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Fences: Rorty's Private-Public-Dichotomy as a Situational Game

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<u>Abstract</u>

Richard Rorty's defence of the public-private dichotomy has been much maligned and much misunderstood. Most commentators have faulted Rorty either for introducing a new dualism while eschewing dualisms or for being ignorant of the oppressive consequences the public-private-dichotomy has had in the past. However, if one reads Rorty's defense of the private sphere in light of the conversational axis of his neopragmatism, it becomes clear that the private sphere is not a fixed realm but rather a name for what is situationally cordoned off behind claims of privacy, a moving army of stop signs the setting of which is always in social dispute.

Richard Rorty's pragmatism has been the subject of harsh and vigorous challenges, both from within and outside of the pragmatist camp. His forays into political science have also exposed him to attacks from social scientists. One of the most contentious subjects is Rorty's conception of the public and private spheres, especially his seeming insistence of a sharp delineation between them.

The two spheres are, Rorty insists, incommensurable, and no general theory should attempt to unite the two. Rather than seeking a common formulation, one should understand them as different tools that do different work, like "paintbrushes and crowbars." (Rorty 1989: xv) This division has often been attacked as unpragmatic because of its strong dualism, as betraying Rorty's expressed partisanship for solidarity and as politically naïve, ignoring the often oppressive social structures connected with the separation of public and private spheres.

While pragmatists see it as a violation of pragmatist antidualism, some political scientists see it as an ideological move to support structures of oppression and subjugation, while others see in it a move that makes community impossible. While these critiques have ideas of the social and of the political to defend by attacking

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Rorty's conception and thus engage in an antagonism that may be necessary in order to retain their perspective's identity, it can be asserted that none of them grasp the openness of Rorty's conception, which does not draw clear lines between the public and the private spheres but rather offers the terms "public" and "private" as *descriptional* tools, an offensive and defensive vocabulary with which assertions and challenges by others can be forced onto others and staved off. As such, the demarcation between public and private in Rorty is not a line, but what could be seen as a cart full of situationally and locally deployable fences (or, as I have called them in another context, "moving armies of stop signs," Author cite), protecting from degradation the vocabularies and the people that they construct. These fences are in principle available to all who wish to retreat from attacks taking the form of a public challenge. However, there is no unquestioned private sphere: this retreat is not automatically accepted. The use of such fences is itself an instance of a public interaction that may have to be negotiated and defended. Seen in this situational light that emphasizes openness and negotiation over presence and representation, many of the attacks on Rorty's cordoning off of the private sphere become groundless.

Sharp delineation

According to many of his critics, Rorty views the private and the public as two incommensurable realms to be sharply delineated, with the private self-creation of the strong poet on the one side, the public debate of a solidary community on the other. "The vocabulary of self-creation is necessarily private, unshared, unsuited to argument. The vocabulary of justice is necessarily public and shared, a medium for argumentative exchange." (Rorty 1989, xv) The private sphere is the sphere where the strong poet roams free to redescribe, where ironic detachment can be safely practiced and where one is safe from public redescriptions by others. The public sphere, on the other hand, is the realm of community, of solidarity, of debate and discourse, where ideas, practices, even identities and selves – in short, where all descriptions – have to be submitted for approval and can be rejected. Private, ironic, strong poetic ideas, on the other side, cannot fail as long as they are cordoned off sufficiently, as they do not have to be submitted for approval and need not be approved by anyone but oneself.

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So, at least, much of what Rorty has written can be read, and it is on this interpretation that most critics of Rorty seem to understand him: Offering a strong demarcation between public and private and providing shelter for private poetry of self-creation away from a judgmental public, where the political is seen to be made part of that poetic, private sphere. Fraser interprets Rorty to advocate a strict line between public and private with its "clear and sharp boundary," (Fraser 1990) McCarthy asserts that "Rorty is left with his poets on the one side and his engineers on the other. There are no mediating links between them", where "[t]he theorist simply comes to a halt at the boundaries of the public sphere" (McCarthy 1990, 366); and while Halton states that Rorty "inverts the Greek conceptions of oikos and polis, or private household and public realm, and asserts an unbridgeable disjunction between them." (Halton 1992: 346)

Four criticisms

Against this delineation, critics have brought a number of challenges that can be usefully summarized into four not always distinct lines: 1) that a distinction between the public and private does not hold up to reality, separating two realms that are not "really" separate; 2) that the distinction is thoroughly unpragmatic as it introduces a strict delineation between opposites in a perspective that is built on antidualism; 3) perhaps most often cited (and most powerful), that the public/private distinction has had consequences that are now seen to be extremely negative, consequences that are aided by Rorty's return to the distinction; and 4) that claiming the public and private to be rigidly distinct makes public debate on the content of the private realm impossible, thus destroying community and solidarity.

