
SOCIAL EPISTEMOLOGY AND THE POLITICS OF OMISSION

ABSTRACT

Contemporary liberal democracy employs a conception of legitimacy according to which political decisions and institutions must be at least in principle justifiable to all citizens. This conception of legitimacy is difficult to satisfy when citizens are deeply divided at the level of fundamental moral, religious, and philosophical commitments. Many have followed the later Rawls in holding that where a reasonable pluralism of such commitments persists, political justification must eschew appeal to any controversial moral, religious, or philosophical premises. In this way, the Rawlsian account of public political justification involves a politics of omission, where citizens are expected to bracket off their most fundamental commitments and seek justifications that draw only from uncontroversial premises. This politics of omission is necessary, Rawls argues, for political stability. But there is good social epistemic evidence for the view that the politics of omission encourages insularity among like-minded groups, and that this insularity in turn generates extremism. So omission is likely to lead to instability, not stability.

I. Introduction

In a democracy, citizens share equally the benefits and burdens of government. In modern times, these benefits and burdens are mediated somewhat by of a system of political representation; however, even in a representative democracy, it is expected that all major political institutions and decisions should be in principle justifiable to “every last individual” (Waldron 1993, 37), or at least to every last *citizen*. In a democracy, such justifiability is necessary for the legitimacy of institutions and decisions. Call this the *justifiability requirement*.

To be sure, the justifiability requirement is not a *unanimity* or *consensus* requirement. The outcome of a presidential election may be *justified* and hence legitimate even though some, or even a great many, do not *endorse* it or affirm its correctness. In the case of a democratic election, the justification of the outcome derives from the justifiability of the process that produced it. Such a justification may run like this:

1. In a democracy, each citizen is, is recognized as, and recognizes every other citizen as, a political equal.

2. Part of what it is to recognize others as equal citizens is to agree to defer to the outcomes of political decision processes that recognize that equality.
3. When democratic elections are properly run, they recognize the equality of all citizens by granting to each citizen an equal voice in deciding the election’s outcome.
4. Hence, the outcome of a properly conducted democratic election is *ipso facto* legitimate.

Thus all of us recognize the legitimacy of the current presidency of George W. Bush, even those of us who did not vote for him and openly oppose his policies.¹ In a democracy, the fact that Bush won the largest share of the votes in a fair election legitimates his presidency. Of course, to see a given democratic outcome as legitimate is consistent with seeing it as deeply *mistaken* and in need of revision. That we recognize the legitimacy of Bush’s presidency does not require us to *acquiesce* in his presidency. One may with consistency *dissent* from, *criticize*, or *oppose* a legitimate outcome.

The justifiability requirement for democratic legitimacy may seem quite weak and thus easily satisfied: Bush’s status as president can be justified

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to those who did not vote for him (and may actively oppose him) by way of an appeal to the meaning and entailments of democratic equality, viz., the commitment to the idea that in a democracy, each citizen is, is recognized as, and recognizes every other citizen as, a political equal. However, there are difficulties. Certain political controversies seem to admit of no easy justification of the sort just offered. The difficulty in such cases derives from the fact that fundamental democratic values, and different interpretations of those values, can come into conflict.

Consider, for example, citizens who believe on the basis of certain theological commitments – ensoulment, natural law, what have you – that abortion is morally equivalent to murder. According to such citizens, abortion should be illegal for the same reason that any other form of murder is illegal. They may hold, moreover, that legalized abortion is a violation of the commitment to political equality appealed to above; legal abortion, they may say, is simply the policy of officially *denying* the equality of certain citizens, namely, those not yet born.

Importantly, citizens who assert this kind of pro-life position will not be moved by the pro-choice argument that since legalized abortion protects individual privacy and further secures the liberty of women, it is necessary for achieving political equality. Our pro-life advocate may recognize that privacy and liberty are indeed very important democratic values, but yet deny the pro-choice position, maintaining that the prevention of murder trumps both the protection of privacy and the goal of further securing liberty for women. They might argue that the life of one equal citizen cannot be used rightly as a means for expanding or securing other goods, even if those other goods are very important from the democratic point of view. This, they may say, is the very meaning of democratic equality.

