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POLITICAL LIBERALISMS

Political liberalism is not merely the name of a book by John Rawls.[1] It is a distinctive approach to the problem of political power. How best to define and realize these distinctive aspirations?

Rawls's book is a good place to look for answers—provided you recognize that he is doing two things at once. The first is to propose a general framework for political liberalism. The second is to reassure us that his new framework is consistent with his older *A Theory of Justice.*[2]

I am skeptical about the second enterprise, but applaud the first. Since Rawls's new project expresses many of the aims of my own work, part I is a search for common ground—defining six principles elucidating the distinctive character of political liberalism. The rest of the essay tries to detach these larger aspirations from Rawls's particular efforts to realize them. Part II considers how well *A Theory of Justice* has survived the journey to *Political Liberalism,* comparing the former's contractarianism with the dialogic approach I developed in *Social Justice in the Liberal State.*[3] I argue that neither Rawls's arguments for the veil of ignorance nor his commitment to the difference principle remain intact. In contrast, the strong egalitarian commitments of *The Liberal State* are entirely compatible with the premises of *Political Liberalism.*

The next part inspects the very modest foundations Rawls builds for his project. He presents himself as a philosophical underlaborer, merely elaborating principles already implicit in Western political practice. I deny that political liberalism is—or ought to be—parasitic on practice. Nor should we allow ourselves to be charmed by Rawls's self-effacing modesty. It conceals an alarming tendency to glorify the nation-state. Compared with other conservative nationalisms, Rawls's is a mild case. But, under present world conditions, this is not a disease of the spirit which should pass unnoticed.

I. COMMON GROUND

> [T]he diversity of reasonable comprehensive religious, philosophical, and moral doctrines found in modern democratic societies is not a mere historical condition that may soon pass away; it is a permanent feature of the public culture of democracy (PL 36).

[1] *Political Liberalism* (New York: Columbia, 1993). Henceforth cited as PL.
[2] Cambridge: Harvard, 1971.
[3] New Haven: Yale, 1980. Henceforth cited as LS.

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Rawls's focus is characteristic of American political philosophy. With good reason: if America cannot confront the problem of pluralism, it is finished as a nation. While it will take more than good philosophy for success, there can be no denying the crucial importance of Rawls's question. How are we to build a viable sense of political community amidst all this bewildering, and profound, diversity?

I emphasize six elements in the liberal response. The first involves a principled reluctance to embed political commitments in any single comprehensive philosophy of life. Whenever we do this, we alienate other members of the community who have affirmed competing ideals in life. Rather than hold political principles hostage to any single and determinate ideal, the challenge is to design a doctrine that, as much as possible, "does not depend on the truth of any single metaphysical or epistemological system."[4]

It follows, second, that political liberalism adopts a distinctive strategy of justification. It seeks to explain to holders of different comprehensive views why it makes sense for each to adopt liberal principles. Obviously, the reasons most compelling to a neo-Kantian will be different from (and sometimes inconsistent with) those which attract a liberal Catholic. But if political liberalism can be justified from religious as well as secular perspectives, if it can appeal to anti- as well as neo-Kantians, why alienate potential supporters unnecessarily?

We should, instead, work hard at building all possible bridges to the liberal state. While each bridge may look very different, each provides a different group of fellow travellers with compelling reasons for engaging in a common project of political cooperation. Rawls sums up this distinctive strategy by calling it the search for an "overlapping consensus." But truth to tell, he does not advance this bridge-building expedition beyond the surveys attempted earlier by Charles Larmore and myself.[5]

This is too bad, since it would be a mistake to take Rawls's "overlapping" aspiration as if it were an accomplished fact. There are many different paths to political liberalism, but there are many that lead away. At present, we do not have a clear sense of the key conceptual points at which different paths converge and diverge. Take Roman Catholicism. There are liberal Catholics like David Tracy,

[4] To emphasize my agreement with this central Rawlsian aspiration, I have lifted this quotation from my own work, LS 361. PL elaborates similar ideas at pp. 11–5, 29–35.

[5] Compare PL 145–6, with Larmore, *Patterns of Moral Complexity* (New York: Cambridge, 1987), ch. 3, and LS, sect. 71.

and there are antiliberal ones like Alasdair MacIntyre.[6] Both are thoughtful writers and serious Catholics; but it is obviously easier to build reasonable bridges to Tracy than to MacIntyre. What *precisely* makes it easier? Only by answering such questions can we map the conceptual boundaries of "overlapping consensus."

Nonetheless, the general strategy of justification is clear enough to generate a third basic principle. Liberal doctrine should try to be "free-standing"—capable of coherent statement that is independent of any particular comprehensive philosophy. Although Rawls does not quite make the relationship clear, this principle follows directly from the "overlap" strategy. If liberal doctrine were not "free-standing," the only alternative would be to present it as an integral part of a particular comprehensive philosophy. But this would defeat the entire point of "overlap"—since other groups could hardly be expected to accept a doctrine presented in such a sectarian way.

I find Rawls's treatment of a fourth principle—the idea of public reason—even more enlightening. In one of his most important breaks with earlier work, Rawls renounces his claim that "the theory of justice is a part of the theory of rational decision" (PL 53, n. 7). His new aim is to express reasonable grounds for cooperation among parties who differ as to the meaning of the good life. But what is it to be reasonable when citizens differ on so much?

Rawls's answer provides one of the high points of the book. Citizens must be prepared "to explain their vote to one another in terms of a reasonable balance of public values" (PL 243). They must display "a willingness to listen to others and a fairmindedness in deciding when accommodations to their views should reasonably be made" (PL 217). This overriding commitment to public dialogue leads Rawls in a direction he usually finds uncongenial. As I have suggested, Rawls gets very uncomfortable whenever he senses himself moving beyond principles already established in Western political practice. So far as public dialogue is concerned, however, he throws caution to the winds, and challenges the way Americans understand the electoral process.

