

6 Love

The Vices of Love and Rawlsian Justice

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Receiving and giving love is an essential good, and a life lived without love is one that is in some important sense incomplete. Yet people take on, and have imposed upon them, unfair burdens in the name of love. Feminist critics of Rawls have long pointed to the injustices that occur within the family, where women are frequently burdened with an unfair share of the work of domestic life and also the responsibility to educate their children in the ways of a just society.¹ In associational life, based in the love of friendship, citizens' affiliations and allegiances distribute the benefits and burdens of social life in ways that can be deeply and structurally unfair.²

For Rawls, the demands of justice compete with moral and religious obligations that are part of citizens' comprehensive doctrines. The ways we love are shaped by our comprehensive doctrines; however, love can also stand in opposition to our moral and religious beliefs. I will argue that love – spousal, familial, and associational – constitutes its own register of values along with its own set of obligations.³ For this reason love confronts not only our moral and religious beliefs, it also confronts the demands and requirements of justice. Rawls has worked out a negotiated peace between the obligations of justice and the demands of citizens' comprehensive doctrines in the form of an overlapping consensus on a free-standing political conception of justice.⁴ I will argue that in Rawls's philosophy, justice has not yet made peace with love.

The secondary literature on Rawls and love is sparse. Perhaps the most extensive treatment of the topic is Susan Mendus's article "The Importance of Love in Rawls's Theory of Justice." Mendus argues that justice is a "special case of love" rather than standing in opposition to justice (Mendus 1999, 68). She makes this claim based on the view that love transforms existing interests, resolves "the paradoxes of self interest and altruism," and thereby answers the need to establish a congruence between the demands of justice and the good of citizens. She argues:

Like love, justice can have a transformative quality. Like love, it can be understood as a reflection of the agent's desire to be a certain way,

and its denial or betrayal will be best characterized not as a failure to justify to others, but as a betrayal of oneself and what one stands for. (Mendus 1999, 73)

I agree with Mendus that love transforms our values, shapes our motivational structure, and alters our conceptions of our selves. In making this claim she relies on arguments taken from Harry Frankfurt, as I will too. However, I draw a different conclusion about the relationship between love and justice. Instead of seeing justice as structured along the lines of love, I will argue that love and justice stand in opposition to each other. The commands and authority of love compete with the obligations of justice. The aim of this chapter is to demonstrate this claim and to ask if and how love and justice can reconcile. The conclusion I will draw is that just loving in a liberal society is not only possible, but that a fully just society would be one in which citizens love justly.

There will emerge in the course of this chapter a conception of proper or just loving. This is love that aligns with, or at least does not obstruct, the aims of justice. From the point of view of ideal theory, love and justice are in harmony in a well-ordered liberal society. Corresponding to proper love, I will describe a number of vices that occur when love obstructs or defeats the aims of justice. I will suggest some ways in which, from the point of view of non-ideal theory, a liberal society can and should constrain love in the name of justice.

Rawls wants to leave room for citizens to love for reasons and in ways that align with their idea of the good. Love relationships are therefore partially constrained by Rawls's two principles of justice and not fully constrained, as are citizens' broadly political and economic relations. I make three arguments in this chapter. First, I argue that the partial constraints on love that Rawls's theory of justice imposes are insufficient, resulting in systematic injustices that ought to be corrected. Second, I argue that love, when properly understood, shows why these injustices are pervasive and hard to correct. Third, I argue that love, having its own register of values independent of either justice or citizens' comprehensive doctrines, can nonetheless respond to and align with the demands of justice.

In the first section, I briefly review what Rawls has to say about love, focusing on *A Theory of Justice*. In the second section, I examine the constraints that Rawls places on our love relations, arguing that these partial constraints are insufficient and proposing a more extensive set of constraints. In the third section, I lay out three kinds of vices that parental, spousal, and associational love give rise to. I argue that a liberal theory of justice should have the resources to respond to these vices. In the fourth section, I set out a conception of love as normative with its own commands and obligations, relying on the work of Harry Frankfurt. Here I also show that Rawls's own scattered remarks on love suggest that his

own view is compatible with a normative understanding of love. Finally, in the fifth section, I propose ways that the liberal state can address the vices of love, and I end by arguing that love and justice complement one another, allowing for citizens to love in ways that support a just society.

