

# Political Liberalism vs. “The Great Game of Politics”: The Politics of Political Liberalism

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How political is Rawls’s political liberalism? By calling his theory “*political* liberalism,” he means something, as he says, “quite different . . . from what the reader is likely to suppose.”<sup>1</sup> In particular, he distances his theory from the hurly-burly of electoral contests and the deal-making of legislative log-rolling. By “political”, Rawls mainly intends to contrast his theory with those that rely on metaphysical foundations. But Rawls’s theory is political in at least one ordinary sense: it is not meant to be *only* a theory. He does not intend to offer the kind of utopian account that stands across an unbridgeable gap from the sentiments, opinions, and institutions of everyday politics. On the contrary, as a “realistic utopia” his theory is a blueprint for a building that can in fact be built. What part does politics play in this picture? How much distance does Rawls put between political liberalism and “what the reader is likely to suppose”? Does politics as it is normally understood both popularly and in much democratic theory recede into the far distance? Does it disappear altogether?

There is a hint of Rawls’s disappointment with the actual practice of democratic politics and the qualities citizens actually display. The cautious distance he keeps from ordinary politics, parties, and partisanship is traceable in part to this persistent inadequacy of citizens. In the context of arguing that public attitudes should not determine what is just, Rawls confronts the uncertain hold that justice and public reason have on popular opinion. “Of course,” he reports grimly, “as things are, legislators must reckon with strong public feelings. Men’s sense of outrage however

irrational will set boundaries upon what is politically attainable, and popular views will affect the strategies of enforcement within these limits. But questions of strategy are not to be confused with those of justice.”<sup>2</sup> Citizens demonstrate their inadequacy, too, in matters that have nothing to do with basic justice, such that ordinary politics is not only unreasonable but irrational. Partisanship may be intransigent<sup>3</sup> and parties may be uncompromising in the way they divide the political world into allies and opponents: “much political debate,” Rawls laments, “betrays the marks of warfare . . . rallying the troops and intimidating the other side.”<sup>4</sup> Rawls notes that sensible proposals abound concerning, for instance, social security reform, health care reform, foreign aid, and human rights policy. “But as things are,” he says, “those who follow ‘the great game of politics’ know that none of these sensible proposals will be accepted.” The problem is as much with the citizenry as with leadership, for even “farsighted political leaders . . . cannot convince a misinformed and cynical public to accept and follow them.”<sup>5</sup>

We argue that although Rawls disdains the “great game of politics,” political liberalism needs and invites the regulated rivalry of partisan politics. The challenge for any ideal theory of politics is to ward off persistent disappointment with actual democracy enough to keep this need in view—to resist the temptation to conceive of a “realistic utopia” in which the *political* in political liberalism is just a term of art. Our synthetic interpretation of Rawls’s work makes Rawls’s opening to politics explicit by connecting his realistic utopia to the familiar institutions that political scientists and others generally associate with democracy.

Our assessment departs from criticisms of Rawls leveled by certain democratic theorists who, armed with the elusive notion of “the political,” charge him with shrinking in disgust from politics generally and action by “the demos” specifically.<sup>6</sup> They reject Rawls’s ideal of a “well-ordered democratic society”<sup>7</sup> because they see his concern with liberal constitutionalism and the structure of government, with stability and cooperation, as a failure to engage

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with the revolutionary potential of democracy. It reveals Rawls's tendency to "lobotomize the historical grievances of the desperate."<sup>8</sup> On this view, "the political" is properly understood as residing outside of the institutions of representative government and periodic elections; politics is a "mode of experience," "fugitive," radically unsettling, and resistant to the banal." From this standpoint, Rawls's "discourse of the authoritative" is antipolitical.<sup>9</sup>

Our quite different standpoint focuses on politics in the more concrete forms. Specifically, we take parties and partisanship as our touchstone for locating the politics of political liberalism. For political scientists, this touchstone is uncontroversial, since parties are an ineliminable part of modern democratic politics. The standard political science definition of democracy is government "chosen periodically by means of popular elections in which two or more parties compete for the votes of all adults."<sup>10</sup> Partisan reasons, motivations, and strategies are major forces in "the great game of politics" as it is actually played, and party competition remains a principal way in which voters can hold government, or at least their representatives, accountable.

At the same time, much contemporary normative theory renders parties and partisanship invisible. Parties remain "the orphans of political philosophy," as Schattschneider observed sixty years ago.<sup>11</sup> For instance, the most influential and persuasive ideal of democracy at work in political theory today—which Rawls identifies himself with—puts deliberation at the heart of democratic practice. In general, ideals of deliberation demote party and partisanship. From the perspective of the deliberative ideal, party loyalties are impediments to the kind of reflection that deliberation requires. Deliberative theories say "that in voting it is the role, perhaps the duty, of democratic citizens to express their impartial judgments of what conduces to the good of all citizens."<sup>12</sup> Deliberative democracy would seem to require shedding our partisan identities and perhaps restricting the place of parties in democratic decision making. There is a startling gap between the political science of democracy, which puts parties at the center of democratic practice, and the normative political theory of democracy, which demotes party and partisanship.

