ Ibid at page 137

between those who have navigated it and those who have not. It is from this second notion of *becoming* that Connolly implies a cluster of identities understood as existing below the register of positive recognition, *the unbecome*.

Of course, like Connolly's proposed politics, *the unbecome* involve a degree of paradox. Taken in the context of *becoming* as a replacement to *being*, *the unbecome* (no matter how uncongealed their identities might be) would inevitably all be in the process of *becoming*. Furthermore, as Connolly identifies those who have not yet navigated the *politics of becoming* as "culturally marked constituencies, suffering under [their] current social constitution,"⁴¹ *the unbecome* have already become *othered*. I suggest they have become *othered* in reference to another key notion in Connolly's work. According to Connolly, congealed moral codes transform *difference* into *otherness*. Specifically, Connolly contends that:

...the subterranean presumption that humans are predesigned to be responsible agents veils elements of cruelty and revenge in the formation of this identity and its differences... extant moralities convert difference into otherness....⁴²

Connolly's claim is that the solidification of certain standards of human identity and their claims to some privileged state of the *natural* or the *normal* (congealed in static moral codes) work to convert the differences that such an identity references to define itself into *otherness*, by which it sustains its claims to naturalness. In Connolly's account, this production of *otherness* is additionally motivated by what Nietzsche describes as "existential resentment."⁴³ This resentment, according to Connolly's reading of Nietzsche, is persistently aimed against "...the flesh, pain, limited capacity to know, vulnerability to disorganization, and susceptibility to death that mark the human

⁴¹ Ibid at page 129

⁴² Supra note 32 at page 81

⁴³ Supra note 3 at page 134

condition.”⁴⁴ While Connolly contends that there are many instances in which actions based on resentment are justified, such existential resentment over the very “conditions of possibility for human life itself” in moral or normative standards serves only to “regularize war against the diversity of life in the quest to transcendentalize what they already are or pretend to be.”⁴⁵ Consequently, one can never begin as *other* but rather one’s differences are converted into *otherness* by extant moralities driven by existential resentment, and thus one *becomes* other.

However, in the second sense in which Connolly mobilizes the notion of *becoming*, suggesting the navigation through a politics of recognition, the state of *unbecome* has a second implied meaning. In this sense, *the unbecome* represents those relational identities, which suffering under certain institutionalized identities, cultural understandings or congealed moral principles, have not yet successfully navigated the politics of becoming. They are *unbecome* in as much as they have not yet become more positively recognized. As such, *the unbecome* exist below the register of justice, where their suffering is not recognized as unjust.

My concern is with the many who would make up this amorphous grouping—those whose ways of being are not accepted as legitimate and, subsequently, whose sufferings are not understood as injustices. However, this implied assortment of unrecognized sufferers is quite broad in scope. Connolly prescribes an ethos of *critical responsiveness* to the *politics of becoming*, implying that some of *the unbecome* are constituted by identities not fully accepted, but only tolerated. Included within this broad category of *the unbecome* would be both those potential identities that Connolly suggests

⁴⁴ Ibid at page 134

⁴⁵ Ibid at page 134

are too hazardous to merit any response beyond toleration, and those identities for which a more positive recognition of and participation in democratic negotiations of difference would be viable. As Connolly contends:

Limits—that is, exclusions, restrictions, and boundaries— must be drawn around the ethos of pluralization. These limits sustain its conditions of existence.... And a democratic, pluralizing regime should tolerate a fundamentalist constituency, but it must resist the drive of such a constituency to impose its exclusionary norms upon the entire culture.⁴⁶

Thus, according to Connolly, a democratic and pluralizing society can encounter both emerging identities deserving of responsiveness and positive recognition, as well as those which need only to be tolerated. In this way, *the unbecome* betokens two subsidiary categories of identities suffering under their relational identities.

First (and primarily) the *unbecome* is constituted by “culturally marked constituencies, suffering under [their] current social constitution,”⁴⁷ who have not yet navigated the politics of *becoming*. But, if they did so, they would be supported by Connolly’s ethos of critical responsiveness. Such constituencies would neither place another group in an abject position nor seem likely to congeal into a fundamentalism that block future possibilities of becoming. Second, *the unbecome* would also be constituted by all those identities that do seek to block future possibilities of *becoming* and place existing constituencies into abject positions. Such identities might not yet have navigated the politics of *becoming*, or might have already attempted to do so and been blocked by the *critical* element of Connolly’s ethos of critical responsiveness. In essence, these identities seek to foreclose the *politics of becoming* and run counter to the ethos of critical

⁴⁶ Supra note 1 at page 193-194

⁴⁷ Supra note 3 at page 129

responsiveness. Connolly suggests that those hazardous identities must be tolerated, but not allowed to impose their exclusionary norms on others.

Since the entirety of *the unbecome* remains below the register of justice and positive recognition, it might seem counter-intuitive to suggest a difference between those who deserve to stay there and those who should have the chance to navigate the *politics of becoming*. This division in sub-groupings within *the unbecome* is clarified when considering the different obstacles that may block movement through the *politics of becoming*. Connolly contends that much of the suffering that needs to be addressed in the modern political context is obscured by other ways of being—resentful at a perceived ease with which new possibilities emerge. Similarly, some identities become invested in particular definitions of *difference* and *otherness*, and come to depend on the marginalization of certain identities to secure their own identity claims. These resentments and dependences foster the primary barriers to *becoming*. Additionally, Connolly contends that some movements through the *politics of becoming*—those identities that represent hazardous fundamentalism and threaten to foreclose future possibilities of *becoming*—must be blocked. Thus the *critical* element of the ethos of critical responsiveness represents a third potential barrier to navigation through the *politics of becoming*.

This *critical* element of the ethos of critical responsiveness presents somewhat of a dilemma, proposing to distinguish between deserving and undeserving claims to *becoming* without being reduced to an oppressive, congealed moral standard. Connolly himself acknowledges this dilemma. He suggests that the ethos of critical responsiveness is paradoxical in as much as it must accept both the need to adhere to an existing moral

code (to which it is never entirely reducible) and the need to disrupt and change that code over time. According to Connolly, it is through a congealed moral code that differences are coded into *otherness*, and through which those obscured sufferings that his ethos seeks to address are perpetuated. This *immorality of morality*⁴⁸ must be balanced against the need for adherence to a moral code—the need for the *critical* element of Connolly’s ethos of critical responsiveness. In this way, Connolly implicitly concedes the existence of two types of *unbecome*: those who should be given a chance to *become* and who would be blocked only by the obstacles of resentment and dependence; and those who would be blocked by an ethos of critical responsiveness and should remain relegated to *the unbecome*. Due to this duality in the legitimacy, or even merit of the identity claims that make up Connolly’s implied *unbecome*, this kind of constellation is too broad to be useful in the project at hand.

This is important to my consideration of Rawls in the second chapter. That’s because Connolly’s primary critique of conventional pluralism in general, and specifically of Rawls as paragon example of it, is that it is insufficient as to address the concerns of those below the register of justice, *the unbecome*. As Connolly notes:

It is after the movement crosses this critical threshold that a mode of suffering becomes unjust. Thus, the coarse practice of justice regularly poses barriers to the politics of becoming before providing support for it. Failure by some liberal theorists to acknowledge the fundamental ambiguity in the center of justice disables them from registering the importance of an ethos of responsiveness to justice itself.⁴⁹

This suggests that conventional liberal approaches have failed because they exclude a vast array of *unbecome* identities whose suffering has not yet reached the register of justice. However, I contend that this criticism is too broad in scope. It fails to concede

⁴⁸ Ibid at page 138 [Connolly makes reference here to Nietzsche’s term “the immorality of morality” to describe the ways in which congealed static moral codes act to obscure certain sufferings and injustices which exist below its register.]

⁴⁹ Ibid at page at page 143

that Connolly accepts the need to exclude those *unbecome* who pose a threat to democracy or whose fundamentalist character forecloses future possibilities of *becoming*. Since Connolly himself proposes an ethos by which citizens would block certain constitutive elements of *the unbecome* from emerging as positively recognized identities, he presumably cannot sustain a critique of conventional liberal pluralists' exclusion of those same hazardous elements. However, Connolly's critique that conventional approaches do unduly exclude *some of the unbecome* still holds true in terms of those his ethos would be responsive to.

I use the terms *viable unbecome* and *inviolate unbecome* to refer to these two elements of the binary present in Connolly's implied grouping of the unbecome. The *inviolate unbecome* denotes those identities which, according to Connolly, cannot develop and grow favorably under conditions of liberal democracy in a pluralizing culture and thus threaten such conditions. Because of hazardous drives—either to subjugate existing constituencies or foreclose future possibilities of *becoming*—those identities need to be tolerated, but not fully embraced. In contrast, the *viable unbecome* represents those elements of *the unbecome* whose movement through the *politics of becoming* would neither seem likely to congeal into fundamentalism, nor seek to place existing constituencies into abject positions—those potential identities whose emergence Connolly's ethos would aim to be responsive to.

Therefore, while the entirety of the unbecome are othered by social and moral normative standards, the inviolate unbecome's otherness is justified, according to Connolly, in as far as it is maintained to protect the *politics of becoming* from the closures of fundamentalisms. In contrast, the *viable unbecome's otherness* is unjust in as

much as they remain *othered* only in order to sustain certain claims to the *rightness*, *goodness* or *naturalness* of other more established constituencies governed by spiteful existential resentment.

Finally, I seek to narrow the scope of the *viable unbecome* in one additional way. Connolly does not, in my opinion, adequately address the issue of motive and result within the *politics of becoming*. The implied assortment of *the unbecome*, by definition, wish to alter their relational identities by shifting social norms and moral standards. However, Connolly does not discuss the possibility of *becoming* not meeting the expectations of the newly *become*. I would contend that neither the degree to which the *politics of becoming* satisfies those who attempt to navigate it, nor the degree to which a desire to navigate the *politics of becoming* implies a desire for political emancipation, are made clear enough in Connolly's work. Consequently, I would add a related specification to the *viable unbecome*.

The *viable unbecome*, beyond the above descriptions, is limited to those for whom participation in a liberal democracy is desirable. Therefore, while hermits, shut-ins, anarchists and political nihilists (to name a few) would fit most of the definitional categories of the *viable unbecome* (and would surely be constituted in one half or the other of the *unbecome*), they are not constitutive elements of *viable unbecome* unless they desire some degree of political participation. Connolly cannot sustain a critique of conventional liberal pluralists for excluding those he himself claims should be excluded, nor can he sustain a condemnation of the exclusion of those who do not desire to be included.

Therefore, the *viable unbecome* can be defined as follows: *a constellation of othered identities existing below the register of justice, by the resentful conversion of difference into otherness by extant moralities and normative standards, whose potential navigation of the politics of becoming is not limited by the critical component of the ethos of critical responsiveness, for whom political participation (in at least the broadest sense) in a liberal democracy would be desirable, and consequently whose continued status as other is not (according to Connolly) justifiable.* In the next chapter, as I consider Connolly's implicit and explicit criticisms of Rawls in terms of a more generous and sympathetic account of Political Liberalism, I do so with this idea of the *viable unbecome* in mind.

In this chapter, I explored Connolly's problematization of conventional pluralism; the character of his proposed "pluralization of the pluralist imagination;" the *ontopolitical* assertions upon which such a position is based; the idea of *becoming*; and the category of *the unbecome* that I suggested was implicit in Connolly's work. I further suggested that *the unbecome* represents too broad a category—generally, in Connolly's criticisms of conventional liberal pluralists, and more specifically in Rawls. Instead, I have contended that *the unbecome* should be considered in terms of a further distinction between the *viable* and *inviolate* identities that constitute it.

In the following chapter, I consider Connolly's critique of Rawls' Political Liberalism in terms of a more sympathetic account of that work, and in terms of the important distinction between the *viable* and *inviolate unbecome*. My second chapter's focus, like Connolly's, is on those whose maintenance below the register of justice is not

justifiable. I ultimately seek to determine if a more sympathetic account of the Rawlsian model is sufficient to recognize the potential emergences of the *viable unbecome*.

Chapter II: *My Rawls*

Having worked through Connolly's project to broaden the conventional pluralist landscape in the first chapter of this thesis, I now turn my attention to the work of John Rawls. Connolly identifies Rawls as one of the prime examples of the insufficiency of conventional pluralism, but he addresses Rawls' seminal work in an unsettlingly brief manner. I contended, in this thesis' introduction, that such a dismissive engagement with a position as influential as Rawls' represented a gap in Connolly's project.

While I agree with Connolly's criticisms of the Rawls he chooses to engage with, I propose that a more generous and sympathetic account of Rawls is possible. Further, I suggest that engaging such an account could help to explore the obstacles and barriers that the Rawlsian model, even generously read, might yet pose to the *politics of becoming*. I also present an opportunity to see if anything that might be of use in Connolly's project can be recovered. Inspired by Connolly's discussions of Heidegger and Nietzsche, I describe my more generous account of Rawls as *my Rawls*. Connolly describes his readings of Nietzsche and Heidegger as being "*his Nietzsche*"¹ and "*his Heidegger*."² Interpretive accounts, such as his, represent only single examples of the many possible Nietzsches or Heideggers. In terms of *my Rawls*, the interpretive account given is from the perspective of one who is sympathetic to both Connolly's and Rawls' projects, and interested in the ways in which both can accommodate those identities not currently recognized as legitimate.

¹ Connolly, William E. "Suffering, Justice, and the Politics of Becoming" in Moral Spaces: rethinking ethics and world politics David Campbell and Micheal Shapiro [eds] (University of Minnesota Press, Minneapolis. 1999) at page 136

² Connolly, William E. Identity/Difference: Democratic Negotiations of Political Paradox (University of Minnesota Press, Minneapolis. 1991) at page 33

The overarching aim of this thesis is to help fill the perceived gap in Connolly's work by engaging him with my more generous and sympathetic account of Rawls. Therefore, this chapter attempts to set out what I have described as *my* Rawls. It begins with an examination of Rawls' broader project and then focuses on specifics Political Liberalism as his most important work regarding what Connolly describes as the "conventional pluralist imagination."³ I continue by attempting to set out Rawls' core *ontopolitical* assertions, which include: the "fact of reasonable pluralism,"⁴ his political conception of justice, "stability through overlapping consensus,"⁵ and the nature and role of "the ideal of public reason."⁶ Next, I describe my more sympathetic account of Rawls' "comprehensive doctrines"⁷ as well as my focus on what Rawls describes as "the more inclusive view"⁸ of the limits of public reason. I accomplish this by way of my engagement with the traditional critiques of Seyla Benhabib and Iris Marion Young.