I. Love in *A Theory of Justice*

Rawls discusses love in *A Theory of Justice* along two main lines. The first concerns his well-known criticism of classical utilitarianism. He considers whether a general benevolence might offer an appropriate impartial standpoint from which principles of justice might emerge. He rejects this idea. Rawls says that the love that benevolence expresses has “among its main elements the desire to advance the other person’s good as this person’s rational self-interest would require;” however, when benevolence is extended to many people and those people’s interests conflict, then benevolence “is at sea” (*TJ*, 166). There are two remedies to this situation, neither of which Rawls endorses. First, one could assume that people’s individual interests don’t in fact conflict or, second, one could assume that it is possible to discern a combined interest that supersedes or transcends the interests of individuals. The first option contradicts the assumption of a plurality of interests among people, and the second option “conflates” separate persons into one by combining their different interests into one register. This latter option contradicts the assumption of the separateness of persons. Rawls goes on to claim that classical utilitarianism is guilty of violating the second assumption. The benevolence of an impartial spectator who combines the rational self-interest of the group is a love that would be “at a loss as to how to proceed, as long anyway as it treats these individuals as separate persons” (*TJ*, 167). This is not however to say that the love of others expressed through benevolence has no place in Rawls’s account of justice. Acts of general benevolence, expressions of the love of mankind, that take place in civil society are regarded by Rawls as acts of supererogation, morally admirable acts that go beyond the requirements of justice – “The love of mankind is more comprehensive than the sense of justice and prompts to acts of supererogation” (*TJ*, 167).

The second main line of discussion of love in *A Theory of Justice* concerns the role of love in the development of a sense of justice. In the third part of *A Theory of Justice*, Rawls moves on from the task of justifying the principles of justice to the difficult question concerning the motivation citizens have to adopt the principles as their own and to comply with their demands. While Rawls later abandons the theory of congruence between the good of citizens and the requirements of justice that he develops in this part of *A Theory of Justice*, he retains the moral psychology he relies on there. A sense of justice is developed in three stages, and love plays its crucial role in the first stage. During these stages of childhood, moral feelings are nurtured, which are necessary for citizenship. In his discussion

of the first stage, Rawls assumes the truth of a psychological law that a child, initially motivated by rational self-love, will come to genuinely love her parents when they “manifestly love” their child. In this way, the parents affirm the child’s sense of worth through their love. In these circumstances, the capacity for love develops in the child. In this first stage, where the relationship between parent and child is hierarchical, the moral dimension of love appears in the form of “authority guilt” (*TJ*, 407). The feeling of guilt arises when there is a violation of love and the trust that accompanies love. The moral sentiment of guilt is a necessary condition for the presence of love. Authority guilt also gives rise to the desire to repair the love relationship through confession on the part of the violator and forgiveness on the part of the transgressed. This then is the first stage in the development of a sense of justice. The subsequent stages, following the morality of authority, are the morality of association and the morality of principles. Together, these stages combine to result in a citizen’s capacity to be motivated by the reasons of justice. The capacity to love is therefore at the base of our moral sentiments and necessary for the development of a sense of justice.

These two discussions of love point in different directions. The problem with benevolent love is that it lacks the required generality to serve as a basis of a theory of justice. Love is particular, and so is “at sea” when confronted with competing claims on its attention. The love of mankind, a general benevolence, seeks justice by making the general particular, thus eliding the difference between plans of life that citizens pursue according to their conceptions of the good. On the other hand, the virtue of parental love as the mode of instilling in children the foundations of a sense of justice is that the disposition to love here is “natural” and follows psychological laws that justice can make use of, so as to anchor itself in the motivational structure of citizens. In both cases, love and justice are set at arm’s length, albeit in the first case as a threat to justice in a pluralistic society and in the second, as a prerequisite for, but not part of, justice.

II. Constraining Love

All relationships in a just society are either fully or partially constrained by the two principles of justice – the greatest equal liberty principle and the difference principle. The extent of citizens’ liberties are fully regulated by the greatest equal liberty principle and citizens’ economic relations as well as their share of the primary goods and their opportunities are regulated by the two parts of the difference principle.⁵ Where citizens’ rights to equal citizenship are violated or where the distribution of primary goods violates the difference principle, the state is justified in correcting these breaches using its coercive powers. However, given the fact of pluralism, people will subscribe to different conceptions of the good. This presents a problem for a theory of justice since citizens’ conceptions of the good

are, according to Rawls, what motivates them to abide by the principles. If there were a conception of the good that uniquely supported the account of justice Rawls proposes, then it would seem that citizens ought to adopt this conception and align their comprehensive doctrines accordingly. However, Rawls rightly rejects this as requiring an unacceptable level of coercion and as antithetical to the values of liberalism and democracy. Instead, Rawls proposes that in a just society, the principles of justice would be the object of an overlapping consensus among comprehensive doctrines and that citizens can both pursue their own ideas of the good and yet subscribe to the same set of principles of justice.⁶

