

## Chapter 16

### The Truth in Political Liberalism

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#### **The Stormy Relationship of Truth and Politics**

Our democratic age tempts us to think that everything is up to us. Of course, as Hannah Arendt insists, the proposition "Germany invaded Belgium in August 1914" is a permanent truth, and nothing we decide can change it.<sup>1</sup> So not everything is up to us. Still, that historical fact is not a truth that affects what is right, or just, or good. So it might be held that these evaluative matters are the ones that are entirely up to us. By analogy with regicide and democratic revolution we might try to cast off the bogus boss-like order of moral and political prescriptions, declaring our authority to decide them for ourselves.

Among the deepest problems for this view is that it cannot even hold together. Does it mean that there is only this one truth about what we should do, the one about our authority: "Everything (else) is up to us"? This is undeniably a claim about what we should do, imprecise but momentous. The idea that there is this truth but no others is fundamentally different from saying that everything is up to us, a claim that is thus abandoned. And still, even this less absolute rejection of truth is hard to maintain once we ask how it is that

“we” shall make these decisions we supposedly have the authority to make: the decisions that constitute all the facts about what we should do, the facts that are “up to us.” When Germany decided that it should invade Belgium, is the idea that this decision made it the case that indeed they should do so? Was it up to them in that way? In that case, we must say that it was right for Germany to invade Belgium. In general, the view that evaluative truths are up to us can be maintained only at the cost of embracing piles of moral absurdity.

A natural response is to say that everything about what we should do is indeed up to us, but not just any way of making the decisions is valid. So we might (with Habermas) lay out the conditions for a proper and authoritative procedure for setting the truths about what we ought to do. (Again, incidentally, is there just this one truth? Is there a timeless universal procedure-independent truth—one that would not be up to us—that says that whatever is decided in *this* way is so?) On one reading, the view might be that truths about what we should do come into existence only when these idealized conditions have actually been satisfied. On any tempting account of the conditions, however, they have never actually been satisfied. (This is certainly true of Habermas’s conditions.) So the view might be, instead, that the truths about what we should do are whichever truths *would*, hypothetically, be agreed upon by us (or certain theoretical counterparts of ours) under the relevant ideal conditions. But this gives up the game. For it is *not up to us* what the outcome of such an idealized collective procedure would be. Nothing we actually decide determines the matter, and so these evaluative things would not be up to us after all.<sup>2</sup>

Hereafter I will assume that not everything, not even everything about what we should do, is up to us. It may yet be that some things are. It might be that under the right conditions some actual collective decisions determine what we should do, while other things are independent of our decisions. The idea of democracy incorporates both ideas: it is not up to us whether democratic principles are true; if they are true, they are true whether we think so or not, and regardless of our decisions. But according to these democratic principles, when certain things are properly decided by democratic means they newly determine what we should do. That is what it means to say they are up to us: we get to determine those facts about what we should do, but then they *are* facts about what we should do. So some truths about what we should do are up to us, others are not.

Truth and democracy, then, have a real but complicated relationship. It is complicated even more by a further truth (or so I believe) about the

relationship between truth and political justification. Following Rawls, I accept that a successful justification for political coercion can take place only in terms acceptable to all reasonable points of view. Rawls and others have called this approach “political liberalism.”<sup>3</sup> Rawls argued that we must try to devise a conception of justice that does not purport to be the truth about justice, since that is something about which reasonable views disagree. He called this substitute account a “political conception” of justice, and this idea will figure importantly below. The idea of “reasonable” points of view strikes some people as insulting to other (“unreasonable”) views, but it is important to keep in mind that one of the main positions being opposed by this doctrine is that viewpoints that are mistaken, no matter how reasonable they might be, may be ignored completely. The Rawlsian denies this, and is thus *more* tolerant and liberal in an important sense. The whole point of this Rawlsian view is to give moral standing to certain viewpoints even if they are mistaken. Compared with traditional political philosophy, it vastly expands the range of views that must be accommodated in the terms of political justification. The idea that it is an exclusionary philosophy is, it seems to me, simply a confusion.

The other opposing flank holds, against the Rawlsian view, that not only the so-called reasonable points of view, but all points of view should have this same status: objections from any point of view are fatal to any proposed political justification. But no one can seriously think this. It would mean that a proposed political justification, while unobjectionable in other ways, would lose all moral force if it were unacceptable to a Nazi ideologue. If there’s anything to be said for this view, I have never heard it. There is, of course, the very difficult question of which views count as reasonable and which do not. This is not likely to be settled by ordinary language use, and so an emptier, less suggestive term such as “qualified” might be more appropriate than “reasonable.” In any case, I will assume that political justification must take place in terms acceptable to all qualified or reasonable points of view, a category whose boundaries are not antecedently clear. I want to build this into our picture of the relationship between democracy and truth: truths are not available in political justification (which makes up only one part of public political discourse) unless they are acceptable to all qualified points of view.

With these preliminary points in mind, I turn to several ways the question of truth arises in political philosophy, and liberal democratic theory in particular. Even more specifically, I look closely and sympathetically at three ways truth might play a larger role within political liberalism than has often

been assumed. First, I explore some implications of Charles Larmore's argument that political liberalism must rest on a moral principle of respect that has its authority independently of public reason. Second, I explain and critique Joshua Cohen's proposal to bring a "political conception of truth" into political justification while staying true to the deep principles of political liberalism, a move that would give truth a role that was eschewed by Rawls. I argue that Cohen's proposal actually would introduce something other than truth: a (mere) political conception of truth. The discussion of Cohen throws into relief a feature of Rawls's view that is, though not fatal, at least awkward. The political conception of justice in Rawls cannot be seen as addressing the truth about justice, and so a society that meets the principles does not thereby count as just. It counts only as in conformity with an ersatz conception of justice, devised, for good moral reasons, to be acceptable for this role by all reasonable points of view. Third, I briefly sketch an alternative possible form for political liberalism, one that dispenses with the idea of a political conception of justice (along with the awkwardness of its ersatz character) altogether, substituting at every point the idea of the (real) truth about justice, without abandoning political liberalism's foundational principle of political justification. I limit myself to explaining the conceptual possibility of such a view, which strikes me as worthy of more thought than this occasion allows.