Once a sketch of *my* Rawls' character has been established, I consider it in terms of Connolly's explicit criticisms, and in terms of the *viable unbecome* I contended could be drawn from the broader group of Connolly's implied *unbecome*. Ultimately, I ask whether *my* Rawls' conception of a political liberalism occludes, as Connolly suggests, the *viable unbecome* from gaining a more positively recognized identity and thus from

³ Connolly, William E. The Ethos of Pluralization (University of Minnesota Press, Minneapolis. 1995) at page xiii

⁴ Rawls, John. Political Liberalism (Columbia University Press, New York. 1993/ 1996 revised with additional materials) at page xix

⁵ Ibid at page 24

⁶ Ibid at page 213

⁷ Ibid at page 61

⁸ Ibid at page 247

participation in the essential democratic negotiations of identity and difference, understood to be implicit in such recognition.⁹

Realistic Utopias

Throughout the body of his work, Rawls seeks to establish the appropriate principles of justice for a democratic society. In his first and most famous treatise, A Theory of Justice, Rawls sets out to do so by redressing the dominant utilitarian and perfectionist moral views, attempting to establish principles of justice. Drawing heavily from Kantian theory, Rawls proposes a fictional starting position from which to abstract the moral principles that citizens would choose as the basis of justice. This now-famous starting point is what Rawls describes as the “*original position*.”¹⁰ Rawls suggests that in order to ensure fairness in the hypothetical choosing of principles of justice, people should not have access to information irrelevant to justice. Rawls gives the following example:

If a man knew that he was wealthy, he might find it rational to advance the principle that various taxes for welfare measures be counted unjust; if he knew that he was poor, he would most likely propose the contrary principle.¹¹

In order to ensure fairness, Rawls contends, the hypothetical participants of the original position must be subject to a “veil of ignorance,”¹² blocking their knowledge of all that which, for Rawls, may impair impartial choice. Rawls argues for his principles of justice in a way akin to the notion of a social contract. However, Rawls’ original position under the veil of ignorance need not travel back through history.

⁹ The link between ‘positive recognition’ and ‘democratic negotiations’ is noted in the first chapter of this thesis on page 13

¹⁰ Rawls, John. A Theory of Justice (Belknap Press of Harvard University Press, Cambridge, Massachusetts. 1971) at page 17

¹¹ Ibid at page 19

¹² Ibid at page 19

Rawls' goal is to provide the impartial basis to help determine which principles of justice the citizens of a democracy would choose—given that they all have equal rights in the process of choosing principles and that none are aware of any advantages they might possess over any other participants. As Rawls contends:

Together with the veil of ignorance, these conditions define the principles of justice as those which rational persons concerned to advance their interests would consent to as equals when none are known to be advantaged or disadvantaged by social and natural contingencies.¹³

From this position, Rawls conceives the two principles that he calls *justice as fairness*: the principle of equal basic liberties, and the difference principle. The first principle contends that certain “basic” principles are to be protected above all others because they are required for the development and exercise of moral and rational agency.¹⁴ The second principle suggests that social inequality is permissible only where lowering it would disadvantage those “worst off.” For Rawls, at least in A Theory of Justice, the “worst off” represent the unskilled worker, or in general terms, the poor.¹⁵

Rawls does not propose that the principles he suggests as being derived from the original position are the only principles one could derive. On the contrary, Rawls states:

I do not claim for the principles of justice proposed that they are necessary truths or derivable from such truths. A conception of justice cannot be deduced from self-evident premises or conditions on principles; instead, its justification is a matter of mutual support of many considerations, of everything fitting together into one coherent view.¹⁶

To this end, Rawls continues by very carefully outlining the two principles of justice, and then proceeds to deal with the content and application of those principles. Through what he describes as a four-stage process, Rawls slowly lifts the veil of ignorance, moving the principles of justice from the realm of abstraction to a more grounded position from

¹³ Ibid at page 19

¹⁴ Ibid at page 60

¹⁵ Ibid at page 78

¹⁶ Ibid at page 21

which their application in actual society might be considered. In the first stage of the process, the two principles of justice are chosen in the original position under the veil of ignorance. In the second stage, participants meet and decide on a constitution. Following this, it is possible to enact laws and legislate social institutions and arrangements, which constitutes the third stage. In the fourth and final stage, one is left (now with access to the specific details once blocked by the veil of ignorance) to consider the application of enacted laws and the rulings of constitutionally sanctioned courts.¹⁷

As a whole, A Theory of Justice is best understood as Rawls' first mature attempt to establish what he will later come to describe as a model of *realistic utopia*.¹⁸ It is *utopian* in so far as it remains an ideal; *realistic* in as much as it attempts not to ground itself on either a wholly demonic or an angelic caricature of human nature. Yet the project of *realistic utopia* was by no means concluded in A Theory of Justice. On the contrary, in the decades that passed after its publication, Rawls continued to work on his conceptions, ultimately reworking many of the core notions in his later work, Political Liberalism. In this work, Rawls rethinks the groundings and stability of *justice as fairness* given what he contends is the “fact of reasonable pluralism.”¹⁹ Rawls is concerned here with how to ground *justice as fairness*, given that society is constituted by a variety of reasonable yet incompatible “comprehensive doctrines.”²⁰ This leads Rawls to conclude that:

¹⁷ Ibid at pages 195-200

¹⁸ Rawls, John. A Theory of Justice (Cambridge, MA: Harvard University Press, 1971/ revised edition, 1999) page 43

¹⁹ Supra note 4 at page xix

²⁰ Ibid at page 61

The fact of a plurality of reasonable but incompatible comprehensive doctrines – the fact of reasonable pluralism – shows that, as used in [A] *Theory [of Justice]*, the idea of a well-ordered society of *justice as fairness* is unrealistic. This is because it is inconsistent with realizing its own principles under the best of foreseeable conditions.²¹

Political Liberalism represents Rawls' rethinking and the continuation of his project to provide a realistic utopian model of a just society, given the deeply pluralistic character of modern liberal democracies. In accepting the fact of reasonable pluralism, Rawls is moved to abandon his earlier formulations of his conception of justice and instead argues from what he describes as a *purely political* perspective. Rawls' reconsideration of his position can be summarized as follows:

Although the distinction between a political conception of justice and a comprehensive philosophical doctrine is not discussed in [A] *Theory [of Justice]*, once the question is raised, it is clear, I think, that the text regards justice as fairness and utilitarianism as comprehensive, or partially comprehensive, doctrines.... The problem of political liberalism 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.²²

In this way, Political Liberalism can be understood as explicitly attempting to reformulate a more accommodating basis for the conception of *justice as fairness* outlined in A Theory of Justice. It is Political Liberalism, with its focus on the “fact of reasonable pluralism,”²³ that most directly relates to the types of issues Connolly is concerned with when he describes the “conventional pluralist imagination.”²⁴ Consequently, it is a more generous account of Rawls' position articulated in Political Liberalism that I attempt to provide and subsequently engage with Connolly's challenges.

²¹ Ibid at page xix

²² Ibid at pages xviii & xl (respectively)

²³ Ibid at page xix

²⁴ Supra note 3 at page xiii

Political Liberalism and the Fact of Reasonable Pluralism

Political Liberalism represents Rawls' attempt to rethink and reformulate a stable and capacious basis from which to argue for a society of justice, as fairness. The need to rethink his original formulations comes from the acknowledgement of what he describes as "the fact of reasonable pluralism."²⁵ Rawls contends that modern democratic societies are not only characterized by a pluralism of what he calls "comprehensive doctrines"²⁶ but by a pluralism of reasonable, yet incompatible, comprehensive doctrines. The distinction here focuses on the concept of "reasonable."²⁷ For Rawls, the key point is that modern democratic citizens hold a wide range of philosophical, religious and moral doctrines—many of which are reasonable and yet incompatible with one another. Rawls contends this is essentially as it should be, asserting that reasonable pluralism should be the expected result of liberal democratic society. Specifically he contends that:

Political liberalism assumes that, for political purposes, a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime.²⁸

However, this poses a considerable problem. Because citizens hold to a wide variety of reasonable, yet incompatible, comprehensive worldviews, they cannot be (and according to Rawls should not be) expected, as a group, to affirm one of these or some other superceding doctrine. Rawls acknowledges that, in his earlier conceptualization of *justice as fairness*, he conceived of it in terms of a comprehensive doctrine. However, he is left unable to justify this earlier desire for all citizens of a society to affirm that singular comprehensive doctrine. With this in mind, Rawls aims Political Liberalism toward the

²⁵ Supra note 4 at page xix

²⁶ Ibid at page xviii

²⁷ Ibid at page 48

²⁸ Ibid at page xviii

goal of discerning a political theory of justice that a plurality of reasonable, yet discordant, doctrines might be able to embrace, each from its own perspective. While the need for this move to a purely political conception of justice is necessitated by the fact of reasonable pluralism, its likelihood is also strongly increased by a further specification Rawls makes regarding what makes comprehensive doctrines reasonable. As he specifies:

Political liberalism also supposes that a reasonable comprehensive doctrine does not reject the essentials of a democratic regime... a society may also contain unreasonable and irrational, and even mad, comprehensive doctrines.... In their case the problem is to contain them so that they do not undermine the unity and justice of society.²⁹

Rawls' goal is not to find a way to ensure that all possible comprehensive doctrines might agree on a political conception of justice, but rather only that all reasonable comprehensive doctrines (those which to some degree affirm the essentials of democratic society) come to accept a set of political conceptions based upon their own varied doctrines. While this limits the scope of the problem somewhat, it is not a circular attempt to solve it. That is, Rawls does not define all non-liberal doctrines as unreasonable and therefore outside the scope of his theory. On the contrary, Rawls clearly states that not all reasonable comprehensive doctrines are liberal. As such, the difficult task of Political Liberalism is to establish a purely political conception of justice that those nonliberal doctrines might be able, for the right reasons, to endorse.

Rawls is emphatic in reassuring us that his goal is not to present an alternative comprehensive doctrine to replace the plurality of existing doctrines. Rather, his goal is to propose a conception of justice outside of those doctrines, which each can endorse by

²⁹ Ibid at page xix

way of its own moral framework. Rawls mobilizes the idea of a “*purely political conception of justice*”³⁰ to describe this extra-doctrinal character of his new conception.

According to Rawls, a political conception of justice has three primary characteristics. First, a political conception of justice is a moral conception. Rawls clarifies this claim in a footnote, asserting the conception is moral in so far as: “...its content is given by certain ideals, principles and standards; and that these norms articulate certain values, in this case political values.”³¹ It is, he goes on to suggest, a “...moral conception worked out for a specific kind of subject; namely, for political, social, and economic institutions.”³² In this way, the first characteristic of a political conception of justice is that it is focused on the framework of institutions of a democratic society and the related precepts, standards and principles upon which they are founded. Furthermore, because (for the purposes of Political Liberalism) Rawls conceives of a society as a closed entity, a political conception of justice focuses solely on that society and not on interactions between societies.³³

The second characteristic of a political conception of justice is that it is presented as a freestanding view. Rawls explains that while a political conception of justice must be justifiable to a variety of reasonable comprehensive doctrines, it must not be derivative of, or grounded specifically in, any of those doctrines. He contends:

I assume all citizens to affirm a comprehensive doctrine to which the political conception they accept is in some way related. But a distinguishing feature of a political conception [of justice] is that it is presented as freestanding and expounded apart from, or without reference to, any such wider background.³⁴

³⁰ Ibid at page 11

³¹ Ibid at page 11 [footnote 11]

³² Ibid at page 11

³³ Ibid at page 12

³⁴ Supra note 4 at page 12

In this way, a political conception of justice seeks to maintain a kind of supra-doctrinal status by virtue of its specificity. Essentially, because a political conception of justice does not ground itself in the competing worldviews of comprehensive doctrines, it remains a neutral conception, affirmable by all reasonable comprehensive doctrines.

The third and final feature of Rawls' political conception of justice is that it is articulated in terms of "certain fundamental ideas seen as implicit in the public political culture of a democratic society."³⁵ Here, Rawls distinguishes between what he calls the political culture, and the background or social culture of a society. He suggests that the plurality of reasonable comprehensive doctrines belong to the background culture, the world of the social, and its multitude of associations. By contrast, Rawls suggests that a political culture—constituted by a long tradition of democratic thought, and accessible to the "educated common sense"³⁶ of citizens—also exists. Rawls contends that "[s]ociety's main institutions, and their accepted forms of interpretation, are seen as a fund of implicitly shared ideas and principles."³⁷ It is through reference to this fund of shared ideas that Rawls suggests his political conception of justice can be embraced by the plurality of reasonable comprehensive doctrines in society.

Shared Ideas, Opposing Doctrines, Overlapping Consensus

Given the three-fold character of a political conception of justice, and given the fact of reasonable pluralism in a democratic society, Rawls sets out to elaborate a political conception of justice that can gain the consensus of all the persistent and reasonable, yet opposing, doctrines in a society. The addition of the term *persistent* relates to an additional condition that Rawls places over those reasonable comprehensive

³⁵ Ibid at page 13

³⁶ Ibid at page 14

³⁷ Ibid at page 14

doctrines he seeks to affirm his political conception. Rawls contends that the desirable consensus would consist of:

...all the reasonable opposing religious, philosophical, and moral doctrines likely to persist over generations and to gain a sizable body of adherents in a more or less just constitutional regime....³⁸

Rawls is clear in limiting those who need to endorse the political conception of justice to those who hold *reasonable* comprehensive doctrines (understood to at least vaguely embrace the basic principles of democracy), and to those whose views are likely to persist over time and represent a considerable following within the given society. The mechanism through which this agreement is to be sought is what Rawls names “the idea of *overlapping consensus*.”³⁹

According to Rawls, “a well-ordered society”⁴⁰ (one that accepts the principles of *justice as fairness*) is possible through the idea of an overlapping consensus of reasonable, yet incompatible, comprehensive doctrines. Rawls outlines the character of such an agreement as follows:

In such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view. Social unity is based on a consensus on the political conception; and stability is possible when the doctrines making up the consensus are affirmed by society’s politically active citizens and the requirements of justice are not too much in conflict with citizens’ essential interests as formed and encouraged by their social arrangements.⁴¹

It is the interest of attaining an overlapping consensus (necessitated by the fact of reasonable pluralism) that prompted Rawls to shift his conception of *justice as fairness* from a comprehensive doctrine to a political conception. It is precisely because the

³⁸ Ibid at page 15

³⁹ Ibid at page 15 [footnote 17] [In this footnote Rawls clarifies that his use of the notion of overlapping consensus bears little resemblance to a brief earlier use of the term in *A Theory of Justice*, pointing out that the newer work evokes the term in different sense and much wider context.]