This set up leaves citizens a large area of freedom to arrange their lives in accordance with their particular sets of values: their moral, religious, and metaphysical beliefs. Pluralism becomes not only a “fact” but also itself a value in Rawls’s picture of a just society. A similar line of reasoning applies to love in a liberal society. The ways in which people love – the ways they parent, arrange their familial life, and the terms on which they associate with their fellow citizens – are only partially constrained by the principles of justice for the same sorts of reasons as apply to people’s moral, religious, and metaphysical beliefs. Rawls argues that applying the principles fully in these areas of life would be an unwarranted intrusion and would result in various incongruities and even absurdities. For example, applying the difference principle to the distribution of the benefits and burdens of domestic life seems both unenforceable and to require an unacceptable level of surveillance of people’s private lives. This leaves open the possibility that people will be victims of injustice in their homes, in their romantic relationships, and in their associational life, out of sight, so to speak, of the principles of justice.⁷ Indeed, Rawls affirms the feminist critique of the family in bourgeois society as a place of systematic unfairness toward women, describing this as an “historic injustice” and as an “unjust burden” (*LP*, 160). He therefore acknowledges citizens’ love relationships can be unfairly structured.

In response to the fact our love relations are sometimes a source of unfair burdens, Rawls says that, from the point of view of citizens, we might wish to impose “essential constraints” on familial and associational life in accord with the requirements of the two principles.⁸ However, from the point of view of members of families and associations, “we have reasons for limiting those constraints so that they leave room for a free and flourishing internal life appropriate to the association in question.” He goes on to say that: “We wouldn’t want political principles of justice – including principles of political justice – to apply directly to the internal life of the family” (*LP*, 159).

This is not to say that there are no constraints on how familial and associational life are conducted. Rawls says that the “basic position” of members of families and associations is that of citizens, and so they enjoy the protections of law and have rights afforded them by a constitution and

legal system informed by the principles of justice. Violations of citizens’ rights as citizens cannot be offset by their role as parents, partners, wives, husbands, or members of associations. As examples of such violations he mentions the “abuse and neglect of children,” unfair divorce laws, and the protection of church members’ rights and liberties. Speaking of the family, Rawls says that “the political principles do not apply to its internal life, but they do impose essential constraints on the family as an institution and so guarantee the basic rights and liberties, and the freedom and opportunities, of all its members” (*LP*, 159). In this way, familial and associational life is constrained, partially, at the borders rather than internally. The first part of Rawls’s partial constraint, then, is that what happens within the family, between spouses, and within associations, must not violate citizens’ rights not to be harmed and must ensure their freedom from coercion.

The second part of Rawls’s partial constraint on love relations is the claim that citizens should freely enter, and that they should be free to exit, these arrangements. For instance, he says that a “gendered division of labor within families” is allowable “provided it is fully voluntary and does not result from or lead to injustice” (*LP*, 161). The terms of associational and intimate relations are not prescribed by law in a liberal society but are instead entered into by people seeking the good that these relations offer. The ways in which the labor of raising children is distributed between parents, the relations of authority within a marriage, and the hierarchy within social organizations, indicate the ways that various benefits and burdens are distributed. The claim is that the disadvantage of these arrangements for some people is offset by the fact that they are entered into voluntarily. The argument seems to be that the goods that citizens seek in their marriages and other associations are so essential to the realization of a genuinely pluralist liberal society that the unfairness that exists there is deemed not strictly unjust so long as citizens are free to exit these arrangements and so long as their rights against coercion are not violated.

I argue that this two-part standard is insufficient. Throughout Rawls’s work he is attentive not only to what principles of justice should apply to the basic institutions of a liberal society but also to how citizens come to be capable of acting in accord with them. Acquiring a sense of justice and internalizing the norms of a just society are essential to forming citizens who abide by the two principles for their own reasons rather than having the principles imposed on them by the state. Having the capacity to be a free and equal citizen is as important to the aim of justice as fairness as the principles themselves. The inequalities within love relations that matter from the point of view of justice should be understood not only as those that violate rights against coercion and that are involuntary but, more generally, as those that diminish and damage citizens’ capacity to be fully free and equal citizens. The important question here is how to balance

the goods citizens acquire through their various love relations against the need for citizens to be fully capable of equal citizenship. The claim in this chapter is that the compromise that Rawls strikes between love and justice is the wrong one. The partial constraint justice imposes on love, on Rawls's view – that is voluntary and not coercive – is not enough to secure citizens from significant injustices. I will now turn to specifying the particular injustices that love can be guilty of.

III. The Vices of Love

I identify three major vices corresponding to the three major types of love relations in society – the love between parents and children, the love between spouses, and the love between associates. A vice of love is a practice that conflicts with justice and constitutes, from the point of view of justice, a failure of proper love. In other words, it is a state in which the commands of justice conflict with the commands of love, when justice's register of values is at odds with love's own values. Sometimes a vice of love will also be a vice from the point of view of morality or religion too, or at least from the perspective of some moral or religious outlooks. For example, a traditional gendered division of labor in the family will be regarded as a vice of love from the viewpoint of justice, but perhaps not seen as such from a particular religious doctrine. The sequestering of children from society will be a vice of love, from the point of view of justice, because, as argued in the following, this diminishes their capacity to develop into full and equal citizens. However, a parent might see this as an act of love to protect a child from society. A parent may also fail the test of proper love because they neglect their child in ways that fail to ensure development toward citizenship. Justice then will have its own conception of proper love and love's obligations, and the vices I describe in the following are failures to meet this standard.