Hence there is a fundamental disagreement over abortion, with both sides to the dispute claiming that their position follows from fundamental democratic values. In this case, as with so many of today's persistent political controversies, society cannot suspend judgment or "decide not to decide"; some policy must be enacted. In the United States, at least for the time being, abortion is legal. But can this policy meet the justifiability requirement?

The difficulty derives its force from the fact that the pro-life advocate seems to have offered a fully democratic argument against the legality of abortion. We may not lament our inability to meet the justifiability requirement in the case of rabid antidemocrats. We are inclined to say of them what epistemologists sometime say of radical skeptics: they are beyond the pale of the project of justification, they are *unreasonable*. But we are bound to take more seriously a failure of justification in the case of someone who appears to be a fellow democrat. This is especially so in the case of an apparent fellow democrat who appears to be *reasonable*, that is, responsive to reasons, sensitive to argument, willing to appeal to democratic values, and ready to engage.

Hence, many democratic theorists (especially those who are pro-choice) will deny that the pro-life advocate has made a *democratic* case against legal abortion. This argument has it that the crucial premise in the pro-choice case, namely, that abortion is morally equivalent to murder, is *itself* unable to satisfy the justifiability requirement. The argument runs as follows. The premise that abortion is equivalent to murder is held by the pro-choice advocate on the basis of theological reasons. But theological reasons are reasonably contestable, that is, rejectable by persons of good epistemic will skillfully following the arguments and responsibly weighing the considerations for and against. Hence the attempt to ban abortion on the basis of an argument that employs reasonably contestable premises is equivalent to the attempt to employ the power of the state to *coerce* fellow reasonable citizens, and such an attempt is inconsistent with democratic equality. In short, the pro-life case is based in premises that not all reasonable persons accept. Thus it fails to satisfy the justifiability requirement. It follows, then, that the pro-life case outlined above is not a properly democratic proposal.

But two can play this game. The pro-life advocate may now challenge his opponent to articulate the pro-choice position without employing any reasonably contestable premises. As it turns out, this is not so easy. Consider that any flat-footed appeals to some version of the public/private distinction – as captured in the popular campus slogan, "get your laws off my body" – will not do, because any particular way

of drawing that distinction will be either itself reasonably contestable or invoke deeper moral principles that are reasonably contestable. The same goes for all of the standard Utilitarian, Kantian, virtue-theoretic, care-theoretic, Marxist, feminist, and libertarian arguments: as millions of pages of philosophical writing on these topics show, it is possible to reject any of these stories and yet be entirely reasonable. So, any pro-choice advocate will have a difficult time of providing a justification for his position without invoking reasonably contestable moral premises. The secular pro-choice advocate hence finds himself in the same boat as the religious pro-life advocate. Neither can satisfy the justifiability requirement.

The abortion case is not unique in this way. Take any of the more present hot-button issues of our day – from stem cells, to creationism in public schools, to same-sex marriage – and you will find a similarly-structured political controversy. Insofar as satisfaction of the justifiability requirement is necessary for political legitimacy, a legitimacy crisis looms. Ought we conclude, then, that democratic legitimacy is unachievable? Some have taken this view, endorsing either a version of anarchism (Wolff 1998), some variety of radically antidemocratic politics (Schmitt 1976), or an ironist position according to which we must learn to hold steadfast to our democratic commitments even after realizing that they cannot be justified (Rorty 1989).

A more influential response has it that the correct lesson to draw is that human reason leaves questions of moral fundamentals underdetermined. According to this account, the freedoms secured by democratic political arrangements reveal that there is a *plurality* of moral and religious doctrines that reasonable persons can endorse, and that none of these is *uniquely* justified by the relevant data. Accordingly, there can be reasonable Kantians, reasonable utilitarians, reasonable libertarians, and the like, despite the fact that Kantianism, utilitarianism, libertarianism, and the others conflict with each other and thus cannot all be *true*. Following John Rawls (1996), the main proponent of this kind of response, we may say that human reason working under conditions of freedom generates a *reasonable pluralism* of moral and religious doctrines.

Where conditions of reasonable pluralism obtain, democratic equality requires that processes of political justification be conducted without appeal to deep moral and religious commitments. That is, reasonable pluralism entails a *politics of omission* (Holmes 1995). But how could there be a successful justification of democracy that omits all appeals to controversial value commitments?