### **The Truth on Which Political Liberalism Rests**

In *Political Liberalism* John Rawls raised new questions about political philosophy's traditional assumption that, like any other branch of philosophy, it seeks the truth about a list of central issues such as justice, obligation, and authority. Rawls argued that political philosophy is different insofar as it has a political role. In the light of certain fundamental principles about (roughly) the equal right of all people to be free from arbitrary coercion by the community, political philosophy itself is required to devise a set of conceptions that harmonize the ideas of authority and legitimate coercion with respect for disagreement among reasonable contending worldviews. Political philosophy is self-restraining in a certain way: one part of it implies restrictions on the rest of it. In particular, Rawls asserted what he called the "liberal criterion of legitimacy," which says that political coercion is justified only if there is a possible justification that relies only on doctrines to which there is no reasonable objection.<sup>4</sup> Whereas traditional political philosophy

derived justifications from what it took to be deep truths about human nature, value, and religion, this fundamental principle says that such accounts fail to recognize that it is intolerant to impose a political order on people on grounds that they don't accept, so long as their objections are part of a reasonable view.

What becomes of the truth on this view, when it is controversial among reasonable views? Rawls says that he hopes political liberalism can proceed without putting anything forward as true, preferring to rely on the property of reasonableness instead.<sup>5</sup> His reasons for this sweeping position are not particularly clear. He says, invoking the liberal criterion of legitimacy, that the nature of truth is too controversial for political justification to take a stand on it.<sup>6</sup> That would only show that political justification cannot take a stand on the nature of truth, but that wouldn't preclude putting things forward as true. Certainly, in addition to controversy about the nature of truth, many truths are themselves subject to reasonable dispute, but that would be a different argument. Those truths could not, according to the principle, be invoked in political justification. But that has nothing to do with controversy over the nature of truth. It is fairly clear, then, how the principle of legitimacy would forbid resting political justification either on any truths that are open to reasonable controversy, or on any particular account of the nature of truth. But that leaves open the possibility of asserting certain things as true so long as their truth is not open to reasonable dispute. Rawls, however, suggests that political liberalism must try to proceed without so much as the concept of truth.

Political liberalism, in any case, seems to limit appeals to the truth as such, in certain ways. However, none of this is correct unless the principle of legitimacy is true. That principle does indeed seem to imply all these truth-limiting things, but that is of little interest if they are implications of a principle that is not itself true. The principle's being acceptable to reasonable points of view is neither here nor there unless there is a true principle according to which that fact about it matters.<sup>7</sup> This places a limit on how far truth-claims can be avoided by political liberalism: the principle that limits truth-claims must be put forward as true. If it is true, then doctrines have justificatory force only owing to their general acceptability and not owing to their truth.

There are plenty of writers who reject the whole project of political liberalism, many of them on the grounds that it keeps too great a distance from the truth. My argument in this section, by contrast, accepts and defends political liberalism, including its core principle limiting appeals to the truth in political justification.<sup>8</sup> I argue only that this principle must itself be put forward as

true, and consider some implications. The opponents of political liberalism argue that the principle is false. We can't take up their arguments here, but it is important to see the difference.

If the principle of legitimacy must be put forward as true in a way that is prior to and independent of reasonable agreement, then it might seem as though this opens the door to the comprehensive mode of argumentation more generally. After all, if the principle is put forward as true, it can be asked what argument there is for the principle, and the answer must apparently be in the comprehensive mode. Does this show that it is impossible to wall off a domain of political argumentation that steers completely clear of any comprehensive view of value? If it all rests on the principle of legitimacy, and this principle can only rest on doctrines in the comprehensive domain, doesn't it all rest on comprehensive doctrines?

In one sense, of course, it all does. The political realm of argumentation is not meant to be philosophically insulated from all other questions (whatever that would mean). If there is no good philosophical account of the principle of legitimacy, or no good philosophical answer to objections to it (questions that are taken up outside of public reason), then this ought to put the principle in doubt. But the question is whether the *principle* could be beyond reasonable doubt, not whether there is any moral or philosophical *basis* for it that is beyond reasonable doubt. Even if there is no basis for it that all reasonable points of view could accept, that doesn't mean that it couldn't itself be accepted by all reasonable points of view. They might simply have different reasonable accounts of its basis. The fact that the liberal principle of legitimacy must be put forward by the political liberal as true in the comprehensive sense does not mean that political justification must rely on comprehensive views that are controversial among reasonable views.

Charles Larmore emphasizes the special status of the principle of legitimacy—its having an authority that, unlike that of the other doctrines used in political argument, is prior to and independent of the implications of consensus among reasonable views—by saying that it “embodies a principle of respect for persons.”<sup>9</sup> This is a useful description of the principle because it helps us see that the relevance of reasonable consensus must itself be given by a moral principle. This is a corrective to those who think (as, for example, Habermas does) that a democratic people are not under the authority of any moral principles that the people do not somehow give to themselves. This claim itself expresses a moral principle, a certain principle of respect for persons. That principle itself cannot coherently be held to emerge from

consensus among reasonable views, a consensus whose relevance precisely derives from this principle of respect.

It might seem that if we grant that the liberal principle of legitimacy rests on a prior moral principle, then we are forced to go into controversial moral territory. Is the principle of respect that underlies the liberal principle of legitimacy the province of one or a few reasonable comprehensive conceptions and foreign to others? The question is whether appealing to a moral principle of respect that grounds or illuminates the liberal principle of legitimacy necessarily goes beyond the set of doctrines that are common to all reasonable comprehensive views. Larmore says he shares the project of a “freestanding” conception of political values in Rawls’s sense. So his claim is not the claim of many of Rawls’s critics, that justification cannot avoid resting on a comprehensive conception of truth and value. Larmore believes that it can. His point is that this “method of avoidance” (as Rawls called it) is required by a principle that is not itself the product of a consensus among reasonable views. In this respect it is committed to something moral and true that underlies and explains the required reticence about truth on other matters. That does not mean, so far, that it is committed to anything that can’t be accepted by all reasonable points of view.