Parents have a duty to prepare their children for citizenship. Rawls sets out in detail how children acquire a sense of justice as part of their psychological development, as explained earlier in this chapter. Parents have a duty of justice to both allow this natural progression to occur and to foster an environment in which it does. Rawls argues that while these duties are duties of justice, parenting is not directly subject to the two principles of justice. He says we can only rely on the "goodwill and natural affection" of parents to accomplish this vital task. How parents exercise this goodwill and affection will be shaped by both their comprehensive doctrines and their ways of loving. These norms can be violated either by parents not loving their children in ways that align with their moral obligations or in ways that violate the obligations of love. In the latter case, overprotection is a vice. Protecting one's children is, of course, a virtue of a loving parent. The overprotection of children that sequesters them from society and from opportunities to develop the necessary

attitudes requisite for citizenship is a vice. On the other side, parents may neglect their children and therefore fail in discharging their obligations of love. This failure may be a failure of character or circumstances; some people simply love badly while some others love badly because they find themselves in situations where loving well is made impossible by, for instance, poverty, discrimination, or personal history.⁹

Spouses have a duty to treat each other with respect and to pay regard to their dual status as both lovers and as citizens.¹⁰ The ways that spouses love will be shaped by their comprehensive doctrines, in particular their moral ideas, as well as by their understanding of the norms and obligations of love. The vice of love in this case is domination where a spouse leverages a position of personal dominance, resulting in an unfair burden being placed on the other spouse. This burden may be an unfair allocation of domestic work or may result in a spouse internalizing a false sense of natural inferiority.¹¹

Members of associations have a duty to align their membership and activities with the requirements of a just society. Associational life confers many important benefits and goods on citizens that are available only to those who participate in the activities of particular associations.¹² Associations include only a small portion of the total citizenship in their membership and activities. They therefore exclude non-members from enjoying the benefits of the association. Exclusions from associational life that are unjust are a vice. The vice of exclusion occurs when citizens are unfairly blocked from the benefits of membership, and the exclusion diminishes a citizens' ability to fully participate in the social and political life of her community.

The vices of overprotection/neglect, domination, and exclusion are a feature of many loves: parental, spousal, and associational. Our question is, when are such vices unjust? As we have seen, according to Rawls these vices are unjust when they result from relations that are entered into involuntarily and/or when it occurs as a result of a violation of basic rights. Forced marriage would be an apt example of an involuntary relationship, and physical and psychological abuse of spouses is an example of an obvious breach of basic rights. However, these stark examples do not capture the many other ways in which love relations can be harmful, particularly when one considers the role of adaptive preferences in reconciling people to circumstances that are manifestly unfair and harmful.¹³

Correcting the unfairness and preventing the harms that the vices of love cause would, as we have seen, require a degree of surveillance and interference by the state in the lives of citizens that Rawls believes conflicts with a commitment to and recognition of pluralism as its own good. Citizens in a just Rawlsian society are free to seek out and live their own ideas of the good life, constrained only, as it were, at the borders where such lives meet the principles of justice. This partial constraint on how citizens live and pursue their conceptions of the good means that for some

citizens the harms they suffer and the unfairness they endure are regarded as misfortunes rather than injustices. Likewise, the misfortunes of love are the price for the freedom citizens have to live their lives according to their own ideas of the good and according to their own ideas of proper love.

While I agree with the ideal expressed in this thought, I want to argue that Rawls's partial constraint on love that I unpacked earlier is insufficient to address the injustices of the vices explained earlier. I offer instead the following additional criteria – the vices of love are correctable when they diminish citizens' capacities for participation as full and equal citizens *and* when the unfairness and harms they inflict are systematic. By systematic I mean that the vices of love follow lines of predictable prejudice. For example, exclusions from associational life, such as business organizations and sports clubs that are based on race and gender, are predictable prejudices that make those who suffer from their consequences not merely the victims of misfortune but victims of an injustice. Patterns of inequality in spousal relationships that are grounded in patriarchy are likewise not mere misfortunes for their victims but correctable injustices, since patriarchy is, quite obviously, a systematic and predictable social prejudice. Overprotective and neglectful love of children that makes them unfit for citizenship is more than a misfortune of birth for children when it is the result of a systematic pattern of disadvantage and is consequently an injustice.