When most people step into the voting booth, they believe that they have a right to cast their ballot any way they like: maybe I am voting for *X* because he is Jewish, or because he reminds me of my father, or because he did my son a favor, but this is nobody's business but my own! Rawls is not prepared to live with this cavalier

[6] Compare MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University Press, 1988) with Tracy, *The Analogical Imagination* (New York: Crossroads, 1981) and *Dialogue with the Other* (Louvain: Peeters, 1990).

attitude: "the ideal of public reason not only governs the public discourse of elections . . . , but also how citizens are to cast their vote. . . . Otherwise, public discourse runs the risks of being hypocritical: citizens talk before one another one way and vote another" (PL 215).

While Rawls's view may seem quaintly old-fashioned, I think he is right to urge us to rethink the act of voting.[7] Legitimate government is not based on the unfettered act of personal will, but the collective effort by each of us to justify our political power through public dialogue. The secret ballot is valuable only because it shields us from coercive efforts by others to impose their will when they have failed to convince us through argument. But this valuable shield should not be transformed into a sword that allows a majority of voters to impose their will on others in ways they are not prepared to justify in public.

Political liberalism's overriding commitment to public dialogue takes on new force when we incorporate a fifth element into the basic framework. I call this the *principle of conversational constraint:* before a liberal citizen offers up a reason in public dialogue, it is not enough for her to find it persuasive. She must also convince herself that other citizens can find it reasonable despite the fact that they will keep on disagreeing about the ultimate meaning of life. Otherwise, she must accept the necessity of *conversational constraint,* and refrain from imposing her controversial notions of reasonableness on fellow citizens.

Once again, I am entirely prepared to sign this provision of the new Rawlsian contract. My disagreement arises only at the next stage, where we proceed to propose particular constraints on the ongoing dialogue in the name of political liberalism. Rawls continues to believe that the veil of ignorance should serve as an organizing device for modeling the admissible range of public reasons. I do not. But before turning to this and other differences, I want to map a final zone of convergence.

The sixth point is not a new departure for Rawls, and has profoundly influenced me ever since I heard his lectures as a student in the early 1960s. This involves the central importance of the basic structure of society in the theory of justice. Here is where political liberals differ from libertarians. We do, and they do not, recognize that each citizen's starting point in life is pervasively shaped by the family, the educational system, the distribution of wealth, the institution of private property, and the organization of the marketplace.

[7] See my *We the People: Volume I, Foundations* (Cambridge: Harvard, 1991), ch. 9.

Liberals refuse to treat these basic institutions as if they were produced by an invisible hand reaching out from the state of nature. We insist on subjecting them to democratic control. Before these fundamental structures can be considered legitimate, they must survive the rigorous test of public dialogue by free and equal citizens who respect each others' right to disagree about the ultimate meaning of life (PL, Lecture 7).

II. IS RAWLS A RAWLSIAN?

To sum up the distinctive promise of political liberalism, consider its challenge to one of the great banalities of our time. On countless occasions, I have heard thoughtful people tell me that "liberalism" is only compatible with an "instrumental" form of reason. Citing Hobbes or Hume or some other "dead white European male," my fashionable critic tells me that liberals cannot reason about ends, but only about the efficient means of achieving them.

To which I say, let the dead bury their dead. Political liberalism will live or die in an effort to construct a constitutive form of public reason—one that allows very different sorts of people to reason together on fundamental questions of social justice. Given the pervasive skepticism of the present moment, this effort will not generate tons of applause. But we shall not get anywhere if we allow trendy skepticism to paralyze us. We must begin to reason about liberal reason.

After all, it is possible to construct many different models of political dialogue that seem broadly consistent with the six ideas sketched in the preceding section. What is at stake in elaborating one model rather than another?

I do not really know, and it will take a lot more discussion by a lot more people before we can find out. But the dialogue must begin somewhere, and so I propose to contrast Rawls's particular model of public reason with the one advanced in *The Liberal State*. To nobody's surprise, I shall conclude that my model is better. If this sparks you to disagree, and come up with something of your own, so much the better. Political liberalism is bigger than both of us; and its fate will be determined by the breadth and depth of the ensuing dialogue—among the readers of this JOURNAL, and in the larger community.

1. *Veils of Ignorance.* Suppose, then, a society of political liberals deliberating upon the principles that should organize the basic structure of their institutions. How should they proceed with public dialogue?

Not by placing themselves behind a "veil of ignorance." True, this thought experiment prevents the parties from designing principles

that favor themselves or their comprehensive theories of the good. Since, by hypothesis, citizens are political liberals, they will find this a desirable feature of the veiling procedure.

But if this is their sole objective,[8] there is a more straightforward way of achieving it. They may simply adopt a protocol that forbids them from engaging in justificatory arguments that require any citizen to assert that he or his conception of the good is superior to his fellow citizens'. To put the point in Rawlsian terminology, citizens may skip the stage of the original position and proceed directly to specify appropriate constraints on their use of public reason.

This is precisely the procedure proposed in *The Liberal State*. The last paragraph restates the *neutrality principle* I proposed as a fundamental constraint on political dialogue. By proceeding to adopt neutrality as their first move in liberal politics, citizens avoid the need ever to speak of themselves as if they were "unencumbered selves," stripped of all social identity. The political conversation begins in a very different spirit—with the participants pledging themselves to construct a new dimension to their social identity. If they had not engaged in liberal dialogue, their identity would have been constituted solely by other social engagements—with their families, jobs, religious communities, and the like. Now, however, they are pledging themselves to add yet another role to their social identity —they will, on the relevant occasions, deal with one another as citizens of the liberal state, interacting in the special ways regulated by their mutual commitment to the liberal conception of public reason.[9]

My complaint about the Rawlsian veil is reminiscent of, but different from, Michael Sandel's[10] critique. He asserts that Rawls's veil requires a metaphysical commitment to a neo-Kantian conception of the self—in which the essence of personhood is revealed only when one is stripped bare of all particular commitments. Rawls deflects this objection by recalling that political liberals do not ask citizens to commit themselves to a deeply controversial theory of the self. Instead, they should view their decision to put on the veil as if it were similar to "acting a part in a play, say of Macbeth or Lady Macbeth." This decision no more commits them to the Kantian metaphysics of "unencumbered selfhood" than playing Macbeth "commits us to thinking we are really a king or a queen engaged in a desperate

[8] Rawls does not provide any other justification for the veil; see PL 24.