Interestingly, though, Larmore says that he believes the principle is open to reasonable dispute. It is not clear to me how to reconcile this with his also holding that political justification must be “freestanding.” Larmore writes, “In *Political Liberalism*, Rawls declares that a political conception is freestanding, if it looks only to the principles that should govern the political life of society. It does not present itself as applying to the political realm a comprehensive doctrine about the ends of life. . . . I share Rawls’s conviction that a liberal conception of political association should be freestanding in this sense” (*Moral Basis*, 599–600). Larmore believes that the principle of legitimacy and the associated principle of respect are not things that must be accepted by all reasonable points of view; that is, they are themselves subject to reasonable disagreement. We can invoke them in political argument to the extent that our audience happens to accept them, he says, but reasonable dispute about them is possible: “Being reasonable (in my sense of the term) does not entail the principle of respect for persons. If the moral basis of liberal democracy stands free of any comprehensive conception of the good, it does not on that account become inherently universal. Its appeal can extend only so far as people happen to be committed to the principle of respect” (624). This appears to violate the principle of legitimacy:

no doctrines may be used in justification unless they are acceptable to all reasonable points of view. Larmore must either revise the principle of legitimacy, or hold that it is not itself part of justification and so escapes its own scrutiny, or keep it as it is but hold that it cannot be reasonably rejected after all.

My concern is that if Larmore is correct that it is possible for reasonable people to disagree about the principle of respect underlying liberalism, then, if the principle is true, this very principle is unavailable in liberal political justification. But if that is so, then it can hardly serve the role Larmore assigns to it, of being the moral basis of liberal democracy (613, 617, 623, 624). Here is my argument laid out more directly, that Larmore's combined positions lead to the conclusion that political liberalism is a moral failure, something he surely doesn't accept:

1. The principle of respect precludes appealing in justification to doctrines open to reasonable dispute. (Accepted by Larmore)
2. The principle of respect is open to reasonable dispute. (Accepted by Larmore)

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3. (from 1, 2) The principle of respect precludes appealing to the principle of respect in justification.
4. If the justification of liberal democratic arrangements makes no use of the principle of respect, then the principle of respect is no part of the moral basis of those arrangements. (Assumption)
5. The principle of respect is the moral basis of liberal democratic arrangements. (Accepted by Larmore)

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6. (from 4, 5) The justification of liberal democratic arrangements makes use of the principle of respect.

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7. (from 3, 7) The justification of liberal democratic arrangements makes use of the principle of respect, and such reference is morally precluded by the principle itself.

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8. (from 7) The justification of liberal democracy is a moral failure.

Of course, Larmore does not think it is a failure, so the question is which of these steps he can resist. He must either change his view about (2), and hold



that the principle of respect is *not* open to reasonable dispute, or he must hold that the principle of respect can somehow be the moral “basis” of liberal democracy without being used in its justification. Or, I suppose, he could give up his view that the principle of respect is any part of the moral basis of liberal democracy.

The difficulty would disappear if the principle of respect were itself acceptable to all reasonable views. Larmore does not think that it is, but we should note that this is partly because of the way he conceives of reasonableness, departing in this from Rawls. Larmore thinks that the people whose agreement must be possible in political justification are those who think and converse in good faith, and apply, as best they can, the general capacities of reason.<sup>10</sup> Crucially, this does not seem to preclude any moral content. Or if it does, Larmore is clear that it is not meant to exclude views that do not accept the principle of respect itself or any such commitment to reciprocity. Larmore’s principle of legitimacy, then, is a different principle from Rawls’s, as similar as they are in certain ways. On Rawls’s principle, if a person rejects some justification on certain immoral grounds, this might (depending on details) disqualify her view from counting as reasonable, thus disqualifying her objection from counting against the proposed justification. On Larmore’s different principle, the moral quality of an objection is irrelevant to whether it blocks the justification. A person’s moral views do not bear on whether the person’s overall view is a good faith application of reason, and this latter issue is the one that determines whether her objection defeats the justification. In effect, more objections are decisive on Larmore’s view. This is a moral disagreement between him and Rawls. The stakes are heightened by the fact that, as I have argued, if Larmore is right in this dispute, then the principle of respect cannot be used in political justification even if it is true. If Rawls is right, that problem might be avoided, since the principle of respect might itself be a common moral element in all points of view that are included in the set counted as “reasonable”: the views whose objections to justification morally defeat those justifications.

How might we adjudicate this dispute? The question is: Which features must a point of view have in order that objections stemming from that point of view are, whether they are correct or not, fatal to proffered political justifications? We can’t give as the answer that they must be “reasonable.” The question is precisely what should be counted in that category. The dictionary and ordinary language must be put aside, since they settle no moral questions at all. “Reasonable” is a term of art here, and it is a question for philosophers

what (if any) content it can be given so that the resulting principle of legitimacy is correct. It can be helpful, as I have said, to substitute the blander and less suggestive term “qualified” for “reasonable” in order to avoid being misled by the latter term’s common uses. What features must a point of view have, then, in order to be qualified in this particular way? Larmore says that it must manifest good faith thought and discussion along with respect for the standards of reason that apply to all areas of inquiry, but that it need not include any particular moral position such as a commitment to respect for persons. Why hold this particular view, rather than Rawls’s view that a point of view is disqualified if it lacks certain moral content, in particular a commitment to reciprocity of a certain kind? It is, as I say, a moral question which of these (if either) is correct.