The constraints on love offered here are partial insofar they afford shelter to the internal life of familial and associational life from being regulated directly by the state. I agree that citizens should be free to pursue and arrange their love relations in ways they see fit, providing such arrangements do not violate the partial constraints set out earlier. However, my proposed additional constraints go further than Rawls's own. They extend the interest and reach of the state into the familial and associational life of citizens. Instead of ensuring only that people enter their various love relations voluntarily and that their basic rights are not violated, my proposal demands that additionally these relations do not reflect the systematic prejudices of society, typically but not only along the lines of racial and gender, and that these relations do not harm or diminish a person's capacity for full and equal citizenship.¹⁴

The dilemma at the heart of any liberal theory of justice, between the need to use the coercive power of the state to ensure justice for citizens and an equal need to leave citizens to manage their own affairs, is apparent here. Extending the reach of the state into what has traditionally been regarded as the private affairs of citizens is something that should not be advocated lightly.¹⁵ However, as I hope I have shown, the vices of love are real, and their ubiquity should bring them into view of an adequate and defensible theory of justice. As it stands, Rawls's theory neglects the full impact of these vices because he draws the line between injustice and misfortune in the wrong place, conceding too much to love and leaving

citizens the victims of correctable injustices. My proposal draws the line closer to justice and brings the vices of love under the scrutiny of the state.

This view means that sometimes the vices of love escape the attention of justice. When overprotection/neglect, domination, and exclusion are not systematic in the way described earlier, then victims suffer a misfortune that justice leaves for the moral attention of their comprehensive doctrines. These are what Rawls describes as the "hazards of love" and goes on to say, "Those who love one another, or who acquire strong attachments to persons and forms of life, at the same time become liable to ruin: their love makes them hostages to misfortune and the injustice of others" (*TJ*, 502). This is the price paid for the goods that these love relations provide to citizens in a pluralistic society. Any account of justice that treasures liberty along with justice will have to concede some ground to the hazards that citizens run when they love – within their family structures and in their larger associational life. Liberal justice has respect for, and rightly tolerates, citizens' own conceptions of the good as well as their conceptions of proper love. The balance between the right and the good must therefore be struck in a way that best serves this ideal.

Why does it matter that a vice of love is systematic? One reason is that this indicates that the vice is ubiquitous and therefore a threat to effective citizenship for many people. A second reason is that systematic prejudices can be effectively countered, or so I will argue. The correction of an injustice requires the explicit or implied use of the state's coercive powers to restrict the freedom of citizens. To regard every vice of love as an injustice would require a level of surveillance and interference in the lives of citizens that would limit freedom in unacceptable ways. However, the systematic vices of love can be countered not by legal prohibition and punishment, but rather by a critical engagement with love's own normative structure. A dialogue between love and justice would seek a consensus that would make love a friend rather than a potential enemy of justice. To make the case that Rawlsian justice not only should but can attend to the systematic vices of love, I need first to show both that love is more than a primitive emotional force and that the idea of love as normative rather than merely primitive aligns with Rawls's own views on love.

IV. Love's Normative Structure

It might be thought that so far I have argued for justice at the expense of love. However, I also want to set out an idea of proper love as loving justly. A just love is not one that cowers and hides from justice. Instead, it is one that allows people to flourish as both lovers in the wide sense of being parents, spouses, and associates, but also as citizens who embrace the demands of justice as their own. Love that aligns with justice is marked by respect for children, spouses, and associates, and respect for one another is also the mark of shared citizenship. I will argue that love

and justice can reinforce one another and that the right of justice and the good of love can and should intersect. However, before I can fully make that argument, I must first lay out a conception of love that makes love and justice open to each other.

There is a way that love and justice may confront one another that is philosophically uninteresting. If love is understood as a mere sentiment, a simple feeling of various possible strengths, then love confronts justice as a brute force, much in the manner of greed or envy. When love wants what justice cannot give, then justice must protect itself as someone protects himself or herself against the weather. Since we know that the aims of love can diverge from justice – parents may fail to instill a sense of justice in their children, friends may choose loyalty to one another over the requirements of justice, and spouses may impose unfair burdens on one another in the name of love – then, if love is mere force of psychological nature, justice can hope for softer, more pliable loves, but there can be no consensus, no understanding, between them.

If love is understood not as a singular force of nature but rather as having its own normative structure, then love and justice can, as it were, speak to one another. Their imperatives can be made to align, perhaps to overlap. Ideally then, to love well will also be to love justly, and to be just will be to love well. In this section I will first briefly outline an account of love that defends a complex view of love and its reasons, arguing that love is essentially normative. I will then show that Rawls's own brief remarks on love, scattered throughout his work, align with this account, although he does not notice how love and justice frequently confront one another as opposing schemes of values.

