

Political Liberalism, Political Independence, and Moral Authority

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As I use the term here, the central component of *political liberalism* holds that political institutions are not to be guided by substantive principles of the good about which reasonable people may disagree. If a particular policy or institutional action is a requirement of justice, this cannot be because this policy or action promotes human welfare, well-being, or flourishing. Morality, on the other hand, isn't like this. Morality doesn't bracket substantive considerations about the value of human life in assigning moral obligations. It seems perfectly sensible to say that *if* it's the case that a particular action of mine would render many people's lives more valuable, this is certainly a moral reason to do it.

These two facts form the central tension I explore in this paper. Political liberalism, or so I claim, comes out with the short end. The general argumentative structure runs like this: first, under the sort of political liberalism at issue here, individuals can be subject to competing and conflicting *political* obligations and *moral* obligations. At a given time, someone can be morally required to ϕ , required as a matter of political justice to $\neg\phi$. Second, I argue that this fact creates a problem for political liberalism. Liberals are forced to either reject a sensible claim about the rational authority of moral requirements, or adopt a position that is incompatible with one of liberalism's central motivations.

1. *Political Liberalism and Political Reasons*

Before I begin the substantive argument of this paper, I want to characterize in a little more detail the view I characterize as "political liberalism". Political liberals accept what Stephen Wall calls "the bracketing strategy":

[I]n modern western societies there exists a multitude of conflicting, irreconcilable and reasonable religious, moral and philosophical doctrines. Taking this “fact” as a permanent feature of these societies, the [bracketing strategy] seeks to establish that it is unreasonable or inappropriate to use political power to advance controversial conceptions of the good society or to promote controversial ideals or values. Naturally, this claim leads proponents of the [bracketing strategy] to search for a conception of politics that all parties could reasonably accept, despite the beliefs and ideals that divide them.¹

The bracketing strategy holds that theories of political justice must be neutral with respect to substantive moral, religious, or evaluative principles. Of course, different versions of political liberalism will adopt very different forms of the bracketing strategy. Some will hold that *only* facts about welfare or the good life ought to be bracketed. Others hold that not only should facts about welfare be bracketed, but also any or all substantive normative, such as moral considerations. For the purposes of this essay, I construe the bracketing strategy as narrowly tailored: I discuss only those views that bracket facts about the value of human life, or about what makes for a good life rather than a bad one. Insofar as this covers virtually all versions of political liberalism, however, I take it that my discussion will address a wide range of such views.

One can clearly see the reasoning for a bracketed theory of political justice in Rawls. Broadly speaking, Rawls holds that any political theory must pass a crucial test. Any political theory must be endorsed by an “overlapping consensus” of reasonable “comprehensive doctrines”, i.e., particular substantive moral, axiological, and religious views.² However, this test will be failed by any non-bracketed political theory of justice (such as a substantive version of utilitarianism or perfectionism). Rawls’ central reasoning for this claim is the “fact of reasonable pluralism”: that there exist a broad array of reasonable comprehensive doctrines, and that agreement on any particular substantive view of, e.g., human flourishing will not be possible in modern constitutional democracies.³ Thus the “overlapping consensus” test, coupled with the fact of reasonable pluralism, generate the result “that

¹Steven Wall, *Liberalism, Perfectionism, and Restraint* (Cambridge: Cambridge University Press, 1997), 29.

²Rawls, *Political Liberalism* (New York, NY: Columbia University Press, 1995), 133-4.

³According to Rawls, the fact of reasonable pluralism is “the inevitable outcome of free human reason”. Rawls, 37.

the state is not to do anything intended to favor or promote any particular comprehensive doctrine rather than another, or to give greater assistance to those who pursue it. . . [B]asic institutions and public policy are not to be designed to favor any particular comprehensive doctrine.”⁴ Thus for Rawls, no acceptable theory of political justice will direct itself toward the promotion of reasonably controversial views of the nature of human flourishing or well-being: any theory that proposed to do so would not generate an “overlapping consensus”.

One further way to understand a bracketed political justice is to consider the sorts of facts that could count in favor of a requirement of justice to perform some action or undertake some policy. To put this in slightly more technical language, take the idea of a *reason*. Reasons are the sort of thing that count in favor of particular actions: they are considerations that help to determine their deontic valence. Of course, reasons come in many different flavors. There are moral reasons, prudential reasons (reasons, i.e., of self-interest), aesthetic reasons, reasons of etiquette and protocol, etc. In each of these individual domains, the relevant reasons will help to determine the deontic status of a particular action from the point of view of that domain. A moral reason to ϕ just is the sort of thing that counts in favor of a moral requirement or justification to ϕ . This reason could be outweighed, of course, by a stronger balance of moral reasons not to ϕ . Thus one way to state the bracketing strategy is as a substantive constraint on the sort of facts that could count in favor of a requirement of justice to perform particular actions, establish institutions, or embrace policies, etc. The first-order bracketing strategy will hold that the fact that a particular policy ϕ would improve the substantive welfare of the worse-off is *not*, or does not provide, a *political* reason, or reason of justice, to ϕ . (I should note here that I’m not offering a theory of what it means for something to be a reason. I am just stipulating that this is what I mean by “reason”.)

2. *Political Independence*

Moral reasons are like political reasons. A moral reason to ϕ just is the sort of thing that counts in favor of a particular moral deontic status for ϕ , in particular, justification or requirement. However, unlike political reasons, moral reasons are occasionally provided by substantive considerations of human welfare, flourishing, etc. The following view, for instance, seems to me extraordinarily plausible:

⁴Rawls, 193-4.

Welfare as Reason: That ϕ -ing will improve the quality of life for a person (or in other ways promote the flourishing of that person) is a moral reason to ϕ , which increases in strength as the number of persons whose quality of life is improved increases, and as the marginal increase in quality of life increases.