Rawls's theory in particular might seem to stand at such a distance from the contests of ordinary politics. To be sure, the fact of "reasonable disagreement" is the starting point of political liberalism. But these disagreements should not get political. It is because we disagree (and under conditions of freedom always will disagree) about the most important comprehensive moral, religious, and philosophical questions, that the problem of liberal justice is so difficult. The solution is neither to attempt to settle such disagreements, nor to let them leak into the political arena. The first would require the "oppressive use of state power," while the second would fail to recognize the "burdens of judgment," which should incline us to understand that

even fully informed conscientious persons in the full use of their reason may yet disagree, and that some of these disagreements must be cabined.

The solution looks to what Rawls calls an "overlapping consensus"—a commitment to political freedom and equality that citizens share despite affirming divergent comprehensive religious, philosophic, and moral doctrines. This agreement is not political in any ordinary sense. It does not refer to a provisional strategy by which we support terms of social cooperation simply because we are not (yet) powerful enough to force our comprehensive doctrine on others. Nor is overlapping consensus defined by the common point that numerous comprehensive moral, philosophic, and religious conceptions felicitously share, or a compromise point that is mutually acceptable because it is mutually advantageous. This sort of calculation that looks to citizens' comprehensive doctrines and then draws up a political conception of justice that strikes some kind of balance of forces between them "is not how justice as fairness proceeds" Rawls cautions; "to do so would make it *political in the wrong way*" (emphasis added).<sup>13</sup>

"Political in the wrong way" refers to decisions about fundamental questions of justice and constitutional essentials that are made and justified exclusively in terms of private interests, beliefs, and values—no matter that these are not naked preferences, selfish economic interests, or intense dislikes and hatreds but meaningful notions of what is right and true. Rawls instead looks to a category of reasons that can be shared by all citizens.<sup>14</sup> These are not reasons that simply happen to be shared by members of just any society but reasons drawn from the public culture of a constitutional democracy, which takes all citizens to be politically free and equal. By appealing to these reasons, we make political equality manifest.<sup>15</sup> Rawls calls these considerations "public reason." He drums this point home: the form and content of public reason "are part of the idea of democracy itself."<sup>16</sup> But how, precisely, does public reason operate in democracy? Who are the agents of deliberation in terms of public reason? If politics is to be insulated from disagreements of a comprehensive moral, philosophic, and religious nature, how much political contestation does public reason allow? Does it take the familiar political form of parties and partisanship?

Taking our cue from *A Theory of Justice*, where Rawls acknowledges that "the clash of political beliefs, and of the interests and attitudes that are likely to influence them, are accepted as a normal condition of human life," we argue on a basis of Rawls's writings as a whole that parties and partisanship are integral to political liberalism.<sup>17</sup> Indeed, parties are the most important public institutional expression of this disagreement. Parties are not merely accommodated by Rawls's theory, as a fact of commonsense political sociology or a concession to the gritty necessities of political life. Rather, they are essential to political liberalism *even* as an ideal—a fact that has

gone unnoticed. Parties are potential sites of deliberation that shape and also express what Rawls calls “public reason.” Most important, parties bridge the “background culture” of civil society and the “public political forum.”<sup>18</sup> By illuminating the meaning and tenability of this divide, parties can help reveal (indeed they can help construct) an overlapping consensus on matters of justice. The place of parties and partisanship illuminates the intimate connection between Rawls’s ideal theory and the everyday politics that is the focus of political science.

## Great and Small Parties

Public reason would be a severe constraint on democratic politics if it unambiguously limited the kinds of arguments and claims that could be advanced in the public forum or if it determined the outlines of acceptable political outcomes. At the extreme, a public culture guided by public reason might not need contestation and debate, for all would agree on the same reasons and all would favor the same outcomes. Rawls, however, clearly rejects this. Political liberalism does not posit a specific theory of justice capable of settling every controversial question. It is rather a broad category that contains a family of related political conceptions all committed to reciprocity, the priority of basic rights and opportunities, and the means to make effective use of freedoms.<sup>19</sup> As a result, the content of public reason, which is given by the ideals expressed by society’s basic conception of political justice, is also variable.<sup>20</sup> Rival conceptions of political justice and rival interpretation of principles of justice are consistent with public reason. These rival conceptions can serve as the basis for political organization and legitimate partisan differences.

Political liberalism accommodates parties, then, but insofar as political considerations are regulated by public reason, it is not open to just any kind of party and any sort of partisanship. Consider the historical distinction between “great” and “small” parties. Great parties, in Tocqueville’s description, “are those that are attached more to principles than to their consequences; to generalities and not to particular cases; to ideas and not to men.” Small parties, on the other hand, are small not in respect to size but because they appeal to particular interests rather than abstract principles, the ambition of office-seekers rather than real convictions. In Tocqueville’s view, small parties are the normal condition of non-revolutionary democratic politics.<sup>21</sup>

Public reason does not recognize the value of small parties and indeed is hostile to small-party politics. It forecloses particularist appeals to separate slivers of the electorate; one point of public reason is to supply a counterweight to fragmentation and hyper-pluralism. Political parties should not be “mere interest groups, petitioning the government on their own behalf,” Rawls insists;

“instead, to gain enough support to win office, they must advance some conception of the public good.”<sup>22</sup> From this standpoint, small parties include “catch-all parties,” those amorphous coalitions lacking coherent political identity, as well as undifferentiated parties that converge on the same centrist point in a Downsian fashion. Neither would fully satisfy the requirements of public reason.