⁴⁰ Supra note 4 at page 35

⁴¹ Supra note 4 at page 134

conception of justice is political (albeit also moral, as discussed above) that Rawls contends an overlapping consensus is possible. Because Rawls seeks to show the possibility of stability for a well-ordered society through overlapping consensus affirming a political conception of justice, he goes to great lengths to show how such a notion is plausible and defensible. To do this, Rawls explores the character of an overlapping consensus—differentiating it from other forms of agreements and defending it against the most obvious and hazardous challenges. While not all of Rawls' elaborations on the idea of overlapping consensus are central to the project at hand, three in particular are key to understanding the idea of overlapping consensus and in mapping its connection with the ideal of public reason, explored later in this chapter.

The first distinction Rawls emphasizes is between the idea of an overlapping consensus and that of a mere *modus vivendi*. Rawls suggests that the most typical usage of the term *modus vivendi* implies a treaty or agreement, based on self-interest, between two states. Regarding this type of agreement Rawls claims:

The treaty will then be adhered to because doing so is regarded by each as in its national interest, including its interest in its reputation as a state that honours treaties. But in general, both states are ready to pursue their goals at the expense of the other, and should conditions change they may do so.⁴²

This, Rawls assures us, is not characteristic of an overlapping consensus. Whereas the *modus vivendi* is essentially an agreement or concord based almost exclusively on self-interest, the idea of an overlapping consensus implies something entirely different. A political conception of justice, affirmed by an overlapping consensus of reasonable comprehensive doctrines, is acknowledged by each participant through appeal to the

⁴² Ibid at page 147

frameworks of their respective doctrines. In this way, the participants are motivated by much more than perceived mutual self-interest. As Rawls specifies:

An overlapping consensus, therefore, is not merely a consensus on accepting certain authorities, or on complying with certain institutional arrangements, founded on a convergence of self- or group interests. All those who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides.⁴³

The key, Rawls stresses, is that, despite each participant's affirmation of the common political conception from different comprehensive doctrinal perspectives, those affirmations are all made through appeal to the rich philosophical, religious or moral frameworks their reasonable yet opposing perspectives provide. However, the neutrality that allows the political conception of justice to be affirmed by so many different doctrines opens the idea of an overlapping consensus to a difficult challenge: the charge of indifference.

For Rawls, disproving the charge of indifference and the sister charge of skepticism is paramount. Here, the charge is that the neutrality Rawls sets out for his political conception of justice cannot help but be mired in indifference or skepticism towards at least some of the comprehensive doctrines it seeks consensus from. Essentially, the criticism is that by avoiding the issues that differentiate the reasonable comprehensive doctrines within a pluralist society—differences such as the understanding of a good life, belief in god(s), or the foundations of an ethical life—an overlapping consensus cannot help but express either a skepticism or an indifference towards certain claims. Rawls rejects this critique, suggesting it misunderstands the nature of an overlapping consensus. According to Rawls:

⁴³ Ibid at page 147

Properly understood, then, a political conception of justice need be no more indifferent, say, to truth in philosophy and morals than the principle of toleration, suitably understood, need be indifferent to truth in religion.⁴⁴

Rawls suggests that the principle of toleration shifts focus from debates on the specific content of religious beliefs to the principled importance of each person's right to hold whichever beliefs they choose. Furthermore, Rawls suggests that the political conception of justice also shifts the content-based debates of comprehensive doctrines from the public sphere of deliberation. In this sense, an overlapping consensus is not indifferent to comprehensive doctrines, but rather it is focused on a sphere in which the content of those doctrines is not relevant or (in most cases) permitted. Yet Rawls accepts that there may be instances where some political or moral doctrines might need to be asserted, or others rebuked. Using the example of a rationalist believer, Rawls works through a scenario in which someone asserts that his or her beliefs can be fully established by reason. Here Rawls suggests that rather than challenging the validity of the beliefs espoused, one need only rebuke the claim that those beliefs are fully provable via reason. Rawls elaborates on this notion suggesting:

In this case the believers simply deny what we have called "the fact of reasonable pluralism." So we say of the rationalist believers that they are mistaken in denying that fact; but we need not say that their religious beliefs are not true, since to deny that religious beliefs can be publicly and fully established by reason is not to say that they are not true.⁴⁵

Rawls contends that an overlapping consensus is therefore not indifferent or skeptical to the precepts of reasonable comprehensive doctrines, but rather avoids the debates over the truth claims of those precepts. While I would contend that this seems to remain a more or less contestable question of semantics, the important point is that an overlapping

⁴⁴ Ibid at page 150

⁴⁵ Ibid at page 153

consensus does not aim to negotiate what is understood to be true, but rather what is affirmed as reasonable and can in turn be used as a public means of justification.

The way in which Rawls avoids the unsolvable inter-doctrinal debates about being, the good life or any variety of other moral, religious or philosophical issues, is by firmly establishing a separation between the realm of the political and the realm of the social. As briefly introduced above, Rawls outlines a separation between the public political sphere and what he describes as a society's background culture or social sphere.

Political Liberalism makes the claim, through reference to two of its founding points, that political issues can be solved without the use of non-political (social or background) values. Specifically, Rawls claims:

We have also stated the two grounds that underwrite the thesis of political liberalism: first, that the values of the political are very great values and not easily overridden; and second, that there are many reasonable comprehensive doctrines that understand the wider realm of values to be congruent with, or supportive of, or else not in conflict with, political values as they are specified by a political conception of justice for a democratic regime. These two grounds secure the basis of *public reason*, for they imply that fundamental political questions can be settled by the appeal to political values expressed by the political conception endorsed by the overlapping consensus.⁴⁶

This notion of "a public reason" implies a reason that is grounded purely in the political values expressed by the political conception of justice ultimately affirmed by an overlapping consensus. It is the reason of the public political sphere. Public reason, according to Rawls, appealing to the fund of shared political values implicit in a democratic society and those affirmed by an overlapping consensus, is all citizens need appeal to in deciding matters relating to constitutional essentials or fundamental justice.⁴⁷ Such a reason is at the heart of Rawls' proposed political form of liberalism; a reason he more carefully expands into a central ideal, the *ideal of public reason*.

⁴⁶ Ibid at page 169 [emphasis added]

⁴⁷ Ibid at page 214

Public Reason/Political Reasons

The “ideal of public reason”⁴⁸ is the ideal under which Rawls specifies the way in which political advocacy should occur in the public forums of a well-ordered society.

Public reason is not the only reason in a democratic society. Rather it describes a particular reason constituted by certain limits and mobilized only within a specific context. As Rawls explains:

In a democratic society public reason is the reason of equal citizens who, as a collective body, exercise final political and coercive power over one another in enacting laws and in amending their constitution.⁴⁹

In a well-ordered society, it is through public reason—and not any of the other reasons of a democratic society—by which citizens should enact laws and come to agree on constitutional essentials. In this way, the ideal of public reason can be understood as a set of rules that govern the terms of certain public political deliberations. To understand how Rawls comes to ground these rules, and why they are essential to his project, it is useful to briefly consider the prior conceptions and terms of a political liberalism and how they lead to the ideal of public reason.

As discussed above, Political Liberalism seeks to find a way in which a well-ordered society of *justice as fairness* can remain stable over time—given that citizens holding a plurality of reasonable, yet incompatible, comprehensive doctrines constitute it. To this end, Rawls re-conceptualizes his notion of *justice as fairness* in terms of a political conception. Because a political conception is not a comprehensive doctrine, and does not seek to compete with the plurality of such doctrines understood to exist in a democratic regime, it circumvents debates over truth, the good life, and any other

⁴⁸ Ibid at page 214

⁴⁹ Ibid at page 214

religious, metaphysical or moral quagmires. It is by way of this circumvention of the undecidable debates of faith and perspective and other contestable notions (aptly referred to by Rawls as the “method of avoidance”⁵⁰) that a political conception of justice can stand to be affirmed by a body of citizens holding to a plurality of reasonable, yet opposing, comprehensive doctrines. The process by which this affirmation occurs is what Rawls proposes as the idea of an “overlapping consensus.”⁵¹ An overlapping consensus, explored at length in the previous section of this chapter, suggests that citizens can each affirm a political conception of justice through appeal to the moral frameworks provided by their respective reasonable comprehensive doctrines. In this way, a consensus may be reached on a common political conception of justice, and each affirming citizen justifies that consensus in terms of his/her individual moral, religious or philosophical leanings. This enables them to avoid the difficulties that Rawls contends are implicit, given the fact of reasonable pluralism. However, once an overlapping consensus is achieved, there remains the issue of how to determine the applications of the agreed-upon principles of justice; how more specific laws are to be enacted; and how changes are to be made to the fundamental principles. Rawls addresses this question in a slightly different form. Since the laws, applications, and constitutional amendments are all a form (broadly speaking) of “coercive state power,”⁵² and since the democratic state is understood to be constituted by its citizens, Rawls asks:

When may citizens by their vote properly exercise coercive power over one another when fundamental questions are at stake? Or in the light of what principles and ideals must we exercise that power if our doing so is to be justifiable to others as free and equal?⁵³

⁵⁰ Rawls, John. *Justice As Fairness: A Restatement* (Cambridge, Mass.: The Belknap Press of Harvard University Press, 2001.) at page 395

⁵¹ *Supra* note 4 at page 24

⁵² *Ibid* at page 217

⁵³ *Ibid* at page 217

Rawls contends the answer to this question is that such an exercise of coercive power is only justifiable when it is done in accordance with a constitution, and by appeal to rational reasons acceptable to all. Specifically he replies:

Our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in light of principles and ideals acceptable to them as reasonable and rational.⁵⁴

It is in this context that Rawls proposes the ideal of public reason—as a logical extension of the principles expressed through the idea of an overlapping consensus and the method of avoidance—to ensure that the reasons appealed to are acceptable to all as reasonable and rational. Yet Rawls does not suggest that all political decisions would necessarily need to be discussed according to the ideal of public reason. As he contends:

...the limits imposed by public reason do not apply to all political questions but only to those involving what we may call ‘constitutional essentials’ and questions of basic justice... Many if not most political questions do not concern those fundamental matters, for example, much tax legislation and many laws regarding property; statutes protecting the environment and controlling pollution; establishing national parks and preserving wilderness areas and animal and plant species; and laying aside funds for museums and the arts.⁵⁵

Therefore, Rawls mobilizes the ideal of public reason as a set of *limits* to deliberations on only the most important political matters. Such a public reason constitutes a set of constraints which ensure that key political issues are decided on with reference only to reasonable rational conceptions agreed upon, or extrapolated, from an overlapping consensus and thus equally accessible to all. In essence, the ideal of public reason describes the process through which the political conception of justice acts as a basis for public justification, thus allowing for stability in a well-ordered society.

⁵⁴ Ibid at page 217

⁵⁵ Ibid at page 214

Despite Rawls' explication of why the limits of public reason should be followed in a democratic society in order to justify the use of coercive power, he accepts that some might still ask: "How can it be justifiable to ask citizens to make key political decisions through 'appeal only to a public conception of justice and not to *the whole truth as they see it?*'?"⁵⁶ He refers to this as the apparent "paradox of public reason."⁵⁷ Rawls responds by suggesting that such instances can already be seen in democratic societies, citing criminal legal proceedings as an example. Specifically, Rawls draws attention to:

...how in a criminal case the rules of evidence limit the testimony that can be introduced, all this to insure the accused the basic right of a fair trial. Not only is hearsay evidence excluded but also evidence gained by improper searches and seizures, or by the abuse of defendants upon arrest and failing to inform them of their rights.⁵⁸

While Rawls concedes that the limits involved in his examples are remote from those demanded by the ideal of public reason, he contends that the idea remains similar. Yet beyond the examples Rawls submits, he presents a stronger response to the challenge that: asking citizens to make core political decisions through appeal to anything but the whole truth (described as the 'proposed paradox of public reason'), renders the ideal of public reason implausible at best. This stronger response refers back to the idea of an overlapping consensus on a political conception of justice.

As proposed above, the ideal of public reason can be understood as the process through which the political conception of justice is affirmed as a basis for public justification. Through an overlapping consensus, citizens agree upon the political conception of justice by way of their individually held comprehensive doctrines. In this way each, citizen agrees to the principles of justice not as a form of compromise, but

⁵⁶ Ibid at page 216 [emphasis added]

⁵⁷ Ibid at page 216

⁵⁸ Ibid at page 218

because they have accepted them in terms of the moral frameworks of their respective reasonable, yet comprehensive, doctrines. Consequently, citizens are not asked to appeal to less than the whole truth as they see it, since they have already appealed to these greater truths in affirming the political conception of justice. As such, decisions based on the shared public conception of justice bear direct reference points back to the moral frameworks of the reasonable comprehensive doctrines through which they were affirmed. As Rawls words it:

Thus, when the political conception is supported by an overlapping consensus of reasonable comprehensive doctrines, the paradox of public reason disappears... 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.⁵⁹

Rawls accepts that there may well be instances in which notions expressed through public reason may fall short of the whole truth as expressed by one's comprehensive doctrine, or that the deliberation may "seem shallow because it does not set out the most basic grounds on which we believe our view rests."⁶⁰ However, Rawls suggests that this feeling of imperfection can be surmounted, especially if one considers that everyone else likely shares, though on different grounds, similar feelings of imperfections. As he reminds us:

What public reason asks is that citizens be able to explain their vote to one another in terms of a reasonable balance of public political values, it being understood by everyone that of course the plurality of reasonable comprehensive doctrines held by citizens is thought by them to provide further and often transcendent backing for those values.⁶¹

The fact that the expression of positions without reference to the transcendent backing of comprehensive doctrine might seem imperfect is, according to Rawls, outweighed by the

⁵⁹ Ibid at page 218

⁶⁰ Ibid at page 242

⁶¹ Ibid at page 243

benefits of the accessibility of arguments to all citizens achieved by the limits of public reason.

Rawls ends his discussion on the ideal of public reason by suggesting two distinct interpretations of that ideal: *the inclusive* and *the exclusive* understandings. According to Rawls, the exclusive view of public reason holds that:

...on fundamental political matters, reasons given explicitly in terms of comprehensive doctrines are never to be introduced into public reason. The public reasons such a doctrine supports may, of course, be given but not the supporting doctrine itself.⁶²

In contrast, the more inclusive view allows for certain exceptions to the general ban on reasons given explicitly in terms of comprehensive doctrines. Rawls suggest such an inclusive view is characterized by:

...allowing 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.⁶³

Rawls concedes that much of his discussion of the ideal of public reason suggests the exclusive view as being the correct interpretation. Nevertheless, Rawls *affirms the inclusive view as being his preferred understanding*.⁶⁴ Through this more inclusive reading of his ideal of public reason, Rawls outlines some general guidelines regarding when it is acceptable for citizens to given reasons explicitly in terms comprehensive doctrines.