Some writers have resisted building any moral content into the qualifications on the ground that this merely moves the controversy from one part of the theory to another. Call this the objection from “relocated controversy.” It says that if the problem in the first place is the pluralism of conflicting views in society, you haven’t avoided it merely by saying that all views are equal so long as they are morally reasonable. This is a false gesture of toleration. The views counted as unreasonable will often continue to dispute their disqualification from the class of views whose objections are decisive.

When it is said that the problem has not been avoided, this seems to mean that there remains disagreement, now relocated to the fundamental principle of legitimacy. But it would be wrong to suppose that disagreement is the problem that motivated the theory in the first place. The motivating problem was that not only is there disagreement, but some of it stems from points of view that are qualified to defeat justifications to which they can object. Not all disagreements will be disagreements between views that are so qualified. So the fact that a morally laden principle of respect will remain controversial is no problem unless it is also shown that the controversy is between qualified points of view. Which views are qualified can perfectly well remain controversial, so long as it is not controversial among qualified points of view. The project is not one of creating a *de facto* social peace. It is one of providing a justification for political arrangements, and this is not at all the same thing. Showing that disagreement remains does not begin to show that justification has not been provided.

Of course, if the only views that were counted as reasonable or qualified were the one or several that were correct about everything, then the project would be incoherent. The reason is that in that case there could not be such a

thing as reasonable or qualified disagreement, and there would be no animating problem about justification in the first place. If we say that there is reasonable disagreement about many things and that this is a challenge to political justification, then we must mean that some views that are not correct about everything are nevertheless reasonable or qualified in a way that entitles their holders to justifications they can accept. If we can devise justifications that satisfy all such views, then we have indeed solved the problem, regardless of whether there is continuing controversy about which views have been counted as qualified and which have not. We need only satisfy the qualified ones; that status is what their qualification consists in.

The fact, then, that even people who reason in good faith can disagree about any morally laden definition of qualified points of view is no objection to such a definition or to the resulting principle of legitimacy. We are morally free to use justifications to which there are objections, just so long as the objections don't come from qualified views.

If the objection from relocated controversy doesn't succeed, then what reason remains to block moral content from the relevant notion of qualification and disqualification? It is simply a moral question which features of a point of view qualify or disqualify a point of view in the specified way. But why should we not think that certain morally objectionable points of view are, for that very reason, disqualified—excluded from the set of views whose objections can defeat justifications? This wouldn't yet mean that all morally erroneous views are disqualifying. That too is a moral question. Perhaps some are disqualifying and some are not. That is, perhaps for purposes of political justification there is reasonable disagreement about some moral matters, but not about all of them. I don't propose to answer the moral question here, but only to point out that if there is no general difficulty for including moral content in the conditions of qualification, then it is, so far, open to hold that views that reject the moral principle of respect are for that reason disqualified. This couldn't be the whole definition of qualification, or it would be empty, with nothing in it for any view to accept or reject. But so long as there are other disqualifying conditions, there could also be this one. Whatever other virtues this approach might have, it would also, as I have argued, allow political liberalism to avoid a serious problem: the threat that the principle of respect is blocked from use in political justification because it is itself open to reasonable disagreement.

In any case, Larmore and I agree that political liberalism rests on a moral basis that it does not itself generate out of the overlap of reasonable views,

and that this does not vitiate the liberal principle of legitimacy that lies at the foundation of political liberalism. There is a moral truth at its basis.

### **Ersatz Justice: Can Public Reason Handle the Truth?**

As we've seen, Rawls proposes that political liberalism should be understood as banning the concept of truth from our proper justificatory practices. Doctrines and arguments are admissible in public reason on the ground that they are acceptable to all reasonable views, not because of any claim to their being true. I have argued that the underlying principle of justification must itself be put forward as true, but that point is off-stage in this section. We now look at the implications of that principle for the use of the concept of truth in the rest of our practices of political justification. Rawls suggests that truth should make no appearance at all. Joshua Cohen points out that this is a very difficult position to maintain, for reasons I will explain shortly.<sup>11</sup> He proposes to introduce the idea of truth in order to solve the problems he identifies, but only in the form of a political conception of truth. I will argue that there is no real halfway house of this kind, but the issues that motivate Cohen do point to striking and important features of political liberalism that may not be properly appreciated.

What is wrong with banishing truth from our justificatory practices, according to Cohen? The problem is that public justificatory discourse evidently involves asserting things, denying other things, giving arguments for conclusions, pointing out fallacious reasoning in the arguments of others, and so on. All of these are inseparably linked to the concept of truth, at least in the minimal sense. By the "minimal" sense, he means the disquotational interpretation of truth, according to which the proposition "x is F" is true if and only if x is F. The kinds of discourse I just listed seem crucially to involve the idea of things being the way they are asserted to be, or not being the way they are denied to be, and so on, which is an element of the idea of truth. And inferential reasoning seems to require what logicians call truth-functional logic. So, Cohen concludes, we can't make any sense of what goes on in proper justificatory practice if we deprive ourselves of the very concept of truth.

As Rawls plausibly claimed, conceptions of the nature of truth are too controversial to make it into public reason, which must be beyond dispute among reasonable views. What this shows, as we have seen, is that no particular view of the nature of truth can be appealed to in political justification

according to political liberalism. As Cohen rightly says, this includes even the “minimal” or “deflationary” theory of truth. It too is open to reasonable dispute. So while we may assume that the disquotational feature is a part of any reasonable conception of truth (or so I understand Cohen to assume), we must avoid committing ourselves to the controversial view that this is all there is to truth. The question is how to introduce the concept of truth into public reason while avoiding any particular controversial conception of truth.

