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JOHN RAWLS, *POLITICAL LIBERALISM*

RUSSELL HITTINGER

I

IN *A Theory of Justice* (1971), John Rawls deployed a social contract theory to vindicate liberal political principles of civil liberty and distributive justice without appeal to a utilitarian calculus. Rawls described his conception of political justice as “justice as fairness.” Rational contractors, deliberating behind a “veil of ignorance,” agree to a scheme of justice prior to knowing how the scheme materially affects their individual interests or conceptions of moral or nonmoral good(s).¹ Perhaps the most striking and certainly one of the most controversial features of Rawls’s *Theory* was his argument that “the right” subordinates (for purposes of the political order) not only material interests in the economic sphere, but also individuals’ fully considered conceptions of the moral good, human flourishing, and final ends.² Hence, Rawls’s theory of justice was meant to be a systematic alternative both to the economic pragmatism of other modern contract theorists as well as to the classical tradition of perfectionism in political theory.

This long-awaited sequel consists of chapters based in part upon lectures and published work over the past two decades. *Political Liberalism*, however, is not simply a collection of essays.³ Rawls notes that “I reached a clear understanding of political liberalism—or so I think—only in the past few years” (p. xxxi). Therefore, the book does not just refine and correct the doctrine in *Theory* but gives an entirely new focus to the project. He calls this new focus “political liberalism.”

¹ John Rawls, *A Theory of Justice* (hereafter, “*Theory*”) (Cambridge: Harvard University Press, 1971), 12.

² *Theory*, 30–2, 325–9.

³ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 401 pp. All parenthetical references in the text are to this work.

Rawls explains that a “serious” shortcoming of *Theory* was his failure to adequately distinguish between “a moral doctrine of justice general in scope” and “a strictly political conception of justice” (p. xv). If justice as fairness is based upon a general moral theory, then it would seem that citizens must endorse a comprehensive philosophical doctrine in order to reach consensus about the principles which ought to inform the institutions of the polity. He now points out that this is an impractical expectation.

The fact that a doctrine of justice contains a “thin” understanding of moral values, and the fact that it stipulates general moral reasons why perfectionist values must be excluded from the principles and institutions of the political order, does not make the doctrine less “comprehensive” (in the sense given to this term in *Political Liberalism*).⁴ For example, in comparison to Plato or Hegel, Ronald Dworkin’s work represents a relatively “thin” and certainly “antiperfectionistic” account of justice. Rawls correctly observes, however, that Dworkin treats justice according to a general theory of moral values. Accordingly the constraints placed upon “public reason” are drawn from the ethical conception of values. To this extent, Dworkin’s liberalism is “comprehensive.”⁵ So, too, was *Theory*.

For two decades friends and foes of *Theory* read it as a more or less complete “liberal” conception of justice that could compete with other more or less complete theories of the subject. Indeed, almost immediately upon its publication there emerged a considerable body of secondary literature, purporting to detect or develop the implicit ontology and epistemology of *Theory* in order to make it more serviceable as a comprehensive account of justice.⁶ Yet Rawls also had in mind a narrower goal for *Theory*, which was to show how rational agents can reach consensus about the principles of justice for the purpose of political institutions. Rawls now acknowledges that there is

⁴ “[A moral conception] is comprehensive when it includes conceptions of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct, and in the limit to our life as a whole” (p. 13).

⁵ Rawls is referring specifically to Dworkin’s Tanner Lectures, *Foundations of Liberal Equality* (Salt Lake City: University of Utah Press, 1990). Rawls does not object to Dworkin’s view. Rather, he distinguishes it from the strictly political conception of justice defended in this book (p. 211).

⁶ See, for example, Jeffrey Reiman, *Justice and Modern Moral Philosophy* (New Haven: Yale University Press, 1990).

something “unrealistic” about the possibility of reaching a practical consensus when the comprehensive theory itself affords occasion for dispute (p. xvii).

A modern democratic society, he notes, “is characterized not simply by a pluralism of comprehensive religious, philosophical, and moral doctrines but by a pluralism of incompatible yet reasonable comprehensive doctrines” (p. xvi). Since no one of these doctrines is affirmed by citizens generally, we cannot expect unanimity. *Theory*, he admits, did not reckon adequately with the fact of reasonable pluralism—including a pluralism of doctrines which express or support political liberalism.