Love is clearly a sentiment, but it is also more than that. It is a disposition to act, choose, and shape one's life in certain ways. More than this though, love has its own necessities, commands, and categorical obligations. Harry Frankfurt says:

the commands of love are also categorical. The claims that are made upon us by our ideals or by our children, or by whatever we may love disinterestedly and without conditions, are as unconditional and as unyielding as those of morality and reason.

(Frankfurt 1998, 136)

He argues we cannot will ourselves to love. However, once we do love, then we are necessitated by love's demands. Love becomes a part of our motivational structure and shapes our identity and self-understanding. In this way, the obligations of love take on an authority that a mere emotion, however intense, cannot be said to have. Once we love, then our autonomy is expressed by being obedient to love's commands. Frankfurt goes on to argue that "The will of the lover is rigorously constrained. Love is not a matter of choice" (Frankfurt 1998, 135) and further that

"The captivity of love cannot be entered or escaped just by choosing to do so" (Frankfurt 1998, 136). Frankfurt thus connects the authority of love's demands to keeping true to one's "essential nature." When one fails to meet these categorical demands "he fails to treat himself unequivocally as an end" (Frankfurt 1998, 139).

If Frankfurt's view is along the right lines, then the commands of love must be set against the commands of both justice and morality. An individual's motivational structure may be in conflict between competing categorical demands. A love – parental, spousal, or associational – can therefore be unjust or immoral, but a command of justice or morality can also be unloving. Thus, citizens can find themselves bound by incompatible requirements. The vices of love are instances of failures to love well, but that nevertheless have the categorical character of a command. In the same way, the imperative to live justly can have the character of a command.

How does Frankfurt's understanding of love fit with what Rawls has to say about the nature of love?¹⁶ In *A Theory of Justice*, Rawls says: "Love is a sentiment, a hierarchy of dispositions to experience and manifest these primary emotions as the occasion elicits and to act in the appropriate way" (TJ, 426). A footnote to this remark references A.F. Shand, whose account of love is clearly the source of Rawls's view here. In the pages that Rawls's footnote references, Shand discusses the sentiment and dispositions of love in the context of "disinterested sentiments," such as those involved in parental love, friendship, a game, patriotism, and love of science and art. Love of this kind "is ever contesting the supremacy of self-love and the attractiveness of the present inclination" (Shand 1920, 57). This is clearly a view of love that includes a normative dimension and one which goes beyond love as a mere sentiment. To "act in the appropriate way" is to be reflective on one's sentiments and dispositions and thus to ask how one ought to love, what one's obligations are as someone who loves, and how to measure these obligations against others that one has as a member of a moral community and as a citizen in society.

Rawls's remarks on the hazards of love show that he recognizes that love's imperatives put people in the way of possible misfortune. This risk is not irrational. He says,

Once we love we are vulnerable: there is no such thing as loving while being ready to consider whether to love, just like that. And the loves that may hurt the least are not the best loves. When we love we accept the dangers of injury and loss.

(TJ, 506)

The "best loves" are the ones that persist in the face of possible misfortune, and this only makes sense if either the sentiment of love can be so overpowering that a person is blind to the hazards and hardly "best," or

if it is valued on its own terms, for its own reasons, with its own imperatives. It goes beyond the sparse evidence in the texts to attribute to Rawls a view on love that fully endorses Frankfurt's account of the authority of love. However, Rawls's remarks on love suggest that these ideas align with both what he does say about love and with the view in the sources he references.

Citizens are vulnerable to injustice when they are the victims of institutions that fail to govern by the norms laid down by Rawls's two principles of justice. They are also vulnerable to injustice when their comprehensive doctrine imposes obligations that fail to align with the requirements of these principles. Rawls calls these comprehensive doctrines "unreasonable." The argument of this chapter suggests there is a further source of injustice when citizens are the victims of love's vices. What should the response be?

Is there such a thing as reasonable love, one that fits with justice? This seems on its surface to be paradoxical. Is love not best when it is passionate rather than reasonable? Who would want to be loved reasonably? However, "reasonable" here refers not to the intensity of the love in question but instead to the idea that a reasonable love is one that can articulate with the requirements of justice. In the same way that reasonable comprehensive doctrines are those capable of an overlapping consensus on the foundational values of freedom and equality, so reasonable loves are capable of a consensus of sorts with the same set of requirements. Loves that are reasonable answer to the call of justice. They can be passionate, intense, consuming, as love must be, but they should be just loves – not in the sense of applying the two principles directly to love relations, but rather in the sense that they do not oppose or obstruct justice. Love in an ideal Rawlsian liberal society looks different from love in a non-liberal society. Here love is in harmony with justice.

I have emphasized the categorical nature of love and the normative structure that accompanies our various loves. However, as I have argued, we should not think that love, morality, and justice are unable to align their normative structures. It must be assumed that it is possible to love well, be a decent person, and to live justly. Given this though, it should also be noted that when love and justice misalign, the claims of love speak loudly in the language of "oughts" and "musts." This explains why the injustices that the vices of love cause are pervasive and difficult to correct. I take up this difficulty in the next section.