Criticism One

The first criticism is an external critique from a representationalist standpoint. Topper sees Rorty as abandoning and even inverting a classical quest: while other writers struggle to unite the public and the private through abstract theorizing, Rorty seeks to posit "an equally misleading and abstract separation." (Topper 1995: 961) That, Topper thinks, is not only inadvisable, it is also not feasible. Drawing on Bourdieu, he

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tries to show that "in the realm of everyday life these projects inevitably spill over and causally intermix with one another", because "[p]rivate projects are always and unavoidably structured by public forces", which "[h]istory and human experience clearly indicate … are not" separate. (ibid.) This representationalist argument is, to the pragmatist, an attempt to ground one's own hopes and aims in objectivist language in order to gain support for it: it is a political agenda "clothed in reason's clothing," (Fish 1999: 208) drawing on a vocabulary pragmatists of the current neopragmatist renaissance wish to eschew. Therefore, pragmatists can safely ignore this critique, as it posits that there is a "real" distinction to be uncovered and represented. Rorty has, consequently, never taken this criticism seriously; to do so would engender a self-contradiction. It is criticisms two, three and four that seem real threats to Rorty's separation of public and private.

Criticism Two: An Internal Critique

Rorty's talk of the public/private separation does sometimes sound as if he speaks of a clear, objective difference between the two. He writes, for instance, "The closest we will come to joining these two quests is to see the aim of a just and free society as letting its citizens be as privatistic, 'irrationalist', and aestheticist as they please so long as they do it on their own time – causing no harm to others and using no resources needed by those less advantaged," (Rorty 1989: xii) thus suggesting that being private is a state one can *be* in, as opposed to *being* in a public state. The second critique is an internal critique from a pragmatist standpoint, assailing this opposition: McCarthy asserts that "[i]t is no small irony that this absolute split between a depoliticized theory and a detheorized politics should be the final outcome of a project that understands itself as a pragmatic attempt to overcome the dichotomy of theory and practice." (McCarthy 1990: 366-7) In the same vein, Halton also recognizes in Rorty an "unpragmatic dichotomy between public and private." (Halton 1992: 346) Rorty has often written that one of the central features of pragmatism is its antidualism. "If we have to describe ourselves," Rorty writes of pragmatists, "perhaps it would be best for us to call ourselves 'anti-dualists'. This does not, of course, mean that we are against what Derrida calls 'binary oppositions': dividing the world up into

the good Xs and the bad non-Xs will always be an indispensable tool of inquiry." (Rorty 1999: 19) In opposition to the representationalist critique, to argue for a strict dichotomy indeed seems to be a contradiction of Rorty's own writing. However, as Rorty stated, being a pragmatist does not mean abandoning dualisms; it means not representationalizing dualisms, i.e., not arguing for dualisms to be *found*, merely to be reproduced in scientific talk about them. Rorty has reacted to this critique with a response that could be considered blasé if it is not seen in this context: He simply stated, "I guess I don't see this as the kind of distinction Dewey sought to overcome." (Postel 2006: 31) This might be read as a nonchalant non-answer, but in the end it may be seen as a lot more thoughtful and deep than it seems. In *Consequences of Pragmatism*, Rorty elaborates on what dualisms meant to Dewey: "The little dualisms of subject-object, mind-matter, experience-nature are seen by Dewey as dialectical diminutions of the great dualism between the holy and the lucky – the enduring and the day-to-day." (Rorty 1982: 43) The sort of dualisms Dewey wanted to overcome were those that were metaphysically connected to the great dualisms of western society, part of the quest for certainty. Though "Dewey wants the tradition overcome by blurring all the distinctions," (ibid.: 51) dualisms need no longer be seen as a target for criticism if their connection to the holy are cut, but rather as indispensable tools of ordering the world and as a prerequisite for being able to describe at all. Just as descriptions and redescriptions of the world is all that science can offer when representationalism is abandoned, dualisms are just a form these descriptions take when they set themselves apart from other descriptions (or when a description of A has to set itself apart from a description of B). They are not a representation of dualisms found, but dualisms made in order to be able to speak of categories, which necessitates defining their anti-categories. It is in this way that it is not the kind of dualism Dewey sought to overcome. By challenging Rorty for reintroducing a rigid dichotomy, his critics had to assume that Rorty posits two clearly demarcated fields that *exist* vis-à-vis two fields that are merely situationally *asserted* – like the good and bad X's are. However, "As long as we see James or Dewey as having 'Theories of truth' or 'theories of knowledge' or 'theories of morality', we shall get them wrong;"