Political Liberalism does not abandon the main question of *Theory*: What are the fair terms of social cooperation between citizens who are free and equal? Nor does it depart from the earlier work’s principles. The rational contractors continue, in the new account, to affirm two principles of justice: (1) that each person has an equal right to a fully adequate scheme of basic liberties which is compatible with a similar scheme for all; (2) that social and economic inequalities must accord with conditions of fair equality of opportunity with respect to offices and positions, and must be to the benefit of the least advantaged members of society (pp. 5–6). These principles are entitled to govern the distribution of political benefits and burdens. No basic liberty can be restricted or denied solely because of our estimation of the public utilities, or because of our understanding of perfectionist values (p. 292). All of this is left intact (p. 7).

What changes is the background of the question, which is at once historical and political. “How is it possible that deeply opposed though reasonable comprehensive doctrines may live together and all affirm the political conception of a constitutional regime? What is the structure and content of a political conception that can gain the support of such an overlapping consensus?” (p. xvii). The ideas discussed in *Theory*—for instance, the priority of the right over the good, and the primary goods protected and distributed by the principles of justice—must become “political ideas” (p. 203).

They become “political ideas” insofar as the original position is now modeled on the shared fund of implicitly recognized ideas and principles of a democratic polity.⁷ The original position is still hypothetical and ahistorical, but it is reworked in *Political Liberalism*

⁷ *Political Liberalism*, 8, 13–14, 223.

to raise to the surface those principles implicit to a polity such as our own. Nowhere is the new emphasis on political rather than moral theory more apparent than in Rawls's treatment of the primary goods, namely, that minimal list of goods considered by the rational contractors in the original position. In *Theory*, the primary goods—rights and liberties, powers and opportunities, income and wealth, and self-respect—were those things needed by any agent, because they are the elements of any rational plan of life.⁸ Rawls now says that the primary goods should not be viewed as all-purpose features of life plans, because this conception is insufficiently political. It is a philosophical conception of what human flourishing requires in terms of its minimal essentials. Critics have pointed out that the list of primary goods in *Theory* seemed to require a more far-reaching philosophical judgment than what the theory was supposed to allow. H. L. A. Hart, for instance, questioned the grounds for assigning a superordinate value to liberty without having to rest the case on a more general (in Rawls's new parlance, "comprehensive") account of human agency.⁹ In *Political Liberalism* the primary goods are the goods of free and equal citizens in the political sphere.¹⁰ Rawls's understanding of the primary goods is now based on a political rather than a general moral or anthropological conception of human needs. They are the needs of citizens in a certain kind of regime, namely, the liberal regime. Therefore, Rawls asks not what anyone needs but what citizens of a liberal regime need.

II

"How is it possible," Rawls asks, "for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical, and moral doctrines?" (p. 4). The main question of *Political Liberalism* is posed against a certain historical and social background that can be traced back to the Reformation and its aftermath. Rawls notes, however, that liberalism did not emerge simply as a response to the political

⁸ *Theory*, 62, 411.

⁹ See H. L. A. Hart, "Rawls on Liberty and Its Priority," *University of Chicago Law Review* 40 (Spring 1973): 551–5.

¹⁰ *Political Liberalism*, 40, 76, 180–1, 188.

problem of religious wars but also as a more wide-ranging set of responses to the problem of how moral knowledge can have a basis independent of ecclesiastical authority. It was thus that various liberalisms became comprehensive theories and, moreover, became theories no less comprehensive than the ones they sought to replace.

The problem, then, is that liberalism is both a comprehensive theory and a political practice. On the first score liberalism tends to divide even its own adherents, for there are many liberalisms; on the second, liberalism seeks a practical political consensus and not just acceptance of its overarching theories about tolerance, human progress, and autonomy. The various (philosophical) liberalisms, including the one worked out in *Theory*, must now be considered conspicuous elements of the “background culture” rather than theories which command consensus about, and work justifications for, political institutions. In short, they cannot count as “public reason.”¹¹

If citizens were to try to escape, overcome, or transform the dissensus over comprehensive views by direct political means, they would jeopardize the political order. Rawls writes, “If we think of political society as a community united in affirming one and the same comprehensive doctrine, then the oppressive use of state power is necessary for political community” (p. 37). The principal lesson learned from efforts to impose religious unity must now be turned against the comprehensive doctrines of liberalism as well.¹² Rawls contends that for any foreseeable future the divisive character of comprehensive doctrines is a permanent condition and its resolution a “practical impossibility” (p. 63).