While the limits of public reason hold in the majority of cases, Rawls outlines two cases in which comprehensive doctrines may explicitly be referenced. The first case

⁶² Ibid at page 247

⁶³ Ibid at page 247

⁶⁴ Ibid at page 247 [This is a major clarification which Rawls presents in his revised addition of Political Liberalism, additionally he suggests in a footnote a debt to both Amy Gutman and Lawrence Solum for convincing him of the value of the inclusive view over the exclusive view of public reason.]

involves a “nearly well-ordered society”⁶⁵ in which a dispute arises concerning a fundamental principle. In this case, Rawls suggests that the dispute between groups who supposedly share a common political conception of justice may begin to erode the faith in the overlapping consensus. Groups may begin to wonder if their opponents have really affirmed the political conception of justice. In such instances, Rawls suggests that explicit reference to the basis of political positions, as expressed by comprehensive doctrines, could serve to re-instill faith in the idea of an overlapping consensus. Consequently, in such instances Rawls accepts the possibility of comprehensive views being expressed in the public political deliberations.

In a second case of a not-so-well-ordered society where there “is profound division about constitutional essentials,”⁶⁶ Rawls gives one historical example of this case with reference to the abolitionist movement, in which the abolitionists “agitated for the immediate, uncompensated, and universal emancipation of the slaves as early as the 1830s.”⁶⁷ In this case, Rawls suggests that while the abolitionists might have supported the political values of freedom and equality for all, the reality of their context necessitated them to express such views in terms of the comprehensive religious grounds upon which those values were understood to rest. In this case, it is suggested that sometimes the ideal of public reason is best served by expressing values in terms of comprehensive doctrines.

Rawls does not develop any sort of comprehensive criteria for exceptions to the general rule of public reason from his two examples. Instead, he concedes that such exceptions are very much dependent on context, more generally suggesting:

⁶⁵ Ibid at page 248

⁶⁶ Ibid at page 248-249 [emphasis added]

⁶⁷ Ibid at page 249

...the main point is that citizens are to be moved to honor the ideal itself, in the present when circumstances permit, but often we may be forced to take a longer view. Under different conditions with different current doctrines and practices, the ideal may be best achieved in different ways, in good times by following what at first sight may appear to be the exclusive view, in less good times by what may appear to be the inclusive view.⁶⁸

Rawls' ideal of public reason, and the political conception of justices' monopoly as the basis for public justification, is tempered to accept the possibility of circumstances in which duty to the ideal and the political conception will require deviation from the limits proposed.

Conventional Critiques

Having now sketched out some of the core components and, to some extent, the overall character of *my* Rawls' proposed political liberalism, I will now turn to the more interpretive elements of my account. Specifically, I propose to explore two conventional critiques of Rawls' work. Through the traditional critiques of Seyla Benhabib and Iris Marion Young, I will describe my interpretation, broader than most conventional accounts, of Rawls' "comprehensive doctrines." I will also focus on what Rawls describes as "the more inclusive view" of the limits of public reason. I engage with Benhabib and Young as a way through which to explore my more generous accounts of Rawls' theory, and as a way to distinguish my account of Political Liberalism from their more conventional readings of Rawls.

To this end, I will briefly explore the critiques Young and Benhabib mount against Political Liberalism, engaging each with *my* Rawls, as set out above. The goal here is not necessarily to contest or rebuke these traditional critics (although that may

⁶⁸ Ibid at page 251-252

occur), but rather to explore, through them, Rawls' conceptions and their implications, before testing both against Connolly's critiques.

While Seyla Benhabib's article "Toward a Deliberative Model of Democratic Legitimacy" neither deals exclusively with Rawls nor extensively lays out its critiques, it does serve to draw attention to some interesting elements of Rawls' ideal of public reason and how such an ideal can be interpreted differently than it was above. In her engagement with Rawls, Benhabib aims to suggest the ways in which the Rawlsian model of public discourse differs from (what Benhabib considers) the preferable deliberative model, the Habermasian one. Specifically, she takes Rawls to task for his ideal of public reason, and suggests three main ways in which the ideal differs from (implied also as inferior to) the Habermasian deliberative model. Benhabib's first contention is that Rawls' ideal of public reason, "proceeds from a restricted agenda."⁶⁹ She makes reference to Rawls' statement that the limits of public reason apply to matters of basic justice and constitutional essentials. However, while it is correct that Rawls suggests that the *limits* of public reason need *only* apply in these most crucial political deliberations, he does not suggest that other political matters should not be subject to deliberation, as Benhabib implies. Specifically, Rawls contends:

...my aim is to consider first the strongest case where the political questions concern the most fundamental matters. If we should not honor the limits of public reason here, it would seem we need not honor them anywhere. Should they hold here, we can then proceed to other cases.⁷⁰

⁶⁹ Benhabib, Seyla. "Toward a Deliberative Model of Democratic Legitimacy" in Democracy and Difference: contesting the boundaries of the political Edited by Seyla Benhabib (Princeton University Press, Princeton. 1996) at page 75

⁷⁰ Supra note 4 at page 215

Benhabib implies that if something is not subject to the limits of public reason, then it is not subject to public deliberation at all. However, this does not, on a careful reading of Rawls, appear to be the case.

Benhabib's second concern regarding Rawls' model of public reason is that it is not a "process"⁷¹ but rather "...a regulative *principle* imposing limits upon how individuals, institutions, and agencies *ought to reason about public matters*."⁷² In this instance, Benhabib's description seems more apt, in so far as the ideal of public reason is a form of regulative principle. Yet Benhabib's further assertion that such a principle is imposed is more problematic. Contrary to what Benhabib suggests, Rawls is very specific in pointing out that the ideal of public reason is not simply imposed on the participants of public deliberations. He contends: "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."⁷³ As discussed earlier in this chapter, citizens embrace the political conception of justice and the constitutive ideal of public reason therein via their comprehensive doctrines, because they believe in and affirm both in terms of the moral, religious and philosophical frameworks of their comprehensive views.

The third and final problem Benhabib raises with Rawls' ideal of public reason is that it suggests the "social spaces" in which public reason is exercised, are restricted. Essentially, Benhabib is concerned with Rawls' apparent lack of interest in what he describes as the social sphere or "background cultures." Benhabib contends that:

⁷¹ Supra note 69 at page 75

⁷² Ibid at page 75 [emphasis in original text]

⁷³ Supra note 4 at page 218

A deliberative model of democracy is much more interested than Rawls in what he calls “background cultural conditions,” precisely because politics and political reason are always seen to emerge out of a cultural and social context.⁷⁴

While I would suggest a careful reading of Rawls might show that he believes some of the “background culture”⁷⁵ is represented in the public sphere in so far as all citizens affirm the political conception of justice through reference to non-public moral, religious and philosophical frameworks, I largely agree with Benhabib on this point. As she suggests, Rawls is not particularly concerned with the “background cultural conditions.”⁷⁶ However, I distinguish between those established preferences and practices of a background culture that Rawls explicitly identifies (but claims are not relevant to the public sphere) and those emerging new forces (not unlike Connolly’s *unbecome*) that are still unidentified and accordingly, whose political relevancy is more difficult to determine.

Benhabib’s three points concerning Rawls’ ideal of public reason are illustrative of a rather different interpretation of the Rawlsian model than presented here. While a careful reading of Rawls seems to insulate him against most of Benhabib’s critiques, her contention that Rawls might disregard potential new forces remains an important point that I return to when considering Connolly’s challenges to the Rawlsian model.

The second critique is one proposed by Iris Marion Young in her “*Survey Article: Rawls’s Political Liberalism.*” Young also presents three criticisms of Rawls’ work. I have chosen to examine only the first of these criticisms because of its focus on the nature of Rawls’ “comprehensive doctrines.”⁷⁷ Young contends that Rawls’ idea of an

⁷⁴ Supra note 69 at page 76

⁷⁵ Ibid at page 76

⁷⁶ Ibid at page 76

⁷⁷ Supra note 4 at page 61

“overlapping consensus”⁷⁸ is an ingenious solution to the problem of cultural or value pluralism.⁷⁹ However, she suggests that Rawls’ underlying conception of comprehensive doctrines is too thin to capture the realities of a pluralist society, and too totalizing in its caricature of worldviews. Young contends that while Rawls’ conception of an overlapping consensus has merit, it depends too much on the ill-defined conception of a comprehensive doctrine. Young’s first argument is that Rawls does not adequately explain what a comprehensive doctrine is. She points out that Rawls frequently uses Kantianism and utilitarianism as examples, with religions coming in third. Young finds it difficult to conceive of utilitarianism or Kantianism as being comprehensive, as she suggests:

I find it hard to imagine, for example, that any but a few oddball philosophers consistently use utilitarian doctrines to decide which television shows to permit their children to watch, or which people to admire, or which of many requests for charitable contributions to honor.⁸⁰

Although Young’s example is somewhat humorous, it seems apt. Young is concerned that the notion of a comprehensive doctrine fails to appreciate the plurality of intersecting internal and external contexts and experiences that can contribute to a person’s worldview. It is in this way that Young claims that Rawls’ notion of a comprehensive doctrine is too thin.

However, conversely, Young is also concerned that the idea of a comprehensive doctrine is simultaneously too totalizing. It is too totalizing, according to Young, because Rawls contends that comprehensive doctrines provide the values and principles that regulate a person’s entire life. Young asks whether citizens of liberal democracies are

⁷⁸ Ibid at page 24

⁷⁹ Young, Iris Marion. “*Survey Article: Rawls’s Political Liberalism*” in *The Journal of Political Philosophy* Volume 3 Number 2 (1995) at page 181

⁸⁰ Ibid at page 183

likely to hold such totalized views, and suggests that those who do hold such comprehensive doctrines are likely to be considered fundamentalists by Rawls. Young gives the following example in support of her contention:

Both a militant labor activist and a Wall Street financier may be devout Catholics, and thus agree in their deep opposition to legal abortion. But the newspapers they read, the meetings they attend, and the conversations they have in a bar may lead them to have profound disagreements about labor policy and the meaning of work.⁸¹

Young's point is that a conception of a religion or philosophy as a comprehensive doctrine is neither accurate in terms of their typical role in daily life nor sufficient to map the diverse ways in which multiple religions, philosophies and moral doctrines intersect, overlap and commingle in pluralist societies.

I agree, at least in part, with Young's critique. Young raises important questions about the nature and scope of Rawls' conception of comprehensive doctrines, to which the text of Political Liberalism seemingly offers little response. While these concerns lead Young to more or less assume that the Rawlsian model has little to offer, I am not as convinced that the problem is deeply rooted. I agree with Young that Rawls' use of the term *comprehensive doctrine* is problematic. Generally, worldviews are seldom reducible to one cohesive doctrine and fewer still are really comprehensive in this sense. Yet, despite his use of the terms *comprehensive* and *doctrine*, it is not clear to me that Rawls is assuming such a narrow scope for their constitution. I contend that from a more generous reading of Rawls, a broader understanding of his conception of comprehensive doctrines can be sustained. In several places in Political Liberalism, Rawls refers to persons' comprehensive doctrine as providing them access to "the whole truth as they see it."⁸² In accepting Young's argument about the pluralistic constitution of worldviews, as well as

⁸¹ Ibid at page 185

⁸² Supra note 4 at page 216

Rawls' assertion that comprehensive doctrines grant access to an individual's "whole truth,"⁸³ I would propose an alternative reading of comprehensive doctrines. Keeping Young's insights in mind, *my* Rawls' conception of comprehensive doctrines can be understood as a diverse collection of elements, which together constitute a *comprehensive* view of the world. Taken together, these elements are comprehensive in so far as they meet Rawls' requirement to grant access to an individuals "whole truth,"⁸⁴ and are *doctrines* in so far as they meet Rawls' criteria of contributing to the framework through which individuals decide on moral, religious and philosophical questions.⁸⁵

Of course, I do not suggest this is the only reading of Rawls available. A more generous account of Rawls is possible because Rawls does not explicitly foreclose the possibility of this interpretation. Nowhere in the text does Rawls refute the possibility that a comprehensive doctrine could be informed by a variety of religious, philosophical or moral frameworks. The idea of a Gay/Marxist/Catholic or a Lesbian/Kantian/Jew does not seem to be explicitly ruled out by Rawls' conception of comprehensive doctrines. Furthermore, I do not agree with Young's assertion that accepting a deeper, more diverse reading of comprehensive doctrines renders the notion of an overlapping consensus unworkable. On the contrary, such a broad reading of comprehensive doctrines may contribute to Rawls' need for an overlapping consensus on a political conception of justice.

Taken together, Benhabib's and Young's critiques raise interesting questions about Rawls' attempt to map out a political liberalism. Both authors draw attention to possible weaknesses in the Rawlsian model and inspire certain plausible responses. In

⁸³ Ibid at page 216

⁸⁴ Ibid at page 216

⁸⁵ Ibid at page 59

particular, Benhabib's concerns over Rawls' disinterest in new forces emerging in background cultural conditions, and the more generous interpretation of comprehensive doctrines I proposed in response to Young's criticisms, will be considered as I move to William Connolly's implicit and explicit challenges of Rawls, and whether or not *my* Rawls' Political Liberalism occludes the proposed *viable unbecome*.

Return to the Politics of Becoming: Connolly's criticisms of Rawls

With the more generous account of Political Liberalism now set out, I return to William Connolly and engage with his explicit critique of Rawls as a prime example of the insufficiency of conventional pluralism. Connolly suggests Rawls' theory is problematic in a number important ways, but focuses "...on two ways in which the Rawlsian rendering of 'persons' engaged in 'fair cooperation' poses ill-considered barriers to the politics of becoming."⁸⁶ First, Connolly suggests that Rawls' dependence on the idea of *reasonable* persons as the basis for justice is problematic, and that his related "imperative to silence"⁸⁷ in public discourse has become a "dangerous eccentricity."⁸⁸ The second obstacle to *becoming* that Connolly identifies in Political Liberalism relates to Rawls' conception of the person. According to Connolly, Rawls' treatment of persons "obscures how dense cultural differentiations and hierarchical rankings of types of self (identities) precede and shape the practice of justice."⁸⁹ However, as I have contended from the outset, the Rawls that Connolly chooses to engage with is characterized by a brief and narrow reading of Political Liberalism, and that such an account represents a gap in Connolly's work. As part of my continuing goal

⁸⁶ Supra note 1 at page 143

⁸⁷ Ibid at page 144

⁸⁸ Ibid at page 144

⁸⁹ Ibid at page 145

to attempt to help fill this perceived gap, I consider both of Connolly's explicit criticisms in terms of *my* Rawls, as well as some additional implicit challenges contained therein.

