A Passage-driven Guide To Rawls's Political Liberalism

Compiled by J. Paul Kelleher

> *It is a great puzzle to me why political liberalism was not worked out much earlier: it seems such a natural way to present the idea of liberalism…Does it have deep faults that preceding writers may have found in it that I have not seen and these led them to dismiss it?*
> *—John Rawls*[1]

I spent years trying to understand John Rawls's writings on what he called "political liberalism." Eventually, I wrote a dissertation on the topic, and I created this document as an appendix. I would now shudder if anyone were to read the dissertation itself, but over the years others have seen the appendix and found it useful. It is a compilation of passages from Rawls's work, reordered to present a brief, clear picture of the point and nature of his political liberalism. (There are also a few supporting passages from related work by Thomas Nagel.)

Each entry is taken largely verbatim from the source cited, though I have at times added emphasis with italics or supplemented the passages with a sentence or two to explain a transition or to emphasize a point that has come before. Many of these supplements appear in brackets, but sometimes not. Sometimes a phrase is replaced by a more perspicuous equivalent used elsewhere by Rawls, often within a few pages of the relevant passage. These replacements are not signaled by any additional notation. I therefore encourage you always to check my passages against the original source if you intend to quote Rawls in your own work.

It has now been a long time since I was steeped in this literature, and I will be unable to defend all the choices I made when compiling the appendix. I apologize for any errors you might find.

Abbreviations:

Unqualified page numbers = PL = *Political Liberalism* (2nd ed.)
CP = *John Rawls: Collected Papers*
JF:R = *Justice as Fairness: A Restatement*
LP = *Law of Peoples*
EP = *Equality and Partiality* (Nagel)

[1] *Political Liberalism* (2nd Edition), p. 374n1.

1. Political philosophy for the domestic case begins by noting two features of the political relationship in a modern democracy (135f.):

    a. First, it is a relationship of persons within the basic structure of society, a structure of basic institutions we enter only by birth and exit only by death.
    b. Second, political power is always coercive power backed by the government's use of sanctions. In a constitutional regime the special feature of the political relation is that political power is ultimately the power of the public, that is, the power of free and equal citizens as a collective body.

2. As free and equal persons, citizens are both reasonable and rational. As reasonable, persons desire for its own sake a social world in which they, as free and equal, can cooperate with others on fair terms all can accept. As rational, persons possess powers of judgment and deliberation in seeking ends and interests of their own (50-51). This understanding yields a view of citizens as possessing two important moral powers, a capacity for a sense of justice and a capacity to form, revise, and pursue a conception of the good (19, 52).

3. As free and equal persons, citizens properly regard themselves as self-authenticating sources of valid claims. These claims citizens regard as having weight of their own apart from being derived from duties and obligations owed to society, and certainly apart from any role to which they may be assigned in a social hierarchy justified by religious or aristocratic values (32). In a democratic culture we expect, and indeed want, citizens to care about their basic liberties and opportunities in order to develop and exercise their moral powers and to pursue their conceptions of the good. We think they show a lack of self-respect and weakness of character in not doing so (77).

4. When free and equal, reasonable and rational citizens stand in the institutional context given by the two features of the political relation, there emerges a duty to ensure that the requirements of political justice and the ideal of citizenship are ones that people can understand and apply, and be sufficiently motivated to honor (xlvi n14, PL, 87).

5. Therefore, a liberal conception of justice is not reasonable in the first place unless in a suitable way it can win a reasoned allegiance by addressing each citizen's reason. (142, 143f.)