One doesn't have to be a consequentialist, or even a welfarist, about morality to accept *Welfare as Reason*. This reason could be overruled, perhaps even trivially overruled, by a wide range of agent-centered permissions, restrictions, etc. But it seems entirely implausible to believe that our moral obligations should pay no attention whatsoever to the effect our actions have on life quality. To see how plausible *Welfare as Reason* is, consider the following simple example. Imagine you are in a room full of buttons. You are forced to press some button or other (it could be any button). All other things *vis-à-vis* these buttons are equal, save for the fact that one of these buttons when pressed will substantially increase the life quality or human flourishing of one individual. It would seem wildly implausible to say that one has *no* moral reason to press this button. Furthermore, given that one has no choice but to press some button or other, it would seem highly plausible to say that this moral reason gives rise to a moral requirement: this reason is certainly strong enough to yield a moral requirement, and does not appear to be overruled by any contrary moral considerations.

Notice, however, that *if* we accept the bracketing strategy, the fact that this particular button increases the flourishing of some individual cannot be a *political* reason to press the button. Political reasons do not treat facts about the promotion of welfare or human flourishing as political reasons. If this is correct, then, it would appear that moral and political reasons are distinct. They can pull in favor of different actions. But, given the relationship between reasons and deontic requirement (from the perspective of any domain), it would appear that *if* moral reasons and political reasons tell in favor of different actions, we must accept the following principle:

Political Independence: Political requirements may conflict with moral requirements. One might have a requirement of political justice to ϕ , and a requirement of morality to $\neg\phi$.

Political Independence holds that, in certain cases, political requirements and moral requirements will conflict. The argument for *Political Independence* is relatively straightforward. Recall that the concept of a reason, in any particular domain, is the sort of thing that counts in favor of an action's maintenance of a particular deontic status, e.g., requirement. But if moral

reasons are distinct in kind from political reasons, there are potential circumstances in which moral reasons will tell in favor of ϕ -ing, and political reasons will tell in favor of ψ -ing. But if this is the case, it would appear that in such circumstances one would be morally required to ϕ , and required as a matter of political justice to ψ . But this just *is Political Independence*.

Furthermore, actual cases of such divergence do not seem to require any conceptual back-bending. Imagine, for instance, that a particular individual A stands in a context in which political reasons operate. Perhaps he is deciding whether to vote for a particular referendum; perhaps he is deciding which policy to support in a city council meeting, etc. Imagine that there are two policy options, ϕ and ψ . Imagine that ψ is more strongly supported by the balance of political reasons: imagine that, with respect to ϕ -ing, ψ -ing is favored by the set of considerations that are significant for a bracketed conception of political justice. Imagine, however, that ϕ -ing will, in fact, produce a greater level of individual well-being for all citizens. This fact, however, is not a political reason in favor of ϕ -ing: given the first-order bracketing strategy, political reasons are not influenced by the substantive facts of good lives for citizens. If that's the case, then it would appear that A has decisive political reason to ψ , decisive moral reason to ϕ , and hence A's moral and political obligations would appear, in this case, to conflict. *Political Independence* is not at all mysterious given the bracketing strategy. On this view, political reasons are not culled from facts about human welfare. Moral reasons are (at least some of the time). And so it would appear that moral requirements, which are simply determined by the overall balance of moral reasons, and requirements of political justice, which are simply determined by the overall balance of political reasons, can come into conflict.⁵ (I consider a method by which to reject *Political Independence* in §4. But given the divergent interests of morality and bracketed political justice, *Political Independence* is a natural enough conclusion to investigate

⁵One might think that I'm begging the question against political liberalism by insisting that there are distinct facts about the moral point of view that might compete with political justice. But notice that political liberals are not moral skeptics. For instance, in a manner to be explored, Barry himself believes that there is such a thing as moral obligation; it simply happens that political justice is a part of moral obligation. Furthermore, though Rawls himself accepts a form of "Kantian Constructivism" about the moral point of view, he does not deny that there are moral facts. He simply insists that moral facts are suitably constructed. (See Rawls, "Kantian Constructivism in Moral Theory" in *Collected Papers*, ed. Freeman (Cambridge, MA: Harvard University Press, 1999).) Hence insofar as *Welfare as Reason* is decidedly plausible, any second-order approach to moral theory should be compatible with it. Furthermore, and perhaps more importantly, if political liberalism is committed to the denial of *Welfare as Reason*, this view is a non-starter.

further.)

I should note that *Political Independence*, by itself, should not trouble the political liberal. After all, we can and do recognize non-moral requirements that can compete with moral requirements in individual cases. Consider, for instance, prudential requirements. Prudence requires one to maximize one's self-interest. But, except on the most implausible theories of individual welfare, advancing one's own self-interest in a prudentially optimal way will occasionally require one to perform immoral actions. Such conflict does not entail any problems whatsoever for the first-order theory of prudence that generates it. And so, at least so far, there shouldn't be any *per se* problem for political liberalism to be found simply in the truth of *Political Independence*.

3. All Things Considered

The analogy with prudential reasons is helpful and worth spending another paragraph on. In cases in which prudence commands us to perform some action (e.g., investing our paycheck in a market fund with modest but stable returns) and morality commands us to perform some alternative action (e.g., take our paycheck and donate it to assist distant needy strangers⁶), it is natural to ask: "what ought I to do *really*?" "Should I conform to moral or prudential obligations?" This is surely an everyday feature of normative inquiry. This question, or set of questions, is not asking for either the moral or prudential importance of investing versus donating. Those questions have already been answered: we *know* the relative moral and prudential importance of each. Rather, this question asks about the comparative practical or *all-things-considered* authority of prudence and morality: in a case of conflict between prudential and moral obligations, which has priority?