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(ibid.:160) as long as we see Rorty as offering a "theory of the private sphere", we shall get him wrong.

The second version of the internal critique takes a related, yet distinct form when the positioning of private vs. public is seen as unironic. Conway suggests that "Rorty's 'liberal ironism' turns out to be neither genuinely ironic nor especially liberal" and is "thwarted by his unironic adherence to a rigid distinction between public and private." Hall arrives a similar conclusion that "Rorty's 'privatization' of irony [...] betrays the distinctly unironic conviction that human agents ought to enjoy more power and control than the public sphere affords them. By concluding that ironists should concentrate their efforts on a private sphere that they can control, Rorty actually departs from irony." (Conway 1991: 204) While the first version of the internal critique pits Rorty's dualism against him, the second pits his irony against him to arrive at the same conclusion: A conceptional frame based on ironism cannot accommodate such a rigid distinction. The same counterargument Rorty offered to the first internal critique (Postel 2001: 31) can be cited again, with the same outcome: The criticism would indeed be fatal if Rorty were to talk of a clear demarcation of public and private that can already be found in the world. Rorty has always made clear that irony is a capacity that is always limited by the assumptions and beliefs one brings into the situation, convictions for which one has to stand unflinchingly even if their contingency is recognized, while pragmatists have criticized that the limits Rorty places on irony are not adequate, as there is no way to distance oneself from oneself in the abstract, but only by retreating to other convictions from which the other can then be ironized while at the same time the new perspective from which this happens is strengthened. (Fish 1994: 200) Thus, any distinction, any dichotomy, any conviction can be (temporarily) ironized; this comes with the price of strengthening other dualisms and convictions from which to ironize the respective others. Irony as an abstract movement away from convictions towards a free space is impossible, as Fish has maintained in a critique of Rorty: irony, in Rorty's formulation, lightly removes the observer from the objectivisms of the world and allows a distance from one's usual investment in these meanings; therefore, it is a light form of skepticism. This

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"ironic skepticism" doesn't exist in a strong form as a specific capacity, only as something going on anyway, as something "already achieved by the ordinary and everyday efforts by which, in innumerable situations, large and small, each of us attempts to alter the beliefs of another," (Fish 1989: 464) because "skepticism is not a state, but an activity, something one performs, and one can perform it only within – and not outside of – the already structured field that is consciousness." (ibid.:440) Thus, the same countercriticism applies that applies to charges of dualism, but here, Rorty may be more assailable – unless one reads his nonchalant comment as expanded to include irony, in which case one could assume Rorty was already aware of this line of criticism.

The third version of the internal criticism builds a bridge to the third line of criticism. Rorty is vocal about his support for liberal democracy, and the public-private distinction is often claimed to subvert this preference. Anderson writes, "Pragmatist liberalism simply cannot accept Rorty's sharp separation of the public and the private realms, and with it, the separation of the spheres of rational criteria and subjective expression, knowledge and opinion, public responsibility and personal preference. In the larger pragmatic tradition, all systems of thought are intrinsically public, their criticism and perfection is a common responsibility." (Anderson 1991: 367) Here, of course, the question turns to what one conceives of as liberal democracy and to what effect the description is used. The same argument is made about solidarity, so I now wish to turn to the critique that the public-private-distinction subverts solidarity.

Criticisms Three and Four: Privacy and Community
The third and fourth criticisms are arguments about the political consequences of a separation that enshrines some thought in an unassailable private sphere not open to public debate. Topper asks, quoting James, what the "cash value" of such a distinction is. (Topper 1995: 958) Especially for a pragmatist philosophy, the question of the consequences of a vocabulary is central and must be addressed, as Topper makes clear by attaching his question to James' master question. Now, political scientists in particular have answered that the consequence of Rorty's distinction is that old, long

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overcome oppressions get a new lease on life. This is the third criticism. The distinction, critics assert, is not just reactionary, but also a privileging of privacy over solidarity (itself a central value in Rorty's work) and thus not only corrosive of community, but contradictory to Rorty's declared objectives -- the fourth criticism.

