

THE DEMOCRATIC FOUNDATIONS OF POLITICAL LIBERALISM

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One of the more difficult problems for political liberalism is knowing where to start. The ideal starting place, the initial premise for political liberalism, would be one which is acceptable to (almost) everyone. But seems not to be where Rawls begins his project in *Political Liberalism*.¹ Rawls states that “we start with the fundamental idea of a well-ordered society as a fair system of cooperation between reasonable and rational citizens regarded as free and equal.”² This is not a particularly neutral starting point. The non-liberal can legitimately worry that concepts like “fair system of cooperation,” “reasonable,” and “free and equal” are specifically liberal concepts, the use of which from the outset would rule out non-liberal conceptions of justice. This presents political liberalism with two distinct but related problems. The first worry is that political liberals may beg the question against non-liberals by helping themselves to “thick” liberal concepts in the initial steps of the inquiry, ruling out non-liberal views. The second worry is that, since political liberalism purports to offer a conception of justice agreeable to many disparate and conflicting views, using specifically liberal concepts from the outset would be unnecessarily exclusionary, making the argument for political liberalism run counter to its ideals and aims.

To avoid these problems, the liberal may look for a more inclusive starting point than a fair system of cooperation between reasonable and rational, free and equal citizens. One such starting point is democracy. Democracy, and the conception of state power that goes along with it, is acceptable to many disparate views, from competing political theories to comprehensive religious doctrines. Starting with democracy will provide a common ground for liberal and non-liberal theories to begin. But, as I will argue, many of the critical ideas in Rawls’s view, such as the status of citizens as free and equal or the notion of reasonable pluralism, are implied by this democratic foundation. We therefore have an initial premise which is acceptable to non-liberal views, and from which we may argue directly to political liberalism.³

There are several reasons why starting with democracy makes good sense. For one, that’s where we are right now. It is our *de facto* starting point, from which circumstance dictates we begin. Of course, the only “ought” we can derive from this “is” claim is a pragmatic one. Nevertheless, the fact that we live in a democratic society now gives us some reason to try getting to justice from here. Rawls shares this sentiment, referencing what Raz refers to as the “here and now,” and what Rawls terms “the ideas implicit in the public political culture of a democratic society.”⁴

Another reason for founding a political conception in democracy is that there is some historical, empirical evidence that democracies fare pretty well when it comes to justice. It would be absurd to suggest that democracy is inherently and/or perfectly just, or that all democracies have been basically just, or that there are no basically just non-democracies. The weaker claim I want to make is that democratic regimes have tended to have a better track record for justice on the whole. Many political philosophers, with perhaps the notable exceptions of Plato and Hobbes, have shown a trend tended toward democracies.⁵ And, more controversially, democracies seem to have done a better job than non-

democracies at realizing justice when viewed over the long-term. Of course, (to take just one example) the 133 years between the ratification of the US constitution and the passing of the 19th amendment shows us how much space can exist between a democratic government and a just government. Yet even so, it seems that democracies have tended, on the whole, to fare better than non-democracies with regards to justice.⁶

This point about the 19th amendment brings up an important question. We might say that the US was an unjust democracy for more than a century, or we could say instead that the US was simply not very democratic. This leads us to question what exactly we mean by democracy. I follow Rawls in defining “democracy” by reference to the operant conception of the state power. In a democracy, state power is the power of individual citizens as a corporate body, power in which all individual citizens have a share.⁷ Thus we can say that the US was unjust for much of its history in virtue of its being undemocratic; it prevented many of its citizens from exercising the political power to which they are entitled *qua* citizens.⁸ By conceiving of democracy in this way, we have a definition inclusive enough to include more specific political issues, such as the method by which individuals express their political power, how power is divided in the state and among citizens, and so on.

An important feature of this conception of democracy is that it is a conception of state power to which many interested parties could agree. For example, utilitarians and perfectionists could agree to this conception of state power, as the former might think it is the best way to secure the greatest overall welfare and the latter could consider individual political power an important ingredient or a prerequisite for the good life. The same pattern holds for some religious views: versions of Sunni Islam might ground the state’s power in the *ijma* (consensus) of the *ummah* (community of believers), and some Christians could view individual citizens as equal before the eyes of God.⁹ This conception of state power may even be acceptable to non-democratic political theories. Some versions of Marxism, for example, might take the power of individual citizens as a paramount, and see democracy as the best way to protect the individual and her labor. Similarly, Libertarians could agree that what little legitimacy state power has is derived from the power of its individual citizens. Even anarchists would agree to the fundamental priority of individual political power, though they might not equate it to democracy.

