
Private Rights and the Public Good

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Political liberalism can be defined broadly as the belief that individuals know that which is best for them, and that society and its institutions exist to advance the ends of the individual. Communitarianism can be defined broadly as the belief that the community is the basis of law and society, and that society and its institutions exist to advance the ends of the community. A major distinction between the two political philosophies is the nature of the public/private bifurcation. For the liberal, the split is ontological and the private individual exists antecedent to society. For the communitarian, the split is purely organizational.¹ Indeed, for the communitarian the individual cannot exist independent of society and is thus a purely public being. The metaphysical and societal ramifications of the conflicting divisions are pervasive. The purpose of this paper is to argue for the superiority of Michael J. Sandel's communitarian republic as opposed to Richard Rorty's procedural, liberal society. The grounds for the argument are that an ontological distinction between the public sphere and private sphere is incoherent. My argument proceeds by exposing the culture of individualism inherent in Rorty's procedural liberalism and how individualism caters to a narcissistic and nihilistic society. Further, I argue that liberalism is fundamentally bankrupt, both politically and metaphysically, because it fails to allow for internal constraints on the individual. I conclude with an argument for the

¹ I distinguish between an ontological and an organizational split to illustrate that for the liberal the split defines the being of the private individual; whereas, for the communitarian the split is superficial and is only used to organize one's life, i.e. what one does at home at what one does in public. The point here is that for the communitarian there is no self independent of the community.

superiority of communitarianism because of its cultivation of citizenship and its orientation towards the public good; its respect for history and tradition, and its predisposition towards civic engagement.

Rorty's Liberal Ironist

The manifestation of Rorty's public/private split culminates in the forming of the liberal ironist. In explaining this individual, Rorty uses ironist "...to name the sort of person who faces up to the contingency of his or her own most central beliefs and desires – someone sufficiently historicist and nominalist to have abandoned the idea that those central beliefs and desires refer back to something beyond the reach of time and chance."² In defining liberal, Rorty borrows his definition from Judith Shklar, who says, "...liberals are the people who think that cruelty is the worst thing we do."³ Thus, the individual who embodies the said characteristics is the liberal ironist—the individual who recognizes his or her contingency and continuously recreates him or herself through metaphoric redefinition, while maintaining a steadfast commitment to the abolition of suffering.⁴

² Richard Rorty, *Contingency, Irony, and Solidarity*. New York: Cambridge University Press, 1989, pg. xv.

³ *Ibid*, pg. xv.

⁴ Rorty understands the ironist as the private side of the individual and the liberal as the public side. By metaphoric redefinition, Rorty is referring to a process by which the private ironist can use metaphors to create themselves, thus distinguishing themselves from the status-quo of normal discourse. For Rorty, Marcel Proust, Friedrich Nietzsche, and Martin Heidegger were paradigmatic ironists because they recognized the contingency of their final vocabularies. A final vocabulary, for Rorty, is a certain set of beliefs for which we ignore the contingency.

Rorty wishes to hold onto both the private ironist and the public liberal. He attempts to reconcile a synthesis between the limitless possibilities of the private ironist and the parochial constraints necessary for a liberal society, while maintaining mutual exclusivity. Or in his words: “[m]y poeticized culture is one which has given up the attempt to unite one’s private ways with one’s sense of obligation to other human beings.”⁵ Absurdity follows given the mutual exclusivity of the public and private sphere because the private sphere is subjective and aesthetic—thus private extremism erodes into narcissism and eventually nihilism⁶ sans the intervention of a public sphere in the form of a social contract.⁷ Accordingly, Rorty, in his attempt to rectify this ill-guided dichotomy relies on a dangerous form of ethnocentrism to appeal to human solidarity. Specifically, Rorty draws on Wilfrid Sellars’ analysis of moral obligation in terms of “we-intentions.”⁸ Rorty argues that Sellars’ account of “intersubjective validity” can

⁵ Richard Rorty, *Contingency, Irony, and Solidarity*. New York: Cambridge University Press, 1989, pg. 68.

⁶ Going from public/private exclusivity to nihilism is a large jump, and perhaps a jump that warrants a paper in defense. That is beyond the scope of this paper; instead, my purpose is to show that an individual whose private self is completely disconnected from the public sphere is inclined to reject the established laws and institutions of the public sphere, which is nihilistic. I arrive at this conclusion because the private sphere is necessarily subjective.