Cohen distinguishes, in a classically Rawlsian way, between a political conception and a comprehensive conception. Applying the distinction where Rawls did not, he says, in effect: We may not use a comprehensive conception of truth, but why not a political conception? For example, despite much disagreement, all reasonable conceptions of truth seem to converge on the disquotational element. If we availed ourselves of a minimalist conception of truth for political purposes, leaving aside whether there was more to the nature of truth than just this, we would not be offending any reasonable view, and yet we would be able to accommodate the truth-aptness of the activities of public justification such as assertion, denial, and inference. We use, as it were, a fragment of the concept of truth, the fragment that all reasonable views accept. It is a fragment, available for political purposes, of the genuine truth-predicate. This parallels the way Cohen sees the idea of a political conception of justice. It is a fragment of the correct comprehensive conception of justice (whatever that conception might be). It is not the whole truth about justice, but it is a part, available for political purposes, of the true conception of justice.

I think this use of political conceptions will not work as a reconstruction of political liberalism. Consider, first, the so-called political conception of truth in Cohen’s account, a conception that is meant to allow us to say of the various claims in the so-called political conception of justice that they are true. Even though no controversial conception of the nature of truth is carried along by such a statement, the statement goes too far. To see why, it is helpful to distinguish between two possible meanings when it is said that a certain conception of justice is acceptable to all reasonable views. One thing this might mean is that all reasonable conceptions agree that this is the truth about justice. Another thing it might mean is that even if they don’t agree that it is the truth about justice, they each find it acceptable within their own larger view to use this conception as the framework for reasoning about justice under conditions of reasonable disagreement. Cohen’s approach must assume the first kind of agreement, since only then would the elements of the

political conception count as truths about justice from each reasonable point of view.

As Rawls argues (and Cohen indicates no dissent), there are multiple reasonable conceptions of justice (within a sort of family).<sup>12</sup> Being different, they are, in at least some respects, incompatible. It is impossible, then, to be an adherent of one of them without regarding the others as false (even if not in every particular). So adherents of conceptions other than justice-as-fairness must believe that particular conception is false. There is reasonable disagreement about whether it is the truth about justice. It can nevertheless be agreed by all reasonable views that it is suitable as a conception of justice for purposes of public reasoning in pluralistic conditions. This can be summarized as being an agreement about its reasonableness, even if not its truth. Rawls writes, "Once we accept the fact that reasonable pluralism is a permanent condition of public culture under free institutions, the idea of the reasonable is more suitable as part of the basis of public justification for a constitutional regime than the idea of moral truth. Holding a political conception as true, and for that reason alone the one suitable basis for public reason, is exclusive, even sectarian, and so likely to foster political division."<sup>13</sup> Since there is reasonable disagreement about the truth of any conception of justice, even Rawls's own view, justice-as-fairness, the liberal principle of legitimacy blocks that truth-claim from public reason.

Cohen points out that if we fear the sectarian significance of appeals to truth, we must also worry about the sectarian significance of claiming that a conception of justice is the most reasonable one. That too will be disputed among reasonable views. Assuming that this would be absurd, he concludes that neither concept is blocked from public reason. It is not clear what permits this move. Maybe it would be serious trouble for political liberalism if even "most reasonable" were blocked from public reason by the liberal principle of legitimacy (a question I'll come back to). But that wouldn't allow us to act as if there is no problem by just stipulating that it is not blocked. We don't have the power to decide such a thing as we choose. If there is reasonable disagreement about "most reasonable," then it simply *is* blocked by the principle that says justification may not appeal to doctrines that are open to reasonable dispute. This is a logical truth, not a theoretical decision.

How bad would it be if even "most reasonable" were unavailable in public reason? I don't see why it would be a serious problem. Rawls offers one member of the family of liberal conceptions because he believes it is the most reasonable. But there is no need to rest political justification on this feature of

the conception, rather than the less controversial feature of its being, simply, reasonable. It is, as are other conceptions, acceptable to all reasonable points of view as a shared public conception of justice that is appropriate for use in public political reasoning. Which of the reasonable liberal conceptions might actually be settled on as a shared public conception of justice will depend on many things, but they all share the feature that allows political justification to rely on them: they are, if not the most reasonable, at least reasonable. So I accept Cohen's point that "most reasonable" would be as divisive as "true," but I conclude that both are banned from use in political justification. Of course, as with many other doctrines that lie outside of public reason, these predicates will have various legitimate uses in public political discourse. But, as Rawls says, in due course we must be prepared to give justifications that limit themselves to doctrines acceptable to all reasonable points of view, and claims about which conception of justice is true or most reasonable are blocked by this requirement.

There are two features of this reading of political liberalism that some might find alarming. First, as we have seen, it is hard to make sense of political discourse in public reason without treating the claims about justice as true or false. Second, if the political conception of justice is not put forward as true, then no claim is being made about (real) justice. I take them up in order.

I accept Cohen's important point that political liberalism needs some way to include the truth-linked concepts of assertion and denial, inference and fallacy, in the activities of public reasoning. This might seem to be threatened if citizens are not permitted to make truth-claims about justice (etc.) in public reason. A similar situation arises in the context of legal courtrooms, however, and the analogy suggests there is no problem after all. It is a familiar fact that the opposing parties might each find it convenient to "stipulate" that "x is F" even if they and the judge all know that x is really not F. For example, the prosecution might stipulate (or refrain from challenging) the proposition that the defendant was at home at midnight. They might stipulate this because their case will proceed without any need to deny this. At this point, reasoning in the case is to proceed on the assumption that the defendant was home at midnight. It may be asserted, inferences may be drawn from it, and so on. These are truth-linked activities. How can they go on when the statement, in court, that "x is F" is not being put forward as true? The answer is that it is understood that it shall be treated as if it were true, including all the truth-linked activities that this would normally warrant, but all governed by the understanding that it is not really put forward as true (and indeed may not be true). That "x is F" becomes one of the "facts of the case," even though

it is not really granted to be a fact. For certain reasons, the participants use a certain conception (as we might put it) of the facts. They are not (or may not be) actually the facts, but they can function as an ersatz set of facts. There are interesting philosophical questions about the semantics of the utterances that take place in a context like this, but the analogy is enough, I think, to suggest that there is no obvious incoherence in combining the following two features: (1) the propositions in the conception are not put forward as true, and (2) the full range of truth-linked activities can carry on as if the propositions in the conception were true, with an understanding that this is being done for certain reasons, and that they may not really be true at all. The truth-linked activities require no more than an ersatz conception of the facts. Cohen is correct that, because the contending comprehensive views will often assert or deny some of the elements of the political conception, they must regard them as truth-apt: they must be either true or false. That is compatible with my suggestion that in the political conception (as in the trial context) they are not put forward as true, even though they must, in fact, be either true or false.