6. It is right to worry whether a conception could satisfy this condition in light of the fact that the government's authority cannot be freely accepted in the sense that the bonds of society and culture, of history and social place of origin, begin so early to shape our life and are normally so strong that the right of emigration does not suffice to make accepting its authority free. (222)

7. Nevertheless, we may over the course of life come freely to accept, as the outcome of reflective thought and reasoned judgment, the ideals, principles, and standards that specify our basic rights and liberties, and effectively guide and moderate the political power to which we are subject. This is the outer limit of our freedom. (222)

8. [This conception of political freedom introduces political liberalism's test for the adequacy of a conception of justice, the *stability test*. Testing a conception's] stability involves asking two questions: the first is whether people who grow up under just institutions—institutions that the candidate conception itself enjoins, which always include protection of the basic liberties—acquire a reasoned and normally sufficient sense of justice so that they generally comply with those institutions. The second question is whether in view of the general facts that characterize a democracy's public culture the political conception can be the focus of an *overlapping consensus*. (141)

9. An *overlapping consensus* is a consensus consisting of all the reasonable opposing religious, philosophical, and moral doctrines likely to persist over generations and to gain a sizable body of adherents *in a regime in which the criterion of justice is the candidate conception itself* (which, of course, includes institutions for the protection of the basic liberties). (10n9, 15; 141).

   a. Obviously the question of whether a conception can win an overlapping consensus is highly speculative, since doctrines which persist and gain adherents depend in part on social conditions, and in particular, on these conditions when regulated by the candidate conception of justice. Thus we are forced to consider at some point the effects of the social conditions required by a conception of justice on the acceptance of that conception itself (CP, 414). We hope, then, that reasonable comprehensive doctrines affirmed by reasonable citizens in society can support the conception of justice, and that in fact it will have the capacity to shape those doctrines toward itself (389).

10. A *political conception of justice* is a conception that is designed with the criterion of

stability—and its component criterion of overlapping consensus—in mind. (CP, 479f.)

11. A citizen engages in *public reason* when he or she deliberates within a framework of what he or she sincerely regards as the most reasonable political conception of justice. Thus, the content of public reason is given by a family of political conceptions of justice. (CP, 581)

12. The kind of stability required of a liberal political conception of justice is based, then, on its aim of being acceptable to citizens as reasonable and rational, as well as free and equal, and so designed to gain their reasoned allegiance, in accordance with the conception of political freedom. If a conception of justice were not expressly designed to gain the reasoned support of citizens who inevitably diverge in their more personal and particular ideals, plans and projects, it would not be liberal. (142-143)

13. This criterion of adequacy makes proper the *criterion of reciprocity*, which requires that when terms of shared governance are proposed as the most reasonable terms of fair cooperation, those proposing them must also think it at least reasonable for others to accept them as free and equal citizens and not as dominated or manipulated, or under the pressure of an inferior political or social position. (CP, 578)

14. Political liberalism's *principle of legitimacy* is, therefore, based on the criterion of reciprocity: Our exercise of political power—whether it be as a legislator voting in a senate or a citizen voting for a legislator or referendum—is proper only when we sincerely believe that the reasons we would offer for our political actions are sufficient, and we also reasonably think that other citizens might also reasonably accept those reasons. (CP, 578; see also PL, 137, 216f.)

15. Each of us must have, and be ready to explain, a criterion of what principles and guidelines we think other citizens as free and equal may reasonably be expected to endorse along with us. Of course, we may find that actually others fail to endorse the principles and guidelines our criterion selects. That is to be expected. (227)

16. [Commentary by PK: It is therefore important to keep distinct *two* different notions of legitimacy in political liberalism.]

a. [The first, as Rawls says, is intimately connected with the criterion of reciprocity and the moral duty to advocate only that which one sincerely

believes belongs to the most reasonable political conception of justice. Let us rename this principle, described above, the *principle of advocacy-legitimacy*.]

b. [A distinct notion of legitimacy comes into play when citizens disagree with each other about which conception of justice satisfies the principle of advocacy legitimacy. In this situation,] when all reasonable citizens advocate for and vote on the basis of what they take satisfy the principle of advocacy legitimacy, the legal enactment expressing the opinion of the majority *thereby* satisfies the *principle of legitimate law* and is morally binding on all and is to be accepted as such—unless and until that enactment is replaced by another in the same democratic manner. (CP, 578).