What we have, then, is a conception of state power which is an agreeable starting point for an impressively wide range of views. This is just the sort of starting point from which a politically liberal theory should begin. And, as we shall see, contained within the democratic conception of state power is all we need to construct a theory of political liberalism.

If state power is the power of individual citizens as a corporate body, it follows that a citizen must be the sort of thing that can have political power. One way of explaining the individual’s possession of political power is through Rawls’s political conception of a person. A person *qua* citizen has two moral powers: the power to have a conception of the good, and the power to have a sense of justice.¹⁰ It is in virtue of these moral powers that citizens are *free* and *equal*.¹¹ Persons are free in that they have and can exercise these powers, which makes them a self-authenticating source of valid claims on the state and on other citizens. Persons are equal in that, *qua* citizen, persons have the two moral

powers to the requisite degree for participation in a democratic regime. Citizens, as free and equal persons, are politically autonomous: they can conceive, develop, express, and change their views about what the state ought or ought not to do, and can act on these views through democratic political processes. This is what it means for an individual to have political power, and it is on these actions and abilities that the state's power is predicated.

In order for citizens to act politically in the way necessary for democracy, there must be certain individual rights to protect their ability to so act. Chief among these are the freedoms of conscience, expression, and assembly (in some form or another). These basic liberties are implicit in the public political culture of a democratic constitutional regime.¹² But more importantly, they are a necessary prerequisite for the individual citizen's exercise of political power. Without the protection of these liberties, the ability of citizens to exercise their moral powers could be infringed. This would prevent citizens from acting politically which would thereby undermine the democratic nature of the citizen's regime. In other words, a democracy is only a democracy insofar as its citizens exercise their individual political powers which the equal basic liberties protect.¹³

From the possession of the two moral powers and their protection by the equal basic liberties, it follows what Rawls calls the *fact of pluralism*.¹⁴ This fact states that there will inevitably be a myriad of views about the good and about justice, some of which are irreconcilable. Citizens are free to entertain and endorse (or reject) whatever views they are led to by the exercise of their moral powers. These views constitute *comprehensive doctrines*. So long as the ability to exercise their moral powers is protected, there will be citizens who hold a wide range of conflicting comprehensive doctrines.¹⁵ The central problem of political liberalism is to determine how persons with such diverse and conflicting views can live together on terms of mutual cooperation.

Because citizens are conceived of as free and equal persons, citizens are able to develop a range of comprehensive doctrines. Some of these citizens will disregard the status of their fellow citizens as free and equal persons by, say, holding that the citizens who belong to certain religions do not deserve the same political status as citizens who belong to their own religion. But many other citizens will acknowledge that as free and equal persons, all citizens have the same political standing. Such citizens take seriously the fact that in a democracy state power is the power of individual citizens as a corporate body, and therefore take seriously the political will of their fellow citizens. This means that, among other things, they will be willing to endorse only state practices that respect the political standing of all citizens, and will recognize that the differences in comprehensive doctrines among them are not merely the result of ignorance, bias, or the pursuit of self-interest. Rawls calls the first of these conditions the criterion of reciprocity, which he explains as the willingness to propose and accept fair terms of cooperation with one's fellow citizens, even at the cost of one's own interests, provided others do likewise.¹⁶ The second condition is Rawls's burdens of judgment, the obstacles which may interfere with our powers of reasoning and judgment, such as conflicting or complex evidence, vagueness of concepts, or total life experiences which affect our conclusions.¹⁷ Citizens who recognize the criterion of reciprocity and the burdens of judgment are *reasonable persons*.

Reasonable persons hold reasonable comprehensive doctrines. Reasonable comprehensive doctrines are doctrines which are compatible with a conception of justice which respects the political power of all individual citizens. For example, a reasonable theistic comprehensive doctrine might hold that all people are created by the same god, therefore making the infringement of their political rights contrary to god's will.¹⁸ A reasonable secular comprehensive doctrine might hold that there are no relevant biological or sociological conditions which would justify treating one group of people differently than another politically. Such reasonable comprehensive doctrines do not accept policies or positions which infringe on the political rights of individual citizens. But there will still be a wide range of reasonable comprehensive doctrines, given the two moral powers of citizens and the equal basic liberties which protect them. Thus we are presented with what Rawls calls the *fact of reasonable pluralism*.

