

Public Reason and the Future of Political Liberalism

Introduction

Perhaps the most common objections to Rawls' conception of political liberalism concern public reason. The objections tend to suggest that the limitations political liberalism imposes on political discourse prevent political liberalism from achieving the widespread buy-in it claims to be capable of achieving. The purpose of this paper is to investigate what recourse political liberalism might have in light of a particularly strong objection of this sort posed by Thomas Christiano. The upshot of Christiano's objection is that public reason poses an internally fatal dilemma for political liberalism. I will argue that although political liberalism does not have the conceptual resources to collapse Christiano's dilemma entirely, the dilemma is not conclusively fatal. Rather, it brings to light the empirical wager that lies at the heart of political liberalism.

First, I will summarize the concepts of a comprehensive doctrine, an overlapping consensus, and public reason as Rawls conceives of them in *Political Liberalism*. Second, I will introduce and interrogate Christiano's objection, focusing on what the decision to reason publicly implies about the reasoner's comprehensive doctrine. And third, I will argue that given these implications, the question of whether public reason can gain enough widespread support to play the role it purports to play cannot be theoretically determined.

I. Three Key Concepts

Rawls' main question in *Political Liberalism* is, "How is it possible that there can be a stable and just society whose free and equal citizens are deeply divided by conflicting and even incommensurable religious, philosophical, and moral doctrines?"¹ An overlapping consensus is a key part of his answer. In light of robust and enduring pluralism, "no comprehensive doctrine is appropriate as a political conception for a constitutional regime."² A political conception (hereafter, "conception") is a conception of justice that applies to the basic structure of society—its political, social, and economic institutions. It denotes the principles, standards, and precepts of the basic structure, as well as the character and attitudes of citizens in their engagement with each other on basic matters of justice.³ If Rawls' question can be answered in the affirmative, the conception must be such that each reasonable comprehensive doctrine (hereafter, "reasonable doctrine") can endorse it, "each from its own point of view."⁴ A person's doctrine includes their religious, philosophical, and moral views. It is their understanding of the good life, in broadest possible terms, applying far beyond the conception. A person has a reasonable doctrine if he or she views other people as free and equal and is willing to propose and abide by fair terms of cooperation with them, given the assurance that others will do the same.⁵ When the conception is such that each reasonable doctrine can endorse it, an overlapping consensus is achieved. An overlapping

¹ John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 133. Hereafter "PL."

² *Ibid.*, 135.

³ *Ibid.*

⁴ *Ibid.*, 134.

⁵ *Ibid.*, 49.

consensus makes it possible to realize liberal legitimacy, according to which “political power is only fully proper when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common reason.”⁶

So how, specifically, is an overlapping consensus possible? It is possible because the political domain and the values therein are *freestanding*.⁷ Each reasonable doctrine views other people as free and equal and society as a fair system of cooperation, and, in this sense, the content of an overlapping consensus belongs to the reasonable doctrines of which it is a part. But for political purposes, citizens take these two views as foundational premises and do not ask questions about their justification: the important thing from a political perspective is *that*, not *why*, these views are held.⁸ If a conception is constructed on these, and only these, foundational premises, then the conception should, as a matter of logical entailment, be one that each reasonable doctrine can endorse.⁹

The relation between a freestanding conception and one’s doctrine is left to citizens individually. Rawls gives three examples: a highly systematic Kantian might regard the conception as deductively valid; a utilitarian like Bentham might regard the conception as the best workable approximation; and a pluralist with

⁶ Ibid., 137.

⁷ Ibid., 140.

⁸ Ibid., 156.