This paper focuses on the most thoroughly developed response to this question, John Rawls's political liberalism. After a brief sketch of Rawls's general position, I launch a social epistemic argument to the effect that political liberalism must fail according to its own criteria of success.² More specifically, I shall argue that whereas Rawls invokes a politics of omission as a mechanism for maintaining political stability, recent work by Cass Sunstein shows that there are sound *social epistemic* reasons for thinking that the strictures of what Rawls calls "public reason" will in fact generate increasing levels of *instability*.³

II. Rawlsian Political Liberalism

I trust it is by now not necessary to rehearse the contours of Rawls's political liberalism in great detail; however, before proceeding, some minimal background must be set in place. As was suggested above, the main question driving Rawls's later work is that of how it could be possible for citizens to achieve consensus on a single conception of political justice under conditions of reasonable pluralism. Rejecting *modus vivendi* agreement as "political in the wrong way," and hence inherently unstable (1996, 142), Rawls envisions a liberalism that could win an *overlapping consensus* among citizens otherwise divided at the level of comprehensive doctrines. Where a liberal order is endorsed in an overlapping consensus, each individual sees the liberal conception as the appropriate expression of his own comprehensive doctrine in the political sphere. Thus, although citizens do not share a common justificatory account of liberalism, each can support the liberal political order "for its own sake" and "on its own merits" (1996, 148). In this way, political stability is possible under conditions of pluralism. Since only a freestanding liberalism can win an

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overlapping consensus, only a freestanding liberalism can be stable.

Politics is not exhausted once an overlapping consensus on principles of justice is achieved: laws must be made, campaigns waged, votes cast, and cases decided. In these endeavors, too, citizens confront the obstacles to agreement posed by reasonable pluralism. Hence Rawls proposed a mode of public political discourse in which citizens “conduct their fundamental discussions within the framework of what each regards as a political conception of justice based on values that the others can reasonably be expected to endorse” (1996, 226). In public political discussion citizens “should be ready to explain the basis of their actions to one another in terms each could reasonably expect that others might endorse as consistent with their freedom and equality” (1996, 218). This means that citizens “are not to appeal to comprehensive religious and philosophical doctrines” in properly public discussion (1996, 224).⁴

Of course, certain issues cannot be understood except in terms of deep philosophical commitment. These will be issues about which we should expect citizens to disagree sharply. Rawls contends that “a liberal view removes from the political agenda the most divisive issues, serious contention about which must undermine the bases of social cooperation” (1996, 157). Democratic deliberation hence applies not to public policy questions generally, but only to what Rawls calls “constitutional essentials” and “questions of basic justice” (1996, 214).⁵ Hence Rawls identifies the supreme court as the “exemplar” of public reason (1996, 216).⁶

Citizens holding comprehensive doctrines that compel them to seek a politics based in “the whole truth” (1996, 243) who consequently insist upon appealing to nonpublic reasons in public discourse fail to recognize the duty of civility (1996, 217), and so fall short of the “ideal of democratic citizenship” (1996, 98).⁷ More importantly, citizens who reject the idea of public reason in this way are *ipso facto* unreasonable (1996, 59), and consequently may be dealt with coercively.⁸ Rawls writes,

[A] given society may also contain unreasonable, irrational, and even mad, comprehensive

doctrines. In their case the problem is to contain them so that they do not undermine the unity and justice of society.⁹ (1996, xvi)

Thus public reason places restrictions on the agenda and the vocabulary of democratic deliberation (Benhabib 2002, 108). For the present purposes, it is important to observe also that public reason aims at an agreement that is *nonepistemic*.¹⁰ To explain: When operating within public reason, citizens do not aim for outcomes based on the epistemically best reasons and they do not aim for truth; rather, they aim for the outcome that best comports with the basic judgments and intuitive fundamental liberal principles already assumed.¹¹ That is, public reason takes the basic commitments of a liberal society as “fixed points” (1996, 124) and requires – as a condition of reasonableness – that citizens’ contributions to public discourse recognize them. In other words, on the Rawlsian view, the reasonableness of a doctrine or belief is primarily a matter of *content* rather than *justification*, and the reasonableness of a person is a matter of *which views he holds* rather than of *the extent to which he supports his views by reasons*. Accordingly, someone who accepts liberal principles on the basis of a comprehensive doctrine according to which liberal commitments are commanded by Zeus is no less reasonable than someone who upholds liberal principles on the basis of a familiar variety of Kantianism. Similarly, the citizen whose liberal commitments follow from a comprehensive doctrine that he can neither articulate nor defend is as reasonable as our Kantian who can give powerful arguments for his position. Again, reasonableness is nonepistemic. Being reasonable is simply a matter of whether one accepts the basic commitments of liberalism; one’s *basis* or *ground* for those commitments, and the extent to which one can *explain* or *defend* them, is irrelevant.