[9] For further discussion on this point, see my "Why Dialogue?" this JOURNAL, LXXVI, 1 (January 1989): 5–24, pp. 19–21; and LS, sect. 67.

[10] *Liberalism and the Limits of Justice* (New York: Cambridge, 1982).

struggle for political power. Much the same holds for role playing generally" (PL 27).

This response is satisfactory so long as we add an important proviso. While an actor does not commit himself to really being a king, he does commit himself to playing the part of an actor. Before doing so, he must persuade himself that this is an activity worth his energy and commitment. In making this decision, moreover, a person should consider the quality of the roles he can expect to play: he may reasonably commit himself to the Shakespearean theater, but reasonably reject a lucrative career in pornographic movies and dedicate himself, say, to a lifetime of surfing.

By the same token, when a person is asked to put on the veil, she is committing herself to the role of liberal citizenship; and the lines she is asked to speak in this role will have some weight in her answer to the ultimate question she has to confront: Is the role of liberal citizenship worth the effort that it takes?

Obviously, there is a lot more to this decision than the dramatic quality of the script that a liberal citizen will act out on the stage of political life. As we have seen, the liberal exercise in overlapping consensus aims to provide would-be citizens with very fundamental reasons, rooted in different comprehensive moral views, for committing themselves to liberal citizenship. Thus, if the only plausible way to engage in this role were by donning the veil, I would be more than willing to play the part.

But it is quite another thing to make this demand when there is another specification of the script that avoids the need for self-veiling. It at this point that my Sandellian critique enters. I have not rejected the veil because I think it commits anybody to a metaphysical theory of the self. I reject it on behalf of a rival device of representation that substitutes neutrality for the veil. Why should citizens be obliged to play the role of the unencumbered self when liberal dialogue can proceed just as well without imposing this demand?

If one doggedly pursued Rawls's analogy to Macbeth, one might be tempted to respond in aesthetic terms: Is it not a prettier play when citizens are running around the civic stage talking about imaginary veils? But I am sure that Rawls does not support presently fashionable efforts to pour aesthetics into political morality. Instead, he would urge us to consult our common commitments to political liberalism, and consider whether these principles could be deployed to tip the balance in favor of, or against, the continued use of the veil as the guiding thought experiment.

So far as I can see, these principles decisively tip against the veil and for neutrality. (But, then again, I am doing the balancing.) My

argument is straightforward: as we have seen (principle 1), political liberals are committed to designing a doctrine that makes as few demands as possible on the comprehensive moral commitments of its diverse citizens. Given this overriding aim, the veil should be rejected because it imposes unnecessary demands. On the one hand, Sandellians might reasonably view the request to play with veils as simply gratuitous given the availability of an alternative script. For the neutralist does not require them to play the part of "unencumbered selves," but invites them to enrich their project of social constitution by adding another role to their repertoire.

On the other hand, partisans of Kantian conceptions of the self can make no similar complaint if the script is organized along neutralist lines. Kantians do not deny that empirical selves are constituted in part by their social roles; they merely insist that this process of social constitution presupposes a prior transcendental deduction of the self. It would seem, then, that the neutralist does not offend any of the Kantian's comprehensive commitments when proposing his conception of public reason, while the Rawlsian veil does place an additional obstacle on the path of would-be citizens who are committed to Sandellian metaphysics. Some might consider this burden to be small—smaller than the burden placed upon the would-be actor who weighs the chance that he may be playing pornography instead of Macbeth. Others might consider this burden very heavy. Whatever its weight, none can deny that veils do impose an unnecessary burden, and one that serious political liberals should not place gratuitously on the path to the liberal state.

It follows that Rawls should abandon the veil, and model the use of public reason in a liberal state by directly imposing fundamental constraints on dialogue of the sort proposed by the neutrality principle.

2. *The Difference Principle.* Rawls should be particularly wary of the veil, since it will no longer get him the results he hoped for in *A Theory of Justice.* His earlier work argued that veiled contractors would be rationally compelled to adopt a strongly egalitarian conception of justice, concerned with maximizing the situation of the worst-off class. This argument, however, does not survive the transition to *Political Liberalism.*

Rawls does not pay much attention to the status of the difference principle in his new book. In a single footnote, he remarks that "some have thought that my working out the ideas of political liberalism meant giving up the egalitarian conception of *A Theory of Justice.* I am not aware of any revisions that imply such a change and think the surmise has no basis" (PL 7, n. 6).

I disagree, for reasons that require a brief review of basic Rawlsiana. It is well known that the argument for the difference principle is extremely sensitive to the design of the veil of ignorance.[11] The crucial distinction is between a thick and a thin veil. Under a "thin" veil, the contractors do not know their class position or their particular ideals. But they do know the percentage of the population that will find itself in each of the relevant social classes. Under a "thick" veil, they are deprived of this information.

Thickening is critical because Rawls is clearly wrong about the difference principle when the contractors are placed behind the thin veil. Suppose, for example, that they are allowed to know that the upper class will contain ninety percent of the population, with only ten percent finding themselves in the lower class. In the absence of further information, rational contractors will assume that each will also have a ninety percent chance of making it to the upper class after the veil lifts. It would seem, then, that they would be very foolish to insist on the difference principle—which may maximize a ten percent prospect at the cost of very great reductions in the prospects they will face most of the time. Of course, they might well take the downside risk seriously enough to approach their choice with a good deal of risk aversion. But the difference principle requires them to take risk aversion to ridiculous extremes. In short, unless Rawls persuades us to put on a "thick veil," he has in fact produced some fancy new arguments for inequality.

Not, mind you, that the mere acceptance of the "thick veil" clears a smooth path for the difference principle. To the contrary, I believe that rational actors would reject Rawlsian justice even when acting under this extreme condition of ignorance. But at least Rawls has more to say for himself once he persuades us to thicken the veil so drastically.