⁹ Logically, if *X* endorses view *A*, and view *A* entails view *C*, then *X* should also be able to endorse view *C* without straining his or her other endorsements.

loosely connected beliefs might regard the conception as already freestanding, not giving much thought to any deeper justificatory relation.¹⁰ The only constraint is that citizens cannot relate to the conception as a mere *modus vivendi*.¹¹ It does not matter, from a political perspective, why a citizen views other people as free and equal and society as a fair system of cooperation. What *does* matter is that the citizen actually holds these views and is not just appeasing those who do for strategic reasons.¹² That is, citizens' endorsement of a conception must come from an independent endorsement of its foundational premises, and not the current balance of political power.¹³ If a citizen only endorsed the conception as a *modus vivendi*, that citizen would withdraw his or her endorsement when the balance of political power made doing so possible, and society would not be stable.¹⁴

If an overlapping consensus is achieved, citizens will be able to reason publicly with each other. They will be able to do so because each of them views other people as free and equal and society as a fair system of cooperation, and each knows that despite drastically divergent doctrines, the others share these two views. They will only be able to reason publicly as long as political justifications are premised on these, and only these, shared views. We can assume that pluralism is robust enough that no premises beyond these two will be shared.¹⁵ Thus, liberal legitimacy is only

¹⁰ Rawls, *PL*, 168-70.

¹¹ *Ibid.*, 147.

¹² Such a citizen might be rational, but unreasonable. See *ibid.*, 48-54.

¹³ *Ibid.*, 147-8, 171.

¹⁴ *Ibid.*

¹⁵ Rejecting this assumption would also fail to take seriously the burdens of judgement. See *ibid.*, 54-8.

within reach when citizens respect the limits of public reason and base political decisions on reasons they can reasonably expect all other citizens to accept.¹⁶

II. Objections and Responses

Some authors are skeptical of the relation between doctrines, an overlapping consensus, and public reason that Rawls advances. Thomas Christiano, for example, asks, “Why must we refrain from proposing terms of association on the basis of reasons that we believe to be true or appropriate considerations but that we know to be incompatible with the reasonable comprehensive doctrines others accept?”¹⁷ Public reason prevents us from appealing to reasons that we cannot reasonably expect others to accept. But what if we think public reason filters out the *best* reasons? Why, then, should we affirm a commitment to public reason?

Christiano considers epistemological, moral, and democratic answers to this question, but argues that each has problems.¹⁸ I will focus on the moral answer because it gets to the heart of political liberalism’s commitments. If the moral answer is compelling enough, then not much rides on the success or failure of the epistemological and democratic answers; if not, it is doubtful that the other answers could rescue political liberalism.

Christiano reconstructs the moral argument as follows:

- 1) Everyone must respect each person’s free exercise of reason.

¹⁶ Ibid., 226.

¹⁷ Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (New York: Oxford University Press, 2008), 206.

¹⁸ Ibid., 206-230.

2) (1) entails respecting the products of each person's reason, including her reasonable doctrine.

3) No one may require a person to live in ways incompatible with her reasonable doctrine, as such a requirement would fail to respect the products of that person's reason.¹⁹

Christiano thinks this argument gives rise to two fatal dilemmas. I will take them in reverse order, since my response to the second dilemma shows why the first dilemma is the more problematic one for political liberals.

A. A Deliberative Impasse

The second fatal dilemma arises because respect for reason ushers in a deliberative impasse.²⁰ Consider, for example, a situation in which Andy proposes terms of association on the basis of reasons he reasonably accepts but Betty reasonably rejects.²¹ Whereas liberals are quick to point out that imposing Andy's proposal on Betty would be disrespectful of Betty's reason, by the same token they should admit that requiring Andy to *forgo* living in accordance with his proposal would be just as disrespectful of Andy's reason. The cases are symmetric: either Andy imposes terms on Betty that Betty reasonably rejects, or Betty, either by endorsing a status quo that Andy finds inadequate or by imposing a counterproposal that Andy reasonably rejects, imposes terms on Andy that he reasonably rejects. In either case, someone's reason is disrespected.

¹⁹ Ibid., 215-6.

²⁰ Ibid., 216-8.

²¹ Ibid.

The first thing to notice here is an ambiguity: what does “reasonable rejection” mean?²² Andy’s reasonable rejection of Betty’s proposal could mean that Andy rejects the proposition, “Betty’s reasoning is public.” Let’s call this possible meaning M_1 . If M_1 is the case for both Andy and Betty, such that each rejects the proposition that the other is reasoning publicly, is the dilemma a fatal one?