If *Political Independence* holds, the same question arises in the case of political obligations. There are at least some cases in which moral and political obligations will conflict. And hence it seems perfectly sensible to ask, in any case of such divergence, whether one ought to conform to moral or political obligations. And it is this question that, it seems to me, causes very serious problems for political theories that adopt the first-order bracketing strategy.

Importantly, there are constraints on what might count as an acceptable answer to this question. First, and most significantly, the proposal on the

⁶Note, of course, that the claim that such a thing is a genuine moral obligation is certainly controversial; I merely choose this example for illustration.

table must allow, at the very least, that conforming to moral requirements is *at least* all-things-considered *justified*. Sarah Stroud, for instance, writes:

We are inclined to take the fact that S was morally required to ϕ to be sufficient all-things-considered justification for her ϕ ing, even if ϕ ing was prudentially wrong, aesthetically unattractive, and so on. We generally accept moral necessity as sufficient reason for ϕ ing in such cases, as we don't for the deliverances of other evaluative perspectives. It is as if we took the reason-giving force of moral requirements to be strong enough to outweigh even the combined force of other evaluative evaluative perspectives on S's action.⁷

Stroud here is plumping for a principle one might identify as follows:

Permission: if x is morally required to ϕ at t , x has sufficient overall reason at t to ϕ .

Imagine how strange it would be to deny *Permission*. Imagine that I am morally required to perform some action, say, rescuing a stranger from drowning. Imagine, however, that there are other countervailing considerations: imagine that doing so would ruin my suit, or would render me late to my son's soccer game. However, if we assume for the purposes of argument that one is genuinely *morally required* to save this stranger, it would seem terribly odd to say that doing so is not justified overall. We might say, alternatively, that the other considerations in question might render some other actions, say, showing up to the soccer game on time, all-things-considered justified also. But it would be strange to hold that I behaved contrary to what I should, all-things-considered, do in saving the stranger from drowning *given* that to do so was morally required. Indeed, Joshua Gert declares that any account of the rational or fundamentally normative 'ought' we are so far discussing must "be consistent with the claim that, for agents who know all the relevant facts, no morally required action is ever irrational in the fundamental sense".⁸

It seems to me that we have uncovered one important constraint when it comes to a proper answer to the question we've been addressing so far. It would appear that any acceptable answer to the question of what one *all-things-considered* ought to do when confronted with conflicting moral

⁷Sarah Stroud, "Moral Overridingness and Moral Theory" in *Pacific Philosophical Quarterly* 79 (1998), 177.

⁸Joshua Gert, *Brute Rationality* (Cambridge: Cambridge University Press, 2004), 17.

and political obligations must at least accommodate *Permission*; it must at least be, in all cases, all-things-considered permissible to conform to moral requirement. Call this “the rationalist constraint”.

Second, any answer to the question of the rational authority of moral and political requirements must conform to the general motivation for the bracketing strategy. There are many such motivations. But one seems worth focusing on here: *stability*. The requirement of stability is a central feature of a political liberal’s interpretation of the “overlapping consensus” test. To see this, note that one way such a consensus could arise around a substantive comprehensive doctrine could be as a result of *bargaining*: a particular group might recognize that they could, in principle, achieve substantial advantages by simply agreeing to live according to a comprehensive doctrine that they do not accept. And hence an overlapping consensus could emerge around a substantive theory of human flourishing, for instance, despite the fact of reasonable pluralism. But notice that this method to achieve such a consensus is ruled out. According to Rawls (and other political liberals) the product of such a consensus would not be *stable*. In *A Theory of Justice*, Rawls introduces the idea of stability in this way:

Now a well-ordered society is also regulated by its public conception of justice. This fact implies that its members have a strong and normally effective desire to act as the principles of justice require. Since a well-ordered society endures over time, its conception of justice is presumably stable: that is, when institutions are just (as defined by this conception), those taking part in these arrangements acquire the corresponding sense of justice and desire to do their part in maintaining them. One conception of justice is more stable than another if the sense of justice that it tends to generate is stronger and more likely to override disruptive inclinations and if the institutions it allows foster weaker impulses and temptations to act unjustly.⁹

Notice that, for Rawls, the property of stability is one that holds *of conceptions of justice themselves*. For a conception of justice to meet the stability constraint, it has to be that a society well-ordered by its principles yields citizens who act on political requirements not simply for pragmatic reasons or as a simple *modus vivendi*.¹⁰ It must be that individuals are motivated

⁹John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 454.

¹⁰Rawls, *Political Liberalism*, xxxix-xl.

to act in accordance with the principles of said conception of justice *on the basis* of the principles of justice themselves. For Rawls, this is precisely the problem with views that reject the first-order bracketing strategy. As Jonathan Quong writes: “Political liberals claim that reasonable citizens will inevitably hold different conceptions of the good life or human flourishing. If liberalism is to be stable for the right reasons. . . the congruence of justice and the good cannot be understood in terms of any single account of human flourishing.”¹¹ On this view, the bracketing strategy is a *direct* implication of the requirement for stability: insofar as a firm commitment to a particular conception of human flourishing or well-being is unable to generate stability over time for the right reasons, we must adopt the bracketing strategy (at least in its first-order guise). Political reasons cannot be provided by substantive facts about the good about which citizens will reasonably disagree.

Before I move on, I want to point out one further thing about the extent to which theories of political justice will be stable. Generally the stability constraint holds that principles of justice ought to guarantee that reasonable people will have a normally effective desire to conform to principles of justice, i.e., that individuals with fully developed moral powers, who are committed to cooperating with others, etc., will act as the principles of justice require. But whether the stability constraint holds is not simply a matter of the first-order content of principles of political justice. It is *also* a matter of the *normative authority* of these principles. It is a matter, in other words, of the extent to which political principles ought to play a role in our deliberation concerning how to act. Given that this is correct, any conception of the relative importance of political and moral reasons must not generate the result that principles of political justice will not have any claim to stability voided. It must allow at least a reasonable expectation that there is *some* conception of bracketing-strategy-compatible political reasons that could realistically guarantee the stability sought in *defending* the bracketing strategy. Thus a theory of the all-things-considered force of principles of political justice must be sufficient to allow at least *some* set of political principles to guarantee the stability of justice for the right reasons.