⁷ I am not arguing here that Rorty intends for a public/private split that entails mutual exclusivity. Rorty instead seems to be arguing against the Platonic notion where either the public or private subsumes the other. What I am arguing is that without mutual exclusivity his distinction is incoherent, so I am drawing out the implications.

⁸ Rorty appeals to Sellars’ we-intentions and intersubjective validity to show that everyone has an obligation to humanity by virtue of our shared sense of solidarity

refer to all members of a specific class.⁹ Notice, instead of mutual exclusivity, which Rorty supports in other parts of *Contingency, Irony, and Solidarity*, he argues here, though not explicitly, that the self-creation of the private ironist is subject to the demands of the liberal public—the demands to minimize human suffering.¹⁰ By recasting “I-intentions” with “we-intentions” however, Rorty effectively dissimilates the ironist. Rorty must either fully adopt this view – that the private ironist is entirely subordinate to the public life, i.e. the social contract (laying rest to the mutual exclusivity) – or Rorty is faced with another inconsistency. This inconsistency is a result of his suspect notion that the private ironist, as so described, can be maintained while corralling that same ironist into an adjunct position, which is deputy to public liberalism. Under such circumstances, the ironist, as described by Rorty, becomes unrecognizable. Self-creation loses its vitality if it is not fully exempt from any form of intervention or subordination. To buttress this point, I am unconvinced that Rorty would submit to restrictions, presumably broad, on the self-creation and metaphoric redefinition of the ironist.

Rorty is inclined to respond to the argument about the limitations of the ironist by stating that self-creation is constrained to the extent that it has its origins in the established norms and values of our time. The constraints however, are nullified by Rorty’s liberal who recognizes their contingency. By recognizing one’s contingency, the constraints effectively lose their legitimacy. Rorty sees this as a form of liberation. I no doubt see it as

⁹ Richard Rorty, *Contingency, Irony, and Solidarity*. New York: Cambridge University Press, 1989, pg. 194-195.

¹⁰ Rorty’s distinction between the public and private is inconsistent with any causal relationship between the two. Rorty would have to greatly rework his definition of the ironist in order to make the relationship cordial, because, as of now, the ironist has too few constraints to mesh effectively with the liberal.

liberating, though liberating *a la* Hobbes' state of nature, where the individual is unconstrained, left to act according to their mammalian desires.

Furthermore, Rorty's liberal ironist loses the ability to gain insight into "...the thick weave of moral concepts, deep commitments, and shared forms of life that make moral agency possible."¹¹ Rorty's minimalist account trivializes morality. All that Rorty has left are the declarative sentences that remain true for the individual; what he loses is the context of life that grants the sentences their meaning.¹² Without the embedded meaning the sentences lose their moral authority. As a result, Rorty's private ironist is not compatible with his definition of human solidarity.

The Political Necessity of Internal Constraints

Rorty develops a private sphere that has no authoritative, metaphysical, or internal constraints – a view that can be attributed to, among others, Friedrich Nietzsche. This move by Rorty is where his philosophy turns from innocent inconsistencies to a pernicious doctrine. But at first glance it seems to be an attractive proposition within our westernized conception of liberty and freedom. A more sincere look exposes the inherent proclivity towards narcissism and nihilism. A proclivity that is born from an absence of internal constraints—internal constraints like that of tradition, mores, mannerisms, a common morality, a common history, and religion.

Rorty, a professed historicist and anti-foundationalist, extends these principles in his denial of a common nature that is uniquely human. And this denial has, he claims, "...helped free us, gradually but steadily, from theology and metaphysics – from the

¹¹ Charles Guignon and David R. Hiley, *Richard Rorty*. Cambridge: Cambridge University Press, 2003, pg. 37.

¹² *Ibid*, pg. 37.

temptation to look for an escape from time and chance.”¹³ Thus, at the root of this debate between Rorty and the communitarians, is the debate between Plato and Hobbes—the debate about whether antecedent to the existence of the *self* there lies a community. Rorty adopts an atomistic approach to the *self* similar to Hobbes, where “men are self-sufficient outside of society.”¹⁴ Liberals in general deny the psychological and social conditions that facilitate the formation of the *self*. Communitarians on the other hand, adopt a Platonic or Aristotelian notion of the *self*. Communitarians argue that the *self* is an embodiment of the whole, “as members of this family, community, nation, and people, as bearers of this history, as sons or daughters of that revolution, as citizens of this republic,” the *self* is constructed through social-attachments.¹⁵

In the public/private divide, liberals leave unattended a foundation for order in the private sphere. Rorty is of the belief that order, whether it is metaphysical or not, restricts our freedom. Nowhere in Rorty’s private sphere is there a sense of established order, but rather a blend of aestheticism and chaos. For communitarians, private order (in an organizational sense) establishes and perpetuates public order. And order is necessarily founded on dead metaphors, thus order of this nature is not congruent with Rorty’s private ironist.¹⁶ Hence, it is dubious

¹³ Richard Rorty, *Contingency, Irony, and Solidarity*. New York: Cambridge University Press, 1989, pg. xiii.