Interestingly, although the citizens of a liberal polity do not typically view the social order as a “fixed natural order” (p. 15) they must, on Rawls’s account, regard the burden imposed by history as a fixed limit upon their common deliberation. Reasonable pluralism of comprehensive doctrines is not just a “fact,” but a “natural outcome” and an “inevitable long term result” of human reason at work within free institutions.¹³ Throughout *Political Liberalism*, this history (rather vaguely reported by Rawls himself) stands not merely as a condition of political stability but as an irreversible achievement.

¹¹ At least, they cannot do so directly. Comprehensive views may be introduced for the purpose of “supporting” public reason, however (pp. 152–3, 212–54).

¹² *Political Liberalism*, 37, 138, 199.

¹³ *Ibid.*, xvii, xxiv, 4.

Although Rawls drops the claims of a comprehensive theory and continues to reject (for purposes of an account of justice) teleology, he loads in to the new account certain suppositions about the historical direction of society. Not surprisingly, he manages to reach approximately the same result argued for in *Theory*. That is, once we begin with a set of historical and social facts—namely, the facts of a liberal culture—we are apt to reach the same practical results as if we had proceeded from a liberal comprehensive theory. By modeling the account on a certain strand of historical experience, which then is regarded as an irreversible achievement, the theorist indirectly avails himself of the theories implicit in what is being modeled. For example, if the theorist were to select the social facts of feudal Europe, and go on to grant these facts a certain historical finality, he ought to be able to develop a doctrine of “public reason” that looks very much like a medieval comprehensive theory.

In *Political Liberalism* Rawls’s definition of political society is historically conditioned. Political society is democratically ordered, complete, closed, self-sufficient for all the main purposes of human life, and maintained from one generation to the next.¹⁴ It differs from other associations chiefly, but not only, by the fact that it has no constitutionally specified final end(s). Political society is an “artifice of reason,” designed to achieve fair terms of reciprocity among citizens who are free and equal (p. 73). Rawls does not, however, pretend to define “the political” in general, normative terms. Rather, his case is modeled on the modern, democratic polity. As he puts it, “Political liberalism sees its form of political philosophy as having its own subject matter: how is a just and free society possible under conditions of deep doctrinal conflict with no prospect of resolution?” (p. xxviii).

Having put in place certain historical and social conditions for his definition, Rawls then insists that the “political conception is to be, so to speak, political and not metaphysical” (p. 10). Political liberalism seeks to identify and affirm principles of the political order sufficient, first for just institutions, and second for an “overlapping consensus.”

A distinguishing feature of a political conception is that it is presented as freestanding and expounded apart from, or without reference to, any such wider background. To use a current phrase, the political conception is a module, an essential constituent part, that fits into and can be supported by various reasonable comprehensive doctrines that endure

¹⁴ *Political Liberalism*, 40–1, 301.

in the society regulated by it. This means that it can be presented without saying, or knowing, or hazarding a conjecture about, what such doctrines it may belong to, or be supported by. (pp. 12–13)

Carefully and repeatedly, Rawls reminds the reader of what this “freestanding” method does *not* mean. To say that political principles must be as free as possible of opposing and conflicting comprehensive doctrines (whether religious or secular) does not mean that there are not other, even more important values; that “public reason” is discontinuous with these values; that the public “self” is ontologically prior to the “self” who is a member of nonpolitical associations (p. 27); that political arrangements must remain indifferent to the truth or to virtue, including those truths and virtues which tend to support institutions of justice (p. 151); that the artifice of politics “constructs” all of the moral and social material of human life (pp. 121–3); that the autonomy of political principles necessarily implies or entails the belief that human agents are autonomous in the sense proposed by various secular comprehensive doctrines. Indeed, Rawls forcefully states that notions of “constitutive autonomy” (for instance, in Kant) are comprehensive doctrines incompatible with the practical bounds of public reason (p. 100).

In sum, the “political conception” must accomplish two things. The political institutions must be conceived and designed so that they not only meet the requirements of justice but also satisfy the need for political stability and unity of a liberal society. An abstract notion of justice by itself will not do the trick. Principles and institutions must also be conceived in a way that permits an overlapping consensus for a political society marked by a “reasonable pluralism” (p. 133). Reasonable pluralism is not a mere fact, but the achievement of a people who have prospered and developed within the context of free institutions. Therefore, overlapping consensus also is not just a limit placed upon the employment of “public reason” but an end of political institutions. Whatever the abstract scheme of justice, it must provide for the citizens’ ability to connect the scheme to their own respective comprehensive doctrines.