I now return to the question that introduced this section. Is there an account of the nature of practical rationality, including the comparative normative authority of moral and political obligations, that can satisfy both the rationalist and stability constraints?

¹¹Jonathan Quong, *Liberalism without Perfection* (Oxford: Oxford University Press, 2011), 164.

3.1. First Answer: Act Politically

The first obvious answer to the question of whether one should conform to political or moral obligations is to conform to the political ones. All-things-considered, when faced with conflicting moral and political obligations, one ought to do the *just* thing, rather than the *morally required* thing.

However, this proposal violates the rationalist constraint. This proposal would hold that one does not have sufficient rational justification to conform to moral obligations. One could not, in other words, use the fact that one conforms to a moral requirement to ϕ as *sufficient* (let alone necessary) all-things-considered justification for ϕ -ing. And hence this view is in direct conflict with *Permission*. And while the denial of *Permission* is certainly coherent,¹² it is implausible enough to render this option difficult to swallow. And hence, on grounds that it violates the rationalist constraint, we should reject the call to conform to political rather than moral requirements, in cases of conflict between them.

3.2. Second Answer: Act Morally

The second option is to suggest that in a conflict between political obligations on the one hand and moral obligations on the other, one all-things-considered ought to conform to one's moral requirements.

This is also a perfectly coherent option, but it should not be attractive to those who accept the bracketing strategy. It violates the stability constraint. To see this, let me introduce a bit of terminology. Call individuals who conform to their all-things-considered obligations "upright". Upright people will do what they, on balance, or as a matter of practical reasons, ought to do. But if the answer to the question asked in this section is that upright individuals will conform to their moral obligations in cases of conflict, it would appear that it is not the case that upright individuals will "have a strong and normally effective desire to act as the principles of justice require." Though upright individuals may have at least *some* desire to maintain the principles of justice, this desire will be trumped by a desire to conform to moral obligations, a desire that will be effective when faced with conflict cases. Furthermore, even if cases of conflict are rare, the upright in-

¹²Some, in fact, hold this view. See, for instance, Susan Wolf, "Moral Saints" in *The Journal of Philosophy* 79 (1981); Roger Crisp, "The Dualism of Practical Reason" in *Proceedings of the Aristotelian Society* 96 (1996).

dividual's desire to conform to political requirements will remain tempered: upright individuals will treat their desire to conform to political obligations as secondary to the desire to conform to moral obligations, and will hence treat the fulfillment of moral requirements as a crucial *desideratum* in acting in conformity to political obligations. Insofar as these moral requirements will include requirements to promote substantive visions of human flourishing, such a desideratum hardly seems compatible a vision of political justice that rejects such considerations as stability-threatening.

Hence to hold that one is all-things-considered obligated to conform to moral requirements in the face of a contrary political obligation is to hold that stability itself is something that should not be guaranteed by the normative attitudes of upright individuals. Of course, one could say that nothing about this proposal *itself* threatens the possibility of stability. It could be that people continue to embrace political justice even in the face of contrary moral requirements. But it would be an unattractive picture of political justice that met its own argumentative desiderata by positing that citizens will fail to be upright, fail to act as they ought, all-things-considered, to act.

Of course, political liberals often insist that the requirement of stability holds of the *reasonable*: theories of justice should be designed to guarantee stability among reasonable people rather than, e.g., rational or, perhaps, upright people. But the problem here seems to me no less decisive. If one all-things-considered ought to conform to moral obligations then “reasonable” individuals—those who develop an effective desire to act on the dictates of bracketed theories of justice—will not be “upright”, as I’ve defined them. Such people will not conform to the balance of practical reasons that apply to them. But if this is right, we should ask ourselves very serious questions about why we should believe that stability is an attractive feature of political principles: why should we care about a set of political principles that will be endorsed by only those people who don’t act as they—all things considered—ought to?

One can see this more clearly by considering a passage from Brian Barry. In endorsing a bracketed theory of political justice, viz., “Justice as Impartiality”, Barry writes that “[J]ustice as impartiality is not designed to tell us how to live. It addresses itself to a different but equally important question: how are we to live *together*, given that we have different ideas about how to live?”¹³ Barry here is pointing to the importance of stability in a political system. Though they do not offer a comprehensive theory of how to live, i.e., a comprehensive theory of our all-things-considered obligations, polit-

¹³Barry, 77.

ical reasons and requirements are designed such that those following such reasons and requirements conform to the demands of how to live *together*. And though Barry does not stress the importance of conforming to just institutions for the right reasons, he nevertheless notes that political obligations (the obligations of “justice as impartiality”) tell us what we *ought to do* in circumstances in which we have to get along with others who do not share our comprehensive views. But this just implies that any account of practical reason that requires one to conform to moral obligations in cases of conflict with such political principles will not be compatible with the stability constraint. This constraint *requires* that political obligations are rationally decisive, at least in cases in which “how are we to live together” is a serious practical question.

3.3. *Third Answer: Balancing*

A further possibility is to say that there is no blanket answer to the question of what one all-things-considered ought to do in a case of conflict between political and moral obligations. Rather, we simply weigh up the various reasons. Sometimes the answer may be to conform to moral requirements (if, for instance, the political considerations are comparatively weak) or the answer may be to conform to political requirements (if the moral considerations are comparatively weak).