¹⁴ Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, Cambridge: Cambridge University Press, 1989, pg. 19.

¹⁵ Michael Sandel, *Liberalism and the Limits of Justice*, Cambridge: Cambridge University Press, 1982, pg. 179.

¹⁶ For Rorty, dead metaphors are part of the institutionalized discourse—the language of our ancestors. Rorty thinks the private ironist needs to break free from dead metaphors in order to create oneself. As stated earlier, metaphoric redefinition is the process by which the private ironist breaks free from the

whether or not Rorty's system could be effective in establishing public order, which is politically necessary if a system is intent on maintaining itself.

Rorty is likely to respond by redefining the state of chaos as a state of possibility. I concede – there would be room for boundless possibility. The very extent of possibility would prove chaotic. Imagine that all moral choices were self-created choices, and that the medium for self-creation was only limited by an unwarranted notion of liberalism. Suppose there existed the *possibility* that murder was morally debatable – the political and public implications would be overwhelming.

Another important difference between the communitarian's conception of the public and private sphere and Rorty's, is that Rorty believed that the private sphere, or existential sphere, was dynamic—a place for self-creation and metaphoric redefinition; and the public life, or sphere of pragmatism, was a place for normal discourse. Communitarians argue to the contrary, the private sphere is subordinate to, and wholly dependent upon, religion and morality—it is the “settled” sphere because it is fundamentally linked to indisputable maxims. Likewise, the public sphere is the political sphere, where everything is argued through open debate—thus the “unsettled” sphere. This is not just another nuanced difference; rather the implications of this distinction penetrate the depths of the respected systems. Working within the communitarian framework, it is valid to say that Rorty's existential sphere, his sphere of self-creation, would be necessarily unsettled. This is the crux of the distinction: Rorty's private sphere is unsettled; while the communitarian's private sphere is settled. So

metaphors of normal discourse. My point here is that order must be founded on dead metaphors because there is no order in a constant cycle of individual self-creation.

where is the controversy? The controversy is a derivative of internal constraints. To be unsettled, by definition, is to be without internal constraints. And without internal constraints, Rorty's private ironist is destined towards narcissism, which in turn, promotes nihilism.

Rorty invokes Thomas Jefferson to prevent this moral erosion and to illustrate that liberalism does not require shared beliefs about matters of private conscience. Jefferson wrote: "...it does me no injury for my neighbor to say there are twenty Gods or no God." Rorty contends that here lies proof that there is no fundamental relationship between politics and private morality.¹⁷ A more thorough look at Jefferson's work may tell otherwise. For example: in the Declaration of Independence Jefferson writes, "[w]e hold these truths to be self-evident..." truths ranging from equality, to the pursuit of happiness. I am comfortable in arguing that Jefferson did not arrive at these dogmatic, unjustified truths through a final vocabulary. Instead, Jefferson came to these truths through an ahistoric shared sense of morality—a sense of morality that is necessarily linked to the political sphere.

It is the community that provides an orientation in moral space, "[w]e cannot make sense of our moral experience unless we situate ourselves within this given moral space, within the authoritative moral horizons."¹⁸ Said otherwise, the moral commitments that generate moral obligations are not invented by individuals, but rather they are located within our social worlds. Hence, "...the liberal ideal of a self who freely invents her own

¹⁷ Charles Guignon and David R. Hiley, *Richard Rorty*. Cambridge: Cambridge University Press, 2003, pg. 25.

¹⁸ Daniel Bell, "Communitarianism," *Stanford Encyclopedia of Philosophy*, <http://www.science.uva.nl/~seop/entries/communitarianism/>, accessed February 21, 2008.

moral outlook, or private conception of the good, cannot do justice to our actual moral experience.”¹⁹

Private Rights vs. the Public Good

In Rorty’s liberal society, private rights, or negative liberties, take priority over the public good.²⁰ Again, Rorty does not come out and say this, though it follows from his definition of the private ironist. In his attempt to mask this implication, Rorty appeals to a sense of human solidarity. As shown earlier, this appeal is futile in that it dissimilates the ironist.