V. Just Loving

I have already noted the underlying idea of toleration – that citizens should be free to pursue their own conception of the good as long as this is compatible with citizenship in a just society. Likewise, we should expect that citizens should be free to love in ways they choose as long as this is

compatible with citizenship in a just society. We have also noted, in the service of the idea of toleration, that Rawls places only partial constraints on how citizens conduct their moral lives and their love relationships. In the latter case, citizens are left mostly to fortune and left to the "goodwill and natural affection" of others. However, I have shown that the vices of love have significant impacts on citizens' capacities for just citizenship. When these vices are represented in society in a systematic way, then Rawlsian justice needs to have an answer.

I can only sketch what such an answer might look like. Fully constraining citizens' loves by the terms of the two principles has already been ruled out. It violates a basic liberal principle of toleration. Imposing a single conception of good love is no more an option for Rawls than imposing a single conception of morality. The liberal state nevertheless has an interest in promoting parental, spousal, and associational loves that align with and foster just citizenship. From the point of view of ideal theory, in a well-ordered society, loving justly will generate its own support. Citizens will see one another as deserving of justice and will internalize the norms of justice, carrying these practices into their moral and loving relations. The same argument that Rawls proposes to explain how justice generates its own support in a well-ordered society would apply in the case of love. The more difficult issue is the problem of unjust loves in the non-ideal case.

Beginning with associational life, laws that prohibit systematic discrimination and exclusion from associations that deliver important social goods are one way in which justice can bend love to its own purposes. Where citizens are excluded from business associations, labor unions, sports clubs, educational opportunities, etc., on the basis of existing patterns of discrimination such as race, gender, and sexual orientation, these are obvious examples of the way in which the liberal state can intervene in the associational life of society. Associations often have explicit and public rules concerning their terms of membership, and so they are relatively easy to monitor and to align with the aims of justice. However, the two other vices of love are much more difficult to address and require a different strategy. Parents who fail to provide adequate scaffolding for their children to acquire the requisites for citizenship can be legally constrained in some ways. It should be noted here that the burden of duty on parents is not an unduly heavy one. The bar of just love for parents is set quite low. The point is not that parents are bound by duty to produce model liberal citizens, but rather that they should enable their children to meet a basic threshold of capability. Furthermore, parents are not alone in this essential task. Compulsory public education is one instance of how the state can ensure that children are not victims of overprotective or neglectful love. And similarly, divorce law should help ensure that citizens not only enter into spousal relations voluntarily but that they are able to exit voluntarily as well.

However, even with such partial constraints in place, parental, spousal, and associational love can be a source of injustice, especially, as we have seen, when these relations are shot through with systematic injustices. Here the intervention can only be indirect. Love relations of all kinds tend to gather up the prejudices of society. Spousal domination reflects patriarchy; associational exclusion reflects racial, gender-based, and other forms of discrimination; and bad parenting often reflects the consequences of prior bad parenting. The vices of love should be thought of as both the source and result of these societal illnesses. Therefore, the liberal state has an interest and obligation of justice to protect citizens' love relations from the effects of these pervasive and predictable social prejudices. Rather than violating its own standards of liberal toleration, the state can indirectly protect citizens' love relations by confronting the social prejudices that are the source of unreasonable loves. The result of this would be to move the line between misfortune and justice so that more of what would otherwise be mere misfortune would cross into injustice. It would mean that citizens' comprehensive doctrines, where they encourage or facilitate the vices of love, would require scrutiny and to be challenged. It would also mean that loving itself would have to answer to the demands of justice. The commands and obligations of love would have to hesitate in the knowledge that the commands and obligations of justice have their own claim on the motivational structure of citizens. The light of justice would illuminate the vices of love, and love, informed by justice, would, perhaps, reshape itself to better align with justice.

How the state acts to protect vulnerable citizens from the vices of love will depend on which strategies would be most effective from a social and psychological point of view. Robust support for parents and making child care widely available to protect children, for example, would help. Campaigns that support and model equality and respect in spousal relations may be effective. And the state may use its leverage to promote and support civic life that makes for inclusive rather than exclusive associations. Rawls, in writing of gender discrimination, says political philosophy cannot decide what steps should be taken to remedy the inequalities that women face in their love relations since this depends on the "particular historical conditions" that obtain.¹⁷ However, this should not deflect from the urgency of the problem. As Rawls himself frequently notes, and as I have argued, the liberal state has a considerable interest in fostering and protecting the capacities of citizens for full and equal citizenship. Those vices of love that rest on pervasive and predictable social prejudices therefore should be a target for the liberal state, if only indirectly.