But this seems to me to neither salvage the rationalist *nor* stability constraints. It certainly does not salvage the rationalist constraint: in any case in which one is rationally required to conform to political reasons, one will lack permission to conform to moral requirements. But the rationalist constraint holds, plausibly, that one *always* has permission to do one’s moral duty. However, in any case in which the permission to conform to moral demands is upheld, the stability of political justice is threatened. And though it is perhaps threatened to a less substantial degree than under the suggestion that one should always conform to moral demands, it remains the case that upright individuals will act in an unjust way at least some of the time. And while this does not threaten stability to the same degree, it also does not—as per the stability constraint—*guarantee* a normally effective desire to act in accordance with the demands political justice.

3.4. *Fourth Answer: Act Either Way*

If we accept *Permission*, and we wish to hold that political obligations have at least some practical force, we might decide to adopt a *dualism* of prac-

tical reason.¹⁴ We might say, simply, that in any conflict between moral and political reasons, one has sufficient all-things-considered reason both to conform to one's political obligations, and conform to one's moral obligations. Conflict between moral and political obligations cannot be rationally resolved one way or the other.

Though this satisfies the rationalist constraint—because, on this view, it is always at least *permissible* to conform to moral requirements—it fails again to satisfy the stability constraint. If we say that citizens are all-things-considered justified in refusing to conform to obligations of justice in favor of conforming to reasons of morality it would appear that there is no *guarantee* that upright individuals will come to develop an interest in maintaining and acting on the principles of justice over time. Rational individuals may, of course, care about the principles of justice. But they also *needn't*. And if this is correct, it is difficult to see how this proposal, i.e., that conforming to moral and political obligations is all-things-considered justified, could allow political principles to *guarantee* anything like stability for the right reasons, which is the heart of a commitment to the bracketing strategy.

The foregoing has shown, I think, a very deep problem to be found at the heart of political liberalism. Political liberals hold that political justice should be stable: that reasonable (and hence, plausibly, “upright”) individuals will have a normally effective desire to accord with political justice. Political principles should be sufficient to *guarantee* this form of stability (and hence, as noted before, stability is a property not of citizens or individuals, but of the principles themselves). But recall that whether or not rational and reasonable individuals will endorse and desire to conform to political justice is a matter *not simply* of political principles, but also of the all-things-considered *normative authority of political principles*. And hence any account of practical rationality that allows that political justice is all-things-considered *optional* or, worse yet, sometimes all-things-considered *overruled*, will not be sufficient to guarantee that political justice is stable *no matter* the content of political reasons, i.e., whether they do, or do not, bracket disputed substantive questions about morality, the good, or any other. And hence, or so it would appear, this is a fundamental tension between the rationalist and stability constraints, which simply cannot be resolved.

¹⁴The dualist idea is obviously inspired by Sidgwick, who could find no justification for denying that we always have sufficient reason to conform to moral demands and the demands of prudence. See Sidgwick, *The Methods of Ethics* (Indianapolis, IN: Hackett Publishing Company, 7th ed., 1981 [1907]).

4. *Political Independence Reconsidered*

If we accept the rationalist and stability constraints, political liberalism cannot survive *Political Independence*. Once we accept this thesis, we must either reject the rationalist constraint or the stability constraint. It seems to me, then, short of denying the rationalist constraint, the political liberal has but one way forward: deny *Political Independence*.

Recall the argument from the bracketing strategy to *Political Independence*:

1. That ϕ -ing will improve x 's welfare, well-being, or flourishing is a moral reason to ϕ .
2. That ϕ -ing will improve x 's welfare, well-being, or flourishing is not a political reason to ϕ .
3. Hence, by (1) and (2), one might have a political reason to ϕ and lack a moral reason to ϕ , and *vice versa*.
4. Moral reasons determine the moral deontic status of individual actions; political reasons determine the political deontic status of particular actions.
5. Hence, by (3) and (4), moral and political requirements will on occasion diverge. (And this just *is Political Independence*.)

The political liberal must deny a premise or reject the reasoning. But what premises? The substantive premises are (1), (2), and (4). Any political liberal must accept (2). The denial of (4), which is a simple conceptual truth, is also off limits. What about (1)? To deny (1), one would have to deny *Welfare as Reason*. However, this strategy seems to me a clear loser (see note 6). Virtually every plausible moral theory will take *some* conception of welfare or human flourishing seriously, and will adopt a positive moral stance toward the realization of such states of welfare or human flourishing.¹⁵ Notice that “human flourishing” needn’t be specifically tied to welfarist concepts. For instance, a Kantian view will not take the advancement of welfare as providing moral reason to perform some action. But a Kantian *will* take the advancement or preservation of rational agency capacity as

¹⁵By “positive moral stance” I mean to refer either to the stance of “promotion”, which would hold if the moral theory in question posited reasons to promote or increase the achievement of welfare or flourishing, or the stance of “honoring”, which would hold if the moral theory in question posited reasons to preserve or to refrain from violating or interrupting states of welfare or human flourishing. And so it’s clear that one needn’t be a consequentialist, maximizing or otherwise, to take a positive moral stance toward welfare or human flourishing.

providing moral reasons. And if this is correct, this Kantian view will take a positive moral stance toward a specific and substantive conception of human flourishing (even if not human welfare), of the sort that is supposed to be bracketed by liberal political theories.