Connolly's first critique of Rawls is that his use of *reasonable* persons as the solid basis for a conception of justice is a serious problem. Connolly's chief concern with Rawls' notion of reasonableness as a basis for the acceptance of a common conception of justice is that it is much more akin to a virtue than to a form of rationality. Connolly is commenting on Rawls' assertion that "[s]ociety's main institutions, and their accepted forms of interpretation, are seen as a fund of implicitly shared ideas and principles,"⁹⁰ and that a variety of reasonable yet opposing comprehensive doctrines can embrace a common political conception of justice based on this fund of shared principles. As Connolly points out "[r]easonableness finds its grounds in itself, if and when it is already widely shared in a culture."⁹¹ Rawls concedes that this concept is rooted in a sort of shared culture that he suggests is "implicit in the public culture of a democratic society."⁹² Connolly maintains that the problem with this becomes apparent when "such a tradition is deeply conflictual, or weak, or active in some domains and absent in others."⁹³ However, it is here that the narrowness of the Rawls, with which Connolly engages, becomes apparent as Connolly considers what Rawls might appeal to when the public culture of democracy is thus problematized. He contends that:

Rawls has nothing compelling to say in such cases. This is because, in a way reminiscent of Caputo, Richard Rorty, and Jürgen Habermas, he rules "comprehensive doctrines" out of public discourse to protect the impartiality of justice.⁹⁴

⁹⁰ Supra note at page 14

⁹¹ Supra note 1 at page 144

⁹² Supra note 4 at page 15

⁹³ Supra note 1 at page 144

⁹⁴ Ibid at page 144

While this might be true of Connolly's Rawls, it is not true of *mine*. The first problem with Connolly's assertion is his claim that Rawls rules comprehensive doctrines out of public discourse. While Rawls certainly limits the instances in which participants can appeal directly to their comprehensive doctrines, he by no means rules them out. Admittedly, Rawls does contend that public deliberations on "constitutional essentials and questions of basic justice"⁹⁵ should, in most cases, be deliberated on through reference only to "the plain truths now widely accepted, or available, to citizens generally."⁹⁶ However, he does not hold to these restrictions in all cases. As discussed earlier in this chapter, Rawls describes what he calls the "inclusive view"⁹⁷ of public reason, which "...allow[s] citizens, in certain situations, to present what they regard as the basis of political values rooted in their comprehensive doctrines...."⁹⁸ Rawls discusses a number of situations in which the appeal to comprehensive doctrines would be permitted, one of which specifically addresses Connolly's concerns regarding contexts in which the public culture of democracy is "deeply conflictual, or weak."⁹⁹ As Rawls clearly sets out:

... [U]nder different political and social conditions with different families of doctrine and practice, the ideal must surely be advanced and fulfilled in different ways.... The inclusive view allows for this variation.... [One such condition] arises when a society is not well ordered and there is profound division about constitutional essentials.¹⁰⁰

In this amended position articulated in the revised edition of Political Liberalism, Rawls clearly allows comprehensive doctrines into public discourses in a variety of situations, including one in which the public culture of a democracy is profoundly divided.

⁹⁵ Supra note 4 at page 214

⁹⁶ Ibid at page 225

⁹⁷ Ibid at page 247

⁹⁸ Ibid at page 247

⁹⁹ Supra note 1 at page 144

¹⁰⁰ Supra note 4 at page 248-249 [emphasis added]

Connolly's second criticism of Rawls runs significantly deeper than the first. Connolly contends that the way in which persons are treated in Political Liberalism represents the "...most direct way in which Rawls forecloses the politics of becoming."¹⁰¹ His contention is that Rawls' desire to insulate justice from the irreconcilable questions about "the good," drives him to establish "fixed conceptions of persons appropriate to justice as an internal practice, dependent on the (supposedly modest) externality of cultural reasonableness."¹⁰² While Connolly concedes that Rawlsians claim that such a conception of the person still leaves ample space for the development of rich individual identities, he contends the "very formality of this permission"¹⁰³ locks a particular static assumption about the nature of personhood which obscures the way in which "types of selves (identities) precede and shape the practice of justice"¹⁰⁴ Here, Connolly's Rawls seems closer to my own, and his critique more pressing. In my reading of Rawls, Rawls does indeed privilege certain basic principles of personhood as the basis for a public conception of justice. Essentially, in dividing persons from their comprehensive doctrines and establishing the criteria for such persons, Rawls sediments and secures certain assumptions regarding the very nature of personhood. A person, for Rawls, is "...someone who can be a citizen, that is a *normal* and fully cooperating member of society over a complete life."¹⁰⁵ While I would contend that Rawls successfully develops a way for a plurality of reasonable, yet opposing, comprehensive doctrines (which in my generous interpretation are quite similar in scope to what Connolly describes as identities) to embrace a common conception of justice and

¹⁰¹ Supra note 1 at page 145

¹⁰² Ibid at page 145

¹⁰³ Ibid at page 145

¹⁰⁴ Ibid at page 145

¹⁰⁵ Supra note 4 at page 18 [emphasis added]

deliberate on many political issues through appeal to such a conception, he does so through solidifying certain basic assumptions about personhood. In doing so, Rawls renders the contestation or negotiation of such normative assumptions extremely difficult. As a result, Rawls closes off some possible avenues of *being* and *becoming* in terms of those who do not meet or those who would wish to challenge the societal and cultural presupposed standards of normality. As Connolly ultimately comments:

It deflects ethical attention from thick cultural determinations of what is already inside, marginal to, and excluded from personhood before justice as fairness appears on the scene.¹⁰⁶

Therefore, while I disagree with Connolly's claims that Rawls is explicitly exclusionary in terms of his ruling out of comprehensive doctrines from public discourse (a criticism which simply doesn't hold true), I share Connolly's concerns regarding the possible occlusions Rawls' theory might bring about by not accepting the disputable character of the founding assumptions about personhood to which it secures reasonable persons.

To put this concern a different way, the final consideration of this chapter asks whether or not Rawls blocks an essential element of *the politics of becoming*—namely, the ability to disrupt and challenge established social and moral norms—and thus occludes the *viable unbecome* from navigating such a politics.

The answer, I contend, relates to the interpretation of how Rawls conceives of the idea of an overlapping consensus in relation to change. As Rawls presents it, overlapping consensus is set out as the means by which a variety of *recognized* reasonable comprehensive doctrines can affirm a common political conception of justice. Once confirmed, it becomes the means of public justification. This is what Rawls describes as

¹⁰⁶ Supra note 1 at page 145

“pro tanto justification.”¹⁰⁷ The premise of *pro tanto* justification assumes that the public conception of justice is capable of acting as the primary means of public justification on most issues relating to public reason, and Rawls specifically contends:

...the political values specified by it can be suitably ordered, or balanced, so that those values alone give a reasonable answer by public reason to all or nearly all questions concerning constitutional essentials and basic justice.¹⁰⁸

As the basis for the public means of justification, the process of an overlapping consensus apparently needs to be a finite process—one that ultimately yields the public conception of justice. This “finite process” is in contrast to a “continual process” in which the means of public justification would be continually debated, disrupted and challenged. While Rawls is not explicit in this regard, I propose that his use of an overlapping consensus as a means of achieving the stability required for his theory to progress, limits the likelihood of such a process being understood as continual.

The problem is that once the public means of justification is set via an overlapping consensus’ affirmation of a political conception of justice, Rawls does not set out any means by which such a conception (and thus the means for public justification) can be challenged or redefined. Consequently, Rawls inadvertently blocks off a wide range of avenues necessary for the political *becoming* for the various constituencies potential in the *viable unbecome*. Connolly identifies this problematic and occlusive tendency in Political Liberalism, asserting that:

Rawls is superb at acknowledging the justice of newly defined claims and constituencies once the politics of becoming has carried their voices within range of his hearing....
...But Rawls pretends (and his categories presume) that he is now in the same position with respect to a large variety of unpoliticized injuries today that he is with respect to constituencies whose cultural identification and institutional standing have been changed

¹⁰⁷ Supra 4 note at page 386

¹⁰⁸ Ibid at page 386

through the politics of becoming. And he also acts as if his own identity (as “a person”) can remain untouched and unchanged as he responds to new movements of difference.¹⁰⁹

Although *my* Rawls sets out a very inclusive model—by which a vast array of constituencies can be included in the process of affirming the means of public justification—it remains difficult for him to extend this inclusivity beyond currently recognized constituencies. This occurs because he does not adequately consider the continually fluctuating and relational character of both established and potential identities.

In presenting *my* Rawls through a more sympathetic and generous account of Political Liberalism, and considering it in terms of Connolly’s explicit critiques, a number of interesting issues are raised. *My* Rawls, as opposed to the Rawls Connolly chooses to engage with in his own work, was shown to be less exclusive than Connolly purported. Specifically, Connolly’s claim that Rawls “*rules ‘comprehensive doctrines’ out of public discourse to protect the impartiality of justice*”¹¹⁰ and therefore has nothing to say when a society’s underpinning democratic culture is “deeply conflictual, or weak,”¹¹¹ was shown to be unsustainable. However, Connolly’s second critique of Political Liberalism proved more troubling. It was conceded that, even according to my more sympathetic account of Rawls, his treatment of personhood and his dependence thereon as a stable basis upon which to conceive his theory, suggests problematic potential closures in the politics of becoming.

With these important concessions in mind, in my third chapter I will explore the ways in which Rawls both can and cannot accommodate the emergence of the viable

¹⁰⁹ Supra note 1 at page 147

¹¹⁰ Ibid at page 144

¹¹¹ Ibid at page 144

unbecome through an example of a potential constituency of necrophiliacs in a hypothetical attempt to navigate the politics of becoming. To this end, I will propose a conception of what such an emerging group might be concerned with, and some of the legal, medical and social issues with which they would likely need to contend. I will consider the ways in which *my* Rawls can accommodate such a group's drive for more positive recognition and the ways in which it is insufficient to that task. Ultimately, I will return to Connolly's contention that Rawlsians must embrace his proposed ethos of critical responsiveness, and consider the ways in which such an ethos might be cultivated in the Rawlsian model. I also consider the potential difficulties of such a venture.

Chapter III: Rawls, Connolly, and the Dead

Up to this point in my thesis, I have discussed the potential occlusion of the *unbecome* only in the most general of terms. Partly, this is because the *unbecome*, by definition, is a shifting category. As its constitutive entropic potential energies emerge, change, shift and descend through the *politics of becoming*, its membership is constantly evolving. However, I would now like to consider one hypothetical example of an *unbecome* constituency attempting to navigate the *politics of becoming*. I will explore—through a fictional emergence of how Rawls’ model might respond—what obstacles such a group might face, and how Connolly proposes Rawlsians can bolster the conventional pluralist approach against the insufficiencies he claims are inherent to it. For this purpose, I propose to consider the attempted emergence of a politically and socially self-identifying constituency of necrophiliacs. I use the perspective of *my* Rawls’ public reason as built on an overlapping consensus, and I consider Connolly’s suggested solution for Rawlsians in terms of his bivalent responsive and critical ethos.

I have chosen an emerging group of necrophiles as my example, based predominantly on Connolly’s descriptions of the most difficult cases to consider in the context of *political becoming*. Connolly clearly indicates that:

...the most difficult cases arise when people suffer from injuries imposed by institutionalized identities, principles, and cultural understandings, when those who suffer are not entirely helpless, but are defined as threatening, contagious, or dangerous to the self-assurance of these identities, and when the sufferers honor sources of ethics inconsonant or disturbing to these constituencies.¹

¹ Connolly, William E. “Suffering, Justice, and the Politics of Becoming” in Moral Spaces: rethinking ethics and world politics David Campbell and Micheal Shapiro [eds] (University of Minnesota Press, Minneapolis. 1999) at page 129

The hypothetically emerging necrophiles would meet many of the criteria Connolly lists and, accordingly, this group's attempt to redefine its relational identity would doubtlessly be greeted by much resistance. For example, the views or "sources of ethics" that such a group might hold would likely be "inconsonant" or "disturbing" to several more established identities. Similarly, necrophiles are not currently culturally defined as helpless but rather as "threatening," "dangerous" and at times even potentially "contagious." I will illustrate this through psychoanalytical and medical material on the preference. Additionally the example of necrophilia as the potential nexus of an *unbecome* identity in the process of emerging helps to raise some interesting questions regarding the limits and scope of Connolly's ethos of critical responsiveness.

Necrophilia remains a taboo practice in the broad array of cultural settings, however the legal, moral and medical issues which problematize and prohibit it do not explicitly fall under Connolly's proposed critical limits of responsiveness. I am not necessarily suggesting that such a group would definitely be accepted in a culture of pluralization—described by Connolly as one in which an ethos of critical responsiveness has been cultivated. But only that, from at least some perspectives, such a constituency does not necessarily pose any obvious threat of either congealing into fundamentalisms that might foreclose future possibilities of *becoming*, or seeking to put any existing constituencies in an abject position.

Consequently, I will begin by exploring some of the "institutionalized identities, principles, and cultural understandings" that a group of self-identifying necrophiliacs might feel they suffer under. I will also explore issues—that this constituency might wish to bring forward as needing redress—by presenting medical accounts of the

preference, legal accounts of the practice, and certain quasi-historical anecdotal accounts of its practitioners. Once I have laid out the essential character of this imagined emerging necrophile-other, I will briefly consider: the potential for Rawls' theory to accommodate this group's hypothetical *becoming*; Connolly's proposed solution for Rawlsians; the similarities between Rawls' and Connolly's projects, accentuated by the above considerations; and the idea that some elements of the Rawlsian model might be potentially recoverable, and of use, for Connolly.

Fond of the Dead

Necrophilia refers to sexual attraction to or intercourse with corpses. The Latin origins of the word literally translate to a *fondness of the dead*. Those who hold this taboo preference are referred to as necrophiliacs or necrophiles—the terms applying equally to those attracted to corpses of the same or opposite sex. Necrophilia is classified not as a preference but as a paraphilia—a clinical medical or behavioral science term describing sexual deviance, perversion, anomaly or disorder. As a paraphilia, necrophilia is typically categorized with sexual sadism (attraction to pain and humiliation of others), pedophilia (sexual attraction to children), and zoophilia (sexual attraction to animals), among others.