It would only be fatal if (1) the issue at hand is a constitutional essential or a matter of basic justice, and (2) Andy and Betty’s proposals are the only two conceivable proposals. For if (1) were not the case, the conclusion with respect to political liberalism would be that public reason is only suited to navigate constitutional essentials and matters of basic justice. This conclusion might push political liberals to a more minimal state, or it might push them to permit non-public reasons on non-essential matters.²³ Either way, the dilemma points to a restriction, not a fatality. If (2) were not the case, the political liberal response would be that Andy and Betty should either come up with public reasons for their proposals or come up with new proposals that can be reasoned for publicly. Regardless, we could never be certain that (2) is the case, and Andy and Betty’s inability to come up with new proposals is not evidence that (2) is the case. It is merely evidence that Andy and Betty should be more open to new ideas. Since establishing that (2) is the case with any confidence is inconceivable, and since

²² Christiano gives nods to Cohen, Larmore, and Rawls, but does not offer a specific formulation (p. 216).

²³ Rawls appears to favor the latter possibility in *Political Liberalism*. See p. 214-5.

people are always coming up with new ideas, the fatal overlap of (1) and (2) seems to be remote enough that political liberals need not be concerned.

But Christiano's example suggests that M_1 is not what he means by "reasonable rejection." He gives the example of two conflicting conceptions of distributive justice when it comes to employment: Andy believes that society should distribute jobs according to qualifications, and Betty believes that society should distribute jobs according to Rawls' three principles.^{24,25} Let's make the additional assumption that Andy and Betty are reasoning publicly: they believe jobs should be distributed in their respective ways because doing so is the fair way for a society to distribute jobs to people who are free and equal (without this premise, we would be back to M_1).²⁶ Andy's reasonable rejection of Betty's proposal here seems to mean that Andy rejects the proposition, "Betty's proposal is the most reasonable proposal," but accepts the proposition, "Betty's reasoning is public." Let's call this meaning M_2 . If M_2 is the case for both Andy and Betty, such that each is convinced that the other is reasoning publicly but not coming to the most reasonable conclusion, is the dilemma a fatal one?

The answer, again, is *no*. The above scenario is a facet of, and not a dilemma for, political liberalism. Rawls says that when all parties reason publicly, the decision of a majority is legitimate law, even if not everyone thinks the majority

²⁴ See Rawls, *PL*, 450.

²⁵ Christiano, *The Constitution of Equality*, 219.

²⁶ This does not quite hold in Christiano's example, since the person who thinks jobs should be distributed according to qualifications thinks that society would be unjust if it were to distribute jobs according to any other criteria. But such an absolutist view fails to acknowledge the burdens of judgement and renders the holder unreasonable. If Andy held such a view, then Betty could reasonably reject *A*'s view in accordance with M_1 .

opinion is the most reasonable.²⁷ We shouldn't expect complete consensus with respect to which conception is most reasonable since the content of public reason is supplied by the family of reasonable conceptions, and not by a single one.²⁸ We *should* expect complete consensus that the enacted conception is reasonable, since such consensus is a condition on liberal legitimacy. But consensus that the enacted conception is reasonable is already guaranteed by M_2 , since Andy recognizes Betty's proposal as reasonable and *vice-versa*.

B. A Clean Win or a Dirty Loss?

Much more philosophically interesting is the following case: Let's define S_1 as the state in which Andy's proposal wins out over Betty's, but Betty can reasonably reject Andy's proposal in accordance with M_1 (that is, Andy's reasoning was not public). And let's define S_2 as the state in which Andy's proposal loses to Betty's, but Betty can only reasonably reject Andy's proposal in accordance with M_2 (that is, Andy's reasoning was public). Should Andy to choose S_2 (a "clean" loss) over S_1 (a "dirty" win)?

This, I take it, is the kind of scenario that troubled Christiano. It ushers in his first dilemma. The dilemma is that if political liberalism is committed to choosing S_2 , then it presupposes the controversial doctrine that respect for the free exercise of reason is lexically prior to all other value.²⁹ If, on the other hand,

²⁷ Rawls, *PL*, 446.