It is a short step from reasonable pluralism to an overlapping consensus on a conception of justice.¹⁹ Such a conception of justice would be acceptable to all reasonable comprehensive doctrines, because it would respect the political power of individual citizens in a way compatible with reasonable comprehensive doctrines. For example, both the theistic and secular comprehensive doctrines mentioned above would be able to accept the same conception of justice, because both doctrines are committed to respect for the political autonomy of individual citizens. Despite their irresolvable disagreements on a range of other issues, the same conception of justice can be endorsed by both views. A conception of justice is limited in scope (limited, in Rawls, to constitutional essentials and matters of basic justice), allowing it to fit in many comprehensive doctrines. This makes it, in Rawls's terms, "modular" or "free-standing."²⁰ Though the conception of justice will relate to comprehensive doctrines in many different ways—sometimes entailed, sometimes related, sometimes merely not conflicting—it nevertheless remains that the same single conception of justice can be accepted from within conflicting comprehensive doctrines. In other words, the many reasonable comprehensive doctrines reach an overlapping consensus. We are thus able to provide an answer to the fundamental question of political liberalism: How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?²¹ The answer: They reach an overlapping consensus on a single conception of justice, a conception which is acceptable to all of them. This conception forms the basis for their constitution and the basic structure of their social institutions.

If the moves I have just made are valid, then the political liberal has an argument from democracy to overlapping consensus. From there it would be short work to develop other important points like the liberal principle of legitimacy which states the conditions the state must meet to coerce its citizens or public reason which states the methods by which citizens strive to realize the good politically. Then we may construct a conception of justice, be it Rawls' Justice as Fairness or some other liberal view.²² But rather than continue to advance the argument toward these ideas, it may be more advantageous to take stock of where we have arrived. The non-liberal might plausibly think that this argument from democracy is too easy. So having laid out the argument, albeit in a perfunctory way, the burden lies on the liberal to defend the argument against possible criticisms. Though such criticisms are undoubtedly many, I will focus here on what I take to be the strongest. This objection is essentially that the above argument makes the same

mistake I have accused Rawls of making. By beginning with democracy, the liberal helps himself to too much, beginning with a concept too substantive to serve as the correct starting place for political liberalism. If we assume democracy, the criticism goes, we assume everything political liberalism needs, thus begging the question again, though more subtly than before.

This first point to raise in response is that having the conclusions follow directly from an initial premise is a good thing. After all, the conclusion of any valid argument is contained in its premises; that is just what it means for an argument to be valid. So the simple fact that we can get to political liberalism from democracy should be seen as a virtue of the argument, as that is what we would expect to see in a valid argument. (Whether the argument actually is valid is, of course, another matter.)

A second, more substantial point is that the inclusiveness of democracy as a starting point casts the charge of begging the question into serious doubt. It is unclear how my argument for political liberalism begs the question if its initial premise is one which many other views also accept. Nothing about democracy inherently rules out the most serious competing political theories or comprehensive religious doctrines. As I noted, even non-democratic forms of government may be compatible with a democratic conception of state power. Of course, not all adherents to these views actually will start with democracy. But democracy does not exclude these views out of hand by assuming anything specifically and exclusively liberal. If this is so, then the accusation of *petitio principii* is off base.

A third, related response is that an argument toward non-liberal views could conceivably be constructed from the same starting point as I have used. A utilitarian, as I noted above, might justifiably think that the best way for the state to maximize the overall welfare of its citizens is by adhering to a conception of state power which is ultimately rooted in the power of individual citizens. Similarly, a perfectionist could argue that exercising one's political power is a critical component of individual flourishing, or at least a component of a state which promotes individual flourishing. If competing political views can construct arguments in favor of their positions from the same initial premises as political liberalism, then it is not at all clear why this starting point would give political liberalism an unfair advantage.