The nonepistemic character of reasonableness entails that public reason is an *epistemically closed* system: what counts as a reason, and what qualifies as an acceptable conclusion, are set in advance by the concept of the reasonable. This means that no antiliberal position, no matter how tightly argued or well-supported, could be reasonable. Again, on the Rawlsian view,

someone who holds an antiliberal position is *ipso facto* unreasonable, despite the fact that he might be able to offer powerful reasons in support of his views, whereas someone who accepts a liberal position on the basis of no reasons at all is perfectly reasonable. Most importantly, the fact that the bounds of public reason are determined by the concept of the reasonable entails that there could be no properly public discussion about the merits of liberalism itself, and no public discussion about the appropriateness of public reason as a model of liberal political discourse (Bohman 1996, 86). According to Rawls, all properly public reasoning *begins* from the assumption of basic liberal principles; this assumption meets "the urgent political requirement to fix, once and for all, the content of certain political basic rights and liberties, and to assign them special priority. Doing this takes those guarantees off the political agenda ..." (Rawls 1996, 161).

A common line of criticism attacks public reason for being exclusionary. In an ironic instance of overlapping consensus, the *exclusion objection* is found in the work of theorists who otherwise agree on almost nothing. For example, radical democrats such as Seyla Benhabib (1996), Nancy Frazer (1992), and Iris Young (2000, 36ff; 2003) argue that since public reason proceeds from a strict delineation of a properly "political" vocabulary, it implicitly privileges the status quo. Public reason therefore crowds out and silences the voices and concerns of the least powerful and those least well served by the status quo (Sanders 1997; Ackerly 2000, 52f.). Natural Law theorists Robert George and Christopher Wolfe agree; they claim,

*Public reason ... almost always has the effect of making the liberal position the winner in morally charged political controversies. It does this in effect by ruling out of bounds substantive moral argument on behalf of nonliberal positions.*¹² (2000, 2)

The civic republican Michael Sandel has lamented the "political costs" of public reason, arguing that, "Public reason is too spare to contain the moral energies of a vital democratic life" (1998, 217). And the worry is not restricted to antiliberal theorists; liberals, too, have

criticized public reason. The liberal William Galston has expressed the concern as follows:

It is difficult to imagine that any liberal democracy can sustain conscientious support if it tells millions of its citizens that they cannot rightly say what they believe as part of democratic public dialogue. (1999, 43)

In short, then, the exclusion objection has it that the constraints of public reason are too burdensome, and may be unfair to certain defensible views and doctrines.

The exclusion objection has been met with both a clarification and a qualification. As for the clarification, Charles Larmore explains,

Rightly conceived, [public reason] does not thwart the uninhibited political discussions which are the mark of vigorous democracy. We can argue with one another about political issues in the name of our different visions of the human good while also recognizing that, when the moment comes for a legally binding decision, we must take our bearings from a common point of view. (2003, 383)

The restrictions of public reason apply only to decision-making contexts, not political discussion generally, hence the requirement that "the most divisive issues" be removed from the public political agenda (Rawls 1996, 157) does not quell discussion among citizens in nonpublic domains. In fact, like Larmore, Rawls affirms that lively debate about controversial issues, conducted by means of nonpublic reasons, is a vital activity within the "background culture" of a liberal democracy (1996, 220). Now for the qualification. In work following *Political Liberalism*, Rawls introduced "the proviso" (1996, li; 1999, 591) as a revision of public reason's vocabulary restrictions. According to the proviso, citizens in properly public discussion may invoke reasons drawn from their comprehensive doctrines provided that they are prepared "in due course" to offer public reasons to supplement the nonpublic ones (1999, 591).

