

## **Justice and Restraint: A Critique of Political Liberalism**

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The subject of this paper is the new theory of *political liberalism*, developed by people like John Rawls and Charles Larmore.<sup>1</sup> This is a quite specific subject and it should not be confused with another and more usual meaning attached to the same expression. This more conventional meaning of political liberalism is primarily a form of liberalism which stresses the political sphere – the state – as opposed to

the economic sphere – the marketplace. However, the new theory of political liberalism is not in opposition to economic liberalism in this way. Instead, the adjective *political* refers to the fact that this recent defence of liberalism avoids reliance on comprehensive and controversial religious, metaphysical, epistemological, and moral views. In this sense, political liberalism is a theory of argumentative restraint regarding the defence of liberal justice.

The philosophy of argumentative restraint (non-comprehensiveness or neutrality in matters of basic justice) which political liberalism defends and the divide between justificatory reasons it requires (comprehensive / non-comprehensive or neutral) are a thorough and at times impressive attempt to face an actual challenge in the world in which we live. The challenge is this: contemporary societies, certainly in Europe and America but also in other latitudes, exhibit a pluralism of ideas of the good and world views which makes it often difficult to devise, choose, and accept common solutions about the political, social, and economic arrangements of the community. One may summarize in the idea of justice the principles that assess those arrangements, whatever they may be. However, people disagree about the justification of their specific conceptions of justice and this is the main concern of political liberalism. It is the concern with justification that leads to the differentiation and restraint of reasons, which are the central feature of the theory of political liberalism. Justice, political liberals sustain, may be justified, at least in a first instance, by non-comprehensive or neutral reasons alone.

Although political liberalism addresses an important problem, I want to make the argument that it fails to provide the right answers. The failure of existing doctrines of political liberalism is derived not only from their inability to provide a justification of justice with restricted reasons, but also from their specific way of formulating the problem which they address.

Accordingly, John Rawls formulates the problem of political liberalism in the framework of his ideal of a well-ordered society of “justice as fairness” or a similar conception.<sup>2</sup> In this context, the kind of pluralism addressed is a narrow camp of reasonable comprehensive doctrines. Moreover, this view of pluralism can only be the product of a fallibilist outlook regarding comprehensive doctrines which, in its turn, may be deduced from a hidden liberal perfectionism in the construction of Rawlsian justice.

I cannot fully justify here what is stated in the previous paragraph. The general idea is that Rawls's theory of political liberalism is not really political, but rather comprehensive. First, in order to make his argument in favour of political liberalism, Rawls needs to affirm "the fact of pluralism", which becomes important in the theory because of the rejection of any dogmatic reasonable doctrine, i.e., because of fallibilism. Second, this fallibilist view is a consequence of an ideal of the citizen as someone who rejects dogmatism and who is interested in examining different conceptions of the good and, eventually, changing his or her own conception. This ideal of the citizen needs to be sustained by a similar ideal of the liberal man, or the argument of Rawls would be a vicious circle.

The way Rawls conceives of justification of justice reinforces his liberal perfectionism and the ideal-theory approach of his work. When the overlapping consensus of a plurality of reasonable comprehensive doctrines enters the stage of the Rawlsian theory, the conception of justice is already in place and fully justified. Thus, the divide and restraint of reasons that Rawls considers takes place only within a society ordered according to a previously selected liberal perfectionist and highly idealized conception of justice (or family of conceptions, as he later stresses).

Charles Larmore frames the problem of political liberalism in a different way.<sup>3</sup> Larmore does not build a theory of justice but tries instead to draw the conditions of possibility of a liberal political conception of justice amidst reasonable disagreement in the ideals of the good life. These conditions of possibility are summarized in the idea of the neutrality (of justification) of the state, based on the ideas of rational dialogue and equal respect for persons.

Like Rawls's supposedly non-comprehensive defence of non-comprehensiveness, Larmore's neutral defence of neutrality is not really convincing. First, Larmore's interest in reasonable disagreement could not be fully understood if he did not have a fallibilist outlook regarding his own comprehensive doctrines. Second, the ideas of rational dialogue and equal respect are clearly neo-Kantian, and they convey a view of the human use of reason which goes well with fallibilism but does not seem acceptable for those who reject a liberal conception of autonomy.

Because he does not work within a full ideal theory, Larmore's view is more pragmatic than Rawls's, but he cannot avoid the same kind of contamination by both fallibilism and a liberal perfectionist, partially comprehensive doctrine. The idea of neutrality should purify the justification of justice from contamination, but this *desideratum* is not achieved. In the end, the indeterminacy of justice in Larmore's

theory does not allow for a more convincing account – more convincing than Rawls's – of the liberal and political divide and restraint of reasons.