Yet political liberalism is also hostile to “great parties” arising from rival fundamental claims about the best regime. They contest too much. Political liberalism presupposes that these questions have been settled in favor of the fundamentals of constitutional democracy, political equality, and reciprocity. It rules out (though it is an open question whether it outlaws) great radical and reactionary parties that exploit the electoral process in order to gain power and subvert democracy.<sup>23</sup> The “idea of loyal opposition” is just that—opposition loyal to constitutional democracy and to the view that opponents are reasonable rivals not enemies to be destroyed.<sup>24</sup> For a similar reason, political liberalism is hostile to great parties based on permanent cleavages of class or status.<sup>25</sup> These parties stand in effect for different societies. One society understood as a fair system of cooperation among free and equal persons is incompatible with parties based on presumptively permanent class or status divisions, especially when they are built into the structure of government or are fixed elements of a mixed regime. This is not to say, of course, that political liberalism derogates parties that *address* inequalities of class and status (or gender or ethnicity).

Finally, it is clear that political liberalism bars the sort of great parties whose aim is to advance religious, philosophical, or moral doctrines in public political arenas. Rawls operates from the Humean assumption that religious parties of principle “are more furious and enraged than the most cruel factions that ever arose from interest and ambition.” They bring madness, fury, unhappy and fatal divisions, misery and devastation.<sup>26</sup> Political liberalism “starts by taking to heart the absolute depth of that irreconcilable latent conflict [of faiths].” The observation that “the most intractable struggles are confessedly for the sake of the highest things”<sup>27</sup> underlies Rawls’s caution against “political in the wrong way.” It underscores his insistence that politics must avoid these conflicts as much as possible and aim to be regulated by uniquely political values strong enough to normally outweigh whatever nonpolitical values may conflict.

If public reason rules out both small parties that concern themselves with amalgams of interests for the sake of winning office *and* great parties that challenge liberal constitutionalism or are animated by permanent social cleavages or comprehensive doctrines, what sort of party and partisanship can it accommodate? Political liberalism embraces what we call “quasi-great” parties—parties of principle committed to constitutional democracy. These parties stand not for rival societies or regimes, but for rival interpretations of

political freedom and equality. This is political liberalism's adversarial ground.

We can clarify the place secured for parties in political liberalism by contrasting it to Rawls's earlier account of parties in *A Theory of Justice*, where he assigns them an explicit but severely truncated role. In general, majority rule (and, we assume, partisan contestation) is confined to technical questions over means rather than larger questions about ends. "Majority rule is adopted," Rawls says, "as the most feasible way to realize certain ends antecedently defined by the principles of justice."<sup>28</sup> The issues parties are invited to debate there, such as the national savings rate, are unlikely to arouse partisanship and are more amenable to expertise than to democratic deliberation.<sup>29</sup> Rawls's attention to parties in this connection is purely cautionary. "In practice, political parties will no doubt take different stands on these kinds of issues. The aim of constitutional design is to make sure, if possible, that the self-interest of social classes does not so distort the political settlement that it is made outside the permitted limits."<sup>30</sup> The larger questions left open by his theory, such as the choice among economic systems, reveal the diminished role of parties even more clearly. For instance, Rawls represents the choice between "property-owning democracy" and "liberal socialism" as one that should be decided solely in terms of their effectiveness: which system would "work out best in practice."<sup>31</sup> Again, the question does not concern ideals, but only which system will best secure the principles of justice as fairness, including the difference principle.

In *Political Liberalism*, by contrast, there is much more room for partisan contestation, and justice as fairness, rather than defining the ends for all political participants, is one among many reasonable political conceptions vying for support. The principle of equal opportunity is essential, but the specific conception of fair equality of opportunity that Rawls favors is not. Some social minimum is essential, but the difference principle is not. "These matters," he says, "are nearly always open to wide differences of reasonable opinion."<sup>32</sup> A political conception of justice may have "little to say about many economic and social issues that legislative bodies must regularly consider," he concedes.<sup>33</sup> Reasonable differences may also arise concerning the boundaries and exact content of agreed-on basic political rights and liberties.<sup>34</sup> The principle of religious freedom does not decide whether religious schools may receive public funds, for example, or whether some form of prayer in public school is permissible.<sup>35</sup> Sometimes the principles themselves are not clear.<sup>36</sup> Sometimes evidence is complicated, based as it often is on "speculative political and economic doctrines and upon social theory generally."<sup>37</sup> This is not to say that the latitude of political settlement on these questions is an opening to compromise or a balance of political forces, it simply indicates that public reason stops short of resolving even questions relating to

constitutional essentials.<sup>38</sup> The politics of political liberalism, in contrast to the politics of *A Theory of Justice*, is motivated in part by popular disagreement over rival conceptions of justice. In this way, political liberalism opens the door to quasi-great parties.<sup>39</sup>