²⁸ *Ibid.*, 450.

²⁹ Christiano, *Equality and Public Deliberation*, 217.

political liberalism would permit S_I in certain cases, then it has to reject the categorical force of the moral argument for public reason.³⁰ This dilemma is deeply problematic. For insofar as taking the lexical priority horn includes accepting a controversial doctrine, doing so rejects reasonable pluralism. But if, on the other hand, political liberals take the horn that rejects the categorical force of the moral argument for public reason, they reject the principle of liberal legitimacy.

The remainder of this paper will investigate what recourse political liberals have in light of this dilemma. I will first interrogate the horn that rejects the categorical force of the moral argument for public reason, arguing that it is strictly off-limits to political liberals. I will then turn to the lexical priority horn, arguing that even though the blow it deals to political liberalism is less severe than Christiano thinks, taking the lexical priority horn is ultimately a *hopeful wager*.

1. The “Rejecting of Categorical Force” Horn

Kyla Ebels-Duggan rejects the categorical force of the moral argument for public reason while remaining sympathetic to the political liberal project.³¹ She does so by putting pressure on Rawls’ distinction between a *modus vivendi* and strict, unconditional endorsement of political liberalism.³² Ebels-Duggan argues that there is space between the two, and that political liberals should view those

³⁰ Ibid.

³¹ Kyla Ebels-Duggan, “The Beginning of Community: Politics in the Face of Disagreement,” *The Philosophical Quarterly* 60, no. 238 (January 2010): 56-8.

³² Ibid.

who occupy this space sympathetically.³³ What she calls *strict* political liberalism is characterized by citizens having “an *obligation* to support only policies they believe they can justify with the common ground of public reason.”³⁴ But if public reason justifications are not always achievable, then it does not make sense to characterize our relation to public reason as obligatory. Rather, “when we cannot achieve it, we should admit our failure to realize an important value.”³⁵ We should realize, that is, “that we have strong reasons to conduct our political enquiry within the guidelines of political liberalism, but deny that we have an obligation always to do so.”³⁶ Ebels-Duggan calls this view *permissive* political liberalism.³⁷

Ebels-Duggan does not think permissive political liberalism results in a *modus vivendi* since permissive political liberals do not have a “merely strategic commitment to a policy, contingent on the balance of power among competing factions.”³⁸ Rather, permissive political liberals always recognize that they have a reason to act in accordance with public reason, but they leave open the question of whether this reason is conclusive.³⁹ Even when public reason is outweighed by other values, though, they believe themselves “to be warranted in coercing fellow citizens” in accordance with their conclusions, despite the fact that these conclusions do not meet the standard of liberal legitimacy.⁴⁰

³³ Ibid.

³⁴ Ibid., 50.

³⁵ Ibid., 51.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid., 70.

³⁹ Thank you to Tony Reeves for helpful suggestions on how to formulate this.

⁴⁰ Ibid., 67.

Where do permissive political liberals stand with respect to political liberalism as Rawls conceive of it? Insofar as permissive political liberals are willing to trade what they view as necessary political action for liberal justice under certain circumstances, they do not provide a viable answer to Rawls' inquiry. They might insist that coercion in accordance with their non-public moral commitments is, in fact, just, but this insistence comes with a grave cost: justice can no longer be the kind of thing that free and equal people have equal access to.⁴¹ Permissive political liberals deny, in effect, that reasonably plural people are equal with respect to their desert of a justification that they can be reasonably expected to accept.

This denial, moreover, is tantamount to the denial of reasonable pluralism itself: for if I do not think you deserve a justification that you can be reasonably expected to accept, then I do not think of you as free and equal in the same way that I think of myself as free and equal.⁴² In *Political Liberalism*, to be free means three things: first, to have “the moral power to form, to revise, and rationally to pursue a conception of the good;” second, to be a “self-authenticating source of valid claims;” and third, to be “capable of taking responsibility for [one's] ends.”^{43,44} To deny that reasonable people are equal in their desert of a justification that they can be reasonably expected to accept is at a minimum to deny that reasonable people are

⁴¹ Ibid., 134-5.