The separation allows Rortian subjects to withdraw from the public sphere into an unassailable private sphere, and by doing so allows them to drag such progressive achievements with them that were made exactly *through* prying them away from the private sphere. Topper asserts that while Rorty intends for his distinction to "open up spaces for increased pluralism", in fact it tends to create a "mystifying and ideological effect" (ibid.: 961) and "to pass over or mask just those forces which not only limit the range of possible projects but also structure the level, quality, and possibility of participation in cultural and political conversations" (ibid.: 959) by "reenshrin[ing] patters of thinking that have historically preserved and legitimated patriarchal or other oppressively hierarchical forms of social relations." (ibid.: 961) Fraser, in particular, has attacked Rorty sharply for this retreat from progressive achievements, reminding readers that "the social movements of the last hundred years or so have taught us to see the power-laden and therefore political character of interactions which classical liberalism considered private." (Fraser 1990: 312) Marxism, Fraser states, showed that economics was political, feminism that the domestic was political, Foucault that the medical and the educational were political, and "Rorty's partition position requires us to bury these insights." (ibid.: 313) To delineate an area of privacy onto which public demands for justification and explanation may not tread insulates those who wish to limit and repress *others'* abilities for self-creation by allowing the repressors to claim that their limiting activities are themselves matters of self-creation. Topper here cites Bourdieu's studies showing that the self-creation of middle-class students wanting to be philosophers was systematically thwarted by the public forces represented by upper-class professors grading them, so that the supposedly private vocabularies of self-creation of both were publicly intertwined in a way detrimental to the students from the middle-class. (Topper 1995: 961) "Had … [Rorty] taken even a cursory scan of human history, instead of professing it all obsolete, he might have seen that the varieties of human autonomy are not always limited to a tiny few, as they are in the

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antidemocratic American mass culture which seems to act as … [his] assumed model." (Halton 1992: 347) This goes hand in hand with the frequent criticism that Rorty, and pragmatism in general, lack a conception of power. (Cp. May 1993, Seglow 1996)

With vocabularies of "strong poetry" as the private indulgences of self-creators comes a second version of this criticism, also made by Fraser, that Rorty's demarcation goes so far as to "privatize theory": "If there are no mechanisms of subordination inscribed in the basic institutional framework of society," i.e., if power is not a structural element of society that asserts itself, "then a fortiori there can be no need to theorize them." (Fraser 1990: 315) Pragmatists like Rorty, then, ignore power because, from their perspective, it does not exist, and to critics like Fraser, this is not only a major failing, it is absurd. If, as Rorty states, the ones who change public speech are those who are left alone to create a form of description, where this "vocabulary of self-creation is necessarily private, unshared," (Rorty 1989: xiv) there is no "answer to the question 'How do we decide when to struggle against injustice and when to devote yourself to private projects of self-creation?'" (ibid.: xv) This private recreation of self is Rorty's motor of social change; Rorty sees Europeans not as the ones most quickly traveling on the road of progress or world-discovery, but rather as the people "particularly rapid in changing their self-image, in re-creating themselves." (ibid.: 78) In the same vein, McCarthy also bemoans that in Rorty's distinction, "Critical thought is to be aestheticized and privatized, stripped of any social-political implications." (McCarthy 1990: 367) It is at this point that critics begin to fear for theory: Fraser fears that Rorty has made a move to privatize theory, to privatize the creation of descriptive vocabularies and therefore to remove it from the realm of public deliberation and, what is more consequential and more dangerous still, to deny public influences and public pressures on private self-creation. She fears that Rorty's move will abolish feminism and let feminist "theory go the way of our housework." (Fraser 1990: 313) Rorty does so by ignoring the publicly structured realms in which theorizing can go on, including, but not limited to, the fact that one can only meaningfully self-create when one is economically stable, which, in turn, is a function