I would like to close by drawing attention to what I take to be an important feature of the argument from democracy to political liberalism. The *modus operandi* in constructing this argument is a microcosm of the *modus operandi* for political liberalism more generally. Liberalism seeks to find a conception of justice which can serve as a basis of broad agreement. This same concern motivates us to begin an argument for political liberalism which is as inclusive and uncontroversial as possible. This argument is not meant to offer incontrovertible proof that political liberalism is the only acceptable or most acceptable political theory. But it does give political liberalism a more preferable foundation than Rawls's starting point of a well-ordered society as a fair system of cooperation between reasonable and rational citizens regarded as free and equal. It is unlikely that this will convert many non-liberals to political liberalism. But it should stand some chance of persuading non-liberals that political liberalism is at least reasonable. That is all that liberalism strives for.

NOTES

1. John Rawls, *Political Liberalism* (New York: Columbia UP, 1993).
2. Rawls, *Political Liberalism* 103.
3. I should note that I do not intend to say anything about the specifics of a conception of justice. Rather, I mean to establish the conceptual space in which a conception of justice may be supplied. Political liberalism is prior to a conception of justice, and, as Rawls notes, there is a family of reasonable conceptions of justice, including but not limited to his own "justice as fairness." Thus the details of a political conception of justice may be put off for later discussion.
4. Joseph Raz, "Facing Diversity: The Case of Epistemic Abstinence," *Philosophy and Public Affairs* 19 (1990): 3-46; Rawls, *Political Liberalism* 13.
5. This claim may have the most weight only when referring to western political philosophers, but that does not indicate that there are not traditions approximating democracy in non-western cultures. There is a wide body of research suggesting that democracy did not originate solely in the west and that its recent proliferation cannot be explained solely through western cultural expansion and influence. See, for example, Brooke Ackerly, "Is Liberalism the Only Way toward Democracy? Confucianism and Democracy," *Political Theory* 33 (2005): 547-576; Shaun O'Dwyer, "Democracy and Confucian Values", *Philosophy East and West* 53 (2003):39-63; Yves Schemel, "Democracy before Democracy?" *International Political Science Review* 21 (2000): 99-120; Claude Ake, "The Unique Case of African Democracy," *International Affairs* 69 (1993): 239-244; Tashi Wangchuk, "The Middle Path to Democracy in the Kingdom of Bhutan," *Asian Survey* 44 (2004): 836-855.
6. My claim here is largely, though not fully, empirical. Assuming that we would know examples of just states when we see them, my claim is only as strong as the evidence to back it up. That said, I think a thorough historical survey would bear out my claim, though such a survey is obviously outside the scope of the present project.
7. John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: The Belknap P, 2001) 40, 90; *Political Liberalism* xliii, 62, 214.
8. This raises the very thorny issue of who counts as a citizen and on what grounds. I acknowledge the point only to set it aside for future discussion.
9. For a very helpful collection of discussion of "liberal Islam," see a collection of websites gathered by Charles Kurzman at <http://www.unc.edu/~kurzman/LiberalIslamLinks.htm>.
10. Rawls, *Political Liberalism* 19, 30, *passim*.
11. Rawls, *Political Liberalism* 19, 30, *passim*.
12. Rawls, *Political Liberalism* 6; *Justice as Fairness* 28.
13. Rawls, *Justice as Fairness* 112.
14. Rawls, *Political Liberalism* mxxiv 4.
15. There is a corollary to the fact of pluralism which Rawls call the *fact of oppression*. This fact states that the only way to prevent a pluralism of comprehensive doctrines is through the oppressive use of state power. See Rawls, *Political Liberalism* 37.
16. Rawls, *Political Liberalism* xlv 16, 50
17. Rawls, *Political Liberalism* xlvii 54-58

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18. It is important to keep in mind that what makes a doctrine reasonable or unreasonable is what the doctrine says about the treatment of one's fellow citizens, not the plausibility of the doctrine. Thus, a doctrine which holds that the Flying Spaghetti Monster says we should respect each other is reasonable (though implausible), while a doctrine which holds that the college educated should have more political power than the uneducated is unreasonable (though plausible [maybe]). See <http://www.venganza.org/about/open-letter/> for information on the Flying Spaghetti Monster.

19. Rawls, *Political Liberalism* 15; John Rawls, "The Idea of Public Reason Revisited," *Political Liberalism*.

20. Rawls, *Political Liberalism* 12, 145; *Justice as Fairness* 181-83.

21. Rawls, *Political Liberalism* xviii.

22. See note 3.