This point leads directly to the second concern I mentioned about my interpretation of political liberalism, namely that if citizens are not putting forth their claims about justice as true, then they are not really making claims about justice. There is something right about this, although this might be an exaggerated way of putting it. After all, the stipulated “fact” in the criminal case, that the defendant was home at midnight, is surely about the defendant and about midnight. It is not about some other person or time. It is just saying things about the defendant in a context where it is to be understood that they are not meant to be true. Similarly, we can perfectly well say that claims about justice in public reason, even if they are not put forward as true, are still *about* justice.

But there remains a significant concern. If, for example, Rawls’s two principles of justice are not (as I claim) to be understood as put forward as true, then a society that meets the principles cannot, on that basis, be determined to be just. Again, this is right in a way, but exaggerated. After all, in the same context in which the participants are understood to limit themselves to the political conception, namely, public political argument, it would be perfectly appropriate to say that societies that meet the two principles are just. It follows logically from saying that those are the principles of justice. In that context, however, it is understood that this is not being put forward as true. With that understood, it is just the right thing to infer. Inference, as we know from the legal context, does not require genuine claims to truth.

That is why it is an exaggeration to say that societies meeting the principles



in the political conception can't be said to be just. But from a philosophical point of view, what is right about it is that the context is one in which the principles are (for moral reasons) not being put forward as true, and so the inferences and so on are all governed by that understanding. The political conception does not purport to give the truth about justice, not even part of it. It might literally be false. Rawls conjectures that perhaps we should find this to be unlikely given the conception's acceptability to all reasonable points of view, but he clearly allows for it in principle.<sup>14</sup> The political conception of justice is a substitute for a true conception of justice for certain purposes, and so we might call it an ersatz conception of justice. Simply noting this about the view is not any objection to it, since the legal context shows that there might be adequate reasons for the use of ersatz conceptions. Many seem to think that it would be (if I am right) an awkward and undesirable feature of the view. I'm not sure I agree. It does seem fair, however, to say that while a politics governed by a political conception of justice is, as I argued above, still about justice, it does not aim at justice. This ersatz feature of the view is not entirely satisfying, I suppose, but that hardly establishes that the moral reasons that are given for resorting to a political conception are not adequate. This might very well be the best that can be done given the range of reasonable pluralism. Nevertheless in the next section I explore an alternative development of political liberalism that would avoid the ersatz issue entirely.

### **Beyond Political Conceptions?**

I have argued that if the truth about justice is not necessarily a competent public reason, then political argument must not be addressed to the truth about justice as such, but to a political conception that can serve as justice for political purposes.<sup>15</sup> This requires a distinction between true justice (justice in the true or best comprehensive conception) and political justice (justice on the most reasonable political conception). An awkward implication is that political justice might not be true justice. If it's not true justice, it's not justice. If a painting isn't a true Van Gogh, it's not a Van Gogh, however well it might serve *as* a Van Gogh for certain purposes.

Many writers have rejected the whole framework of political liberalism for reasons like this.<sup>16</sup> The thought seems to have been that the principle that justification must be acceptable to all reasonable points of view is incompatible with the indispensable conviction that political procedures and

participants aim at and address true justice. My thesis in this section is that these are not incompatible after all. Political liberalism does not necessarily preclude conceiving of politics as aiming at true justice, although in Rawls's version it does. My goal is mainly to make this abstract point, and not to advocate that particular path for political liberalism. But it will be helpful to explore this truth-oriented option in some detail.

The Rawlsian view is, in the first instance, a view about what kinds of purported justifications of political coercion are successful—that is, which ones really accomplish the moral feat of justification. (This is not at all the same as the question of which justification will actually find acceptance, or promote stability, etc.) It is only as a corollary that the view leads to principles about how citizens ought to conduct themselves in public political argument. My argument exploits the difference between these two enterprises. I accept the basic point that if a form of justification is not morally successful, then it is a natural corollary to hold that citizens ought not to offer such justifications as if they were. But this doesn't yet tell us much about what kinds of things they should or should not say. In particular, it doesn't yet imply that citizens ought not to assert what they take to be the real truth (in the comprehensive sense). It entails only that if they do so, they should not be suggesting that the truth of the view is enough to justify coercing people in accordance with it. Rawls's final view about public reason incorporates this point, laying out numerous contexts in which asserting one's comprehensive views in public would not violate his principle of public reason.<sup>17</sup> Rawls argued that “in due course,” however, citizens must be prepared to frame their public political arguments in terms acceptable to all reasonable points of view, and this, he concluded, will be different from asserting one's own comprehensive view as the truth. I will call this “Rawls's proviso.”

In order to supply a generally acceptable substitute for truth seeking, he argues that citizens, when in due course they give their real argument, are to address a suitable political conception of justice (he proposes his famous theory of justice-as-fairness for this role) rather than the truth about justice as they see it. It is this last step, the substitute of a political conception of justice for true justice, that I want to suggest may not be required. The result of the alternative I will propose would be a theory that remains faithful to the principles of political liberalism but jettisons justice-as-fairness as a political conception of justice. Justice-as-fairness would remain important, of course, but in the role Rawls originally gave to it (later rescinding this status), as a proposal about true justice. The role I will be envisaging for discourse about true justice thus goes far beyond what is implied by Rawls's proviso, and is

frankly incompatible with a major component of Rawls's overall view: the need to rely on a shared political conception of justice while putting aside disputes about true justice in our public justificatory practices.