⁴² Ibid., 63-6.

⁴³ Ibid., 72.

⁴⁴ Although these three components, when presented in isolation, paint a highly technical picture of freedom, they follow from the political conception of the person, which follows, in turn, from what we have to mean by “person” if persons are to be able to construct binding political conclusions. See Rawls, *PL*, 29-35 and 89-125.

equal in their ability to self-authenticate valid claims – namely, their claim to a justification that they can reasonably be expected to accept. Insofar as rejecting the categorical force of the moral argument for public reason is a rejection of freedom in the sense most crucial to political liberalism, it is strictly off-limits to political liberals.

2. The “Lexical Priority” Horn

Let us turn, then, to the lexical priority horn. How controversial is the claim that respect for the free exercise of reason is lexically prior to all other value? It is certainly more controversial than the claim that *when coercion backed by force is involved*, respect for the free exercise of reason is lexically prior to all other value. And this, in turn, is certainly more controversial than the claim that when coercion backed by force is involved, respect for the free exercise of reason is more valuable than all other value *with enough regularity that we should, as a political rule, treat the free exercise of reason as lexically prior to all other value*. This weakened claim is the only one that political liberalism needs.⁴⁵ The question, then, is whether it would still be too controversial for political liberalism to embrace this weakened claim, given the role public reason purports to play in a pluralistic society.

This question is ultimately an empirical one. However, heeding the sources of value that are only accessible when one endorses the above claim diminishes at least some of the controversy. There are, I believe, at least two sources of such value

⁴⁵ It is the claim, for example, that rule utilitarians and procedurally sensitive act utilitarians who endorse political liberalism would endorse.

– one direct and the other indirect. The direct source of value comes from the hopefully uncontroversial claim that other things equal, most people see liberal legitimacy as having positive value.⁴⁶ In the above example, if Andy had to choose between wining in accordance with M_2 (Betty thinks Andy's proposal is reasonable, but not the most reasonable) and winning in accordance with M_1 (Betty thinks Andy's proposal is unreasonable), most people would say Andy should choose to win in accordance with M_2 . Even if the incident is isolated, such that Andy does not have to worry about how Betty will reason if the tables are turned in the future, most people, I think, would still say Andy should choose to win in accordance with M_2 . This suggests that most people recognize at least some independent value in respecting the products of people's free exercise of reason, and, by extension, public reason. And if most people recognize at least some independent value in public reason, the foundational premises of political liberalism must occupy at least some positive space in their comprehensive doctrines. As such, *most people can only live up to part of their own doctrines by reasoning publicly*. Let's call this part of their doctrines the "liberal module."⁴⁷ Living up to the liberal module of one's doctrine, then, is one source of value that is only accessible insofar as one embraces the weakened lexical priority claim mentioned above.

⁴⁶ If this claim isn't sufficiently uncontroversial, then political liberalism is doomed from the start.

⁴⁷ For those already convinced by political liberalism, the liberal module includes justice via its inclusion of liberal legitimacy. Thus, those who whole-heartedly endorse political liberalism's conception of justice have excellent reason to withhold non-public reasons: doing so keeps justice accessible.

The indirect source of value comes from the fact many non-political goods depend on liberal political goods. Only with basic rights protected and prioritized, and with sufficient material means to make use of those rights, can people live in accordance with their doctrines.⁴⁸ I have in mind here some remarks from Alexis de Tocqueville's *Democracy in America*. The Catholic priests with whom he spoke while in America "mainly attributed the peaceful dominion of religion in their country to the separation of Church and State. I do not hesitate to affirm that during my stay in America I did not meet with a single individual, of the clergy or of the laity, who was not of the same opinion upon this point."⁴⁹ For why this might be the case, we can turn to John Locke's "A Letter Concerning Toleration."⁵⁰ Locke argued that a government should tolerate different religions not because toleration is a liberal ideal, but because the means of government is force, and one cannot force a belief on another. Although Locke's contemporary, Jonas Proast, argued convincingly that governments can use force to control the flow of information, and therefore control belief indirectly⁵¹, weaker formulations of Locke's claim seem to hold true. For few would doubt that freely affirmed religious beliefs are more valuable than indoctrinated religious beliefs. Moreover, the existence of a religious state ushers in

⁴⁸ Rawls, *PL*, 156-7.