Historically, the scholarly and medical treatment of necrophilia dates back to 1886, when Richard von Krafft-Ebing published the first modern theoretical treatment on the subject. In this early analysis, Krafft-Ebing based almost all of his work on analyses of the case studies of the necrophiles Francois Bertrand and Victor Ardisson. He also grappled with the question of whether necrophilia was compatible with sanity or whether

it necessarily depended on a pathology of some kind.² Since then, a small but decisive body of work has emerged on the topic, with notable theoretical treatments by: Havelock Ellis and Alexis Epaulard, respectively, in the early 1900s; Ernest Jones in the 1920s; Marie Bonaparte in the 1930s; and Hanal Segal in 1953. More recently, comprehensive investigations on the topic were conducted by Victor Calef and Edward Weinsel in the early 1970s, and Selwyn Smith and Claud Braun in the latter part of the same decade.³ In the earliest treatments on the topic, necrophiles were considered to be “people with serious psychological impairments”⁴ as Epaulard argued—or, as Bonapart argued from a Freudian position, the result of such deficiencies as “infantile, sadistic repression of coitus.”⁵ However, later research led away from such findings, broadening the definitional scope of necrophilia to include unrealized fantasies. This distinguished necrophilia from sadism and eventually moved its definition away from pathology to “inherent drive anomaly or a variation in the sex drive.”⁶

The current clinical description of necrophilia does not include any reference to violence. However, examples of the practice are often still presented in terms of sexual predators and serial killers.⁷ Despite the slippages in many discussions of the taboo practice, necrophilia (as a paraphilia) does not include the active generation of the corpses sought after or any other violent behavior. These tendencies fall under different categories of paraphilia, as well as sociopathic or psychotic behaviors. The fact that necrophilia is independent of sexual sadism or homicidal implication is an important

² Burg, B.R. “The Sick and the Dead: The Development of Psychological Theory on Necrophilia from Krafft-Ebing to Present” in Journal of the History of Behaviour Sciences 18 (July 1982) at page 243

³ Ibid at pages 245-250

⁴ Ibid at page 243

⁵ Ibid at page 245

⁶ Ibid at page 249

⁷ De Silva, W.P. “Sexual Variations” in British Medical Journal March 6, 1999. July 22nd 2004
<http://www.findarticles.com/p/articles/mi_m0999/is_7184_318/ai_54271877>

consideration for an example of the type of *unbecome* one might wish to include in either Connolly's or Rawls' models. While such a preference and practice certainly transgresses many cultural, medical, legal and moral boundaries, it does not explicitly involve the physical harming of another living being. That being the case, the potential ways in which necrophilia can be understood as harmful certainly remains open to interpretation.

Legally, necrophilia is considered criminal, even though it is medically considered a paraphilia. Intercourse or undue interference with dead bodies is legislated against in a multitude of national contexts. However, for the purposes of this example, I consider the Canadian legal statutes regarding the preference and practice. With regard to the practice of necrophilia, the *Canadian Criminal Code* does not identify necrophilia as either a practice or an offence, but does explicitly prohibit it. As laid out in Part V of the code under the heading of Sexual Offences, Public Morals and Disorderly Conduct, Canadian law states:

182. Every one who

- (a) neglects, without lawful, excuse, to perform any duty that is imposed on him by law or that he undertakes with reference to the burial of a dead human body or human remains, or
- (b) improperly or indecently interferes with or offers any indignity to a dead body or human remains, whether buried or not,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.⁸

In this regard, while it is legally permissible to possess the cremated remains of a loved one, such possession becomes illegal if the remains are “indecently interfered with” or offered any “indignity.” Additionally, I contend that the *Canadian Criminal Code* actually legislates against the preference of necrophilia, in so far as it outlaws the

⁸ Canadian Criminal Code, R.S.C. 1985, c. C-46, as am., s. 182. .

possession of necrophilic materials under its corruption of morals laws. Under article 163. (1) (a), the *Canadian Criminal Code* outlaws possession of (for the purposes of publication, distribution or circulation) “any obscene written material, picture, model, phonograph record or other thing whatever.” Again, while necrophilic materials are not specifically targeted under the section, the definition of obscene is clarified in subsection (8) as including:

...any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, **horror, cruelty and violence**....⁹

Thus, while the *Canadian Criminal Code* does not outlaw necrophilia by name, it does so via terminologies, such as: indignity, indecent interference, horror, cruelty and violence. This implicit consideration of necrophilia as *obscene* is confirmed in the Canada Border Services Agency’s (CBSA) policy on the classification and prohibition of obscene materials. The policy explicitly lists necrophilia as an “obscenity indicator” in direct reference to section 163 of the *Criminal Code* from which the CBSA draws its mandate to block the importation of obscene materials.¹⁰

Yet, in addition to necrophilia’s clinical classification and legal prohibition, the proposed hypothetically emerging constituency of necrophiles would also have to contend with the cultural and moral taboos that the preference and practice carry. In the sense of a known history of the practice, most documented accounts of necrophilia include reference to sociopathic, sadistic or homicidal behaviors. As noted above, the first comprehensive theoretical treatment of necrophilia was based almost exclusively on

⁹ *Canadian Criminal Code*, R.S., 1985, c. C-46, s. 163; 1993, c. 46, s. 1.

¹⁰ Memorandum D9-1-1. CANADA CUSTOMS AND REVENUE AGENCY'S POLICY ON THE CLASSIFICATION OF OBSCENE MATERIAL. September 9, 2003. August 11th 2004
<<http://www.cbsa-asfc.gc.ca/E/pub/cm/d9-1-1/d9-1-1-e.html>>

the case studies of Francois Bertrand and Victor Ardisson. Francois Bertrand was a sergeant in Napoleon's army and is reported to have begun necrophilic activities in 1849. He reportedly dug up bodies using only his bare hands, had intercourse with the rotting corpses, dismembered them, and left the remains at the graveyards he robbed. Bertrand was also a noted sadist, said to have admitted to several violent rape-related fantasies, and the killing and dissection of numerous cats in his youth. Victor Ardisson was, by contrast, a relatively peaceful man, who worked as a mortician and gravedigger. He was reputed to have had relations with over a hundred cadavers and was eventually discovered with the stolen body of a three-year-old girl, which he admitted to using for sexual purposes. The practices of both men were described in terms of necrophilia in the earliest works on the subject. However, it is of interest to note that, by contemporary standards, some of the most disturbing aspects of their behaviour would be classified under different paraphilia—sadism in Bertrand's case and pedophilia in Ardisson's.

More recently, the most well-known accounts of necrophilia revolve around the practice of serial killers. Ted Bundy, who claimed responsibility for more than 30 murders before his execution in 1989, also admitted to sexual assaults before, during, and after the deaths of his victims. Edward Kemper, who murdered eight people before turning himself into authorities, was a necrophiliac with an uncategorized paraphilia for decapitated heads. The most infamous was Russian necrophile, Andrei Chikatil, who was eventually convicted of murdering upwards of 52 children, as well as charges relating to their abduction, mutilation, torture and cannibalism. Yet in these cases, even more so than the cases of Ardisson and Bertrand, the disturbing and repugnant nature of these individuals' behaviour is hardly limited to necrophilia.

While each was indeed a necrophiliac, each was additionally a rapist, murderer, sadist or sociopath. However, while the clinical classification of each of these behaviors categorizes them as distinct from the preference or practice of necrophilia, their popular association remains. Considering these historical, legal and medical conceptions of necrophilia together, I turn now to the possible character of the hypothetically emerging constituency of politically and socially self-identifying necrophiliacs. In conjunction with the modern clinical definition of necrophilia, my imagined constituency would center its identity around the preference of necrophilia—understood as constituted by a non-violent sexual attraction to, or intercourse with, corpses of either the same or opposite sex.

One could imagine that the emergence of such a movement is not completely dissimilar from that of the early gay/lesbian movements of the 1970–80s. This is not to imply any type of connection between these preferences. Rather, it is to establish a precedent for the emergence of a socially and politically aware constituency based solely on a shared sexual preference, which does not intrinsically involve violence despite possible popular histories to the contrary. However, although some similarities in context exist between a potential necrophile movement and the gay/lesbian movement at its inception, the types of issues an emerging necrophile constituency would likely raise are unique. As well, the scope of social, legal and moral taboos they would breach are quite broad. The general goals of this emerging constituency would be to gain positive recognition. Ultimately, the goals would be to participate in democratic negotiations that affirm and celebrate diversity (as specified in the first chapter regarding the point of *becoming* and the goals of the *unbecome* in general). However, the specific contentions

and codified identity/difference binaries that an emerging constituency of necrophiles would need to address would be practically nonpareil. With this in mind, the following section explores some potential claims that might be brought forward by necrophiliacs as issues in need of political or social redress. The following section subsequently considers to what extent the Rawlsian model can accommodate such a constituency.

Cleanliness, Consecration and Consent among Posthumous Partners

Turning now to some of the concerns that probably require a degree of redress for an emerging group of necrophiliacs, I consider three key potential issues they might wish to raise in the process of navigating the *politics of becoming*. These issues (while certainly not the only ones that could be raised) are representative of obstacles illustrated above to be present in the current legal, medical and social culture. They are also representative of related constitutional and social preconditions for a more positive recognition sought by an emerging necrophile-other. The three key considerations I consider are: the legality of the possession, maintenance and treatment of a human body and the related health considerations; the legitimacy of wills and the problematic nature of posthumous consent; and the prominent and diverse religious conceptions of the sanctity of the dead, and their place in a secular society.

I posit that the first issue an emerging necrophile constituency likely needs to raise relates to the most obvious physical precondition to the practice of necrophilia, the legal possession, maintenance and treatment of posthumous partners. In this regard, an emerging constituency would need to negotiate several existing legal and medical standards. In terms of medical standards, the necrophiles attempting to emerge would need to address specific health concerns with the spread of disease and infection. This

health concern would likely be two-fold. First, there would likely be a concern over the cleanliness of and potential infections from intercourse or intimate contact with posthumous partners. While this does constitute a genuine concern, a necrophiliac might well cite the current risk of infection, and potential contamination, in sexual interactions between living partners—and suggest that the risk of infection is no greater and possibly, in some cases, even reduced. The second likely health concern would relate to the maintenance of a corpse itself—because decaying corpses constitute a risk to public health. In this regard, since the concerns are purely procedural, necrophiliacs could potentially attempt to negotiate a set of regulated maintenance practices that would negate the health concern. They might draw on a variety of modern technologies that are experienced with the preservation of the dead and decaying, such as: taxidermy, embalming or archeology. From a legal perspective, as outlined above in section 182 of the *Canadian Criminal Code*, necrophiliacs would need to make a case for the amendment of existing statutes in specific cases relating to the category of body maintenance for the practice of necrophilia. Here, the emerging necrophiliacs could well draw on existing examples of legitimate private ownership of human remains—such as the legal possession of urns containing ashes. Assuming health concerns could be separately resolved, the main issue here would revolve around the legal definitions of “indignity,” “indecent interference,” and “obscenity.” While these concerns could be addressed in a variety of ways, one of the most likely arguments relates to consent. Following the arguments that amended the criminal sanction against sodomy to allow for consenting actions between adults in private, necrophiliacs could argue that, if consented to, the acts can not be considered indignities. In this way, if a person were to bequeath

his or her body to an individual for the purposes of necrophilic involvement, an argument could be raised suggesting that any proceeding necrophilic relations constitute private actions between consenting adults. The difficulty with consent in the case of necrophilia relates to the posthumous nature of one party's consent.

The problematic nature of consent leads to the second major issue that needs to be redressed by an emerging necrophile constituency—namely, the legitimacy of willing one's body to a private party and the nature of posthumous consent. The notion of being able to decide, in a legal will, what is to be done with one's body is not a new concept. Frequently, individuals specify details regarding burial, cremation, and other details regarding the disposal of their remains. The primary difficulty in necrophilia is the continuation of consent after the death of the individual. While necrophiles could argue that what one desires done with their corpse—for example, an organ donation or the donation of a body to schools of medicine—is their own affair, the strength of posthumous consent is not currently granted the legitimacy it would require to in any way advance the necrophile's cause. While individuals can sign organ donation cards or bequeath their bodies for use in medical schools or other scientific uses, the current practice is to honor the wishes of the surviving family members more than those of the deceased. For example, Organ Donation Ontario (formerly the Multiple Organ Retrieval and Exchange (M.O.R.E.) Program of Ontario) specifies that despite the fact that a signed organ donation card is considered a legal document providing consent, the family of the deceased is always to be consulted, and no organs are to be retrieved if they do not consent.¹¹ I would suggest these guidelines, clearly not in line with Canadian law regarding capacity to give consent, are representative of a broader social issue with

¹¹ Organ Donation Ontario website < <http://web.idirect.com/~more/>> (retrieved August 15th 2004)

regard to the strength of posthumous consent when weighed against surviving family's consent in matters relating to the bodies of the deceased. It is interesting to note that posthumous consent is typically less challenged in matters concerning the distribution of property. This suggests a possible connection between the strength of posthumous consent with regards to one's body, and social and cultural positions regarding the dead. I would contend that an emerging constituency of necrophiliacs would need to directly address and challenge these cultural, social and religious influences on the power of posthumous consent in order for their preference or practice to gain any sort of legitimacy or positive recognition.

The idea of social or cultural beliefs (concerning the dead) affecting the strength of posthumous consent, relates to the final of the three key issues I postulate an emerging necrophile-other would need to address. While religious, social and cultural practices vary in terms of the acceptable treatment of human remains, the notion of the sanctity or sacredness of the dead, and the need to honor the dead, continue to have a strong impact on many contemporary societies. The notion of the sanctity of the dead, and the role of such a religiously influenced standard in a secular society, represents the final issue an emerging constituency of necrophiliacs would need to negotiate. While the rise of the secular state has, in many ways, distanced itself from the influences of religion, the impact of these sources of moral doctrine remain. Like gays and lesbians, necrophiliacs could potentially renegotiate their position within mainstream religions. However, necrophiliacs would need to contend with the additional issue of their practices interfering with the many sacred rules set out in funeral practices. Since it seems unlikely that there will be a shift in the religious viewpoints of so many world religions on the

matter of the sanctity of the dead, an emerging group of necrophiles could instead look to the secular division between church and state, and ask for equal constitutional rights to follow their beliefs. The question would then become, “to what extent should widely agreed-upon religious and moral beliefs affect the secular state?”