There is always the danger that the liberal state will overreach and interfere in an area of citizens' lives that has traditionally been seen as out of bounds to the state. It could be argued that the private sphere, where love is properly located, should be safe from prying and interference by the state. There is a boundary here, it might be argued, that

should mark the limit of the liberal state's attention. However, this is not how Rawls sees it, and rightly so. Rawls rejects the spatial metaphor of private spheres and the implication of a boundary between the public and private. Instead, he sees all relations between citizens as constrained, fully or partially, by the demands of justice.¹⁸ While I have rejected Rawls's own argument for partial constraints on love relations, arguing instead for one based on determining how the vices of love, when systematic, diminish the citizens' capacities for justice, I agree with his general view that justice requires citizens to be capable of justice. And this means that citizens love relations should align with justice. This alignment means that the indispensable goods that love provides should be partially constrained by the norms of justice to allow citizens to receive those goods by loving in their own way and for their own reasons. This is not the liberal state overstepping its proper domain. Instead, it is the liberal state fulfilling its primary function, which is advancing the "first virtue of social institutions," namely, justice.

VI. Conclusion

In this chapter I have argued that Rawls neglects the ways that love may stand in opposition to justice. I have also argued that when love is understood normatively, then love can answer the call of justice and that the essential goods of love that citizens obtain in their familial and associational life can be aligned with and even support justice. The vices of love that I identified – overprotection/neglect, domination, and exclusion – can and should be challenged by the liberal state when these are systematically present in society. While these vices cannot be entirely eliminated without violating the principle of toleration, just loving should be an ideal of a Rawlsian society.¹⁹

Notes

1. In relation to Rawls's account of justice, feminist critics have long complained of the absence of an explicit concern with women in Rawls's early work. Susan Moller Okin's (1989) extended criticism of Rawls is the best known. For other discussions of Rawls and matters of gender and the family see Walsh (2012), Neufeld and Van Schoelandt (2014), Baehr (1996), Casal (2015), and Bojer (2002).
2. For an argument that shows the various ways associational life can lead to injustice see Seglow (2010).
3. There are, of course, many kinds of loves and many ways of loving. Spousal, familial, and associational loves are not meant to constitute a complete list. However, I take these to be especially relevant to the relation between love and justice, as Rawls understands the latter.
4. See *PL*, 13 and 175.
5. See *TJ* (266) for a statement of these principles.
6. See *PL* (15) for a definition of an overlapping consensus between comprehensive doctrines.

7. There are other reasons why life within the family escapes the attention of justice. The contractors in the original position are conceived as “heads of families” and feminist critics of Rawls point to the ways this assumption “makes the family opaque to claims of justice” (English 1977, 95).
8. See Rawls’s discussion of constraints on churches: *LP*, 158–159.
9. For an extended discussion and criticism of the place of children in Rawls’s account of justice see Brennan and Noggle (1999).
10. I use the term “spouses” widely here to cover the variety of relations that constitute family life, including, of course, same-sex marriage, as Rawls explicitly does: *LP*, 147.
11. The ways in which the “internal life” of the family can be systematically unjust and how Rawls’s *Theory of Justice* in particular failed to recognize this are set out in detail in Moller Okin (1989).
12. See, for example, Seglow (2010) who points out the conflict between associative duties and global justice. A similar argument could be made for the conflict between associative duties and domestic justice.
13. Martha Nussbaum describes adaptive preferences as an adaptation “in which an individual’s preferences are shaped to accord with the (frequently narrow) set of opportunities she actually has” (Nussbaum 2000, 151).
14. This last criterion may seem unnecessary since the three previous criteria are all ways in which people’s citizenship capacities are diminished. However, the vice of overprotection/neglect may well not be a violation of a child’s basic rights or follow a pattern of systematic discrimination, but nonetheless result in the diminishment of their citizenship capacities.
15. Rawls rejects the language of private and public domains as a space or place saying that “If the so-called private sphere is a space to be exempt from justice, then there is no such thing” (*JF*, 166). For this reason, I have avoided using the language of the private and the public in this chapter.
16. Rawls has much to say about Christian love in *A Brief Inquiry into the Meaning of Sin and Faith* (2009); however, it seems to me to not be useful in understanding how love and justice align in his mature writings.
17. See *LP*, 162.
18. It should be emphasized that in rejecting the spatial metaphor of private and public domains, Rawls is not rejecting the notion that people live their lives as private persons as well as public citizens. What is rejected is a threshold notion of the private-public distinction that permits whatever happens behind the threshold as somehow beyond the reach of justice. The idea of partial constraint I have employed in this chapter works in both directions by shielding people from the attention of the state so that they can pursue their loves in their own way, as well as ensuring that the state attends to matters where people’s rights and just claims are violated.
19. I would like to thank Patrick Hayden and Heather Kennon for their comments and corrections.

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