III

Rawls answers some of the objections to *Theory* by delimiting his claims to the political sphere, and by delimiting the political sphere to

a certain historical strand of experience. There is no space here to track all of the different problems of *Theory* through the new account. It may be useful, however, to take up one particular problem, namely, On what grounds does Rawls eliminate perfectionism in politics? Have these grounds changed in his transition from a general moral theory to a political theory of justice? Can perfectionism be ruled out in principle without the support of a comprehensive doctrine, or is perfectionism ruled out on the basis of a prudential judgment concerning the historical and sociological features of modern democratic polities?

We will take up these questions in two stages. First, we need to look at the new account of the original position, in which rational contractors, deliberating behind a veil of ignorance, supply the polity with principles. We want to examine what they know, and whether they know enough to rule out perfectionism. Second, we will look at different arguments Rawls makes, and assess each in the light of his new theory.

Just how “freestanding” is the political conception? *Theory* was criticized, among other reasons, because Rawls seemed to slip into the original position a plethora of assumptions, which, if not metaphysical, were at least more substantive than what his position allowed. In *Political Liberalism* Rawls has taken some of this criticism to heart. The rubric “political not metaphysical” represents his effort to reduce the profile, and to specify more clearly, the knowledge, deliberation, and purposes of the contractors in the original position. However, because the contractors must now do two things—develop principles of political justice, and provide principles which inform a polity of overlapping consensus—Rawls may well have made the issue more complicated for both himself and his reader.¹⁵

In the original position, the contractors are symmetrically situated with respect to one another. In their deliberations they are not required to apply, or to be guided by, any antecedent principles of right and justice. They do not know the social position, the conception of

¹⁵ Answering this question of what the contractors know and need to know is made difficult by the fact that Rawls does not give a complete picture at any one place in *Political Liberalism*. Different lectures treat the original position somewhat differently, not only in terms of content of what the parties know, but also in terms of the stages or phases of their deliberation. The reader must move back and forth between the chapters in order to form an overall picture.

the good, or the realized abilities of the persons they represent. When they arrive at agreement about principles of justice, they are to be guided by what they think is the determinate good of the persons they represent. Given these constraints, more or less identical to those given in *Theory*, what else do they know?

Gathering together remarks from various places, we can conclude that the contractors know at least this much:

- Concerning the prospective citizens they represent, the contractors know that citizens possess two powers of moral personality: the capacity to conceive of the good, and to form, revise, and pursue such a conception; and the capacity not only for a sense of justice, but also the ability to honor its terms.¹⁶
- They know the beliefs held by the citizens generally, but must not factor in any knowledge or opinion concerning the truth of those beliefs, nor how the political principles might be grounded (by private parties) in one or another comprehensive doctrine.¹⁷
- They know at least a “short list” of alternative schemes of justice provided by the tradition of moral and political philosophy.¹⁸ Moreover, they know that “the two principles of justice provide a better understanding of the claims of freedom and equality in a democratic society” than do utilitarianism and perfectionism.¹⁹ The parties know enough to rule out perfectionism as a political principle.
- They know that there is a pluralism of reasonable, or at least not unreasonable, comprehensive doctrines. That is, they know that there is dissensus, but also that overlapping consensus is feasible.²⁰ They do not, however, know which doctrine they privately hold, nor which doctrines are held by those they represent (p. 310).

¹⁶ *Political Liberalism*, 293, 305.

¹⁷ *Ibid.*, xx, 70–71, 94.

¹⁸ *Ibid.*, 305. Interestingly, while the contractors know the short list of options provided by the history of moral philosophy, they are not supposed to know the particular historical options provided by constitutional history (pp. 293, 308). Yet the practical and political bent of the book would favor knowing the institutional rather than the philosophical history. Just as the architects of the American constitution surveyed the history of republics, the institutional history would be a handy thing to know, given the fact that the contractors must make some estimation of the extent and depth of dissensus. It would certainly be useful for reaching the judgment that an overlapping consensus is possible.

¹⁹ *Ibid.*, 292, 295.

²⁰ *Ibid.*, 65, 133, 140–2.