Rawls is well aware of this, and has labored over the years to present a persuasive argument for thickening the veil. This has not proved an easy task. After all, nobody believes that ignorance is positively a good thing, especially when we imagine ourselves making fundamental choices in life. At best, the veil is an analytic tool, screening out information that would lead rational actors to bias their choices in ways that offend our sense of justice as fairness. But the "thin" veil is thick enough to accomplish this objective: the contractors have already been deprived of knowledge of their own

[11] See John Harsanyi, "Can the Maximin Principle Serve as a Basis for Morality? A Critique of John Rawls' Theory," *American Political Science Review*, LXIX, 2 (June 1975): 594–606.

ideals and class position and so cannot stack the deck in favor of their particular interests. Why, then, does a sense of fairness require us to thicken the veil further?

I had long believed that Rawls had no plausible answer until I picked up my copy of his Dewey Lectures[12] in the early 1980s, and found one. This was a time when Rawls was at the high point of his Kantian phase, and it was this inspiration that provided the impulse for his defense of the thick veil. The thin veil was inadequate, we were told, because it insufficiently dramatized the neo-Kantian dimension of Rawls's thought experiment. By stripping the contractors clean of all information, the original position revealed them for what they really were—Kantian selves constituted by their sense of justice and the power to put meaning into their lives. The thin veil was inadequate because it cluttered up the original position with other information, and therefore distracted our attention from this pristine neo-Kantian depiction of human nature (*ibid.*, pp. 549–50).

I leave it to neo-Kantians to decide whether they find this convincing. Only one thing is clear: justifications of this kind have no place in Rawls's new world of political liberalism. The entire point of the project is to avoid rendering liberal theory hostage to any particular metaphysical view. To put the problem dialogically: Rawls cannot respond to Sandel by saying that political liberalism does not endorse the Kantian conception of the self, and then turn around and say that contractors must employ a "thick" veil because it better expresses the Kantian conception of the self!

And yet, I am sorry to report that this is precisely what happens in *Political Liberalism:*

> Beginning with a state of no information, we allow in just enough information to make the agreement rational, though still suitably independent from historical, natural, and social happenstance. *Considerably more information would be compatible with impartiality but a Kantian view seeks more than this* (PL 273; emphasis added).

This comment appears in the book's concluding part III, which inspires a general caution: part III reprints without alteration essays written in 1977 and 1981, when Rawls had not yet clearly formulated his project in political liberalism. It is best to read the new book as if it ended with part II, treating part III as a suggestive, but problematic, appendix.

Following my methodological precept, I give priority to the only other discussion of the veiling question, even though it appears in a

[12] "Kantian Constructivism in Moral Theory," this JOURNAL, LXVII, 9 (September 1980): 515–72.

cursory footnote in chapter one. Here Rawls recognizes the error of relying on Kantianism to justify the thick veil, and claims to draw the notion from "the public political culture of a democratic society" (PL 24–5, n. 27).

But this claim is transparently false. There is no democratic society in the world that adopts the general proposition that "fundamental political decisions are better made in ignorance, and the more ignorant the decision maker, the better the decision." To the contrary, there is and ought to be a general principle in favor of informed decision making. This effort to save the thick veil by a direct appeal to "the public political culture" is a nonstarter.

Perhaps we can redeem the thick veil with a more complicated argument. This one does not begin with the perverse claim that ignorance is bliss in a democracy, but asserts that the value of impartiality plays a crucial role in "the public political culture." This claim has the ring of truth. Moreover, we have seen that veiling the contractors is a technique that can be used to express impartiality. The trouble comes at the next step—where the Rawlsian tries to explain why the concept of impartiality requires us to place the contractors behind a thick, as opposed to a thin, veil. Indeed, we have already seen that Rawls confesses—albeit in part III—that this next step cannot be successfully taken. We have, then, reached an impasse: either Rawls must renounce the thick veil or he must renounce political liberalism.

We have now moved well beyond Rawls's footnote in an effort to save the thick veil. Until somebody else comes along and fills this gaping hole, Rawlsians are stuck with the thin veil if they hope to play by the rules of political liberalism. As a consequence, they must reject the difference principle and defend one or another form of inequality in the distribution of basic resources. The egalitarian commitment of *A Theory of Justice* does not survive the movement to *Political Liberalism.*

In contrast, the strong egalitarianism of *The Liberal State* suffers no similar embarrassment. At no point does its model of public reason require participants to place their particular identities behind any veil, thick or thin. They are asked to enrich their social identities, not impoverish them. When they play their part on the civic stage, liberal citizens can be completely aware of all that they are, and are entitled to say to one another that their actual life identities and projects are good—even infinitely good. They are speaking for themselves, not some deracinated creatures.

This does not mean, of course, that they can say anything they like. Like every other social role, liberal citizenship imposes severe

constraints on appropriate behavior. Just as good workers or neighbors or sportsmen recognize the bounds of appropriate behavior within their collective enterprises, so too must liberal citizens. While they are free to proclaim the goodness of their good, neutrality forbids them from asserting that their good is any better than those affirmed by their fellow citizens. This is, of course, a very strong constraint on public reason. Nonetheless, *The Liberal State* establishes that citizens constrained by neutrality can endorse strongly egalitarian principles for the distribution of basic resources.

Doubtless, my efforts to elaborate these neutral dialogues suffer from all sorts of particular difficulties. But at no point do they suffer from the methodological problems we have been discussing. At no point are liberal citizens asked to guess who they might become after they lift a veil. At no point are they asked to trade off the chance they will be rich against the chance they will be poor. And it is the necessity of making this trade off that leads Rawls's rational contractors, operating under a thin veil, to choose inequality in the name of justice.

Rawls is wrong, then, to suppose that his new commitment to political liberalism is compatible with his older commitments to the original position and equality. When faced with this basic inconsistency, will he discard the "veil of ignorance" he developed decades before he recognized the distinctive aspirations of political liberalism?

III. IS LIBERALISM CONSERVATIVE?

I next consider the foundations of political liberalism. Rawls portrays the doctrine as if it were deeply dependent upon the "public political culture of a democratic society." The sources of this culture are quite limited, "compris[ing] the political institutions of a constitutional regime and the public traditions of their interpretation (including those of the judiciary), as well as historic texts and documents that are common knowledge" (PL 14). On this view, political liberalism is parasitic upon liberal practice. Rawls seems unwilling to present the doctrine as a freestanding ideal—something that political liberals everywhere should not only talk about, but fight and die for.