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of prevalent power structures. (Halton 1992: 347) However, Fraser falls for Rorty's ironist game: While stating clearly that words are descriptions to be fought over in conflict with other descriptions, neither of which are true but all of which *do* different things, achieve different worlds, Fraser engages Rorty's descriptions as if they were representations of the real and not descriptions that do different things than what Fraser wants done. She reads Rorty's denial that there is no structure to be represented as a claim that since no theory can represent, there is no need for theory. Rorty never stated that; the fact that there is no world to be represented and descriptions are all we have (1989: 5) is not the reason why there need not be theory, but rather the reason why there is no exit from producing descriptions − theory, if you will. This is a conflict often fought out with pragmatists, who oppose the quest for theory in the strong sense of representing "what is", on the basis that the world does not speak, but in no way oppose the act of theorizing. Fish has stated that while theory in the strong sense is doomed to fail, theory in the sense of providing descriptions on which to act is inevitable, since "the lesson of anti-foundationalism is not only that external and independent guides will never be found, but that it is unnecessary to seek them, because you will always be guided by the rules or rules of thumb that are the content of any settled practice, by the assumed definitions, distinctions, criteria of evidence, measures of adequacy, and such, which not only define the practice but structure the understanding of the agent who thinks of himself as a 'competent member.'" (1989: 323) Also, Fraser reads Rorty's claims for the need to defend a private sphere as an assault on her political goals, while also viewing Rorty as "walling up" on the other side of her political goals. In other words, she takes Rorty's *general* statements as a move in the (public) language-game to devalue her *concrete* goals, and assails Rorty accordingly. This assumes that a *general* argument is already detrimental to *concrete* goals, thereby assuming that a generally sympathetic treatment of privacy already includes an attack on feminist objectives, an assertion Rorty would likely have opposed and that the current paper wishes, in Rortian terms, to oppose.

Critics also maintain that Rorty's private-public distinction equals an abandonment of the public for the private and privileges egotistical self-creation over public solidarity,

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in spite of Rorty's assertion to the contrary. His move to privatize the creation of vocabulary and thus theorizing makes clear, to his critics, that while Rorty claims to set solidarity and self-creation on the same level, both equally important and not as distinct as classical theories want to describe them, he in fact supports a liberal, maybe even libertarian individualistic and solipsistic enshrinement of the private sphere. The ultimate goal is self-creation, "not speaking the language proposed to you, but inventing your own, and that means inventing new metaphors, new ways of linking words." (Saunders 1994: 445) This private realm is a libertarian, cold private reality, "an isolate place of 'autonomy' and 'creativity', utterly lacking in the emotional warmth of family and loved ones, not to mention the necessities of life, as essential to 'self-creation.'" (Halton 1992: 346) "Rorty's public is defined solely negatively as 'becoming less cruel' (346), taking a back seat to egotistical self-creation.

It is on the basis of these readings of Rorty that critics maintain that the social is missing in his work. Anderson feels the need to remind Rorty that "the guarantees of knowledge ... are social and hence public," (1991: 367) and McCarthy chimes in that "[w]riting belongs, of course, to the public sphere, and so the claim Rorty has to defend is that the public political sphere can and should be insulated from the public cultural sphere." (McCarthy 1990: 365)

A first striking element of these criticisms of public debate versus private creation is the unquestioning equation of the private sphere with individual, solipsistic thought. It is clear in Rorty's writing that he does not reserve the term "private" for individual aloneness; his private self-creating heroes are Nietzsche and Proust, published authors, who have submitted their ideas to others and have not retreated with them to an internal life of loneliness at all. To Rorty, "private" does not mean "alone"; it means "establishing a boundary around opinions, actions, utterances, ascriptions so as to not have to defend them – for now". It is not only at this point that it becomes unclear if Rorty's critics may not be willfully misunderstanding him, taking his use of "public" and "private" to mean what they usually mean by them, unwilling to engage

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with Rorty's innovative and at the same time commonsensical explication of the divide. Another indication is that critics seem to think that Rorty needs to be reminded that "the guarantees of knowledge ... are social". To suggest that Rorty believes that assertions do not have to be justified and defended in a public sphere strains the pragmatist reader and begs incredulity. It seems as if many critics are acting on a need to assail a private-public separation by reflex alone. They do so because they have not understood, will not seriously engage, or even fear the antifoundationalist, localist and situationalist thrust of Rorty's version of the public-private distinction, where fear is inappropriate as it does not advance or hinder any political agenda. Only by seeing the private as a sharp delineation can it be seen as a wall that threatens political achievements and solidarity; only if the private is untouchably cordoned off can it be asserted that the public nature of truth claims is abandoned. If the separation is not seen as a sturdy and immovable wall of separation, but rather as a deployable fence that is never stable and, most importantly, always leaves room to go around them, most of the aforementioned criticism becomes mute, and Rorty's formulation is not automatically partisan at all (whereas Rorty, of course, is).