While the original position is hypothetical and ahistorical, and its rationale “freestanding,” the contractors nevertheless know a fair amount about the historical and social conditions of the citizens they represent. In particular, they know the history of dissensus, the menu of options available from the tradition of moral philosophy, and the resources and limits of reasonable pluralism in the social order. This information is crucial. In *Political Liberalism* the contractors not only must reach agreement about abstract principles of justice but also provide principles for an overlapping consensus. Because various comprehensive liberalism cannot be the ground of the polity, but must instead remain part of the background culture, the theoretical agreement will have to have one eye cocked toward the practical or “political” end. The contractors must supply those who frame the concrete institutions with principles that are not only just, but also suitable to a particular kind of regime.

Thus, while *Theory* rules out certain information in order to facilitate theoretical consensus about moral principles, *Political Liberalism* brings in, and differently emphasizes, other information in order to facilitate judgment about political institutions capable of governing within an overlapping consensus. In this respect *Political Liberalism* provides a needed correction to the aprioricism of *Theory*. The contractors in the original position are interested from the outset in the specifically political and not just the moral dimension of justice. Therefore, when Rawls goes on to outline the successive phases by which a polity is created and administered—from the principles developed in the original position, to the making of constitutional institutions, to the ordinary legislative action of lawmaking, to the adjudication of law, to the development of policies—the various stages and spheres are well knit and properly complicated.²¹ To use Rawls’s term, they “model” the familiar institutions and processes of a real polity.

IV

Our question is whether the contractors have grounds other than the rather loose considerations of prudence for removing perfectionism from the principles of “public reason.” Let us first take a brief

²¹ *Political Liberalism*, lecture 8, pp. 289–371.

look at what Rawls said about this problem in *Theory*. Then we can consider how he handles it in *Political Liberalism*.

What is perfectionism? In *Theory*, Rawls notes that the idea has a range of meanings.²² On the one hand, perfectionism can denote the position that the chief principle guiding institutions of government is the maximization of human excellence. Perfectionism can also denote the position that excellence and telic achievement are but one standard among others. Unfortunately, the genre and species of perfectionism are not very thoroughly delineated in *Theory*. We can roughly generalize, however, and stipulate that a perfectionist holds that government may act to promote what it deems to be morally excellent choices and to discourage empty or base ones. Prescinding from the question of how extensively the principle is to be applied in public matters, a perfectionist will hold that (some) claims of liberty can be limited or subordinated to standards of moral excellence.

Rawls never contends that perfectionism lacks a rational basis “from the standpoint of everyday life.” An agent who acts for the end of excellence does not necessarily act irrationally.²³ If it is not an inherently irrational standard, why must it be rejected? In *Theory* he contends that it violates the principle of equal liberty.²⁴ Rawls gives three reasons, all of which are probabilistic. First, he observes that criteria for ranking and summing values are “*imprecise*,” and therefore provide insufficient directions for the purpose of reaching consensus about political principles.²⁵ Second, the contractors in the original position must not tailor principles to their own advantage. The main point of the device of veil of ignorance is to prevent individuals from using the coercive apparatus of the state to win for themselves greater liberty or larger distributive shares. The position that some activities are of greater intrinsic value “*put[s] in jeopardy*” the deliberation.²⁶ Third, the contractors cannot put the prospective citizens’ interests at risk. Rawls writes, “To acknowledge any such standard would be, in effect, to accept a principle that *might* lead to a lesser religious or other liberty, if not to a loss of freedom altogether to advance many

²² *Theory*, 325–7.

²³ He does suggest, however, that one who acts for a dominant final end (for instance, Ignatius of Loyola) is likely to act fanatically; *Theory*, 553–4. This judgment is dropped in *Political Liberalism*.

²⁴ *Theory*, 328.

²⁵ *Ibid.*, 327, 330 (emphasis added).

²⁶ *Ibid.*, 139, 329 (emphasis added).

of one's spiritual ends."²⁷ To summarize, *Theory* rules out perfectionism because (i) it is imprecise, (ii) it puts in jeopardy the fairness of deliberations in the original position, and (iii) it is liable to engender suppression of liberty.

In *The Morality of Freedom* (1986), Joseph Raz criticizes Rawls for having drawn, in *Theory*, a stronger conclusion than his own premises allowed.²⁸ From the fact of dissensus (and this would have to be a very complicated set of facts) we can conclude that a society (represented by the contractors) is not immediately prepared to conduct its common business as though it agrees on one or another perfectionist standard. That is all that follows, however. It does not entail the conclusion that a society is improperly ordered, much less that it perpetrates injustice, if it subscribes to institutions most apt to facilitate the quest for common agreement about what is noble and true.