⁴⁹ Alexis de Tocqueville, translated by Henry Reeves, *Democracy in America* (The Pennsylvania State University, 2002), 340.

⁵⁰ John Locke, "A Letter Concerning Toleration," (The Federalist Papers Project).

⁵¹ Jonas Proast, "The argument of the Letter concerning toleration, briefly consider'd and answer'd," in *Early History of Religion* (EEBO Editions ProQuest). See also Jeremy Waldron, "Locke: toleration and the rationality of persecution," in *John Locke: A letter concerning toleration in focus*, ed. John Horton and Susan Mendus (New York: Routledge, 1991).

enemies of the state, and therefore enemies of the religion, in a way that the existence of a neutral state does not.

Let's call the part of people's doctrines that can only be realized against a backdrop of liberal political goods the "liberally dependent module." The liberally dependent module is distinct from the liberal module because living up to it requires liberal political goods, but the arguments for it do not proceed from liberal principles. Supporting a neutral state, and therefore public reason, because one is convinced by Tocqueville or Locke is a form of self-interest. Nonetheless, it does not constitute a mere *modus vivendi* because the state neutrality recommended by Tocqueville and Locke does not depend on the balance of political power: their recommendations would still apply to a religious group even if that group held a stable majority. Living up to the liberally dependent module of one's doctrine, then, is another source of value that is only accessible insofar as one embraces the weakened lexical priority claim mentioned above.

Putting these two sources of value together, we can ask: Are the liberal and liberally dependent modules of most people's doctrines substantial enough to warrant an enduring commitment to a politically liberal conception?

III. Conclusion

The tenability of political liberalism, it seems, has been reduced to an empirical question. It has been so reduced because the central question is not one of internal coherence, but breadth of appeal. On the one hand, this is no surprise:

Rawls' basic question in *Political Liberalism* was one of possibility, but unless political philosophy is divorced entirely from reality, his goals must have included actual uptake. And the question of uptake can only be answered experimentally: actual uptake is, by definition, theoretically indeterminate until it either does or not happen. But on the other hand, I am surprised to be unable to find any attempt to ascertain the specific value judgement a person makes when deciding whether or not to reason publicly and then to either ask oneself or, better yet, *ask people*, what decision they would make in such a situation.

My conclusions, then, are twofold. First, I do not think political liberalism has the conceptual resources to collapse Christiano's dilemma altogether. I have argued that political liberalism's best chance is to take the lexical priority horn, and I have attempted to weaken the lexical priority claim as much as possible. One question, then, is whether the lexical priority claim can be made still less controversial either by weakening the claim even more or by identifying additional value considerations that weigh against denying the claim. Second, political liberals should engage more with both political science and psychology to get a sense of potential uptake. This is not a social scientific proposal, but a philosophical one: a project that begins with a practical observation—the diversification of belief as a consequence of the free exercise of reason⁵²—has an obligation to either stay true to that observation or stop drawing theoretical conclusions from it.

⁵² Rawls, *PL*, 54-8.

In the meantime, what does it mean to be a political liberal? It does not merely mean to read Rawls and find oneself in agreement with Rawls, as one might call oneself a Kantian after reading Kant and finding oneself in agreement with Kant. In addition to this, it means to *wager* that the liberal and liberally dependent modules of most people's doctrines are, or can be made, substantial enough to warrant an enduring commitment to political liberalism. And it means to try to convince others, as free and equal and in terms they find reasonable to accept, that they should be political liberals as well. Indeed, it would be difficult to design a more appropriate test case for public reason.

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