This rejoinder is unsatisfying. Although the exclusion objection is often aimed at public reason's agenda and vocabulary restrictions, it

should be understood instead to be aimed at the nonepistemic character of public reason. What public reason excludes is not the radical democratic, Thomist, and civic republican *positions*, but rather the *reasons* associated with those doctrines. Accordingly, even an irrefutable proof of the Thomistic doctrine of ensoulment is insufficient to render reasonable a Catholic's public opposition to abortion.¹³ Presumably, this is due to the fact of reasonable pluralism, which has it that even a knock-down argument for a moral proposition, p , is not sufficient to show that all instantiations of the belief $\text{not-}p$ are unreasonable. That is, due to the fact of reasonable pluralism, one may be fully reasonable despite the fact that one rejects a demonstrably true proposition. More importantly, the fact of reasonable pluralism entails that for as long as there is reasonable opposition to p , one must not insist that public policy be based on p ; the truth of p is an insufficient reason for basing public policy on p .

But why should our Thomist, or anyone else for that matter, endorse such a pluralism? Here, the political liberal must be careful. He cannot offer a philosophical *argument* for pluralism – to do so would be to violate the very idea of a freestanding liberalism.¹⁴ The question of why one should accept reasonable pluralism is a question to which political liberalism “does not speak” (Rawls 1996, 128).¹⁵ This will strike the Thomist as dishonest and hypocritical; however, to object to the political liberal's silence is to be unreasonable, and thus someone the liberal state must endeavor to “contain” (Rawls 1996, xvi).¹⁶

Public reason is hence *epistemically* exclusionary; regardless of how widely it is construed, public reason cannot acknowledge the *epistemic force* of the arguments advanced in favor of nonliberal positions, and cannot give *reasons why* the force of those arguments should be disregarded.¹⁷ Rawls's proviso confirms this: that persons who advance nonpublic reasons in political contexts are bound to supply public reasons “in due course” indicates that nonpublic arguments ultimately *can do no justificatory work* no matter how epistemically sound they may be.

The political liberal will concede this point but question its critical force. He may argue that citizens who insist on presenting arguments that presume the truth of their own comprehensive

doctrines are failing at proper democratic citizenship because they implicitly reject the fact of reasonable pluralism, recognition of which is necessary for the stability of a liberal regime. Thus the insistent Thomist, civic republican, and radical democrat are all destabilizing forces, and surely a liberal democracy, like any regime, should be expected to endeavor to secure its own stability.

III. Group Polarization

This is a cogent reply, but it confronts a difficulty: There is good reason to expect that the nonepistemic character of public reason will generate instability. The argument for this claim draws from some recent work in social epistemology, to which we now turn.

Cass Sunstein has called attention recently to the statistical regularity known as *group polarization*. Group polarization means that “members of a deliberating group predictably move toward a more extreme point in the direction indicated by the members' predeliberation tendencies” (Sunstein 2003a, 81). The term “extreme” here does not refer to points on a spectrum of opinion; it is rather defined internally, that is, only by reference to persons' doxastic tendencies prior to discussion. Simply put, “like-minded people, after discussions with their peers, tend to end up thinking a more extreme version of what they thought before they started to talk” (2003b, 112). Citing Sunstein's own examples, consider that

1. A group of moderately profeminist women will become more strongly profeminist after discussion.
2. After discussion, citizens of France become more critical of the United States and its intentions with regard to economic aid.
3. After discussion, whites predisposed to show racial prejudice offer more negative responses to the question of whether white racism is responsible for conditions faced by African Americans in American cities.
4. After discussion, whites predisposed not to show racial prejudice offer more positive responses to the same question. (2001a, 23)

Group polarization “has been found all over the world and in many diverse tasks” and does not

discriminate along educational, class, ethnic, gender, or political lines (2003a, 82); it has been shown to be operative in judicial panels, legislatures, political parties, religious organizations, and civic groups (2003b, 111). Moreover, the polarization effect is greatly amplified in cases of "enclave deliberation", which is "that form of deliberation that occurs within more or less insulated groups, in which like-minded people speak mostly to each other" over extended periods of time (2001b, 75-76).