In particular, Raz points out that the "veil of ignorance" does not exclude the possibility that parties in the original position will agree to "establish a constitutional framework most likely to lead to the pursuit of well-founded ideals, given the information available at any given time."²⁹ Raz asks why the contractors should not accept "a 'natural duty' to pursue the best-founded political ideal." In other words, the contractors do not necessarily have to agree to defer permanently the possibility of a political society well-ordered by perfectionistic principles. A permanent deferral would mean that government abandons the goal of enabling individuals to pursue valid conceptions of the good and of discouraging them from pursuing evil or empty ones. Clearly, this must be a decision of no small importance. It would have to be taken after a careful weighing not only of the arguments, but also of the resources of a people at different stages of development.

In *Political Liberalism* Rawls remarks that the original position models what we regard as acceptable restrictions on reasons available for adopting a conception of justice that we regard "here and now" as fair and supported by the best reasons (p. 26). It is important that the principles reached "here and now" be suitable to the public culture of a democratic society. Again, the deliberation must yield the constitutional essentials (p. 227). These principles will inform the work

²⁷ *Theory*, 327 (emphasis added).

²⁸ Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986), 126.

²⁹ *Ibid.*

of those who design the concrete institutions (a work modeled on the deliberations of a constitutional convention). If perfectionism is ruled out in the first deliberation then it will be ruled out also in the successive phases, as public reason is given more determinate institutional form. Therefore, it is important that the contractors get things right, for a mistake will infect the entire scheme. As Raz points out with respect to *Theory*, new information could come to light. If the contractors do not provide for this eventuality, the procedure could “sanction non-adaptable constitutions.”³⁰

As we mentioned in the previous section, the contractors know the “short list of alternatives given by the tradition of moral and political philosophy.” One would like to know more about this “short list.” But whatever it might include, the menu of theoretical options would seem irrelevant to the problem at hand, for Rawls insists that the “general problems of moral philosophy are not the concern of political liberalism” (p. xxviii). Indeed, he states that the “dualism” between comprehensive doctrines and the specific demands of politics does not originate in philosophy. It rather originates “in the special nature of democratic political culture as marked by reasonable pluralism” (p. xxi). In a similar vein, he maintains that “profound and long-lasting controversies set the stage for the idea of reasonable justification as a practical and not as an epistemological or metaphysical problem” (p. 44).

Must the constitutional essentials be yielded despite the fact of incommensurable and conflicting comprehensive doctrines, or rather despite the social and historical embodiments of these doctrines? It seems that perfectionist standards are to be ruled out because of the social fact of conflicting comprehensive doctrines, not on the basis of their philosophical merit or demerit. Rawls writes that

given the conflicting comprehensive conceptions of the good, how is it possible to reach such a political understanding of what are to count as appropriate claims? The difficulty is that the government can no more act to maximize the fulfillment of citizens’ rational preferences, or wants (as in utilitarianism), or to advance human excellence, or the values of perfection (as in perfectionism), than it can act to advance Catholicism or Protestantism, or any other religion. None of these views of the meaning, value, and purpose of human life, as specified by the corresponding comprehensive religious or philosophical doctrines, is affirmed by citizens generally, and so the pursuit of any one of them through basic institutions gives political society a sectarian character.³¹

³⁰ Raz, *The Morality of Freedom*, 126.

³¹ *Political Liberalism*, 179–80 (emphasis added).

If perfectionism is to be jettisoned, we need to know precisely which reason is decisive. From the passage above, three different reasons come to mind: (1) dissensus over perfectionist standards themselves; (2) dissensus over comprehensive theories which, as he says, “specify” the standards; (3) concern over the likely political effects of allowing perfectionist standards into the sphere of “public reason.”

In *Political Liberalism* Rawls emphasizes the third reason. He says, for example, that communitarian values “lead to” a systematic denial of liberty, and that it “may . . . happen” that liberties are unjustly suppressed.³² The contractors are not permitted to “take chances” or “gamble” with the liberties of those they represent. Knowing what they do about the history of dissensus, as well as the need to supply principles for a polity marked by reasonable pluralism, the contractors must take care not to introduce perfectionist standards. Were the facts different, however, we might conclude that the contractors might be bound not to introduce antiperfectionist standards. While there is nothing odd about this line of reasoning, it must be said that it represents a prudential judgment. Can such a judgment so decisively lock the polity into antiperfectionist principles?