## Deliberating Parties

Beyond inviting parties, political liberalism needs them because they do some of the work necessary for decision-making as regulated by public reason. Ideally, Rawls argues, citizens should not only offer arguments that they can 'reasonably expect other reasonable people' to accept, but also that these should not be *ad hoc*,<sup>40</sup> marshaled willy-nilly as electoral strategy or changing circumstances dictate. We should situate them in the most reasonable and "complete" political conception of justice we can advance. In presenting justice as fairness as "the idea of equality most appropriate to citizens viewed as free and equal,"<sup>41</sup> Rawls is doing—albeit with rare elegance and philosophic acumen—what he claims all citizens and officials have a duty of sorts to do: offer fair terms of social cooperation to others, "according to what they consider the *most* reasonable conception of political justice."<sup>42</sup>

Justice as fairness is the "most reasonable" account of justice for constitutional democracy, in Rawls's opinion, and deserves a "special place." But once again, it remains one view among others, and does not decide democratic outcomes in advance.<sup>43</sup> Although Rawls does not present justice as fairness or his interpretation of the difference principle as a partisan position, he acknowledges that it will be viewed in partisan terms. "As with any political conception, readers are likely to see it as having a location on the political spectrum," he notes; in the U.S. it is taken as "left-liberal"; in England, as "social democratic."<sup>44</sup> Rawls himself does not represent justice as fairness as a theory for the left that would be partial or incomplete unless challenged (and complemented by) a corresponding theory of justice from the right. As usual in his work, the adversarial politics of "actual liberals struggling against actual conservatives" is at best implicit.<sup>45</sup> Rather, he characterizes justice as fairness as "the best approximation to our considered judgments of justice and hence to give the most appropriate moral basis for a democratic society."<sup>46</sup>

That in Rawls's opinion his conception of justice is the most reasonable is not a mark of anti-politics but of what we call the "ethics of partisanship." Reciprocity and the duty of civility ask us to offer fair terms of cooperation that others, and not only like-minded partisans, can freely accept. Ethical partisans should not think of themselves as standing for merely part of the whole—this class, this region. They strive to stand for the whole, well-ordered society and so cannot understand themselves as partisans in the small-party sense. The ideal of



ethical partisanship asks that citizens represent themselves as partisans for a reasonable and complete view of justice. This would be a forbidding standard of democratic citizenship, were it not for institutional support that quasi-great parties offer.

Parties not only create coalitions for the sake of winning, they can also tether these coalitions to larger unifying political themes and principles. Parties give content and shape to rival political conceptions of justice and to rival interpretations of shared principles. Broad parties may also ease some of the serious conflicts of judgment or the inconsistencies on questions that we experience within ourselves.<sup>47</sup> This is not to say that parties form complete systematic conceptions of justice as political philosophers might, and as they are devoted to winning office, their commitment to a coherent political philosophy is episodic at best. Nonetheless, in democracy, parties do unique political work. “The clash of political beliefs, and of the interests and attitudes that are likely to influence them,” which Rawls accepts “as a normal condition of human life,”<sup>48</sup> do not spontaneously assume political form. Parties do not mechanically reflect fully developed conceptions of justice that exist antecedent to political activity any more than they simply reflect social cleavages or clashes of interest. Parties do more than organize beliefs, interests and attitudes for political purposes. They discover and define politically relevant differences; they create the terms of contest. Parties “take the initiative in proposing a line of division.”<sup>49</sup> Maurice Duverger suggested this in the host of metaphors he employed to capture parties’ creative force: they crystallize, coagulate, synthesize, smooth down, and mold.<sup>50</sup>

Political liberalism invites quasi-great parties as agents of public reason, and it has room for ethical partisanship. Missing from this accommodation of parties is a deeper view of parties and pluralism, a Burkean view, in which parties stand in a particular, mutually compensatory relationship to one another, as in left and right. The parties compatible with political liberalism cohere around a family of political conceptions of justice; they do not rest on or express more historical-minded notions of division such as the party of order and the party of progress. Nor are they connected to an underlying dynamic of politics.

Up to this point in our discussion, the quasi-great parties and ethical partisanship of political liberalism operate within the constraints of public reason. There has been no wide opening out to “the great game of politics” as it is usually understood. That opening is created by the relationship between what Rawls calls the “background culture” and the “public political forum.” In the following section we shall look at the space Rawls creates for public life without the constraints of public reason, and from this perspective we shall be in a position to recognize parties’ unique status as bridging institutions.

## Beyond Public Reason: The Two Footings and Faces of Political Parties

The “background culture” is Rawls’s term for the field of social relations and institutions outside the “basic structure” (e.g., the constitution, the structure of the economy, and the family).<sup>51</sup> The background culture is rife with associations that are nonpublic with respect to political society generally but public with respect to their members.<sup>52</sup> With some exceptions, the internal lives of these associations are constitutionally protected from regulation; the principles of justice do not apply there directly, and in these groups, “local justice” and the full range of nonpublic reasons holds sway.<sup>53</sup> Public reason regulates to varying degrees the public political forum, but it does not apply when individuals reflect on political questions in churches, universities, professional associations, scientific societies and—Rawls adds what is unusual in accounts of civil society—firms. Unlike many deliberative democratic theorists, Rawls does not make political liberalism dependent on democratic organization and deliberation in the intermediary associations of civil society.<sup>54</sup> He does not require congruence between public political society and civil society “all the way down.”<sup>55</sup>

This does not mean, as we might expect, that Rawls regards the political and nonpolitical domains “as two separate, disconnected spaces.”<sup>56</sup> The genius of constitutional democracy and the purpose of basic rights is to secure both two-way influence and two-way protection. The points of connection are precisely where democratic *party* politics comes into its own. Rawls’s claim that the domains are not separate is no mere sociological observation. It is a core assumption of political liberalism. When principles of justice do not seem to have a connection to our aims and purposes, even reasonable principles could not be rational for us personally, as concretely-situated individuals.<sup>57</sup> Thus, in the free associations of civil society, individuals exercise moral powers and experience the worth of basic liberties. The *content* of politics—the aims, issues, and materials of political rivalry—arises there. Associational life also generates the *motivation* for democratic participation—both the particular interest and identity aims of groups and the comprehensive doctrines from within which citizens affirm constitutional democracy.