Public and *private* as offensive and defensive language games

Rorty can easily come across as blasé. Kelly notes that "Rorty's Implied Pragmatist speaks in an informal, 'down home', American idiom, a self-consciously pragmatist cultivation that is intended to undercut more portentous vocabularies and return human purposes to the centre of the stage." (2008: 95) This applies to his conception of "private" and "public" as well. Peters and Ghiraldelli remind readers that Rorty's essays "rest on clear, coherent, and well thought out philosophical positions so that what looks like an offhand and inflated remark often turns out to be part of a well-considered position that has been strongly developed over a period of time." (2001: 2-3) Much of the aforementioned criticism assumes, on the other hand, that Rorty has no clue about the historical uses of the private/public dichotomy, conveniently forgets pragmatist antidualism when it suits him and blithely refuses to acknowledge it when it is pointed out to him. To do justice to Rorty's elaboration, it must be seen as a sensible part of his overall antifoundationalist and situationalist perspective. The

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present paper will draw on Rorty and on Fish, as it already has, to explicate this notion while not forgetting that Fish and Rorty do not always agree. If such an explication is completed it will demonstrate that the strict dichotomy critics assert, as well as at least some of the anti-progressive thrust they decry, is unfounded: As "the world does not speak – only we do," (Rorty 1989: 6) there are not two realms, one of the public and one of the private sphere, to be recognized and represented in the world. Just as the dichotomy itself is a description that is there to perform a service, the two words – "public" and "private" – when used in conversation, perform a service, and it is how people use this distinction that determines if it serves political goals formulated by progressives such as Fraser or if it does not. It can then be shown how, for Rorty, the increased use of the privacy vocabulary supports rather than hinders solidarity, how it involves a public negotiation of retreat, and how this negotiation can thus always fail.

According to Rorty, "private" and "public" are nonrepresentational, situationally used descriptions to be utilized in conversation, language games to be played. The dichotomy is part of the toolbox western societies use to argue conflicts. As Rorty says, pragmatism holds as its premise "that there are no constraints on inquiry save conversational ones – no wholesale constraints derived from the nature of objects, or of the mind, or of language, but only those retail constraints provided by the remarks of our fellow inquirers." (1982: 165) There are no wholesale constraints on what is private and what is public save what others say in conversation, and these conversations are games, played out in concrete situations, with winners and losers. In that, talk of private and public bears close resemblance to the law, for which Fish has made an argument applicable to "privacy talk" as well: Law does not have a "formal existence" in the sense of providing people in conflict with an abstract solution, it just provides them with a vocabulary in which to argue it, one in which a third party – the judge or jury – needs to be convinced. "As long as one party can tell a story sufficiently overarching so as to allow the terms of the contract and the evidence of trade usage to fit comfortably within its frame, that evidence will be found consistent rather than contradictory. What is and is not a 'reasonable construal' will be a

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function of the persuasiveness of the construer and not of any formal fact that is perspicuous before some act of persuasion has been performed." (1994: 149) This act of convincing a third party is a social act and in no way determined by "the law" which, without a formal existence, is by itself unable to do anything. "However much the law wishes to have a formal existence, it cannot succeed in doing so, because – at any level from the most highly abstract to the most particular and detailed – any specification of what the law is will already be infected by interpretation." (143-4) Law becomes law only because it is empty and because it can be used as a vocabulary to obscure conflict; the answers it generates are situational achievements in social situations that look as if they were thoroughly grounded in neutral and objective procedures, and that appearance is its "amazing trick".

Western society, having been established as one in which individuals may retreat from the expectations of their peers, needs a vocabulary to argue such a retreat. Whereas it is the law's function to make conflict resolutions appear abstractly fair if – and only if – the participants are willing to view it as such, privacy's function is to make a retreat from justification seem justified. If one follows symbolic interactionists, themselves cousins of pragmatists, in the conception that society is made up of common definitions of symbols in which a common perspective on social reality is created, then "this is private" can be seen to perform a distinct service: It allows conflicting actors to achieve a common definition of an unshared social reality by removing the unshared portions from conversation. Then, "privacy" does not denote an existing realm and it does not construct a stable one once it is used; it is a flexible fence one has to actually set in a *public* exchange (if not set, it does not come up; it is not already there) in order to gain a second-level agreement where first-level disagreement is feared. However, while it insulated the first-level disagreement, it cannot be unilaterally insulated. This setup of fences is a *public* act that needs justification, so that then, a "realm of no justification" – or, more popularly, a space of "agreeing to disagree" – is agreed upon temporarily and situationally.