Group polarization shows that deliberative bodies of like-minded persons are *epistemically unstable*. The concern here is not the instability as such. Rather, the danger is that the shifts in belief occur only in one direction and without regard for reasons. When a group polarizes, members come to adopt increasingly more extreme versions of their former positions, and this movement is not occasioned by the introduction of better arguments (Sunstein 2003a, 82).

That public reason is likely to generate deliberative enclaves should be plain. Citizens are very deeply committed to comprehensive doctrines that conflict with political liberalism on several levels. Citizens of faith present a conspicuous, though not the only, example. Many religious believers hold not only that abortion is a grave moral evil, but also that their opposition to abortion must not be relegated to the "background culture" of society. As Nicholas Wolterstorff has argued, for many liberal democratic citizens, "their religion is not ... about *something other* than their social and political existence; it is *also* about their social and political existence" (1997, 91). Interestingly, the situation is not altogether different for the radical democrat, who disagrees with the political liberal not only on substantive issues of justice and equality, but also on the question of the very *nature of the political*. That is, part of what is at stake in our most central controversies is the "character of public life itself, as well as the meaning and scope of accepted political values" (Bohman 1996, 86). Public reason *cannot* countenance a public deliberative space in which these fundamental issues can be reasonably engaged. That is, public reason must generate *epistemically excluded groups*.

Consider now the predicament of members of

epistemically excluded groups: They take themselves to know deep and important moral truths that are highly relevant to how society should be structured. But they also know that there is no point in raising their arguments in public, since their reasons lie outside of the constraints of public reason. Yet they can see no compelling *justification* for those constraints, and so they will see them as merely political impositions. In response, they will likely form small groups devoted to the strategic advancement of their position. These groups will meet regularly to discuss the group's views and devise strategies for disseminating their message. Among epistemically excluded groups, conditions are ripe for polarization. As the groups polarize, individuals will not only come to hold more extreme versions of their initial position, but will come to see themselves as excluded, victimized, and oppressed; naturally, they will also grow increasingly dismissive of opposing views, and will regard those that affirm them as either evil or benighted. In this way, polarized groups are also epistemically crippled (Hardin 2002); that is, they grow increasingly unable and unwilling to engage in reasoned discussion with those with whom they disagree. Fanaticism will set in, the overlapping consensus will give way to a *modus vivendi*, and hence precisely the kind of instability Rawls sought to avoid will result.¹⁸ More importantly, a different kind of instability is likely to emerge, namely, the kind associated with violence (Sunstein 2003b, 12).

It may be objected that I have been merely speculating. However, if it will be granted that certain regions of our public political discourse closely approximate the model of public reason (Sandel 1998, 216), it can be shown that my speculations are not implausible.

Carol Swain (2002) has recently published an alarming study of what she calls the "new" white nationalist movement in contemporary America. Swain's analyses are based on interviews with prominent white nationalists; transcripts of these interviews are available (Swain and Nieli 2003). The strikingly similar narratives offered by the white nationalists reveal the pattern described above. For example, both William Pierce, the recently deceased founder of the neo-Nazi National Alliance and author of the

infamous novel that inspired Timothy McVeigh to terrorism, and Lisa Turner, the Women's Information Coordinator of the white supremacist World Church of the Creator, claim to have been motivated by what they perceived to be a systematic refusal on the part of mainstream society to engage their ideas. Note that the complaint is not that people were not *convinced* of their positions, but rather that the public space of political reason giving was closed to them. Hence they characterize mainstream white America not as *mistaken* about race, but as "brainwashed," "conditioned" and "propagandized" (2003, 258; 264). They were forced to "build" their own "infrastructure" (2003, 261) for disseminating their ideas.¹⁹ They both point to the Internet as the most effective recruitment tool (2003, 266; 250). Not surprisingly, as it enables individuals to preselect and filter the information to which they will be exposed, the Internet is a powerful source of polarization (Sunstein 2001b).²⁰

Believing that America is "increasingly at risk of a large-scale racial conflict" (2002, 423), Swain makes a recommendation similar to Sunstein's: "What is most needed now ... is for white nationalists to be heard and debated in mainstream forums where their data and ideas can be openly evaluated and subjected to critical assessment" (2002, 35). Despite the maneuvers designed to loosen the agenda and vocabulary restrictions of public reason, its *nonepistemic* character means that the kind of debate called for by Swain is not possible within political liberalism. Nor are public debates concerning a wide array of other controversial moral issues.²¹