Sandel fosters a different view, a view that holds the public good as paramount. Sandel argues that we have duties and loyalties that go far beyond our granted rights. In fact, it is argued that these duties are essential to the maintenance of our political institutions and the public good.²¹ Rorty’s liberalism, Sandel claims, “...fails to capture those loyalties and responsibilities whose moral force consists partly in the fact that living by them is inseparable from understanding ourselves as the particular persons we are—as members of this family or city or nation or people, as bearers of that history, as citizens of this republic.”²² Hence, it is barren to think of individuals as simply self-fashioning beings. As Aristotle claimed, to imagine ourselves distinct from society is to imagine

¹⁹ Ibid.

²⁰ Thomas L. Pangle, “The Retrieval of Civic Virtue: A Critical Appreciation of Sandel’s *Democracy’s Discontent*.” In *Debating Democracy’s Discontent: Essays on American Politics, Law and Public Philosophy*, edited by Anita L. Allen and Milton C. Regan Jr. Oxford: Oxford University Press, 1998, pg. 17.

²¹ Tocqueville, Alexis de. *Democracy in America (Volume I)*. Translated by Henry Reeve, revised by Francis Bowen, edited by Phillips and renewed by Alfred A. Knopf. New York: J. & H. G. Langley, 1945, pg. 297.

²² Michael J. Sandel, *Democracy’s Discontent: America in Search of a Public Philosophy*. Cambridge: The Belknap Press of Harvard University, 1996, pg. 14.

ourselves as a beast or a god. Thus, it is necessary that our conception of the individual is inclusive with respect to the individual's associations and traditions—their society and culture. The individual, Sandel contends, is not antecedent to the public good, but constituted by it. Rorty, on the contrary, is overly individualistic in his emphasis on private rights and ironism. He assumes that the common good is merely the aggregate of the individuals' good, which amounts to a trivialization of the public good and citizenship.

Communitarians interpret shared pillars of morality as a necessary component to the public good. They are of the belief that morality directs the customs of the community, and by regulating domestic life, it regulates the state. Similarly, Sandel argues for shared values that cultivate the public good; values that nurture community while simultaneously advocating for civic engagement; values that the communitarian sees as marginalized in the liberal framework where they are relegated to autonomous choices.²³

...[T]he republican tradition emphasizes the need to cultivate citizenship through particular ties and attachments. More than a legal condition, citizenship requires certain habits and dispositions, a concern for the whole, and orientation to the common good. But these qualities cannot be taken as given. They require constant cultivation. Family, neighborhood, religion, trade unions, reform movements, and local government all offer examples of practices that have at times served to educate people in the exercise of citizenship by cultivating the habit of membership and orienting people to common goods beyond their private ends. A public life that fails to nurture these practices or is

²³ David Hiley, *Doubt and the Demands of Democratic Citizenship*. Cambridge: Cambridge University Press, 2006, pg. 85-86.

indifferent to their fate fails to cultivate the virtues essential to self-government as the republican tradition conceives it.²⁴

As evident, Sandel sees the public good as wholly dependent upon a grounded sense of shared values. The communitarian tradition is inhospitable to aesthetic subjectivism and relativism, both of which are propensities in Rorty's system. While paying sufficient homage to private rights, communitarians acknowledge the public good as the ultimate good.

Communitarianism as Opposed to Liberalism

Richard Sennett describes the overarching debate between Rorty and the communitarians as one about the relations between political activity and civil society. Sandel, and other communitarian scholars, argues that the essence of civil society is political activity; whereas Rorty sees civil society as an entity that stands beyond the scope of politics.²⁵ This raises a philosophical disagreement about the nature of citizenship. Is the nature of citizenry dualistic in that it is one part private and one part public, or is the citizen inextricably linked to the public sphere? Rorty, in his liberal illustration, paints the citizen to be both a private individual and a public citizen. In contrast, Sandel argues that the essence of the private individual is to be civically engaged—to be political. Indeed, for Sandel the individual cannot exist independent of society and is thus a purely public being.

²⁴ Michael J. Sandel, *Democracy's Discontent*. Cambridge: The Belknap Press of Harvard University Press, 1996, pg. 117.