Again, as Fish asserts for the situational nature of the law,

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> a plain case is a case that was once argued; that is, its configurations were once in dispute; at a certain point one characterization of its meaning and significance – of its rule – was found to be more persuasive than its rivals; and at that point, the case became settled, became perspicuous, became undoubted, became plain. Plainness, in short, is not a property of the case itself – there is no case itself – but of an interpretive history in the course of which one interpretive agenda – complete with stipulative definitions, assumed distinctions, canons of evidence, etc. – has subdued another. That history is then closed, but it can always be reopened. (Fish 1989: 513)

Again, the same is applicable to "private" and "public": What is private and public is negotiated, assumed, but can always be subdued in a new argument. Like the law, it is only successful as long as the participants are willing to honor it, because, like the law, the justification offered is not abstractly present and represented but rhetorically created and thus needs to be negotiated. Like a trial, it is a conflict which a participant will win and another will lose.

In this conflict, "´private" is a defensive vocabulary, while "public" is an offensive one. "This is private" is used to defend against having to publicly justify *anything*, while "this is public" is used for an attack on this retreat: When both parties agree on calling something – a claim, an action, a belief, an utterance, a self-presentation, etc. – "private", they make an attempt at a definitional agreement before the matter itself is discussed (the agreement not to discuss it), close the file and go on. When both agree that it is "public", they again come to a definitional agreement, however, one that keeps debate on the matter open and waits for a definitional agreement on the matter at hand *beyond* the agreement that is it a public matter. It is when there is disagreement whether a concrete matter is public or private that the interesting cases arise: When someone assumes the vocabulary may be applied but others deny that application, coalitions have to be built and negotiations undertaken to either successfully defend the privacy of a matter, to be able to hold on to definitions unshared by others who shall remain significant others in spite of it, or to have to submit to others' demands for justification and thereby potentially having to give up one's differing definition.

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This explication can now be applied to the criticisms of Rorty's distinction, which all fail to grasp this situational openness. When Anderson asserts that for Rorty, "People are not expected to give justifications for their views", (1991: 364) he is wrong: Rorty merely recognizes that there is a game of meta-justification that allows us, if successful, to justify not having to justify an underlying view by deploying fences to insulate this view: The meta-game is a way to denote these underlying views as "private.". First, this deployment has to be justified, and second, if this justification fails, people still have to justify their views. Topper gets it half-right when he writes that "Rorty would no doubt agree that in practice the line between the private pursuit of self-creation and the public pursuit of social justice is often fuzzy and that one of the principal aims of social science is to clarify this fuzziness by identifying previously unrecognized forms of cruelty in public institutions that constrain the private pursuit of self-creation". (Topper 1995: 961) Rorty would indeed agree that the border is fuzzy in the sense of not being clearly present, but he would argue that its clarity is a matter of local agreement: it can be more clear if everyone agrees, less clear when it is fought over. One of the principal aims is indeed to clarify the line, but this clarification takes the form of what William James has called *veri-fication*, the process of making it so, a process that is also always situational and local; thus, this clarification does not take the form of identifying cruelty by representing it correctly but by using the cruelty vocabulary to fight practices that in one's own final vocabulary are deemed repulsive. Thus, the assertion that "[p]rivate projects are always and unavoidably structured by public forces" (ibid.: 961) is something pragmatists would eschew only based on the word structured: They are not already given, set in a fixed system of what projects are thinkable and which are not; if the strong formulation of "structured" were lost and replaced with a formulation more akin to "private projects are private when a public negotiation allows them to be so" and "what can be private depends on what can be successfully negotiated as such", pragmatists would agree.