I do not claim originality in these criticisms. A liberal perfectionist like William Galston has made a critique of the political liberalism of Rawls and Larmore along the lines of the arguments that I have just sketched.<sup>4</sup> The same applies to Brian Barry, who is a defender of liberal neutrality but rejects the idea that this principle can, in its turn, be justified with non-comprehensive or neutral reasons.<sup>5</sup>

All things considered, the Rawlsian solution to the central problem of political liberalism is more satisfactory than Larmore's. At least, the solution of Rawls does not pay lip service to the justification of substantive justice nor does it take refuge in a more abstract and meta-theoretical view of neutrality. Within the constraints of a theory of political liberalism, Rawls seems to have done the best that can be done, albeit not fulfilling the initial promises of the theory. However, even if the limitations and contaminations of the Rawlsian theorization could be overcome, another and less often remarked difficulty arises which proves fatal to political liberalism.

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Political liberalism is supposed to provide a justification of *the same conception of justice* (or a family of similar conceptions) for societies divided in so many other ways and ideas. Unfortunately, the justification of justice is also revealed to be plural, even if one accepts its ability to overcome the objections to Larmore and Rawls summarized above.<sup>6</sup> In other words, there is not only a pluralism of world views that ends up contaminating the justification of justice. There is *also* a pluralism internal to any supposedly freestanding or neutral justification of the basic idea of justice. Moreover, these two pluralisms have exactly the same cause and explanation: what is called by Rawls "the burdens of judgment" or "the burdens of reason".<sup>7</sup>

The "burdens of reason" include: complexity of evidence, difficulty in determining the weight of relevant considerations, vagueness of concepts and their subjection to hard cases, influence of the total experience of different individuals in their evaluation of evidence, difficulty of overall normative assessments, difficulties in setting priorities of values, etc. According to Rawls, these "burdens" explain why people who are perfectly reasonable disagree about their comprehensive doctrines. However, one should add that these "burdens" also explain why people disagree about their conceptions of justice.

Thus, a liberal political well-ordered society, a society united by the same conception of justice amidst doctrinal pluralism, would not be a coherent ideal even if the contaminations by doctrinal pluralism

above summarized were overcome. What prevents the coherence of this social ideal is the idea of a pluralism internal to the very conceptualisation of liberal justice. No divide of reasons and argumentative restraint permits the justification once and for all of a consensual idea of justice in a context of pluralism. Accordingly, political liberalism does not and cannot provide a substantive and convincing response to the central problem it addresses.

After the rejection of political liberalism, the initial problem remains unanswered. The question, then, arises of whether or not political liberalism contains some resources to resolve that problem. I think it does, once the restriction of reasons that characterizes political liberalism is used not to formulate the ideal of a just or well-ordered society, but to interpret the idea of responsibility in a way that maintains the integrity of convictions.

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Liberal conceptions of justice must include consequentialist considerations that justify the support given to institutions that allow for political decision and stability amidst the pluralism of doctrines and conceptions of justice. In this manner, responsibility is embedded in specific institutions, whereas conviction remains intact in the different conceptions of justice. The result of this interpretation of responsibility is not any kind of moral consensus setting permanent political principles of justice or accommodation. The outcome of this reading of responsibility is rather a moral *modus vivendi*, i.e., a situation in which there is no moral agreement but, instead, a morally justified – from within each conception – acceptance of institutions for responsibility. In this situation, both convictions about the just society and a responsible accommodation of pluralism are in place. This is the best one can hope in order to safeguard both the demands of justice and the remarkable pervasiveness of pluralism in our liberal democracies.

This being said, the best solution – as far as I can see – to the challenge that political liberalism confronts cannot be a form of political liberalism. Nevertheless, it is still a practice of restraint limited to the foreign policies of the different conceptions that specify a basic liberal idea of justice. This divide of reasons and the practice of restraint do not provide the justification for a liberal political order in its entirety, but only the justification of some institutions that allow for a rule of conflict among different outlooks. The justice of a liberal political order in general does not find a full justification in the restraint defended by political liberals. This liberal order must be secured by comprehensive liberalism, or it will not be secured at all.

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#### NOTES

- 1 This theory is named in Larmore (1987). Rawls's slide into political liberalism starts with "Justice as Fairness: Political, not Metaphysical", from 1985 – now in Rawls (1999a: Chap. 18) – but the label is not adopted until Rawls (1993). Other authors can also be associated with the theory of political liberalism, namely Joshua Cohen and Bruce Ackerman, in Cohen (1989) and Ackerman (1990). Thomas Nagel anticipated the fundamentals of the theory in Nagel (1987), but he retreated from it in Nagel (1991: 163, n. 49).
- 2 See Rawls (1993), Rawls (1999b), pp. 129-180, and Rawls (2001), Part V. For the relevant papers previous to 1993, see Rawls (1999), chapters 18-22.
- 3 See Larmore (1987), chapters 3 and 4 and Larmore (1996), chapters 6 and 7.
- 4 Cf. Galston (1991).
- 5 Cf. Barry (1995).
- 6 Surprisingly, this important point has gone almost unnoticed. The exception is Waldron (1999), ch. 7.
- 7 See, in particular, Rawls (1993), Lecture Two.

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