Rawls has little to say about the institutions and processes that connect these domains, so the question remains: how do the elements of civil society enter public political life? For myriad associations (such as the Catholic church or the Jaycees) political engagement, when it occurs, and “voice,” when it is uttered, is an indirect adjunct of their primary purposes and defining activities. They are not professional interest or advocacy groups or self-styled “public interest groups” organized specifically to exert political influence. Their participation is occasional. The terms of public reason are typically compatible with but not

natural to their internal associational life, much less to their distinctive modes of advocacy and conflict. Rawls does not insist that such groups confine themselves to arguments made in terms of public reason *whenever* they speak to political matters in public forums, only that “in due course” they are expected to offer arguments that conform to public reason. For these associations and their members, determining *when* the constraints of public reason are required of them and *how* to heed the discipline of public reason reliably and appropriately is a burden.

With one foot in both the background culture and the public forum, parties are unique. They are both associations with roots in civil society and quasi-official actors in the electoral process and in government. They are the concrete manifestation of both the existence of two domains and their connection. The purpose of parties is to bridge these spheres. One way in which they bridge spheres is to provide an institutional framework for political engagement by nonpublic associations. Parties have as a principal purpose the creation and organization of partisans, often recruiting from the membership of other groups. Parties collect and politicize private identities and shape them into partisanship, which is best understood as a mix of direct identification with a quasi-great party and its public reasons on the one hand and identification with particular interest or identity groups in the background culture on the other.<sup>58</sup> Parties are thus connective as well as divisive; they draw elements of civil society together in part by means of unifying principles and objectives understood in terms of justice.

Parties have a foot in each sphere, and they have two faces; they are “bilingual.” As shapers and articulators of public reason, parties speak to *all* citizens as citizens, not as socially situated in this or that social class or income group or as having a particular comprehensive doctrine. They refine and generalize particularist appeals by casting them in terms appropriate to public reason. As agents of a publicly recognized overlapping consensus, they connect particular interests with general principles. As Rawls puts it, parties should not appeal “to each person’s or each group’s interests, *though at some point we must take these interests into account*” (emphasis added).<sup>59</sup> At that point, where interests and other particulars are legitimately taken into account, parties are permitted to trespass the boundaries of public reason, activate their disparate roots in civil society, and appeal to nonpublic interests, group identity, and religious understandings. Strategy, rhetoric, and all the normal business of the great game of politics have a place.

Outside of matters explicitly concerned with constitutional essentials and basic rights, and sometimes even there as we have seen, the line between interest and public reason cannot be discerned analytically; it is drawn and redrawn through the democratic process, in large part through the reasons offered by parties, which are agents of

this shifting understanding. Whatever conceptual distinction we draw between the background culture and the public forum, or between public and nonpublic reasons, in practice individuals and groups have a mix of purposes, considerations, and strategies they legitimately bring to bear on decision-making. Partisanship is a bridge formed by identification with a political position and its public reasons, on the one hand, and identification with supporting interest or identity groups in the background culture, on the other. Some slippage along this bridge is inevitable. Like Kant’s conscience, we cannot always know if we are sincerely engaged in public reasoning or have slipped into being political “in the wrong way.”

### The Great Game of Politics: Regulated Rivalry or Rehabilitation?

Is Rawls appreciative of this mix? Or is he merely resigned to it? Is the great game of politics a necessary complement to deliberation in terms of public reason, or a cause for profound pessimism about democracy? Owing perhaps in part to this estimation, Rawls’s deliberative democracy is not a strong participatory theory. The fair value of political liberty, he cautions, has more to do with well-designed institutions than vigilant citizenship. He expects that in a large modern state, the exercise of political liberty is bound to have a lesser place in most people’s conception of the good than the exercise of other basic liberties.<sup>60</sup> This is unregrettable. Rawls’s objective is to find resources to encourage a democracy that is political in the right way: regulated by public reason where it should be, and open to the great game of politics where appropriate. What does this require? We propose two interpretations: regulating democratic rivalry and rehabilitating democratic politics.