His repeated invocations of "public political culture" should be distinguished from his appeals to "overlapping consensus." This second notion has to do with ideas, not practices. It claims that the best way to defend political liberalism is by demonstrating its rational support in a variety of comprehensive doctrines—ranging from neo-Kantianism through pragmatic humanism through liberal Catholicism, and beyond. I support "overlapping consensus." Indeed,

it is this very support which leads me to reject Rawls's invitation to look upon political liberalism as an Anglo-American provincialism now (temporarily?) ascendant in Europe and elsewhere.

My argument is straightforward. If, as "overlapping consensus" insists, men and women of many different moral and religious ideals can reason to a common commitment to political liberalism, why should this principled commitment not carry over to cases in which liberals are not in control of the political culture? If political liberalism is convincing enough to motivate a struggle to defend it where it is ascendant, why is it not convincing enough to inspire a struggle to create it?

The answer, if there is one, is to be found in the way Rawls uses the appeal to "public political culture" in his larger argument. With two large exceptions to be noted later, this concept does not do very much real work—so long as we are careful to distinguish it from "overlapping consensus." Indeed, if Rawls had taken seriously his appeals to existing political culture, he would have written a very different book. The revised version of *Political Liberalism* would have begun with reflections on the great political events that serve as the historical foundation of modern liberal polities—from the signing of Magna Carta through the Protestant Reformation through the English Revolution through the American and French Revolutions through the Great Liberal Reforms of nineteenth-century England and Reconstruction America through the English Welfare State and the American New Deal. At each point, Rawls would have pondered the great documents that expressed the evolving "public culture" of liberalism in England, America, and the Continent. After developing this historical background, he would have moved to the last triumphant half-century, when liberalism leaps far beyond its traditional homelands. To what extent has this world-historical leap given new meaning to modern "political culture?"

I would be the last to deny the value of such an effort—it has provided me with my principal agenda for the last fifteen years.[13] While Rawls has some nice things to say about my work, such historicizing exercises do not—and should not—provide him with his main inspiration. Instead, he is engaged with the ideas of Locke and Mill, Kant and Hegel. The power of Rawls's work owes itself entirely to his creative reshaping of abstract philosophical arguments inherited from the Western tradition. Given this fact, it is important to recall that neither Locke nor Kant nor even Mill wrote at a time

[13] See my *We the People* and *The Future of Liberal Revolution* (New Haven: Yale, 1992).

when liberalism was ascendant in the "public political culture." Instead, they wrote with the intention of *changing* their cultures in profound ways.

So should today's political liberals. No nation on earth has achieved the kind of social justice to which political liberalism aspires. As a consequence, every existing political culture is papered over with thousands of apologetic documents that explain why justice cannot be done. This unhappy state of affairs is entirely consistent with the construction of an "overlapping consensus" on matters of political value. It is remarkably easy for men and women to forget their political principles in their eagerness to use state power for their own aggrandizement—and then write up fancy pieces of paper proclaiming their public virtue. Political liberalism would turn into provincial rationalization if it followed Rawls's advice. The fact that the sacred texts of American "political culture" deny citizens their fundamental right to a decent minimum income is part of the problem, not the solution. Similarly, Germany's recent decision to limit the right of political asylum represents a fundamental breach with liberal ideals—no matter how good the Germans turn out to be in producing public documents that propel their "political culture" in illiberal directions.

The task is to criticize political culture, not rationalize it; to change it for the better, and struggle against authoritarian regression. If this is true in those morally ambiguous polities which pass for "liberal democracies," it is even truer in those vast areas where liberal principles are treated with contempt. Political liberalism is a revolutionary doctrine, based on a radical idea—that men and women of different beliefs can establish a fair political system that grants all participants the equal right to live their own lives in their own way. The ultimate challenge of liberal philosophy is to show just how radical this idea is—by imagining worlds in which liberal citizens actually succeed in making this promise into a reality. Such imaginary worlds are, of course, light years away from the grim realities we confront. The distance is so great that it would be madness to use the conclusions of ideal theory as the unmediated basis for a practical action program.

Nonetheless, we urgently require utopian speculation. It is just too easy to abandon hope, and leave politics entirely to power-hungry cynics. Given the world as it is, the promise of liberal politics can only be made evident through acts of imagination. The bright image of liberal citizens successfully engaged in the project of public reason serves as a profound rebuke to the existing public culture—emphasizing areas where present polities fall grievously short, pro-

voking the more sober-minded part of our souls to consider whether, for all the difficulties, we cannot make some genuine steps toward realizing the promise of equal freedom for all.

It is especially important to revitalize the speculative side of liberalism today, after the long hard night of the twentieth century. During the struggles with Nazism and communism, it was hard enough for liberals to preserve the status quo against the onslaught of totalitarian pretension. Understandably, this long period of defense led many sober minds to decry the ease with which utopian thought can be perverted into an apologia for mass murder and crushing conformity.[14] But after 1989, another danger will become increasingly clear—deprived of the moral challenges of the cold war, status quo liberalism may easily degenerate into the cynical pursuit of self-interest, yielding a politics that will entirely discredit liberalism's revolutionary promise.

I am therefore entirely unrepentant about the emphatically utopian tone adopted by *The Liberal State.* On countless occasions, I have been asked—often with poorly concealed condescension—whether it really makes sense to begin political philosophy by imaging that you and I were on a spaceship whose aim is the colonization of a new world. But we *are* on a spaceship. It is called the planet earth. While this world is laden with ancient injustices, the liberal commitment to public reason should lead us to deny that the real is the rational. We must instead subject the existing political culture to comprehensive, if speculative, dialogic critique. This is the point of my utopian thought experiment.