To say that there must be a publicly acceptable justification for some political action—say, for a certain law—does not directly imply that what people ought to be doing in political discourse is presenting what they take to be publicly acceptable justifications. Presumably that is one thing that ought to be done, but it is a mistake to think that political liberalism requires this as the primary mode of political discourse or argumentation. All we really know from political liberalism's principle of justification is that people ought to act in such a way that there *is* a generally acceptable justification for the resulting laws and policies. The possibility that I want to explore is that there could be such a justification for a political practice in which the predominant topic of discussion is the (real, comprehensive) truth about justice. Nothing fundamental to political liberalism is violated by citizens supporting laws or candidates on the basis of comprehensive views of the truth, so long as there is a justification that is *itself* acceptable to all reasonable points of view for imposing on citizens laws and policies that are arrived at in this way.

The fundamental tenet of political liberalism is about what counts as a successful justification, not about how to conduct ourselves in political argument. Something would indeed be wrong if the citizens offered their comprehensive doctrines as if they were adequate justifications. (This would violate the “natural corollary” of which I spoke earlier.) But that is not the only thing that they could be doing when they support laws or policies on the basis of their comprehensive views. It might seem that if someone advocates a law on certain grounds, then he is committed to saying that those grounds would be an adequate justification for that law. But consider the context of democratic voting. As a legislator I might advocate a law on the ground that, say, it would benefit some and hurt none. But I don't think that this consideration by itself would justify the law, since I think the law would be justified only if it is passed by a majority of my fellow legislators. If I think the justification is procedural in some way, then I will distinguish between two levels of reasons for or against a law. At one level the reasons are about the procedure. At another level the reasons are the ones that are to be given within the procedure. We might even say that these turn out to be reasons for different things. Only the procedural reasons are reasons in favor of the imposition of the law. The reasons given within the procedure might be said to be reasons for voting for the law, which is something quite different.

When citizens advocate a law on the basis of their comprehensive view, they are participating in the political procedure. We might interpret them as giving reasons for voting or working for certain laws or policies. The analogy with the legislator shows that it would be a mistake to assume that they are also giving what they take to be a justification for implementing and imposing the law. On that question the right sort of reasons might be procedural considerations. Now here's the important point: the right procedural justification might refer to a procedure in which participants address the truth, in the comprehensive sense, about justice. If this procedural justification is itself acceptable to all reasonable points of view, then the Rawlsian principle of justification would be fully respected.

Strikingly, this (still fully politically liberal) approach would eliminate the role for a political conception of justice. It is worth looking briefly at the development of Rawls's thought in order to distinguish this approach more clearly from his own. In *A Theory of Justice*, Rawls develops a theory of true justice—a theory of how justice might be conceived in the best comprehensive conception. Over time he comes to accept a principle of general acceptability in justification, and to realize that his case for justice-as-fairness cannot meet that requirement. At that point there are two choices. The one Rawls takes is to recast the theory of justice as a “political conception of justice,” and pointedly not (any longer) as a proposal about true justice in the comprehensive sense. It is to serve as a conception of justice whose use for public political purposes is acceptable to all reasonable views that differ about true justice and much else.

The other choice, the road not taken, would have been to give an account of how a process in which people address true justice could justify the laws in a way acceptable to the wide variety of contending reasonable comprehensive conceptions (of justice, among other things). This second choice does entirely without the idea of a public conception of justice. Justice is justice. Of course, it all depends on whether there is some justification of a truth-oriented political process that can plausibly fill the bill, serving as a justification that is acceptable to all of the contending reasonable points of view.

My point, then, is an abstract one: Political liberalism as a theory of justification does not necessarily lead to the need for a political conception of justice. A second point is that there is something to be said for a procedural justification in which the arguments of participants are primarily addressed to true justice rather than to a political conception of justice. In this short space I will have only brief and tentative things to say about this, the goal being to put this question forward as one of some interest and importance.

One natural way to proceed would be to appeal to the epistemic value of

appropriately structured discussion on a common topic. If (in a familiar formula) free and vigorous debate under equal and favorable conditions would tend to lead toward the correct answer, then this is one strong reason for implementing such a discursive procedure. Moreover, the origin of a political decision in a procedure with this epistemic value might be a significant source of its moral legitimacy—the moral permissibility of its enforcement.<sup>18</sup> I have discussed a view with this structure elsewhere, so here I will merely note an intuitively helpful analogy. In jury trials the outcome is normally thought to be permissibly enforced, even when it is mistaken (so long as there weren't procedural improprieties). Part of the moral basis for this is the presumed epistemic value of the jury trial, its tendency (certainly fallible) to lead to substantively correct decisions. If it weren't for that feature of jury trials there would surely be no moral basis for enforcing the decisions. So we are familiar with this way of thinking: the decisions are legitimate partly on the ground that they were produced by a procedure with a significant tendency to get the right answer. We might call this structure “epistemic proceduralism.”<sup>19</sup> We might, then, dub this alternative version of political liberalism “epistemic political liberalism.”<sup>20</sup>

Now, of course, there might be a variety of procedures with at least as much epistemic value as a democratic regime with free and vigorous expression. Perhaps there are experts, and they could rule at least as justly. But in a Rawlsian framework, where justifications must be in terms all reasonable views can accept, it is far from certain that there would be anyone whose status as an expert in the factual and moral domain of political decision could pass muster.

It is important to emphasize that the underlying theory of political justification would remain deeply Rawlsian. The normal practices of public political justification would see participants citing myriad doctrines about which there is much reasonable dispute. So, by the liberal principle of legitimacy, the arguments they would be giving could not serve as the justification they must, in due course, be prepared to give if pressed. That “due course” justification would step back and speak, in a way (so we are supposing) that would be acceptable to all reasonable points of view, of the epistemic value of a public deliberative practice in which participants press their comprehensive views about true justice.