So it seems to me that the only way to avoid *Political Independence* if one accepts the bracketing strategy is to question the reasoning that leads from the premises to the conclusion. Here we find an opening. The reasoning here is weak in at least one way. The fact that moral reasons will on occasion diverge from political reasons, given that some moral reasons are culled from an interest in the promotion of human flourishing, is not enough to guarantee that these moral reasons won't be *overridden* by other morally important concerns. And one such concern might very well be *political justice itself*. For instance, Barry writes: "Justice is, of course, a moral concept: it is wrong to behave unjustly because that is to breach the terms of a fair agreement for mutual constraint."¹⁶ Following Barry, Rawls writes:

While a political conception of justice is, of course, a moral conception, it is a moral conception worked out for a specific kind of subject, namely, for political, social, and economic institutions. In particular, justice as fairness is framed to apply to what I have called the "basic structure" of a modern constitutional democracy.¹⁷

Here's how the rejection of *Political Independence*, on this view, would work. Though there are moral reasons to promote human flourishing, in the face of a contrary requirement of political justice, these moral reasons are overridden by a stronger moral concern, viz., one that corresponds to the requirements of political justice. Justice is, after all, a "moral concept": it is *morally wrong* to violate the requirements of justice.

If this proposal succeeds, *Political Independence* fails. But there are important questions that must first be answered. How might we conceive of moral reasons to conform to political justice? First, one might say that the considerations that tell in favor of a *political* requirement to ϕ (assuming a bracketed theory of political justice) are also considerations that tell in favor of a moral requirement to ϕ . This strategy simply adopts a particular account of the moral point of view: morality cares (in a decisive way) about exactly those considerations that (bracketed) political justice cares about.

¹⁶Barry, 77.

¹⁷John Rawls, "Justice as Fairness: Political not Metaphysical" in *Collected Papers*, ed. Freeman (Cambridge, MA: Harvard University Press, 1999), 389.

To accept this proposal is to deny (5) *non-architectonically*. However, one could also deny (5) *architectonically*. This proposal says that, leaving aside the precise *content* of political justice, there is a moral reason to conform to political justice. Morality commands conformity to political justice simply because *that's what justice requires*. If either proposal is correct, *Political Independence* fails, despite the truth of its substantive premises. I take these proposals in reverse order. Neither succeeds.

4.1. *The Architectonic Strategy*

First, take the architectonic strategy. Is it plausible to say that one is morally required to conform to one's political obligations *no matter what those political obligations are*, or how they are determined or formulated? Certainly not! Whether one is morally required to conform to the demands of any particular normative system *S* seems to me to very clearly wait upon whether there is a moral reason to do that which *S* requires one to do. If, for instance, it is one's political duty to, say, bow to the nobility or to conform to a range of laws that treat one as a second-class citizen, it is certainly *not* the case that one is morally required to conform to whatever it is political reasons require one to do. This becomes even more clear if we once again note how strong this reason must be to defend the rejection of *Political Independence*. To deny *Political Independence* architectonically, one must hold that not only do we have a moral reason to conform to political obligations whatever they happen to be, but that this moral reason overrides all substantive moral considerations of human flourishing, welfare, and the like. But this is terribly implausible. We certainly wouldn't say that there is a moral reason with this kind of power to conform to political justice *whatever political justice happens to demand*.

Of course, the natural response to this suggestion is that it is most certainly *not* one's political duty to bow to the nobility or to conform to a range of laws that treat one as a second-class citizen. All perfectly true, no doubt. But this does nothing to salvage the architectonic strategy. The architectonic strategy only succeeds if there is a general moral reason to conform to one's political obligations. Once we hold that moral requirements to conform to political obligations wait upon *just what those political obligations are* and *whether there is a genuine moral reason to conform to those political obligations*, we are engaged in the business of the non-architectonic strategy. After all, we are determining whether one has a moral requirement to conform to political duty by considering the factors involved in one's political duty and determining whether there is a moral reason to conform

to those factors. And this just is the non-architectonic strategy. To put this point another way, consider a counterfactual. Let's say that we come to believe that political justice does, in fact, command one to bow to the nobility. Does this mean we should also believe that there is a moral reason to do so? I should think not! And if this is correct, it is conclusive evidence that there is no architectonic moral reason to conform to bracketed political justice. Any such reason depends on the *content* of political justice.

4.2. *The Non-Architectonic Strategy*¹⁸

Recall that the non-architectonic strategy holds that the facts that give rise to political reasons (such as the fact that a particular action ϕ will improve access to primary goods for the least well-off) also give rise to moral reasons: morality takes a fundamental interest in the same sorts of facts in which a suitably bracketed first-order theory of political justice takes an interest.

Notice, however, that to show that the non-architectonic strategy holds, one must do so under a set of methodological constraints. Most importantly, it must be the case that one can demonstrate that one will never be morally required to perform any action that would be outlawed by political justice, or would be unjustified given a set of bracketed political reasons. But one must do this by providing an *independently* plausible account of the moral point of view, independent, that is, of the presumption that moral requirements and political requirements do not conflict. For the non-architectonic strategy to work, it must be that the denial of *Political Independence* is implied by an independently plausible account of the content of moral demands. If to deny *Political Independence* one must adopt a less plausible moral theory than one that implies *Political Independence*, this just shows that the non-architectonic strategy cannot succeed. When it comes to the success of the non-architectonic strategy *everything* rides on the plausibility of the resulting moral theory.

But if this is correct, whether or not the non-architectonic strategy succeeds simply comes down to a first-order inquiry into morality. Let's rehearse, then, just what must be the case for the non-architectonic strategy to succeed. First, it must be the case that there are independently plausible moral reasons that direct an individual to perform not just some actions, but *all* actions (or policies, or institutional structures) that are supported by bracketed political justice. Just for the sake of a terminological place-

¹⁸Thanks to Steve Wall for a helpful discussion of this issue.

holder, call these “reasons of respect” (whatever they are or might be). But even if such reasons exist, it is not enough to reject *Political Independence* to show that reasons of respect exist and tell against actions that violate requirements of justice. It must also be that reasons of respect bear a certain normative relationship to reasons of welfare (or reasons derived from other substantive conceptions of human flourishing—I’ll continue to refer to reasons of welfare here, just as, again, a placeholder). In particular, it must be the case that reasons of respect “trump” reasons of welfare. I use the term “trump” here in a technical sense. What I mean is this: whenever reasons of respect tell against a certain action ϕ , in favor of which reasons of welfare tell, it must be the case that *in every circumstance like this*, reasons of respect are sufficient to prevent reasons of *welfare* from generating a moral requirement to ϕ . Without this strong dominance relation, it remains the case that reason of welfare will tell in favor of actions that conflict with actions commanded by bracketed political justice in a way that will sometimes generate moral requirements to violate bracketed political principles. *Political Independence* follows.