Its rewards are brought into relief by contrasting it with Rawls's approach. I do not wish to exaggerate. Although Rawls says that he is merely elaborating the premises of existing political cultures, his conservative bark is worse than his bite. Nonetheless, there are crucial moments at which his deference to existing practice seriously compromises his vision. Most notably, there is the matter of state boundaries—our nasty habit of drawing magic lines and excluding those unlucky enough to be born beyond the pale. This technique provides rich people a priceless resource in their ongoing struggle to rationalize their holdings of unequal resources. Even when they recognize some kind of redistributive obligation to poor people within their own state, they refuse to recognize a comparable obligation elsewhere. Most white residents of Los Angeles, for example,

[14] See, e.g., Isaiah Berlin, *Four Essays on Liberty* (New York: Oxford, 1969); Friedrich Hayek, *The Road to Serfdom* (Chicago: University Press, 1944); Michael Oakeshott, *On Human Conduct* (New York: Oxford, 1975); Karl Popper, *The Open Society and Its Enemies* (Princeton: University Press, 1950).

recognize a duty to help poor blacks three thousand miles away in Harlem whom they have never seen. But when they encounter even poorer blacks in the flesh on their holiday in Jamaica, similar thoughts rarely come to mind. And so far as illegal Mexican immigrants in their midst are concerned, these aliens should be expelled immediately!

The Liberal State challenges this deeply entrenched political practice. It denies that rich Westerners can fence out their problems of justice merely by pointing out that foreigners are born "elsewhere" (LS 89–93). This does not imply that liberal states can never fence out. A sudden influx of millions of aliens may destroy the art of liberal politics itself, especially if these foreigners are untrained in the ways of liberal dialogue. Within the framework of dialogic liberalism, no individual right is more precious than the right of the liberal community to sustain the ongoing process of public reason that serves as the constituting matrix for all other rights. It follows that there may be some grounds for restriction in real-world states: too many immigrants flooding the country at one time might undermine the fabric of liberal discourse. But this escape hatch should be exercised with great care, given the ease with which it may be abused (LS 91–5).[15] If a limitation on immigration is acceptable at all, it must be accompanied by a massive increase in foreign aid (LS 256–7). Only in this way can we make it clear that, in limiting immigration, we reject the ridiculous proposition that liberal states can solve the problem of social justice by fencing out people who happen to be born "elsewhere."

Perhaps I am wrong about this, but at least my utopian thought experiment forces my readers to confront the question. Not so Rawls's version of *Political Liberalism:* "I assume that the basic structure is that of a closed society: that is, we are to regard it as self-contained and as having no relations with societies. Its members enter it only by birth and leave it only by death" (PL 12). Rawls admits that this move involves a "considerable abstraction," but insists that liberal thought should begin with the case of the completely closed society, totally insulated from other societies.

I could not disagree more. Rawls's move is deeply hostile to the larger aspirations of political liberalism. As we have seen, this project begins with the idea that pluralism "is a permanent feature of

[15] Given the nature of this exception, it is particularly difficult to justify the exclusion of immigrants who fought for liberalism in their native lands, and run the risk of punishment if forced to return "home." Given their sacrifices for liberal principles, there is no reason to suppose that their admission will undermine the vitality of liberal dialogue by the admitting state.

the public culture, and not a mere historical condition soon to pass away." While alien individuals and groups seem different from us, political liberals refuse to deal with the shock of disagreement by insulating their own group from the aliens. Down this path lies increasing xenophobia and violent repression. The challenge is to join strangers in a common project of political cooperation, grounded in a mutual recognition of each individual's equal right to be different. Rather than seek to include immigrants in this liberal process of public reason, Western nations deal with "aliens" by excluding them at the frontier. It is this choice of force over reason which makes present-day immigration practices a scandal of the liberal West. By beginning his thought experiment with the notion of a completely closed society, Rawls makes it easy to ignore this glaring injustice.

The assumption is also false to the facts of modern life. Reading Rawls's stipulation of a closed society in the evening, I reviewed the events of my day. Oversleeping my alarm clock made in Taiwan, I had hurriedly thrown on clothes manufactured variously in China, India, Italy, and England. I then sat down to my only All-American event: breakfast—glancing through *The New York Times* to read about the tragedy in Bosnia and the threats of nuclear attack from North Korea. I then jumped into my German car, speeding through the slums of New Haven, to spend a profitable morning pounding away at my Japanese word-processor in my Yale office. Lunch was at an Indian restaurant with friends who enthusiastically championed the latest crazy ideas coming out of Paris. I proceeded to the classroom to give a talk on justice to a large multinational student body, following this up with one-on-one conversations with four graduate students—two Americans, one Japanese, one Indian. My wife and I then went to dinner at a Chinese restaurant to hear friends describe their recent trip to Greece. I am sure Rawls's life is not too different, and that the typical day of a Dutch or Italian intellectual is even more cosmopolitan. Why, then, should we not begin analysis from the vantage point of an open society, rather than a closed one?

But, it may be objected, only effete upper-class intellectuals live like rootless cosmopolitans. Most Americans are much more insulated from the cultural and economic benefits of international exchange. This populist rhetoric is false to the facts. While the upper class gets distinctive benefits from cosmopolitanism, average people also profit greatly. This is the lesson of fifty years of successful free-trade policies. Moving beyond narrow economics, the culture of average Americans is not "made in the U.S.A." Even home-grown religions, like Mormonism and Christian Science, are unthinkable

without locating them in a more cosmopolitan context. If this is true of America, it is even truer in other nations.

What, then, justifies Rawls's culturally improbable, and morally problematic, postulate of closure? Rawls takes up this question in a recent essay on the "Law of Peoples." [16] He defends his premise on the ground that "peoples as corporate bodies organized by their governments now exist in some form all over the world. Historically speaking, all principles and standards proposed for the law of peoples must, to be feasible, prove acceptable to the considered and reflective public opinion of peoples and their governments" (LP 50). The last three words suggest how much Rawls has capitulated to existing political culture. Of course, government officials will not accept a fundamental critique of existing boundaries—their political power presupposes their legitimacy. Giving them a veto on the question of boundaries is like giving the rich a veto on the distribution of wealth.[17] Rather than pander to government officials, political liberals should try to convince "reflective public opinion" in all nations of the need to discipline state power by the rigorous demands of public reason.