These issues, as mentioned above, are not exhaustive of all the issues and conceptions that might be addressed or challenged. Rather, these key concerns are three issues that likely would need to be addressed in order for an emerging constituency of self-identifying necrophiles to successfully navigate the *politics of becoming*. Consequently, I will use these three issues when considering the obstacles and difficulties that a constituency’s attempted *becoming* might face in Rawls’ model.

In exploring an attempted emergence from the Rawlsian perspective, the issues outlined above need to be considered in terms of the categories and procedures laid out in Political Liberalism. Specifically, the precise way in which Rawls would categorize such a constituency needs analysis. The ability of such claims to be raised and articulated in accordance with the ideals of public reason also needs analysis. The first and most crucial consideration, in terms of how Rawls would handle such a constituency, would involve the question of whether or not necrophilia would be considered a constitutive element of a comprehensive doctrine. Certainly, a variety of traditional readings of Rawls suggest that such a sexual preference would not be considered as part of such a doctrine. Such views, like those of Iris Marion Young discussed in the second chapter, suggest a reading of Rawls in which comprehensive doctrines are understood as too thin to capture the realities of a pluralist society, and too totalizing a caricature of a

conception of one's worldview.¹² However, as described in the second chapter, *my* Rawls is somewhat different. My more generous account of Rawls reads his notion of comprehensive doctrines as necessarily including a wide conglomeration of elements that might affect a person's "whole truth as they see it."¹³ According to *my* Rawls, a comprehensive doctrine describes a broad collection of varied elements of identity and experience that shape an individual's view of the world. Under this reading of Rawls, necrophilia could well constitute a contributing element of a comprehensive doctrine, and as such, be considered in the wider context of the Rawlsian model. However, as Rawls clearly specifies, he is only interested in accommodating "reasonable" comprehensive doctrines. Subsequently, the second broad categorical issue to consider is whether a comprehensive doctrine of a self-identifying necrophile could be considered as such.

In this regard, Rawls is specific about what constitutes a comprehensive doctrine as reasonable. For Rawls, a comprehensive doctrine is reasonable in as far as it is held by a reasonable person. In this context Rawls describes reasonable people as those who:

...see that the burdens of judgment set limits on what can be reasonably justified to others, and so they endorse some form of liberty of conscience and freedom of thought. It 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.¹⁴

As such, assuming that necrophilia could be considered a constitutive element of a comprehensive doctrine, and that the constituency of emerging necrophiliacs who held such doctrines was reasonable in the way in which Rawls requires, such views held by these individuals would qualify as reasonable comprehensive doctrines.

¹² Young, Iris Marion. "Survey Article: Rawls's Political Liberalism" in *The Journal of Political Philosophy* Volume 3 Number 2 (1995) at page 181-182

¹³ Rawls, John. *Political Liberalism* (Columbia University Press, New York. 1993/1996 *Revised with additional materials*) at page 216

¹⁴ Supra note 12 at page 61

The second question to consider is whether or not the issues detailed above could be raised and articulated in accordance with the ideal of public reason in the deliberations of the Rawlsian public sphere. In terms of the first part of the question, Rawls sets out clear limits as to what the ideal of public reason should apply to. As he specifies:

...the limits imposed by public reason do not apply to all political questions but only to those involving what we may call “constitutional essentials” and questions of basic justice... Many if not most political questions do not concern those fundamental matters, for example, much tax legislation and many laws regarding property; statutes protecting the environment and controlling pollution; establishing national parks and preserving wilderness areas and animal and plant species; and laying aside funds for museums and the arts.¹⁵

Accordingly, the question is “are the three issues (that I propose the emerging necrophile community would need to address) matters of fundamental justice or matters of constitutional essentials?” Since the first and the second issues could well be argued in terms of constitutionally protected rights to freedom of thought and the implied freedom of sexual preference, Rawls would likely consider these ‘constitutional essentials’. In terms of the third issue regarding the sanctity of the dead, while not explicitly a constitutional matter, I would contend that Rawls would likely see the issue as a matter for public deliberation since it does directly involve the “exercise of political power”¹⁶ and at least relates to matters of fundamental justice.

Conceding that these three issues could be raised in the deliberations of the Rawlsian public sphere, they would therefore need to be articulated in terms of the ideals of public reason. It is here that most traditional readings of Rawls would make their dramatic claims of exclusion, and not without some basis. Certainly, Rawls’ initial discussions of the limits of public reason would raise some very substantial concerns in the case at hand. As discussed in the second chapter, Rawls does suggest that, ideally,

¹⁵ Ibid at page 214

¹⁶ Ibid at page 217

participants in the public sphere should make their arguments through appeal to the common conception of justice, and not via their comprehensive doctrines. In particular he notes:

...in making these justifications we are to appeal only to presently accepted general beliefs and forms of reasoning found in common sense, and the methods and conclusions of science when these are not controversial.¹⁷

However, as Rawls makes clear in his amendment to the ideal of political liberalism in the revised edition of his work, an inclusive reading of public reason can be invoked when necessary. In his more inclusive account of public reason, the positions of the emerging necrophile constituency could be articulated, with full reference to the greater and more complete set of underlying reasons founded in their comprehensive doctrines, essentially giving them an unrestricted voice in public deliberations.

Yet, despite its apparent inclusivity, there remain some substantial barriers to the supposed emerging necrophile constituency intrinsic to the Rawlsian model. Rawls' theory, and my consideration of how it could accommodate an emerging group of necrophiles, presumes a temporal starting point from which everything is built. Provided the necrophiliacs are considered in terms of the early stages of Rawls' theory, they would likely be accommodated in those early steps. The problem is that, by definition, they have not yet emerged at the fictional point of Rawlsian political inception. As noted at the end of the second chapter of my thesis, this is one of Connolly's primary critiques of Rawls. Connolly contends:

Rawls is superb at acknowledging the justice of newly defined claims and constituencies once the politics of becoming has carried their voices within range of his hearing.... But Rawls pretends (and his categories presume) that he is now in the same position with respect to a large variety of unpoliticized injuries today that he is with respect to constituencies whose cultural identification and institutional standing have been changed

¹⁷ Ibid at page 224

through the politics of becoming. And he also acts as if his own identity (as “a person”) can remain untouched and unchanged as he responds to new movements of difference.¹⁸

In the context of the example of the emergence of a constituency of necrophiles, Rawls has no ability to accommodate the vast array of challenges and reformulations that should take place at the beginning stages of such an emergence. Additionally, Rawls’ tendency to be overly protective of established reasonable comprehensive doctrines would pose additional difficulties for any newly emerging group. Rawls builds his theory by taking the fact of reasonable pluralism as it is “now,” and uses it as a stable foundation for establishing set principles and a common conception of justice. Therefore, any constituencies not identifiable in the reasonable pluralism of Rawls initial “now” are not considered. Once past the point of conception, Rawls does not set out any means for new constituencies to challenge the values affirmed in an overlapping consensus. As such, an overlapping consensus—no matter how initially inclusive to identified difference and diversity, once established—cannot accommodate the types of challenges, disruptions and disturbances that any new constituency would necessarily need to make in order to emerge. In contrast, Connolly’s proposed ethos of critical responsiveness is aimed specifically at responding to such disruptions. In a culture of pluralization, citizens would be responsive to the initial disturbances and challenges to social and moral norms that an emerging group of necrophiles would need to begin with. This includes the subsequent negotiations and redresses regarding the three key issues I suggested. However, Connolly’s proposed ethos is not about responsiveness alone, but also includes an element of critical judgment. As such, Connolly’s ethos exists in a state of perpetual tension, balancing its responsive and critical elements. In the section that follows, I

¹⁸ Supra note 1 at page 147

consider the potential problematic nature of such a balance, and its possible implications regarding Connolly's stance towards Rawls.

Ethos of Responsiveness and the Limits of the Critical

By the end of the second chapter, I concede that *my* Rawls' Political Liberalism, while capable of accommodating the *unbecome* in some ways, ultimately remains insufficient. And, having this concession reaffirmed in the above case of the emergence of a necrophile constituency, I now return to Connolly's proposed solution to this shortcoming. Connolly suggests that what Rawlsians need to do is cultivate an ethic of gratitude toward the diversity of life upon which can rest an *ethos of critical responsiveness* to the entropic disruptive energies constantly flowing from the politics of becoming. As discussed in the first chapter of this thesis, the *ethos of critical responsiveness* is presented as a civic virtue that encourages citizens to be responsive to the movements of constituencies emerging through the politics of becoming. Equally, or even more importantly, it encourages them to be responsive to disturbances to their own (potentially) more established identities that such movements necessarily entail. As such, the ethos is characterized by its responsiveness (both internal and external) to movements through the *politics of becoming* and by its requirement that such responsiveness be balanced (as noted above) with a certain critical component. The balance between these two elements is formed by the acceptance of what Connolly describes as the *paradox of becoming*. This paradox (what Nietzsche called the "immorality of morality") relates to acceptance of the fact that the need to make critical judgments, based on a moral code, must be balanced against the tendency for such codes to congeal, and inevitably become barriers to *becoming*. As Connolly notes:

...two interdependent dimensions of ethics are perpetually poised in tension: the obligation to abide by the existing moral code and the cultivation of an ethos of critical responsiveness to the movement of difference. Without a code, the regularity of judgment deserved and expected by existing constituencies would be lost. But a congealed code also poses dumb, arbitrary barriers to the politics of becoming.¹⁹

In this way, Connolly's ethos seeks both to support the disruptions brought to congealed moral standards by movements through the *politics of becoming*, and to make critical decisions regarding which movements should be supported by reference to that same set of standards.

Of course, Connolly does not suggest that the critical element of his ethos should allow for "dumb, arbitrary barriers" to the *politics of becoming* by privileging the current (likely stagnant) moral code. Rather, Connolly sets out limits upon which potential emergencies should be halted. He describes the need for general limits to the drive of pluralization, which he suggests:

[Limits] include, for instance, general civilizational values, including the protection of life, respect for privacy, the appreciation of diversity, and protection from undeserved suffering.²⁰

In specific reference to the *politics of becoming*, the only newly-emerging constituencies that should be rightly halted are those that might either "congeal into a fundamentalism that forecloses the future becoming or might force certain constituencies into an abject position."²¹ Yet, even as he sets out these limits, he acknowledges their problematic character, differentiating between the need to acknowledge limits and the drive to set criteria. Specifically Connolly contends that:

¹⁹ Supra note 1 at page 138

²⁰ Connolly, William E. The Ethos of Pluralization (University of Minnesota Press, Minneapolis. 1995) at page 194

²¹ Supra note 1 at page 142

There is a deeper reason why the appreciation of limits and the delineation of criteria are not synonymous. It involves the complex relation between a pattern of cultural norms and the shape of corporeal experience.²²

This complex relation, Connolly explains, can be seen in the different way certain similar activities are understood depending on the relevant social norms and values of their contexts. According to Connolly, one example is the different way in which we conceptualize the contemporary practice of sex between Catholic priests and adolescent boys compared to how the sensual pleasures pursued between older aristocratic men and adolescent boys in ancient Greece was conceptualized. The difference, Connolly contends, is in how the latter was understood in terms of natural human desires, while the former is defined as a transgression of the natural order. Yet even beyond how these acts are perceived and defined by others, Connolly suggests their participants come to embody certain normative values that ultimately shape their experiences. Specifically he notes:

...these respective understandings have become *corporealized* by the parties implicated in them. The corporealization of culture shapes to a significant degree experiences of exploitation or reciprocity, injury or gratification, degradation or respect, naturalness or disorder.²³

Because of this *corporealization* of norms by those implicated in them, Connolly suggests that many do not recognize the fine line between *corporealization* and the infliction of harm or subjugation of others through cultural impositions of norms. Judgments regarding new constituencies and the limits upon which they rest, he suggests, need to be sensitive to this fine distinction, and he specifically contends that:

Since all of us are pressed into making such judgments, and since we are also implicated in specific conjunctions between culture and corporeality, we are never in a perfect epistemological position to draw the line at which corporeal flexibility ends and universal

²² Supra note 21 at page 194

²³ Ibid at page 195

injury begins. I would place clitoridectomy on the injurious side of that line, without being able to delineate the exact shape of the line itself.²⁴

Thus the means by which fundamentalisms are identified or by which abject positions are imagined, remain the standards of the very moral codes and cultural norms under which the *unbecome* presently suffer, resulting in a perpetual tension between such codes and standards and an ethos of critical responsiveness.

Connolly does not seek to avoid this perpetual tension. Instead, he attempts to minimize its impact by accepting it as necessary and by establishing responsive limits and not static criteria by which emerging identities are critically considered. This is what Connolly means when he suggests that both justice and an ethos of critical responsiveness are indispensable, since the limits to such an ethos invariably draw on moral and cultural norms implicit in a conception of justice. Yet, Connolly explicitly privileges the indispensability of his ethos over the indispensability of justice, noting:

The ethos of critical responsiveness is more fundamental than justice partly because its very shape calls into question the quest to find a solid ground of morality or justice. For critical responsiveness may flow from a care for the diversity of being irreducible to any more basic principles established by contract, transcendental deduction, or rational consensus.²⁵

Connolly's ethos invariably draws from such solidified moralities, and despite this accepted important role of justice, Connolly avoids any substantive discussion of its pursuit. Whether Connolly's explicit acceptance of the indispensability of both justice (as the representation of a standardized moral code) and his broader proposed ethos properly balances his near complete focus on the latter, remains a question to be considered.

Regardless of whether the ethos of critical responsiveness effectively balances these elements of tension, Connolly's focus is on the need to accept this perpetual

²⁴ Ibid at page 195

²⁵ Ibid at page 187

anxiety. His claim is that without the acceptance of the paradoxical nature of moral standards, Rawls (and many who follow him) are unable to accept the necessary insufficiency of justice. Justice itself is built on the moral standards that Connolly insists must change over time to accommodate *becoming*. Since justice's role is limited to that of the critical (as opposed to the responsive), and its critical judgments are made on moral standards assumed to be more or less static, justice is disabled from being responsive to those who struggle for redefinition against current moral standards.²⁶

However, as discussed in the second chapter of this thesis, while Rawls' theory ultimately falls short, it succeeds on many levels in laying out an inclusive model of both justice and participation. I contend it does so in certain ways more comparable to Connolly than either theorist is willing to concede. In the final section of this chapter, I explore the similarities, differences and complementary potential of an overlapping consensus and an ethos of critical responsiveness. I look to the ways in which a Rawlsian might endorse such an ethos, as well as what of Rawls' theory might be recoverable and of use to Connolly's post-Nietzschean model.