IV. Conclusion

The lesson of the group polarization phenomenon for a politics of omission can be stated succinctly: deliberation among doxastically homogenous groups leads to extremism, which in turn leads to instability in both its Rawlsian sense (*viz.*, the dissolution of an overlapping consensus into a *modus vivendi*) and its more common sense (violence, conspiracy, disobedience, etc.). The constraints imposed by the Rawlsian model of public reason can be expected to encourage polarization among groups that are epistemically excluded by public reason. Some theorists have

drawn from the group polarization literature the conclusion that democracy must abandon its deliberative aspirations and return to a minimalist, market-based model (Posner 2003, 135). But the expectation that citizens will simply cease talking politics to one another seems highly implausible. Rather, the task is to encourage public deliberation within contexts of doxastic heterogeneity. That is, since polarization effects are minimized in deliberative bodies comprised of individuals who represent a wide variety of positions in which each is encouraged to share his views and reason, the antidote to polarization is a vibrant "culture of free speech" (Sunstein 2003b, 112) that prizes or even rewards dissent. Such a culture employs blocks to epistemic insularity and takes positive steps to ensure that citizens are exposed to appropriately rich "argument pools" (Sunstein 2003a, 84). Sunstein offers several interesting policy recommendations designed to counteract polarization that I cannot discuss here. The proposal on offer from Bruce Ackerman and James Fishkin (2004) for a national Deliberative Poll, designed to preempt polarization by ensuring that deliberative groups are doxastically heterogeneous, is another promising suggestion that cannot be engaged here.

My objective in the current essay has been simply to launch a social epistemic criticism of the leading response in political theory to the problem of democratic justification under conditions of reasonable pluralism. In the name of pluralism and the "absolute depth" of the "latent conflict" between comprehensive doctrines (Rawls 1996, xxvi), political liberalism imposes for the purpose of maintaining stability a politics of omission. But a politics of omission is a politics lacking in political contestation. As the group polarization results suggest, a politics without contestation is an epistemically unstable politics, and an epistemically unstable politics is politically unstable and potentially volatile.

Of course, Rawls and his followers have the correct *aspiration*. A population of democrats deeply divided over moral, religious, and philosophical fundamentals must find a way to conduct democratic politics despite their disagreements. Furthermore, Rawls is correct to think that public deliberation can be fruitful only if divided parties agree to bracket their deepest

disagreements for the sake of democracy. Where Rawls has gone wrong is in thinking that the constraints of public reason, the boundaries between the admissible and the inadmissible in public justification, can be *stipulated*. If the arguments presented here are correct, common understanding of the boundaries of public political justification must be *worked for*. But this working for common ground can commence only if channels of contestation and conflict between

divided comprehensive doctrines are left open. So the real question facing contemporary democracies is not that of how it could be possible for citizens to achieve consensus on a single conception of political justice under conditions of reasonable pluralism, but rather how a democratic society can sustain its characteristic mode of politics while also recognizing the political importance of contestation and conflict among deeply divided citizens.