Instead of furthering this enterprise, Rawls proposes a disasterous political compromise with authoritarian regimes throughout the world. According to him, we must distinguish between hierarchical societies that are "well-ordered" and the really bad places. The well-ordered hierarchies might be theocratic in their laws, authoritarian in their politics, and paternalist in their social organization. Nonetheless, the bosses of a "well-ordered" hierarchy sincerely believe that they are serving the common good, and are even prepared to consult with followers before using force to bring them into line. Better yet, they are prepared to give their citizens a (very) little bit of freedom before cracking down on dissenting activities.[18] Above all, they will not attack us good guys.

[16] In *On Human Rights,* Stephen Shute and Susan Hurley, eds. (New York: Basic, 1993), pp. 41–82. Henceforth cited as LP.

[17] Granting a veto power to government officials is especially surprising given Rawls's recognition that many boundaries are "arbitrary . . . from a historical point of view" (LP 56–7).

[18] Rawls's grudging notion of human rights is conveyed by his grim insistence that "well-ordered" hierarchies must provide "at least certain minimum rights to means of subsistence and security (the right to life), to liberty (freedom from slavery, serfdom, and forced occupations), and (personal) property, as well as to formal equality as expressed by the rules of natural justice (for example, that similar cases be treated similarly)" (LP 62). Other passages stipulate that "individuals do not have the right of free speech as in a liberal society . . . [but] they have the right at some point in the process of consultation to express political dissent" (LP 62). They are also vouchsafed "a measure of liberty of conscience and freedom of thought, even if these freedoms are not in general equal for all members

So long as authoritarians satisfy these very minimal minima, Rawls urges liberal states to reach a principled understanding with them. The veil of ignorance provides the crucial means for defining the terms of the new world order. Representatives of "well-ordered" states should put themselves behind a veil in which they do not know whether they come from liberal or hierarchical polities. Unsurprisingly, this veiling procedure generates a Rawlsian social contract that consolidates the right of authoritarian states to oppress their dissenting citizens—so long, that is, as they remain "well-ordered" and use the "rule of law" when throwing their troublemakers into jail.

Even within the limited horizons of 1994, Rawls is much too accommodationist. The short list of human rights enumerated by his "law of peoples" is embarrassingly impoverished when contrasted to the pronouncements of the Universal Declaration of Human Rights.[19] After 1989, liberals can and should insist on taking the declaration seriously in the emerging law of nations.

But Rawls is not playing the hard-nosed foreign policy analyst. He is saying that it is right in principle for liberal states to make a social contract with "well-ordered" authoritarianisms. To support this claim, he occasionally indulges in relativistic disparagement of liberal principles (LP 65, 66, 69, 70). But I fail to see why relativism should be dispositive even if I were convinced that it was true.[20] The fact is that none of Rawls's "well-ordered" hierarchies will be free of natives who are themselves inspired by liberal ideas of liberty and equality. There is no Islamic nation without a woman who insists on equal rights; no Confucian society without a man who denies the need for deference. Sometimes these liberals will be in a minority in

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of society" (LP 63). Given this bleak picture, it is perfectly understandable that Rawls insists that his "well-ordered" despotism "must allow for the right of emigration" (LP 63). Unfortunately, he does not attempt a sustained discussion of the obligations of liberal states to admit these and other emigrants.

[19] The Universal Declaration begins with the ringing statement that "all human beings are born free and equal in dignity and rights" (art. 1), proceeds to bar "discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (art. 2), insists that "everyone has the right to take part in the government of his country, directly or through freely chosen representatives" (art. 21), and defines many other rights that go far beyond Rawls's notion of a "well-ordered" hierarchy. The International Covenant on Economic, Social, and Cultural Rights—which entered into force in 1976 with the assent of leading nations of all areas of the world—guarantees economic rights that also go well beyond Rawls's very cautious remarks on this subject (see n. 23). The relevant documents are collected by Louis Henkin et al., eds., *Basic Documents Supplement to International Law,* (St. Paul: West, 1987, 2nd ed.), ch. 12.

[20] I defer a discussion of this matter to another time.

their native lands; but given the way Rawls defines a "well-ordered" hierarchy, it is even possible that native liberals might be in a majority. Given these facts, the West must choose, and why should we choose to betray our own principles and side with the oppressors rather than the oppressed?

Please do not invoke the alleged right of nations to resist interference from outside. Nationalism is no less a Western concept than the liberal ideal of public reason.[21] And it is a good deal less fundamental. If Westerners insist on using public reason to test the claims of their own nation-states, why should they turn a blind eye when liberals in other lands make the same demand?

Rawls is right to suggest that Western liberal states will not always be able to move beyond moralizing condemnation to effective action on behalf of human rights. But it is one thing for liberal states to confess a lack of power; quite another, to enter into a Rawlsian compact with "well-ordered" dictatorships which endows them with legitimate authority.

In addition to trendy relativism, Rawls invokes Kant to support his belief that: "a world government—by which I mean a unified political regime with the legal powers normally exercised by central governments—would be either a global despotism or else a fragile empire torn by frequent civil strife as various regions and peoples try to gain political autonomy" (LP 54–5). Even if this were true, I fail to see why it justifies anything more than a modus vivendi with oppressor states.

Nor am I impressed with Kant's credentials as the leading political scientist of the twenty-first century. It is true, of course, that we are a long way away from world federalism. Over the next generation, progress toward this distant goal will come, if it comes at all, at the level of regional federation. The most important struggle will be over European union. If the Europeans conquer the nationalistic madness of the twentieth century, and create a federal union, an even more expansive federation may not look so crazy to the next generation. If the Europeans fail, political liberalism is in for another age of anxiety.

This is, if you like, an unfashionably Eurocentric diagnosis. But Americans have an important role to play as well. We have also begun a regional project by redefining the boundaries of our free-trade area to include Canada and Mexico. If this initiative is successful, North Americans may find the political will to use it as the basis

[21] For a brilliant account of the genesis of modern nationalism, see Benedict Anderson, *Imagined Communities* (London: Verso, rev. ed. 1991).

of a more perfect union—in which the free movement of goods is followed by the free movement of people and then by the construction of a political federation. This project may take longer than the European experiment in federation. But we must learn to think big.