#### Regulating democratic rivalry

In some places Rawls takes a basically “defensive” view: political liberalism needs and accommodates parties and the “great game of politics,” provided it is well regulated. “The democratic political process is at best regulated rivalry,” he concedes.<sup>61</sup> The urgent concern is to correct the historical defect of constitutional government—its failure to regulate party competition in a way that ensures “the fair value of political liberty.”<sup>62</sup> Political liberties (speech, assembly, the vote) have a special urgency for Rawls: only these liberties are to be guaranteed their fair value.<sup>63</sup> He insists that formal guarantees—one person one vote, and eligibility to join parties and to run for elective office—do not ensure what political liberalism demands: fair opportunity *to influence the outcome of political decisions*.<sup>64</sup>

This is a severe demand, ultimately perhaps an incoherent one. For Rawls, it translates into overcoming the “curse of money” in elections by securing party independence

from large concentrations of private economic and social power. To ensure party autonomy he proposes banning private donations and publicly financing the political process; he also suggests free access to the public media and regulations of speech and press.<sup>65</sup> Rawls's singular focus on elections, parties, and "the curse of money" as obstacles to the fair value of political liberty rests on several distinct claims. He argues first that the constant pursuit of money to finance campaigns paralyzes deliberation.<sup>66</sup> The pleadings of groups with resources for candidates "are bound to receive excessive attention," and the wishes of the dominant interests poised to take over the public forum.<sup>67</sup> He also claims that private financing creates a misinformed and cynical public, so whether or not private funding amounts to corruption, it is corrosive. These are both contingent claims, which Rawls does not attempt to support; in fact, empirical evidence for them and for public financing as an effective corrective is contested.<sup>68</sup> Rawls's third and strongest claim is not empirical. Regulated rivalry among autonomous parties aims at equalizing the relative ability of citizens to affect the outcome of elections. Even if it falls short of giving practical force to the fair value of political liberty, what amounts to public restriction of the speech of some to enhance the relative voice of others makes the ideal of political equality vivid.<sup>69</sup>

To Rawls's critics, this approach to political inequality with its emphasis on the fair value of political liberty in the context of electoral institutions amounts to "an ideological project whose author is unaware that he has fashioned a disguise instead of a solution."<sup>70</sup> Critics claim that Rawls ignores underlying inequalities, that his focus on public financing of elections confuses or obfuscates cause and effect.<sup>71</sup> There is no reason to concede this point, for the thrust of Rawls's work aims to identify and ameliorate a range of social and economic background inequalities. Rawls's preoccupation with the fair value of political liberty is not evidence that for him, background inequalities "belong to the domain of the given."<sup>72</sup> Still, cordoning off the electoral process from background social and economic inequalities is *the* regulation Rawls would impose on democratic rivalry.<sup>73</sup> With this defensive measure in place, and within the constraints of public reason where they apply, the great game of politics can go on.

## Rehabilitating Democratic Politics

Yet Rawls's deepest hope for a "well-ordered constitutional democracy" that can be "understood also as a deliberative democracy"<sup>74</sup> appears to go beyond regulating democratic rivalry to transform it. In a thoroughly rehabilitated democracy, public reason can cover not only basic rights and constitutional essentials but all "highly divisive" matters in all public forums.<sup>75</sup> Ideal citizens deal with one another as independents; quasi-great parties and ethical partisanship dissolve. This interpretation of Rawls

invites Rousseau's question: how do we take citizens as they are, and remake them as his deliberative democratic ideal wants them to be?

Rawls's answer is to look to the educational force of a political conception of justice. "Embedded in political institutions and procedures, that conception may itself become a significant moral force in a society's public culture," he explains, adding: "a public political culture in which these fundamental conceptions and principles are embedded has a different political sociology than that of a procedural democracy."<sup>76</sup> This dynamic explains his thought that if society can resolve the most intractable struggles over comprehensive religious, moral, and philosophic conceptions ("the highest things") by public reason, other conflicts such as those stemming from differences in status, income, class, occupation, race, gender, ethnicity, "need not arise, or arise so forcefully."<sup>77</sup> He means that wide acceptance of the view of citizens as free and equal underlying public reason can help to relax the contentiousness of these other conflicts and create conditions for reasonable political settlements.

Rawls does not have much to say about how public reason "embedded in political institutions and procedures" operates as a morally transforming force. His sole suggestion is that judicial interpretations of the constitution by the Supreme Court, even when they are challenged in public, serve that educative purpose. The problem with this is not only that the Supreme Court is institutionally insufficient to transform a citizenry; it is rather with the very ideal of a realistic utopia in which conflicts arising from our differences "need not arise." Here we see the limits of Rawls's political imagination, perhaps even sheer unfaithfulness to the insights of political liberalism.

To appreciate the democratic pay-off that comes from the way parties bridge civil society and public decision-making is to see that parties release us to some extent from the demand that all citizens spontaneously identify *only* with the public good when they deliberate over public things. Parties appeal to interests and affiliations, but they link these with principles of justice. Sometimes this unifying conception is simply strategic—a way to make interests look respectable. But often enough what starts out as "simply talk" that serves "an ideological purpose" comes to exercise an independent force and shape public opinion.<sup>78</sup> Equally important, parties have a distinctive part to play in the moral psychology of democratic participation. If we find the strains of commitment excessive, Rawls observes, we fail to affirm principles of justice. We may be sullen and resentful and see ourselves as oppressed, even inclining to violent action. More often, "we grow distant from political society and retreat into our social world. We feel left out; and, withdrawn and cynical, we cannot affirm the principles of justice in our thought and conduct . . . those principles are not ours and fail to engage

our moral sensibility.”<sup>79</sup> Whatever the cause of disengagement, the corrective is political. Parties inspire us to combine and to “fight” in terms of the political conceptions they affirm: they create partisans. Partisanship is a principal motivation to engage in democratic politics, in the course of which we may begin to experience public reason and principles of justice as our own.