If a polity is “here and now” divided over perfectionist standards, then of course a polity ruled by such standards is not practically feasible. An Aristotelian could reach the same judgment. But this judgment certainly does not imply that perfectionism is necessarily unjust, or that a perfectionist regime of justice must necessarily treat citizens arbitrarily. Nor does it imply that a liberal regime, consisting of citizens who place a high premium on liberty, must be antiperfectionistic. Therefore, Rawls is correct only if he means to assert that for contingent social reasons, perfectionist discourse, once conjoined with certain types of governmental institutions in a certain sort of political culture, is likely to engender further division and resentment which jeopardize the peace and justice needed for the stability of a political order. As a prudential judgment, this conclusion is available to the perfectionist and to the antiperfectionist alike.³³ Furthermore, it does not impeach the “reasons” of those who propose

³² *Political Liberalism*, 146, 311.

³³ On the role of political prudence in a perfectionist conception of political order see Robert P. George, *Making Men Moral: Civil Liberties and Public Morality* (Oxford: Clarendon Press, 1993).

perfectionist principles; rather it would defeat only the “reason” for their application, here and now. The prudential “reason” that defeats the application of a perfectionist principle does not imply that perfectionist values are, as such, “nonpolitical.” If they are deemed “nonpolitical,” it is due to a prudential judgment, not to the ontological status of the principle independent of the prudence of its application here and now.

With respect to the reason for ruling out perfectionist principles, Rawls also writes that “the fact that we affirm a particular religious, philosophical, or moral comprehensive doctrine with its associated conception of the good is not a reason for us to propose, or to expect others to accept, a conception of justice that favors those of that persuasion” (p. 24). The key words here are “is not a reason.” To make sense of this remark, it is necessary to insert “not a [political] reason.” Without this proviso, the position would be nonsensical. The fact that one has reason to believe that monogamous marriage is more excellent than polygamy is precisely the reason one has for advocating it, and for expecting others to see its good sense. The issue then is whether one lacks a political reason for legislatively favoring monogamous marriage. A perfectionist can say that it depends upon a number of factors. Given particular circumstances—for instance, a civil society resembling Las Vegas—right reason could dictate that the perfectionist standard concerning marriage cannot be legislated. It could turn out that these circumstances indefinitely require that the principle not be legislated.

Rawls, however, makes a stronger claim. Perfectionism is ruled out not merely at the retail but also at the wholesale level. The question is whether Rawls has grounds for this drastic limit upon public reason other than by pointing to the persistent but nonetheless contingent social facts.

Rawls might respond that we must attend to the second reason outlined above, namely, that society is marked by a pluralism of reasonable comprehensive doctrines. He could point out that the rejection of perfectionism as a political principle does not rest simply or exclusively upon the need to head off, in advance, the (likely) bad consequences of introducing perfectionist standards. Perfectionism is to be ruled out because it is antithetical to the achievement of reasonable pluralism, which must count as a value in itself. Thus formulated, the question is whether perfectionism thwarts reasonable pluralism.

It is important to note that, on Rawls's account, the reasonable pluralism is not a pluralism of perfectionist standards themselves but of comprehensive doctrines *about* perfectionist standards. He does not argue that the object(s) of the theories are incommensurable. Such argument would involve settling the truth of the matter on philosophical terms. That is not allowed by his scheme. What, then, comes into conflict? If it is only the theories, one would have a very weak case for removing perfectionism from "public reason." Theological debate between Catholics and Protestants does not necessarily imply incommensurate positions on the value of religion, the value of a certain order of family life, or any number of moral virtues deemed crucial to a well-ordered civil society. The history upon which political liberalism is modeled is replete with examples of citizens upholding perfectionistic standards even in the face of theoretical disagreement.