Rawls thinks small even within the boundaries of existing states. He tells us that an adequate constitution need not commit the polity to the pursuit of social and economic justice. It is enough to guarantee the classic liberal freedoms, "such as the right to vote and to participate in politics, liberty of conscience, freedom of thought and of association, as well as the protections of the rule of law," together with "a social minimum providing for the basic needs of all citizens." He denies, however, that the much stronger kind of equality guaranteed by the "difference principle" must be enshrined as a constitutional first principle.[22]

The reason? "The[se] matters are nearly always open to wide differences of reasonable opinion" (PL 229), and so the application of the Rawlsian difference principle will not generate the same degree of "agreement." True enough, but Rawls fails to note the opposite danger: without a constitutional commitment, and sustained institutional carry-through, the political process may not take the norm of economic justice seriously at all.

This is an especially serious danger, given the special sort of economic equality that Rawls and I favor. While both of us insist that people are entitled to an egalitarian starting point in life, we also believe that they should be free to engage in market transactions that will predictably generate a large degree of intragenerational inequality. This leads to the clear and present danger that each generation's market winners will use their economic power to induce the political process to favor their own children over kids who were unlucky enough to be born to poor parents.

It may be naive to suppose that any set of constitutional structures could effectively control this market-induced tendency to undermine the liberal state's commitment to starting-point equality. But without entrenching such an effort in the constitution, the pursuit of social justice is likely to turn into a pious fraud—as has been the case in the United States. It is essential, then, that a constitution make a determined effort to counterbalance the market's predictable erosion of the public commitment to social justice. Political

[22] Rawls later adds "freedom of movement and free choice of occupation" to his list of essentials, but distinguishes these freedoms from the fuller version of "equal opportunity" developed by his *A Theory of Justice*. Like the difference principle, an expansive conception of "equal opportunity" need not be constitutionally guaranteed (see PL 228–9).

liberals will, of course, reasonably disagree about the best practical way to implement egalitarian principles for each generation. But this should not serve as a reason for avoiding a solemn constitutional commitment in the first place. While the continuing effort to pursue social justice will generate lots of controversy, political quiescence should not be purchased at the expense of the worst-off class.

This turn away from equality was also the consequence of Rawls's "law of peoples," his first great compromise with the existing "political culture." By consigning most of the world's poor people to the tender mercies of "well-ordered" authoritarianisms,[23] by demoting the pursuit of equality from constitutional rank in the West, *Political Liberalism* drains *A Theory of Justice* of much of its practical force. Even by Rawlsian lights, the American constitution is not perfect. Unlike modern European documents,[24] it does not guarantee the "social minimum" that Rawls specifies as a "constitutional essential." Nor does this unhappy state of affairs show any sign of changing soon. Nevertheless, the gap between ideal and reality is not too too large, is it?

This is not philosophy, but apologetics.

IV. THE COMMUNITARIAN FOUNDATION OF LIBERAL RIGHTS

You have been witnessing a dispute within the family. It is best to conclude by returning to first principles and stating why Rawls is right to advance political liberalism (stripped of its conservative and statist gloss) as a genuinely important philosophical option.

Consider the present struggle between communitarians and liberals for intellectual ascendancy. This debate has now been reduced to stylized banality: "liberals," we are told, champion the abstract rights of isolated individuals; "communitarians" urge us to discover our concrete identities as committed members of ongoing communities; and on and on.

For political liberals, this tired debate is based upon a false dichotomy. Political liberals do *not* seek to ground rights directly upon any notion of abstract individualism, Kantian or other. Their fundamental appeal is to community, albeit a community of a special kind: one

[23] At one point, Rawls does suggest that his "law of peoples" imposes a duty on rich states to help the poor beyond their borders. This duty is not based on "some liberal principle of distributive justice," but on Rawls's claim that "well-ordered" authoritarian states must fulfil "basic human needs" (LP 76). Unfortunately, the derivation of this obligation is not transparent, nor is the method by which "basic needs" are to be identified. But the rigors of Rawls's doctrine could be ameliorated by the vigorous development of these suggestions. Surely the Rawlsian framework is capable of a more internationalist development; see Thomas Pogge, *Realizing Rawls* (Ithaca: Cornell, 1989), part 3.

[24] See, e.g., *Grundgesetz: Volume II, Kommentar,* Theodor Maunz and Guenter Duerig, eds. (München: Beck, 1991), art. 20.

in which members respect each others' deep disagreements, but are nonetheless determined to work with one another to build a form of public reason that will unite them in a common dialogue that all can share, despite their other differences.

The overriding aim is not to glorify the unfettered individual, but to construct a concrete form of identity that all community members can affirm in good conscience. To do this, we must design the role of liberal citizenship with great care, making it a loose-fitting garment that many can wear without grave discomfort as they enter the public forum.

This is why debates about the structure of public reason play a central role in the ongoing philosophical enterprise. It is only when citizens can come to terms about the appropriate models of public argument—using the veil of ignorance, the neutrality constraint, or other to-be-invented constructs—that they can proceed to the business of social justice. Having fashioned a civic discourse of public reason, they can use it in a common effort to control the basic structures of society that would otherwise evolve by mere force and accident.

Only at this stage does liberal talk of rights gain centrality. A citizen has a fundamental right to a resource when the balance of public reason decisively favors his interests over others. There are no such things as natural rights; only those which can be redeemed through the engaged conversation of liberal citizens, operating under a model of public reason that recognizes that a diversity of moral and religious ideals "is not a mere historical condition that may soon pass away."

Both Rawls and I believe that, if we reason together on this basis, our civic conversation will be more fruitful than many suppose. Rather than rapidly confront the bankruptcy of liberal culture, we shall move toward a deeper understanding of the requirements of liberal justice. These requirements are very onerous. They will require centuries of civic labor throughout the world; in the end, they will remain unfulfilled.

Yet political liberalism remains humanity's best hope in a world where cultural diversity is not only a fact of life, but a joy of living.

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[9] **Primitive Thisness and Primitive Identity**
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[12] **Some Remarks on Action and Desire**
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