Disappointment overtakes the sympathy Rawls should have—on his own terms—for the familiar great game of politics and for the possibilities latent in party politics and partisanship. It should be enough to say, as Rawls does, that political liberalism allows that regulated rivalry of partisan politics is compatible with justice or legitimacy. Or to recognize, as Rawls does, that to strive for publicly based justifications for all the legislative questions would be “neither attainable *nor desirable*” (emphasis added).<sup>80</sup> Perhaps this is more sympathy for ordinary politics than any ideal political theory could fully underwrite or sustain, but it is consistent with a realistic democratic utopia in which the value of parties and partisanship is clear and irreplaceable.

## Notes

- 1 PL, 3.
- 2 TJ, 203.
- 3 Partisans are not always uncompromising, of course; as Hofstadter explains, the origin of the American party system was made possible in part by the constitution-makers’ experience doing business and their experience with discussion and concession; they were “justifiably proud of their flair for compromise.” Hofstadter 1969, 76.
- 4 JFR, 118.
- 5 Rawls 1999, 580–81.
- 6 For a good overview from Schmitt and Arendt to Wolin see Hauptmann 2004, 34–60. On Rawls, see Wolin 1996, 97–142 and Honig 1993, 126–61.
- 7 Rawls’s constitutionalism is challenged by deliberative democratic theorists on other grounds; see Gutmann and Thompson 1996, 35ff.
- 8 Wolin 1996, 106.
- 9 “Stability, cooperation, duration, and unified system seem but the yearnings of an ideology seeking repose,” *Ibid.*, 108.
- 10 Downs at 34. Also see Green, Palmquist, and Schickler 2002.
- 11 Schattschneider 1942, 16.
- 12 Freeman 2000, 375.
- 13 PL, 39–40.
- 14 Rawls 1999, 580, 580n21. Citizens should be committed to this standard of justification even at cost to their own interests in particular situations.
- 15 For a thorough discussion of different conceptions of public reason see Samuel Freeman 2000 at 371–418.
- 16 Rawls 1999, 573. In Rawls’s ideal free and equal citizens exercise ultimate political power as a collective body. PL, 214 ff. Authority to determine basic social policies resides in a representative body selected for limited terms by, and ultimately accountable to, the electorate. Constitutional norms may circumscribe and define its actions, but “in due course a firm majority of the electorate is able to achieve its aims, by constitutional amendment if necessary.” Also see TJ, 194–95.
- 17 TJ, 195–96.
- 18 Rawls 1999, 575, 591; PL, 13–14. Our interpretation depends on a reading of the Rawlsian corpus that sees *A Theory of Justice* (1971, 1999), *Justice As Fairness: A Restatement* (1999), and *Political Liberalism* (1993, 1996) as very distinct. While there are profound continuities linking these three works, they are not, in our view, three versions of the *same* theory. *A Theory of Justice* is best understood as a “comprehensive liberal conception” in that it covers a great deal of life beyond politics—including the character and motivations of citizens. It can, however, be restated in a purely political form, as Rawls has done in *Justice As Fairness: A Restatement*. Finally, *Political Liberalism* is neither a comprehensive liberalism like *A Theory* nor a political conception of justice like *Justice As Fairness*; it is a theory of legitimacy rather than a theory of justice. We find that all three works invite more of the “game of politics” than Rawls’s critics acknowledge, but this is especially the case with respect to *Political Liberalism*.
- 19 PL, xlix; Rawls 1999, 581–84.
- 20 PL, 226, 240–41; Rawls 1999, 582.
- 21 Tocqueville 2000, 167. Tocqueville’s complex view of parties is beyond our scope; for example, the extent to which he viewed Jacksonian parties through the lens of French revolutionary parties and the July monarchy. Tocqueville’s view of small parties is strikingly similar to John H. Aldrich’s characterization of American parties: his “basic argument is that the major political party is the creature of the politicians, the ambitious office seeker and officeholder” (Aldrich 1995, 4). With respect to “small parties,” Tocqueville would agree: “All the skill of politicians therefore consists in composing parties: a politician in the United States at first seeks to discern his interest and to see what the analogous interests are that could be grouped around him; afterwards, he busies himself with discovering whether there might not by chance exist in the world a doctrine or principle that could suitably be placed at the head of the new association to give it the right to introduce itself and circulate freely.” Tocqueville, 168.
- 22 TJ, 195.