17. It may be thought that a liberal political conception cannot use any ideas of the good at all. This must be incorrect, since the right and the good are complementary: no conception of justice can draw entirely upon one or the other, but must combine both in a definite way. Surely just institutions and the political virtues expected of citizens would not be institutions and virtues of a just and good society unless those institutions and virtues not only permitted but also sustained ways of life fully worthy of citizens' devoted allegiance. In a word, while justice draws the limit, and the good shows the point, justice cannot draw the limit too narrowly. (173-4)

18. [Given this, and combined with criterion of reciprocity and the associated principle of advocacy legitimacy, political liberalism therefore endorses] the *priority of right* which (in its general meaning) requires that the ideas of the good used must be "political ideas", that is, ideas tailored to fit within a political conception. (209)

19. [Where, then, do we begin the search for acceptable political ideas of rightness and goodness in order to work out a political conception of justice?] Justice as fairness [as a form of political liberalism] starts by looking to the fundamental ideas of society and person found in the public culture of a democratic society. These ideas are taken as central to the democratic ideal. (8, 13, 167; JF:R, 5)

20. By starting from these familiar ideas, the exposition of justice as fairness connects with the common sense of everyday life. But because the exposition begins with these ideas does not mean that the argument for justice as fairness simply assumes them as a basis. Everything depends on how the exposition works out as a whole and whether the ideas and principles of this conception of justice, as well as its conclusions, prove acceptable on due reflection. (JF:R, 5n5)

21. The job of the political philosopher, therefore, is to formulate an ideal of just and good constitutional democratic society to see whether it has force for us and can be put into practice successfully in the history of society. We strive for the best we can attain within the scope the world and human nature, as reasonable and rational, allows. (87-88).

22. Liberal political philosophy is, then, *realistically utopian*: that is, it probes the limits of practicable political possibility by asking, What would a just democratic society be like under reasonably favorable but still possible historical conditions, conditions allowed by the laws and tendencies of the social world(JF:R, 4)? Or, as Rosseau put it, the task "is to consider if, in political society, there can be any legitimate and sure principle of government, taking men as they are and laws as they might be" (LP, 13).

23. Yet some may wonder whether the idea of an overlapping consensus on any substantive conception of justice is utopian in the pejorative sense insofar as there may not now be sufficient political, social, or psychological forces to bring about an overlapping consensus (158ff.; CP, 440f).

24. To this we reply that the values of the special domain of the political normally outweigh whatever values may conflict with them. Political values are very great values and hence not easily overridden. (139)

25. And since one feature of citizens as free and equal is that they are viewed as capable of taking responsibility of their ends, citizens are thought to be capable of adjusting their aims and aspirations in light of what just background institutions require and provide for. Citizens are to recognize, then, that the weight of their claims is not given by the strength and psychological intensity of their wants and desires, even when their wants and desires are rational from their point of view. (33-34)

26. The question of whether an overlapping lapping consensus is utopian in the pejorative sense thus becomes the question: how might it happen that over generations the initial acquiescence in just institutions—as enjoined by the most reasonable conception of justice properly specifying the very great political values—as a *modus vivendi* develops into a stable and enduring overlapping consensus in which those principles themselves are affirmed? (CP, 440-1; see also JF:R: 37, 192-3; PL 158-68)

27. Political liberalism's conjecture is that as citizens come to appreciate what the

conception does, they acquire an allegiance that becomes stronger over time. They come to think it both reasonable and wise for them to confirm their allegiance. With this an overlapping consensus is achieved [and the conception is shown to satisfy the principle of advocacy legitimacy]. (CP, 444)

28. In this sense[—and as exemplified by the nature of the stability test—]political liberalism's notion of a realistic utopia is deeply institutional. It connects with the way citizens conduct themselves under the institutions and practices within which they have grown up and under which they have acquired a sense of justice informed by the governing principles of justice. (LP, 16, 13n2)

29. We therefore seek to frame a conception of justice that both seems defensible in its own right and is such that free and equal citizens can be brought—consistent with the protection of the basic liberties, of course—to support and endorse that conception, given good fortune and enough time to gain allegiance to itself. (JF:R, 37)

30. [Therefore, if, under favorable conditions—such as those required by the stability test or the institutionalization of a candidate conception as a *modus vivendi*—a conception of justice is in sharp tension with the ideal of collective loyalty grounded in reasoned allegiance to coercively imposed principles and ideals, that is a sign that it improperly places too many strains of commitment on citizens as free and equal, reasonable and rational.] These strains of commitment reveal tensions between its requirements and citizens' legitimate interests (17).