²⁵ Richard Sennett, "Michael Sandel and Richard Rorty: Two Models of the Republic." In *Debating Democracy's Discontent: Essays on American Politics, Law and Public Philosophy*, edited by Anita L. Allen and Milton C. Regan Jr. Oxford: Oxford University Press, 1998, pg. 17.

This debate has been at the forefront of political philosophy for many years now. The latter part of the 20th century has witnessed an American government that has adopted an ideal of neutrality that above all seeks to preserve the individual's freedom of choice—the individual's private will. This neutrality often reflects a voluntarist conception of human agency, where the government must remain neutral in terms of an intellection about the good life in order to respect the capacity of the persons to choose their own values.²⁶ As laid out by Sandel, this vision of government is very reminiscent of what Rorty argues for in maintaining his private ironist. Without the relaxed civil structure of liberalism, Rorty's ironist could not come into existence. I am not arguing here that the freedom to choose is a bad thing; instead, I want to shed light on the totality of choice that has infiltrated the liberal tradition. This totality gets at the roots of my previous concerns about how liberalism harbors aesthetic subjectivism.

Sandel argues that Rorty's liberalism rests on the notion of an "unencumbered self," an individual who is "...independent of their roles and unbound by moral ties they choose to reject."²⁷ Thus, the *self*, as defined in Rorty's project, is prior to its ends—making the role of the citizen muddled and often an obstacle to personal autonomy.²⁸ For this reason, there is constant tension in a liberal society between one's role as a citizen and one's role as an autonomous being – with the latter usually winning out. Communitarianism does not suffer from this internal tension because the robust role of the citizenry creates a fully encumbered citizen, who, again deferring to Aristotle, cannot be imagined as distinct from the society they are party to.

²⁶ Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy*. Cambridge: The Belknap Press of Harvard University, 1996, pg. 92.

²⁷ *Ibid*, pg. 112.

²⁸ *Ibid*, pg. 117.

Lastly, we learn from Alexis de Tocqueville that as political freedoms increase, there must be a corollary augmentation of personal and public morality to temper this freedom.²⁹ An example will further illustrate this point: our republic has in place all the political tools necessary to horrendously subjugate a minority group. The great freedom we possess, which we favor to tyranny, necessitates that we have an established sense of common morality, so to not misuse our freedom. As echoed throughout the bulk of this paper, Rorty's system is quick to marshal this freedom, though noticeably absent is a common sense of morality to temper it. A loose sense of solidarity, which is metaphysically ungrounded, does not suffice. Rorty struggles to avoid this concern with an appeal to a final vocabulary—a liberal vocabulary that is intent on reducing suffering. Yet Rorty does not provide a legitimate rationale for why we are inclined to liberalism, or a rationale for what keeps us from becoming something else.

Conclusion

...[T]he nature of private and public life has become the focal point for rethinking the quality of democratic citizenship, and it is battleground for such fundamental social issues as abortion, the nature of the family, and gay marriage. So there is a great deal at stake both theoretically and practically in how we think about public and private life.³⁰

²⁹ Alexis de Tocqueville, *Democracy in America (Volume II)*, Translated by Henry Reeve, revised by Francis Bowen, edited by Phillips and renewed by Alfred A. Knopf, New York: J. & H. G. Langley, 1945, pg. 98.

³⁰ David Hiley, *Doubt and the Demands of Democratic Citizenship*. Cambridge: Cambridge University Press, 2006, pg. 86.

This paper had three purposes. First, my intent was to prove the narcissistic and nihilistic tendencies that plague Rorty's ontological public/private split. I argued that given the subjective aestheticism of the private ironist there is an unavoidable inclination towards nihilism. I further argued that public constraints that work to subdue the nihilistic tendencies are inconsistent with private ironism as described by Rorty. Second, I wished to show how Rorty's distinction was both metaphysically and politically bankrupt. With support from Sandel, I argued that public conscience necessarily constitutes the foundation of society and that the individual is not antecedent to that society. As a result, the public and private spheres are innately wedded to each other thus giving rise to political and metaphysical implications that are unaccounted for in Rorty's system. Adding to this point, I drew from communitarian thought the necessity of metaphysically derived internal constraints. And lastly, the overall purpose of this paper was to demonstrate the political superiority of a civic republic as opposed to procedural liberalism. Relying again on Sandel, I illustrated the civic republic's cultivation of citizenship and the orientation towards the public good; its respect for history and tradition, and its predisposition towards civic engagement. For these reasons, I have concluded that Rorty's distinction, other than as a conceptual scheme, is incoherent, and that a civic republic is politically and metaphysically superior.