Let’s test this view. First, is it plausible to say that such moral reasons exist? Perhaps. Take an example. Say that you and I have very different conceptions of welfare. And even though my conception might be false (i.e., not generate moral reasons), it may be that morality commands you not to act in a way that promotes a conception of my welfare—which may nevertheless be supported by welfarist moral reasons—with which I disagree. If I believe that counting blades of grass is what makes my life best, and you act in such a way as to cause me to develop my rational capacities in a way that does not conform to my conception of the good, though this may *actually* increase my welfare, it may also be a violation of *moral* reasons of respect, given my own attitudes toward the way in which my life ought to be conducted on prudential grounds.

I think there are many reasons to be critical of such a set of reasons. First, it seems to me that the best explanation for a moral prohibition on imposing your view of welfare on my life is that my own account of what is best for me is the best sort of evidence of what is actually good for me. We have a tendency to believe that a person’s welfare cannot be advanced by imposing a state of affairs against which this person is alienated, or which this person does not endorse.¹⁹ But, just for my money, it seems implausible to believe that *morality* would allow reasons not to promote someone’s

¹⁹See, for instance, Peter Railton, “Facts and Values” in *Facts, Values and Norms* (Cambridge, Cambridge University Press, 2003), 47.

welfare if that person simply has a mistaken view about the quality of their lives. But even if we accept the existence of reasons to restrain from imposing a substantive account of someone's welfare on someone who doesn't endorse that account, it seems to me hard to believe that any such reasons would *perfectly* coincide with the demands of a bracketed theory of justice!

However, I don't have much of an argument for these claims, so I'll leave them aside. I'm willing, for the sake of argument, to allow that reasons of respect exist and that these reasons tell in favor of all and only those actions supported by a bracketed theory of political justice. But the crucial question now becomes: do they play the trumping role that they must play to reject *Political Independence*? And here I think the answer is almost certainly *no*. Take:

Troy: Troy lives in extreme and constant suffering as a result of material poverty and deprivation. To relieve this suffering would be to increase the value of Troy's life. Imagine, however, that Troy's conception of the good includes the relief of suffering, but also rejects the value of developing his rational capacities (rather than, say, developing the maximal amount of pleasure). Imagine also that to develop Troy's rational capacities would, in fact, promote his well-being (as would the avoidance of suffering). There are now two policies available when it comes to Troy's assistance. Policy A would promote the avoidance of suffering for Troy in a way that does not at all promote the development of his rational capacities. Policy B, on the other hand, would explicitly seek to develop Troy's rational capacities by, for instance, sending him through a high-quality education (which Troy himself rejects). Policy A would allow Troy to avoid suffering to a minor degree. Policy B, however, while directed to the development of Troy's rational capacities, would have *as a side effect* the result that Troy's suffering would be reduced to a degree far greater than Policy A.

Here Troy rejects the value of developing his rational capacities, and hence (other things being equal) would reject any political policy that sought to develop these capacities for Troy. Nevertheless, given that things are not equal—given that Policy B would reduce Troy's suffering to a far greater degree than Policy A, I think it is very plausible to believe that—if, e.g., it would cost me nothing, nor would it harm anyone else, etc.—morality *does*, in fact, require you to promote Troy's welfare in precisely this way. But if this is correct, it is hard to see how reasons of respect—if reasons

of respect count in favor of actions or policies that conform to bracketed political justice—could possibly trump the moral significance of reasons of welfare (which are drawn not just from an interest in promoting his rational capacities but also an interest in his avoidance of suffering).

In principle, there are two ways that the political liberal could respond to this case. First, it could respond by saying that Policy B is not, in fact, morally required. And, in fact, it could be that there is some reason to believe this. After all, if Troy genuinely rejects the value of his own rational capacities, how could we morally justify forcing him to develop them? This thought is plausible, but its plausibility erodes if we consider the possibility that Troy himself is *willing* to accept this violation of his own conception of the good to avoid the problems of poverty that have plagued him. In other words, though he does not accept that there is any reason of itself to promote X for him, he accepts the promotion of X as the price to be paid for other things he cares very much about, viz., the avoidance of extreme and constant suffering. But if we assume this is correct, I find it absolutely bizarre to suggest that, if it costs one nothing, morality does not require one to promote Troy’s welfare in precisely this way.²⁰ Considered simply as a proposal internal to the moral point of view, holding that we are not morally required to adopt Policy B does not pass the smell test.

The second way to respond to this would be to suggest that reasons of respect—in other words, whatever moral reasons that require us to conform to considerations of bracketed political justice—do not, in fact, tell in favor of Policy A rather than Policy B. There are two reasons to believe this I’ll consider here. First, one might think that the sheer weight of an interest in avoiding suffering for Troy—which itself is surely something that any political theory cares about—might be enough for moral reasons of respect to favor Policy B. But this cannot be correct. Policy B is precisely the sort of policy that bracketed political considerations must rule out: a policy that is motivated by an interest in promoting a particular account of human flourishing, with which reasonable people (such as Troy) will disagree. It is hard to see how the integrity of any bracketed political theory could be maintained in light of the suggestion that the promotion of human welfare is perfectly politically acceptable so long as *enough* welfare is promoted by

²⁰One might say, perhaps quite plausibly, that the reason to refrain from promoting the development of Troy’s rational capacities should be balanced against the genuine value of the avoidance of suffering that Troy himself accepts. But this proposal is no good for the political liberal: it would be to allow that reasons of welfare could override reasons of respect, and hence that one could, in certain cases, be morally required not to conform to the demands of bracketed political justice.

such policies.