- 23 “Those who reject constitutional democracy . . . will of course reject the very idea of public reason,” Rawls says. “Political liberalism does not engage those who think this way.” Rawls 1999, 574.
- 24 JFR, 49.
- 25 We assume the same holds for parties based on permanent divisions of race, gender, or ethnicity.
- 26 Hume 1985, 63.
- 27 PL, 4.
- 28 TJ, 318.
- 29 TJ, 318.
- 30 TJ, 362.
- 31 JFR, 139; TJ, 242.
- 32 PL, 229. So much so that Wolin characterizes Rawls’s notion that inequalities must be “consistent with equal liberty and fair equality of opportunity” as “ironic”; see Wolin 1996, 109. Rawls argues that the essentials of basic freedom are more easily ascertained than principles governing social and economic inequalities, but he gives examples of latitude for both.
- 33 In resolving these “it is often more reasonable to go beyond the political conception and the values its principles express, and to invoke nonpolitical values.” PL, 229–30.
- 34 PL, 158–9.
- 35 Rawls 1999, 593, 601–2.
- 36 Inequalities that are to “everyone’s advantage,” Rawls acknowledge, are “ambiguous” and can be specified through various principles and institutionalized through various policies; the difference principle is, on Rawls’s argument, the most reasonable specification, but not the only reasonable one. TJ, 57, 175; PL, xlix.
- 37 TJ, 174.
- 38 PL, 240.
- 39 Erin Kelly objects that what Rawls refers to as “the disagreement bound to exist even among honest men who desire to follow much the same political principles” is not what we normally think of as a manifestation of partisanship (private communication to the authors, June 3, 2004). Rival conceptions of justice have historically and continue to find expression in partisanship; one objective of this essay is to show that this is consistent with political liberalism. It is not necessarily the case that partisan disagreement about justice divides along lines of rival comprehensive doctrines. Advocates within political liberalism are partisans, not simply individuals engaged in reasonable political disagreement, because they advance their positions within the institutional framework of an electoral system and are identified with political parties.
- 40 Rawls 1999, 578, 585–6.
- 41 JFR, 49
- 42 Rawls 1999, 576, 578, 581.
- 43 Rawls 1999, 582n27.
- 44 Rawls, “Preface for the French Edition of *A Theory of Justice*, in Samuel Freeman, ed., *Collected Papers*, 415–16.
- 45 Hampshire 1993: 43–47 at 44.
- 46 Rawls 1999, 614.
- 47 JFR, 30.
- 48 TJ, 195–96.
- 49 Manin 1997, 226. Manin speaks of representatives rather than parties but the point holds for both.
- 50 Duverger 1963.
- 51 See Iris Young in this volume.
- 52 JFR, 92.
- 53 JFR, 11; 73n41.
- 54 Gutmann and Thompson 1996, 359; deliberative democracy depends on “the support of the whole range of intermediary institutions—those that act on citizens (such as the media, health care organizations, professional sports), those in which they act (interest groups, private clubs, trade unions, professional associations), as well as those in which they work (corporations, small businesses, government agencies, military services).”
- 55 For a discussion of Rawls in this connection, see Rosenblum 1998, chapter 1.
- 56 JFR, 166.
- 57 Krause 2005.
- 58 The classic account is *The American Voter* (Campbell, Converse, Miller, and Stokes 1960, 146–49); In *Partisan Hearts and Minds*, Green, Palmquist, and Schickler defend affective partisanship, though they incorporate a larger reflective component than that described in *The American Voter*. Partisans differ from ideal deliberators in other ways as well. They are often “followers of a man.” And partisan identity (“party ID”) continues to reflect not only sober reflection but also unthinking affective ties to family and social groups.
- 59 Rawls 1999, 607.
- 60 PL, 330; JFR, 142 ff. It is a contingent political matter and a matter of institutional design to what degree citizens must be politically active to preserve basic liberties.
- 61 TJ, 199.
- 62 TJ, 198.
- 63 JFR, 149.
- 64 PL, 326–7.
- 65 JFR, 149ff.
- 66 Rawls 1999, 580.
- 67 TJ 198.
- 68 See for instance the contesting expert witness testimony for defendants and plaintiffs submitted to the Federal District Court for the District of Columbia in 540 U.S. *McConnell v FEC*, which consolidated suits challenging the Bipartisan Campaign Finance

Reform Act of 2002. Available at the web site for Campaign Legal Center, Washington, D.C., <http://www.campaignlegalcenter.org>.

- 69 “The First Amendment no more enjoins a system of representation according to influence effectively exerted in free political rivalry between unequals than the 14th Amendment enjoins a system of liberty of contract and free competition between unequals in the economy, as the Court thought in the *Lochner* era.” See PL, 362–3. Rawls interprets the Supreme Court’s decision in *Buckley v Valeo* as a rejection of Congress’ attempt to establish the fair value of political liberties. The latest S.C. opinion in this area, *McConnell v FEC* upholds legislation restricting soft money donations to parties but does not require public financing.
- 70 Wolin 1996, 119.
- 71 JFR, 131; 128–9.
- 72 Wolin 1996, 101. Rawls acknowledges that neither fair equality of opportunity nor the difference prin-

ciple is sufficient to prevent threats to political equality: JAF, 60, 150, 129; see 161 for a defense of progressive taxation prevents accumulation of wealth inimical to background justice. Fair value also requires an unspecified baseline of education and resources; here too, Rawls is in a large company of democratic theorists. *Justice as Fairness* is explicit on the inadequacy of a social minimum, at 130.

- 73 Sullivan 1998, 311.
- 74 Rawls 1999, 579–80.
- 75 JFR 41n1, PL, 215.
- 76 JFR, 147; 148.
- 77 Rawls 1999, 612.
- 78 JFR, 79.
- 79 JFR, 128. The context of this is a discussion of the “lowest social minimum” consistent with the strains of commitment. We have taken it from the argument against restricted utility.
- 80 JFR, 91n13.