When Topper feared that "patriarchal or other oppressively hierarchical forms of social relations" would be "reenshrined" by Rorty's distinction, (ibid.) it can now be

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said that the distinction by itself does not enshrine or abandon anything: it merely explicated a vocabulary used in deliberation to allow a retreat from debate on some matters, where it is always a matter of negotiation regarding which are enshrined and which are torn down by this vocabulary. While the presence of the vocabulary makes it possible to "wall up" around a *political* achievement to then make it appear non-political after the fact, the wall itself is always political and can always be torn down again. Incidentally, this is what authors like Topper and Fraser have been doing with the walled-up achievements they sought to overcome, just as they have attempted to enshrine progressive political achievements in the vocabulary of privacy when they wished to defend them. Feminists have fought for abortion to be a private decision not to be questioned or scrutinized by the political public, a negotiation – or a fight – still very much raging in the United States. At the same time, they have fought for the debate on housework to be a public matter, not relegated to a private sphere of non-payment, non-recognition, non-existence in the public sphere. This shows that the separation is not the property of a political agenda but can be used situationally depending on what one wishes to defend or attack, as Topper had recognized: "What is striking is how conservatives and liberal seek to defend diametrically opposed agendas through appeals to Rorty-like distinctions between the public and private." (ibid.: 962) This, exactly, is the function of the distinction. When Fraser asserts that Marxism showed us that the economic was political, and feminism that the domestic was political, etc., all this shows is that some intellectual movements have successfully used the language of the public sphere to drag subjects that were previously walled up into the private sphere, that the vocabulary of the public was, in these instances, successfully used to break down the fences others had set around these fields. These authors had not *discovered* that these affairs were *in reality* public; this is the language of representationalism. They had successfully utilized descriptions to serve progressive political ends. This strategy is not limited to scholarship; this is the course political action usually and perhaps necessarily takes. A seemingly private, non-debated matter has its privacy assaulted, thereby creating a conflict of definition, first about the question *whether* this is something to be discussed; if this primary assault is successful, the mater is then dragged into the public sphere for open debate,

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where all involved seek to win the negotiation game over the definition of said matter. When the political consensus on it has been successfully changed and a new definition is in reach, it is walled up again, making it necessary for subsequent challengers to tear down the wall first and abandon a definitional agreement that this is a settled matter before being able to discuss the matter. With this in mind, we can return to the criticism that solidarity is threatened by this game of creating forts.

This is not a cynical process, but a necessary one, as no society can continuously debate all possible matters, and no abstract distance of "rational skepticism" is possible. Every challenge comes from a perspective that assumes the challenge to be successful. "Skepticism is not a state, but an activity, something one performs, and one can perform it only within – and not outside of – the already structured field that is consciousness." (Fish 1989: 440)

When McCarthy fears that Rorty's position results in "[c]ritical thought … be[ing] aestheticized and privatized, stripped of any social-political implications", (1990: 367) this is only so for thought not dragged into the public sphere; however, especially critical thought drags itself onto the public sphere by assaulting previously walled up and seemingly self-evident truths, a process which can be denied by asserting that it is only a private indulgence, thus attempting to prevent the assault from threatening the common definition of the matter as private.

Thus, finally, all the criticisms herein noted against Rorty's conception fail. None of them engage Rorty's openness and situational emphasis, and all of them seem to write from a felt necessity to defend political achievements by assaulting any hint of a private-public distinction lest it consume their achievements. Rorty's conception, however, is neither intended nor capable of consuming them; Rorty would defend many of the achievements Fraser and Topper identify. Mainly, however, as a pragmatist argument, Rorty's conception does not come with a political preference itself. It explicates how vocabularies are used in open conflict and how open conflict is avoided without any already-included tendency in favor or against any specific

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political objective. As Fish has said with regard to calling something "free speech", calling something "private" is "not an independent value but a political prize, and if that prize has been captured by a politics opposed to yours, it can no longer be invoked in ways that further your purposes, for it is now an obstacle to those purposes". (1994: 102) Rorty's conception, understood in light of his overall perspective and amended with the insights offered by Stanley Fish, is not, then, a threat to any particular agenda and not an attempt to redraw lines around the private sphere at all; it can (and should) be read as merely showing us how this game is played in everyday life, regardless of who uses it and for what purpose.[1]

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[1] Going beyond Fish, Rorty expresses the hope that this game be played more often so that solidarity can be increased, whereas Fish would claim that this is a vain hope, as this game is all we have and cannot be substituted by anything else, thus making us able to play it more or less (Fish 1989). The vocabularies used to play it change, as do the conflicts which are resolved through it; however, the game stays.

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