Overlapping Ethos/Critical Consensus

At the heart of Rawls' proposed political conception of justice, is the acceptance of what he calls the "fact of reasonable pluralism." As detailed in earlier parts of this thesis, the fact of "reasonable pluralism", according to Rawls, moves beyond the acceptance of basic pluralism. Instead, it embraces the fact that society is made up of citizens who hold a plurality of reasonable, yet opposing, comprehensive doctrines, and that this is the "natural" and expected result of a healthy democratic regime. At a glance, this is not totally dissimilar to Connolly's opening contentions that what is needed is the

²⁶ Supra note 1 at page 147

“pluralization” of the pluralist imagination. Both theorists are seeking to acknowledge the deeply pluralist nature of contemporary society, and both are dissatisfied with its standard characterization. However, Connolly goes several steps beyond Rawls in terms of addressing the conventional pluralist imagination.

On the other hand, Rawls, with the fact of reasonable pluralism, is intent on pointing out that the diversity in society is deeply rooted and often in tension regarding all sorts of metaphysical, religious, philosophical or other “truths.” According to Rawls, the key point is that despite these metaphysical disagreements, many of these opposing perspectives are equally reasonable. Essentially, Rawls suggests that from a political standpoint, the diverse, reasonable comprehensive doctrines are all equally valid. Rawls’ position does resonate to some extent with Connolly’s discussion of the non-fundamental nature of all things, in which Connolly suggests that all positions begin from a similarly problematic basis, and thus are all equal in their unprivileged status. Of course, Rawls does not go nearly as far as Connolly in this regard. However, I would contend that the equality of competing perspectives on metaphysical and religious (and presumably ontological) doctrines he proposes is not as far removed from Connolly’s position as many often presume. I am not suggesting that Connolly and Rawls share some core *ontopolitical* assumptions; however, I do suggest that there remains a striking similarity in the practical implications of how each views competing truth claims within a democratic society.

As I have said, Connolly goes a number of steps beyond Rawls in seeking to pluralize the pluralist imagination. Rawls remains focused on the fact of reasonable pluralism in a hypothetical and unchanging “now”. For Rawls, it is important to accept

the fact of reasonable pluralism as it is, and perhaps even (through an even more generous reading of Rawls than *my* Rawls) how it will one day be; but not as a continually evolving process. According to Rawls, the fact of reasonable pluralism is about diversity as a stable base, and, consequently, he conceptualizes change to be a relatively slow and rational process. As he states in regards to comprehensive doctrines evolving and changing:

...while a comprehensive view is not necessarily fixed and unchanging, it normally belongs to, or draws upon, a tradition of thought and doctrine. Although stable over time, and not subject to sudden and unexplained changes, it tends to evolve slowly in light of what, from its point of view, it sees as good and sufficient reasons.²⁷

In some ways Connolly couldn't agree more. Connolly also believes that identities and established doctrines *attempt to avoid* sudden change, and go to great lengths to insulate themselves against disruptive forces that would evoke such rapid shifts. Rawls simply states this as a characteristic. For Connolly, however, it is the primary barrier to *becoming*. As Connolly explains, more established identities become invested in current definitions of identity/difference, and resist attempts at redefinition of such couplets. As a result, those who strive (suffering under their current relational identity) to change the current identity/difference standards, inevitably disrupt those invested in such codes, and meet with resistance from them. What for Rawls is a characteristic of established worldviews is for Connolly a problematic tendency of entrenched identities to block emerging and redefining constituencies' movements through the *politics of becoming*. Essentially, Rawls is interested in the fact of reasonable pluralism in terms of what individuals "are." But, Connolly is interested in the constant changes that all identities

²⁷ Rawls, John. Political Liberalism (Columbia University Press, New York. 1993/1996 Revised with additional materials) at page 59

are perpetually resisting, undergoing, and evoking. Rawls is focused on *being*, while Connolly is concerned with the processes of *becoming*.

This difference in temporal perspective leads Connolly and Rawls down significantly different paths. Connolly, concerned with *becoming*, proposes the civic virtue of an ethos of critical responsiveness to the inevitable disturbances brought on by the *politics of becoming* that seeks to counter the tendencies of established identities to block emerging constituencies. Rawls, by contrast, focusing on the fact of pluralism as an established and relatively stable state, proceeds to explore the means by which such a diverse population might come to endorse a common political conception of justice. Ultimately, it is this static understanding of pluralism that disables the Rawlsian model from being able to accommodate the continual emergences of new constellations through the *politics of becoming* and the perpetual tensions they yield.

As noted above, Connolly contends that what Rawlsians must do is embrace an ethos of critical responsiveness to these perpetual tensions, accepting the necessary inadequacy of justice in and of itself. In one sense, this *responsive and political liberalism* is not completely unimaginable. If one were to imagine the process of overlapping consensus as a continual process by which reasonable comprehensive doctrines, both tenured and newly established, continually affirmed, adjusted and reaffirmed political conceptions of justice that all might reasonably endorse through their own independent (though likely opposing) varied perspectives, such a view might seem a fair realization of Connolly's recommended ethos. However, Rawlsians need to contend with a substantial obstacle. For Rawls, the idea of an overlapping consensus is used as a

method to ensure stability over time of a single set of political conceptions of justice. As Rawls contends:

Social unity is based on the political conception; and stability is possible when the doctrines making up the consensus are affirmed by society's politically active citizens and the requirements of justice are not too much in conflict with citizens essential interests as formed and encouraged by their social arrangements.²⁸

In effect, the goal of an overlapping consensus is to congeal such a political conception. The goal of an ethos of critical responsiveness is to keep such codes from congealing too thoroughly. Thus, while Rawls is seeking a substantial stability, for Connolly, stability is neither ultimately possible nor desirable. Accordingly, his ethos actively seeks to disrupt it. On the other hand, Rawls' desire for stability hinders him from being able to easily embrace an ethos of critical responsiveness, and ultimately disables him from being able to fully accommodate the *politics of becoming*. However, he does present some interesting and potential recoverable ideals concerning a political conception of justice.

Despite Connolly's very Nietzschean dislike of congealed moral codes, as noted above, he does both explicitly accept the need for such a code. Connolly is very specific concerning the limits to the critical evaluation of newly emerging and newly defined identities needing to be wary of their dependence on and implication in cultural and moral norms. But, he also concedes the fact that such judgments must ultimately be made (will be made, to some extent) by reference to said norms; or in Rawlsian terms, in reference to a public conception of justice. Connolly does not discuss any way to ensure that the static moral standards that must be depended on for consistent judgment are as fair and reasonable as possible. Certainly, such codes must be balanced by an ethos of responsiveness. However, since they must also persist in order for judgment of any kind,

²⁸ Ibid at page 134

and more specifically the critical component of Connolly's ethos, surely it would be desirable for such a conception to be as reasonable and fair as possible. However, as noted just above, while Connolly concedes the indispensability of justice, he offers virtually no input on it, privileges his ethos as "more fundamental"²⁹. As a result of ignoring the admittedly indispensable justice component, Connolly's ethos is presented as a contingent element of a binary in which the other component is barely discussed. In this way, some elements of the Rawlsian model, seeking to establish a political conception of justice affirmable by a plurality of reasonable yet opposing perspectives might be recoverable and of use to Connolly's project to pluralize the pluralist imagination.

This is by no means to suggest that Connolly should simply adopt a Rawlsian conception of justice. On the contrary, as hopefully established throughout this thesis, a more generous account of the Rawlsian project leaves a political conception of liberalism with a variety of deeply embedded challenges to resolve. On the one hand, Connolly accepts the indispensability of justice and the necessity of such norms in delivering consistent judgments. On the other hand, he completely avoids any substantive discussion of the character or composition of these indispensable standards. Therefore, one is left to assume either that the current standards of justice are sufficient or that a discussion of those standards is yet to come. Presuming the latter, I would contend that a sympathetic account of Rawls' project allows for certain ideals and conceptions to be recovered and possibly used in developing a more agonistically sensitive conception of justice. Problematic as it may be, Rawls' purely political liberalism, with its overlapping consensus and ideal of public reason, represents a model for establishing a public

²⁹ Supra note 12 at 187

conception of justice responsive, in at least some degree, to a deeply pluralistic society. Just as Connolly's insistence on both the *radical insufficiency of justice and the radical indispensability of justice*³⁰ necessitates for Rawls the embrace of an ethos of responsiveness, it also could be understood to necessitate a more serious and substantive account of justice by Connolly. I would contend that in the event of Connolly's pursuit of such a substantive account, a more generous and sympathetic reading of Rawls could provide the opportunity to recover some useful ideals and conceptions from this mainstream liberal model. Such recovery could yield the dual benefit of both aiding in an account of a more agonistic standard of justice, as well as possibly lessening the perceived divide between Connolly's post-Nietzschean responsive liberalism and many Rawlsian and Rawls inspired conventional liberalisms.

³⁰ Supra note 1 at page 147

Conclusion

The purpose of this thesis is to attempt to fill a perceived gap in William Connolly's work by engaging it with a more generous account of John Rawls' Political Liberalism. The aim of such an endeavour is to explore the obstacles and barriers my more sympathetic account of the Rawlsian model might still pose to *becoming*, as well as to suggest some potential recoveries from the Rawlsian model that might be of use in Connolly's project.

I began in my first chapter by attempting to provide a detailed account of Connolly's concerns regarding what he contends are the insufficiencies of the "conventional pluralist imagination,"¹ and of his proposed solution to these insufficiencies through the conception of a critical ethos—responsive to what he identified as the "politics of becoming."² In setting out such accounts, I also proposed the category of *unbecome* identities implied in Connolly's work, and subsequently distinguished between the *inviolate* and *viable unbecome* groups. I contended that, because Connolly asserted that a democratic society need only be responsive to what I categorized as the *viable unbecome*, he could only support a criticism based on the insufficiency of conventional pluralist approaches to enable the *political becoming* of this *viable unbecome*, and not the whole of the *unbecome* in general.

¹ Connolly, William E. The Ethos of Pluralization (University of Minnesota Press, Minneapolis. 1995) at page xxx

² Connolly, William E. "Suffering, Justice, and the Politics of Becoming" in Moral Spaces: rethinking ethics and world politics David Campbell and Michael Shapiro [eds] (University of Minnesota Press, Minneapolis. 1999) at page 136

Having considered Connolly's general position on the pluralization of conventional pluralism, I proceeded in my second chapter to provide a more generous and sympathetic account of Connolly's chief example of such a conventional approach, John Rawls. Focusing on Rawls' work in Political Liberalism, I attempted to set out *my* Rawls through his accounts of the fact of reasonable pluralism, the idea of an overlapping consensus, the ideal of public reason, and through engagement with the traditional critiques of Benhabib and Young. Once my more sympathetic account of Rawls was laid out, I returned to Connolly and considered his critiques of Political Liberalism in terms of *my* Rawls. I attempted to explore the ways in which this more generous account attained some sufficiency, as well as the ways in which it ultimately remained insufficient as to accommodate the vast array of identities possible in the *viable unbecome*.

By the end of the second chapter, I conceded that *my* Rawls' Political Liberalism, while capable of accommodating the *viable unbecome* in some ways, ultimately remained insufficient. Therefore, I turned in my third chapter to consider the implications of both the sufficiencies and insufficiencies of the Rawlsian model in terms of a hypothetical example of a constituency of *viable unbecome*, necrophiles, and their attempted emergence through the *politics of becoming*. I first considered what such a group of self-identifying necrophiliacs might feel they suffered, and the issues that they could potentially bring forward as in need of redress. Through medical accounts of the preference, legal accounts of the practice, and quasi-historical anecdotal accounts of practitioners, I attempted to formulate some basic characteristics of such a hypothetical movement. Following this, I briefly considered *my* Rawls' potential for accommodating the claims of such a group, as well as the ethos Connolly proposed Rawlsians needed to

embrace. I additionally proposed that Connolly's insistence on both the "radical insufficiency of justice" and the "radical indispensability of justice"³ necessitated Rawls' embrace of an ethos of responsiveness, and a more serious and substantive account of justice by Connolly. I concluded with the contention that in the event of such a substantive account, a more generous and sympathetic reading of Rawls could provide Connolly with the opportunity to recover some useful ideals and conceptions from this mainstream liberal model. I also concluded that it could possibly lessen the perceived divide between Connolly's post-Nietzschean responsive liberalism and Rawls' conventional liberal approach, and the many mainstream liberalisms it has inspired.

In my thesis, I have presented three main points through which I contend the perceived gap in Connolly's work has been lessened. First, through engaging of Connolly with *my* more generous account of Rawls, I suggested the ways in which some of Connolly's criticisms of Rawls were sustainable, and the ways in which others were not. Through this engagement, I showed the ways in which Rawls is not as explicitly exclusive as Connolly contends in his brief account. Second, I explored the ways in which Rawls' and Connolly's projects bore some similarity to one another. I suggested the primary obstacle to a Rawlsian acceptance of an ethos of critical responsiveness would likely be related to Rawls' insistence on the idea of overlapping consensus as a basis for stability. This focus on stability, I contend, ultimately limited Rawls' potential to fully identify and consider the continual entropic potential energies of emerging, changing, and descending identities through the *politics of becoming*. Finally, I proposed that the same logic that Connolly suggests necessitates Rawlsians' cultivation of the ethos

³ Ibid at page 146

of critical responsiveness, equally necessitates a more careful and substantive account of justice on Connolly's part.

Justice then, I agree with Connolly, is not enough. Ultimately, an exclusive focus on a conception of justice obscures questions about how identities *become* in the perpetual *politics of becoming*. Rawls, as Connolly rightly points out, exemplifies this focus, and is so intent on a conception of justice as a stable base upon which to *be* that he obscures important questions about how we *become*. However, similarly, I contend that in Connolly's near exclusive focus on the ways in which we *become*, he has neglected important questions about the "indispensable"⁴ though "insufficient"⁵ notion of justice. Justice is not, in and of itself, enough but neither is Connolly's ethos of critical responsiveness. Here I contend that Connolly's central claim of both the "radical insufficiency of justice" and the "radical indispensability of justice"⁶ not only proves the need for a theory of justice to embrace an ethos of critical responsiveness, but also confirms the dependence of such an ethos on a conception of justice. By no means am I suggesting that Connolly needs to accept Rawls' political conception of justice. Rather, I suggest that if Connolly perused the more substantive and careful account of justice I propose his ethos demands, engaging with a more fully developed and sympathetic account of Rawls could prove beneficial.

⁴ Supra note 2 at page 147

⁵ Ibid at page 147

⁶ Ibid at page 147

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