There is much more to be said. It is enough for now to point out that there is this perhaps surprising possibility: a version of political liberalism, brooking no compromise on the fundamental principle of justification, and yet within which there is no political conception of justice at all, but rather in which justice is justice, and truth is truth.

discussion by saying that “the truth predicate exists solely for the sake of a certain logical need.” The political conception does not include any such story about the sole reason, but can incorporate the rest of what is said.

47. Habermas suggests that Rawls endorses the full display argument. See “Reconciliation through the Public Use of Reason,” 124–25.

48. John Rawls, *A Theory of Justice*, revised ed. (Cambridge, Mass.: Harvard University Press, 1999), 509.

49. Here I follow Rawls’s discussion of “declaration,” in “Idea of Public Reason Revisited,” 594.

50. Harry Frankfurt, *On Bullshit* (Princeton, N.J.: Princeton University Press, 2005), 33–34.

51. John Stuart Mill, *On Liberty*, Chapter 2, paragraph 10.

52. Williams, *Truth and Truthfulness*, 7.

53. See in particular Richard Rorty, “Is Truth a Goal of Inquiry? Donald Davidson versus Crispin Wright,” in *Truth and Progress: Philosophical Papers*, vol. 3 (Cambridge: Cambridge University Press, 1998), esp. 41–42. In his comments on my paper at a Stanford Law School colloquium in October 2006, Rorty disagreed that truth is a norm distinct from warrant, for reasons that struck me as assuming some form of pragmatism, and resisted my attribution to him of the cultural proposal. But once we accept that truth and warrant are distinct norms, and distinguish the word “true” from the concept of truth, then we must conclude that Rorty is endorsing something along the lines of the cultural proposal. Or so it still seems to me.

54. Rorty notes the wavering in *ibid.*, 21–22.

55. See Hilary Putnam, “Does the Disquotational Theory Solve All Problems?” in *Words and Life* (Cambridge, Mass.: Harvard University Press, 1994), 264–78.

56. Rorty, “Is Truth a Goal,” 29, 41.

57. Michel Foucault, “The Ethics of Concern for Self as a Practice of Freedom,” in *Ethics: Subjectivity and Truth*, ed. Paul Rabinow (New York: New Press, 1997), 295.

#### 16. The Truth in Political Liberalism (DE: Notes to Estlund Chapter)

1. Hannah Arendt, “Truth and Politics,” in *Philosophy, Politics and Society*, 3rd ser., ed. Peter Laslett and W. G. Runciman (Oxford: Blackwell, 1967), 122. Her example stems from a remark by Georges Clemenceau in 1919 on how historians would tell the story of World War I: “One thing is for certain: they will not say that Belgium invaded Germany.”

2. I discuss this point in detail in David Estlund, *Democratic Authority* (Princeton, N.J.: Princeton University Press, 2008), Chapter 5.

3. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

4. *Ibid.*, 146.

5. *Ibid.*, ix–xx, 94, 116, 126.

6. *Ibid.*, ix–xx.

7. If it is true, then it apparently applies to itself. I trace the implications of this fact, arguing

that it is not the paradox it might appear to be, in David Estlund, “The Insularity of the Reasonable: Why Political Liberalism Must Admit the Truth,” *Ethics* 108 (January 1998): 252–75.

8. Below I will consider an alternative form of political liberalism in which political argumentation appeals to truths as such. As I will explain, though, that variant still accepts the sentence here in the text: justification may appeal only to doctrines acceptable to all reasonable points of view, and that is the basis of their justificatory force.

9. Charles Larmore, “The Moral Basis of Political Liberalism,” *Journal of Philosophy* 96, no. 12 (1999): 599–625. Subsequent citations are cited parenthetically in the text.

10. See *ibid.*, 600.

11. See Cohen’s essay in this volume.

12. John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999), 14.

13. Rawls, *Political Liberalism*, 129.

14. *Ibid.*, 153. The Rawlsian language of overlap (as in “overlapping consensus”) can seem to count against me. That can tempt the reading that the reasonable views of the truth about justice share this one part in common. So there is overlap on a view about the truth about justice, even if not the whole truth. But I see no way around the point that there is, according to Rawls, reasonable disagreement about the truth about justice, and even about the most reasonable political conception. So the overlap is best seen, I think, as an overlap on the liberal principle of legitimacy as true, and on the mutual acceptability of any of a family of liberal conceptions of justice, whether they are true or not, for political purposes.

15. I speak mainly of justice in order to easily engage the Rawlsian view and its opponents. But I do not mean to take a view here on whether justice is the master value in politics, nor to imply that I mean my points to apply only to that single value.

16. For example, see Joseph Raz, “Facing Diversity: The Case of Epistemic Abstinence,” *Philosophy and Public Affairs* 19, no. 1 (1990): 3–46.

17. John Rawls, “The Idea of Public Reason Revisited,” in *The Law of Peoples*, 144–18. I discuss this structure of justification at great length in Estlund, *Democratic Authority*. Here I limit myself to a sketch. The structure is just like my epistemic proceduralism, but in the book I assumed that voters must address a shared political conception of justice. That is the assumption whose possible abandonment I am exploring.

19. That is the name I use in my discussion of a similar structure of democratic theory, in Estlund, *Democratic Authority*.

20. For what it is worth, we might spread several approaches to liberalism across a continuum according to how robustly they make use of truth in political justification. Moving from the least robust to the most:

Skepticism: denying that there are truths on these matters.

Rawls: doing without truth altogether.

Larmore: truth of the underlying principle of legitimacy, no truth elsewhere.

Cohen: a political conception of truth in discourse about justice.

Epistemic political liberalism: real truth throughout, but including the truth of the principle of legitimacy, which puts the justificatory weight on reasonableness rather than truth.

Comprehensive liberalism: no boundaries to public reason at all.