31. While a moral theory may condemn the world and human nature as too corrupt to be moved by its precepts and ideals, a political theory, which purports to justify the coercive impositions of unavoidable institutions, must fall under the art of the possible (JF:R, 185; CP, 486).

32. [A few assists from Nagel:]

a. One should think of political theory as an enterprise of discovery—the discovery of human possibilities whose coming to actuality is encouraged and assisted by the discovery itself. We are in the business of imagining the moral future, with the hope of contributing to its realization. (EP, 6)

b. Ethical argument reveals possibilities of moral motivation that cannot be understood without it, and in political theory these possibilities are elaborated through institutions to which people are able to adhere partly because of their moral attractiveness. (EP, 26)

c. But this inevitably carries the risk of pejorative utopianism since we may tend to describe a form of collective life that humans, or most humans, could not lead and could not come to be able to lead through any feasible process of social and mental development. The real nature of humans and human motivation always has to be an essential part of political theory. (EP, 6-7)

d. Therefore while what is right in politics must be possible, our understanding of what is possible can be partly transformed by arguments about what is right (EP, 26).

e. If we cannot, through moral theory and institutional design, reconcile an impartial concern for everyone with a view of how each individual can reasonably be expected to live, then we cannot hope to defend the general [advocacy-legitimacy] of any political order (EP, 8).

33. The difficulty is that beyond the lessons of historical experience and such bits of wisdom as not relying too much on scarce motives and abilities (say, altruism and high intelligence), there is not much to go on. History is full of surprises. (PL, 87).

34. The problem here is that the limits of the possible are not given by the actual, for we can to a greater or lesser extent change political and social institutions, and much else (JF:R, 5). Human nature and its natural psychology are permissive: they may limit the viable conceptions of persons and ideals of citizenship, and the moral psychologies that may support them, but do not dictate the ones we must adopt. (PL, 87)

35. By showing how the social world may realize the features of a realistic utopia, political philosophy provides a long-term goal of political endeavor, and in working toward it gives meaning to what we can do today (LP, 128). It provides guidance in thinking about how to deal with existing injustices. It helps to clarify the goal of reform and to identify which wrongs are more grievous and hence more urgent to correct (JF:R, 13; CP, 490). [In short, it helps identify permissible public reasons.]

36. The idea of a realistic utopia reconciles us to our social world and human nature by showing us that such a society can exist somewhere and at some time, but not that it must be, or will be (LP, 127). [It therefore defines the outer limits political justifiability, and therefore the outer limits of political freedom.]

37. By contrast, a free democratic society governed by a comprehensive doctrine[—such as a religious doctrine or a philosophical doctrine attractive to only those characterized by high intelligence or self-effacing altruism—]is surely utopian in a pejorative sense. Achieving it would, in any case, require the oppressive use of state power to cultivate the loyalty of its citizens (CP, 490). To retain hopes and aims for this form of government would be inconsistent with the idea of equal basic liberties for all free and equal citizens (CP, 590).

38. For example, consider appeals to desert in discussing fair distribution of income: people are wont to say that ideally distribution should be in accordance with desert. What sense of desert do they have in mind? Do they mean that persons in various offices should have the requisite qualifications and all should have a fair opportunity to qualify themselves for favored positions. That is indeed a political value. But distribution in accordance with moral desert, where this means moral worth of character, is not. It is not a feasible political and social aim. (CP, 586-587)

39. None of this [talk of realistic utopias and the discovery of the limits of political justifiability] may ease our loss, however, situated as we may be in a corrupt society. But we may reflect that the world is not in itself inhospitable to political justice and its good. Our social world might have been different and there is hope for those at another time and place (JF:R, 38).