Granting to Rawls the premise that reasonable pluralism is an ordinary, even a desirable feature of political liberty, such pluralism might, in a given case, concern means rather than ends. Morally worthy ends can be pursued in different yet morally reasonable ways. A society might agree that monogamous marriage is to be favored at law for perfectionist reasons without having to say that marriage must be religiously sacramental or non-sacramental. Why should a political society abjure, as a matter of the highest principle, legislation according to common (perfectionist) ends, if their differences chiefly concern means and modes of instantiation? For one hundred fifty years the First Amendment was interpreted to permit governmental promotion of religion, so long as it respected denominational differences, and so long as the offices and monies of government (prior to 1947, the United States government) did not prefer one denomination over the other. This was hardly an antiperfectionist constitutional principle. It did, however, prudently steer clear of dictating doctrines and modes of worship. Nor did this interpretation of the First Amendment suppose that the constitutional order should ever envisage, much less encourage, a consensus about the "true" church. The religious history of the United States indicates that a limited perfectionism comports with, even facilitates, reasonable pluralism. Of course, one could invoke recent Supreme Court doctrines against this historical and social fact. For the purposes of Rawls's scheme, however, that would beg the question. Perfectionism is to be ruled out on the basis of principles antecedent to the constructions of case law.

Rawls needs to give a stronger case for his antiperfectionism. In favor of his position we can think of a situation in which two or more parties have similar perfectionist standards and seemingly incommensurable comprehensive doctrines, but also have a history of intractable feuding. For example, Islamic and Jewish fundamentalists have not just different and rival theologies, but also a history (in some places) of severe political dispute. If they are to co-exist in the same political regime, it would be imprudent not only to favor one over the other, but also imprudent to design political institutions which favor an eventual theological *rapprochement*. Whatever else they might have in common with respect to standards of excellence, for any number of historical and sociological reasons, these theological communities are politically allergic to one another.

Are all conflicts between comprehensive views entrenched at this level? If so, then the contractors in the original position would certainly act prudentially when they rule out governmental endorsement of perfectionistic standards as specified by the comprehensive doctrines at issue. The order and stability of the body politic are at stake. This, however, involves a properly detailed estimation of the resources of the prospective polity. That is, until we take a more detailed view of the matter, we cannot know whether (some) perfectionist ideals facilitate or thwart “reasonable” pluralism.

Historically speaking, the polity on which political liberalism is modeled has not been divided as deeply as what Rawls asserts. Rawls himself insists that “overlapping consensus” is feasible, among other reasons because the institutions of the polity can be independently supported by the theoretical and moral resources of different comprehensive doctrines. But this might also provide overlapping consensus about *some* perfectionist political standards. How can we know one way or the other? The scheme does not permit us to settle the philosophical or theological ground of truth of the doctrines which specify perfectionist standards. Even supposing that reasonable pluralism is an irreversible achievement, or as Rawls says, a “natural outcome” of a certain history, the stricture against perfectionism does not necessarily follow. As we have argued, the strong conclusion would have to suppose that perfectionist standards are equated with theories which specify them, as well as to suppose that the adoption of a perfectionist standard necessarily thwarts pluralism. Rawls himself denies the first supposition. While he insinuates the second supposition, no argument is provided for it.

V

Rawls takes for granted a certain historical view of the liberal experiment, according to which we can reach a prudential ground for affirming the philosophical conclusions of *Theory*. By frontloading a story, and by granting it a certain finality, the Rawls narrative does the work of moral theory.³⁴ It is not evident that the story is true, however; nor is it evident that it necessarily requires the results advocated by *Political Liberalism* if it is true. Rawls admits that there are many liberalisms. Because the new account emphasizes the historically conditioned nature of justice, a different reading of the history might engender a quite different liberal conception of “public reason.”

Setting to one side questions of internal logic and coherence, one must ask what a liberal polity would look like were it to approximate Rawls’s new scheme. It would be a polity that devotes itself to maintaining justice “here and now” according to one particular interpretation of the historical conditions favoring political stability. “Public reason” would maintain the status quo against any alternatives from the past or future. It would be a polity that has no political winners or losers with respect to visions of the good. The social movements which bear potentially revolutionary ideas, including movements of the sort that made political liberalism itself possible, would gain access to “public reason” only insofar as they advocate a “balance” of those political goods already in place. For purposes of politics, the reasonable and the unreasonable, the good and the bad, would be locked into a conception of the status quo. Political liberalism would be static.³⁵

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³⁴ Note that Rawls would allow the Supreme Court, in the name of public reason, to invalidate an amendment that repeals the First Amendment. Granting that Article V of the Constitution gives the people such power, Rawls nevertheless contends that the Court must find this motion contradictory to historical tradition, not just to a legal text or to a body of legal precedent (p. 239). Setting to one side Rawls’s left-liberal conception of constitutional jurisprudence, the point here is that he takes certain historical patterns to be decisive for public reason—more decisive in fact than the written contract.

³⁵ I wish to thank Michael Zuckert, who made helpful criticisms of this review essay.