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Notes

- ¹ It should be clear from what follows that by "the presidency of George W. Bush" I mean Bush's *status* as president, not his platform, agenda, administration, or policy objectives.
- ² Although the argument targets Rawls's position in particular, the general line of objection can be brought against a variety of views in currency. The Rawlsian models of proper public discussion proposed by Thomas Nagel (1987), Bruce Ackerman (1989), Stephen Holmes (1995), and Charles Larmore (1996) are vulnerable to the criticism I shall raise. Additionally, influential versions of deliberative democracy, such as those offered by Joshua Cohen (1996; 1997) and Amy Gutmann and Dennis Thompson (1996), are subject to my criticism. It may also be the case that the discursivisms of Jurgen Habermas (1996) and Karl-Otto Apel (1980) are similarly jeopardized. I of course cannot argue for all of these claims in a single paper; the point is that a successful critique of Rawls will implicate many other theorists.
- ³ My argument shall engage primarily the account of public reason given in Rawls 1996. To be sure, most of Rawls's later career was devoted to clarifying the public reason doctrine (Rawls 1998; 1999; 2001, 89ff.). I shall have occasion to discuss these later developments; however, the fundamental core of the view remained unchanged.
- ⁴ It is worth noting that Rawls takes this restriction to apply to citizens' *voting* as well; they must not decide how to cast their votes by appeal to their comprehensive doctrines (1996, 215).
- ⁵ "This means that political values alone are to settle such fundamental questions as who has the right to vote, or what religions are to be tolerated, or who is to be assured fair equality of opportunity, or to hold property. These and similar questions are the special subject of public reason" (1996, 214).
- ⁶ Thus, "To check whether we are following public reason we might ask: how would our argument strike us presented in the form of a supreme court opinion? Reasonable? Outrageous?" (Rawls 1996, 254).
- ⁷ As I note below, Rawls later qualified this claim with "the proviso" (1999, 584).
- ⁸ "It is unreasonable for us to use political power ... to repress comprehensive doctrines that are not unreasonable" (Rawls 1996, 61). Hence it may be fully reasonable in some cases to use political power to repress *unreasonable* comprehensive doctrines.
- ⁹ Cf. "That there are doctrines that reject one or more democratic freedoms is itself a permanent fact of life, or seems so. This gives us the practical task of containing them – like war and disease – so that they do not overturn political justice" (Rawls 1996, 64 n. 19).
- ¹⁰ Rawls explicitly claims that justification is a "practical" and not an "epistemological" problem (1996, 44).
- ¹¹ There is a fascinating literature examining whether public reason is *capable* of producing determinate outcomes on questions of basic justice; see especially Reidy 2000.
- ¹² Cf. Fish (1999, 91). Consider the infamous footnote in which Rawls claims that any comprehensive doctrine that would reject a woman's "duly qualified right" to abortion "in the first trimester" is "to that extent unreasonable"; he further contends that "we would go against the ideal

- of public reason if we voted from a comprehensive doctrine that denied this right" (1996, 243 n. 32).
- ¹³ See Joshua Cohen's discussion of the Papal encyclical *Evangelium Vitae*, in which an anti-abortion argument is presented that claims to be independent of any specifically religious claims. Cohen asserts, without argument, that the Pope appeals to a "conception of reason" that is "itself sectarian" (1998, 196).
- ¹⁴ Contrast the philosophically robust pluralisms of Gray (2001) and Galston (2002); both theorists criticize Rawls on this point. Rawls is defended against Gray's criticism in Talisse 2002.
- ¹⁵ That is, the political liberal must take a vow of "epistemic abstinence" even about the epistemic value of his own commitments. On this, see Raz 1990 and Estlund 1998.
- ¹⁶ See Stout, who claims that "One message being preached nowadays in many of the institutions where future preachers are being trained is that liberal democracy is essentially hypocritical when it purports to value free religious expression Over the next several decades this message will be preached in countless sermons throughout the heartland of the nation" (2004, 76). Cf. Swaine 2003.
- ¹⁷ "The zeal to embody the whole truth in politics is incompatible with an idea of public reason that belongs with democratic citizenship" (Rawls 1999, 574).
- ¹⁸ Hence Hardin, "Winston Churchill reputedly quipped that fanatics are people who cannot change their minds and will not change the subject. He got their epistemology just right in his first point. But perhaps he got them wrong in his second point. It is not so much that they will not change the subject. Rather, they cannot change it, because they have no other subject. That is the nature of their crippled epistemology, without which they would not be fanatics" (2002, 21).
- ¹⁹ Carol Mason (2003) provides a similar portrait of militant pro-life organizations.
- ²⁰ Swain explicitly draws the connection I have suggested between epistemic exclusion and group polarization: "Sunstein's analysis [of group polarization] seems to describe something clearly at work among many of the white nationalist leaders interviewed I believe that one reason why many of the members and potential members of their organizations have such little exposure to alternative viewpoints is because of the overall feebleness and lack of honesty that currently dominates discussion about controversial racial issues in America" (2002, 10).
- ²¹ Stating Swain's and Sunstein's point more generally, Sandel observes, "Where political discourse lacks moral resonance, the yearning for a public life of larger meanings finds undesirable expressions. Groups like the 'moral majority' and the Christian right seek to clothe the naked public square with narrow, intolerant moralisms. Fundamentalists rush in where liberals fear to tread" (1998, 217).

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