Here's a twist on this suggestion. It might be that there is a reason of respect not to perform a particular action if the person in question, in this case Troy, would himself approve of the action under consideration. So, in other words, though he does not endorse the value of his rational capacities *per se*, he does endorse the plan's proposal to alleviate his suffering. In other words, he may well accept the promotion of good X *in exchange* for the other goods this action promotes. And hence, or so it may be claimed, there is no reason of respect or reciprocity to refrain from benefiting Troy in this case.

This may be a plausible claim about the moral importance of respect or what respect ultimately commands. But to adopt this line of argument would be to divorce moral considerations of respect from considerations that could possibly constitute bracketed political reasons. Here's why. Recall that for political liberalism, political theories must pass a crucial test: it must pass the test of stability. But for a set of political principles to pass this test, it cannot be that reasonable citizens endorse these political principles simply on self-interested or pragmatic grounds, or as a result of bargaining for the sake of achieving a desirable *modus vivendi*.²¹ And this is *precisely* the sort of endorsement Troy grants Policy B. He sees that, though he has no moral or evaluative interest in the promotion of his rational capacities, he gets a better deal overall by submitting to a policy he cannot support from the perspective of his own comprehensive doctrine. He does not endorse Policy B for the right reasons, but simply as a desirable *modus vivendi*. And hence *if* reasons of respect allow us to adopt Policy B, it cannot be that reasons of respect count in favor of conformity to bracketed political justice. And if this is correct, it is hard to see how the existence of such reasons could be enough to plausibly reject *Political Independence*.

Let me put this point in a slightly different way. The sort of endorsement Troy gives to Policy B is *not* offered from the perspective of his own reasonable comprehensive doctrine. In fact, he rejects this policy, insofar as his own comprehensive doctrine rejects the value of the development of his rational capacities. This policy of itself would fail to garner anything like *stable* support from Troy: his support of this policy would simply collapse if its various instrumental effects disappeared. And hence it would seem that insofar as the "overlapping consensus" test *requires* that individual political policies be accepted from the perspective of such an overlapping consensus, Policy B could never be an acceptable requirement of political justice. We

²¹Rawls, 144-149.

could, of course, allow Troy's non-stable endorsement of Policy B to count in favor of Policy B as a requirement of political justice. But this would be to simply overturn the stability constraint and a key motivation for a bracketed theory of justice. Citizens in a liberal democracy might be willing to accept a non-bracketed first-order theory of justice for the sake of getting goods that they want.

I think Troy's case sheds substantial doubt on the non-architectonic strategy no matter how one seeks to accommodate it. That cases like Troy's exist should come as no surprise. To reject *Political Independence*, the political liberal must thread an extremely fine needle: she must show that there are no cases in which an independently plausible moral theory would require us to act contrary to a bracketed political justice. But to do this she must not only argue that there are independent reasons to accept a set of moral reasons that tell *exactly* in favor of those actions supported by bracketed political justice—which itself would seem cosmically coincidental, but which I have granted for the sake of argument—and that these reasons, whatever they are, have the moral power to override moral reasons of welfare (and reasons of autonomy, and reasons of perfection, and any other contrary moral reasons for that matter) in every possible case. But this is an extraordinarily strong thesis independently of a substantive consideration of its plausibility. And hence that there are counterexamples, potentially a number of counterexamples, should not be difficult to swallow.

Leaving aside any further potential counterexamples, looking strictly at Troy's case, it would appear that any attempt to avoid *Political Independence* must either accept that Troy's case is a violation of a trumping moral reason, in which case one is not morally required to adopt Policy B. This is an implausible claim about the content of moral obligation, and should be rejected. Alternatively, one could claim that in Troy's case there is no (trumping) moral reason not to promote Troy's welfare. But this would be either to accept *Political Independence*, or to reject a main structural support for the political bracketing strategy, viz., the stability constraint. To maintain a bracketed political theory plausibly, then, the only option is to accept *Political Independence*. But this yields the problems in accommodating both the rationalist and stability constraints, as noted above. Any way one wishes to go, however, the bracketing strategy is seriously threatened.

5. Conclusion

The bracketing strategy seems unable to plausibly avoid *Political Independence*. And so it would appear that any partisan of the bracketing strategy,

including so-called political liberals, must either reject this strategy or reject the rationalist constraint. There is no feasible method by which to retain the rationalist constraint and also maintain the fundamental impetus behind the bracketing strategy, i.e., the insistence on stability of political principles for the right reasons.

I want to end this paper with a touch of modesty. There are ways that political liberals might respond to the argument I offer here that preserve their position. First, they might accept a stronger form of moral anti-rationalism, and deny *Permission*. Second, they might take up the project of offering an independently plausible (independent, that is, of whether *Political Independence* is true or not) account of the moral point of view with an eye to demonstrating that *Political Independence* should be accepted despite *Welfare as Reason*. Alternatively, and more radically, one could deny the stability constraint, and hold that the stability of a system of political justice need only be guaranteed perhaps in terms of a *modus vivendi*. Each of these proposals has significant challenges (in the first a challenge of plausibility, the second a challenge of, as it were, “high odds”, in the third the fact that any retreat from the stability constraint threatens to open the door to a rejection of the bracketing strategy). In any event, while there is not sufficient reason to declare political liberalism a closed book, I have tried to bring out the essential challenges that this view faces in light of the competing authority of moral and political demands.