

## REVIEW ESSAY

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### JUSTICE, CONSENSUS, AND BOUNDARIES Assessing Political Liberalism

*JUSTICE IS CONFLICT* by Stuart Hampshire. Princeton, NJ: Princeton University Press, 2000. 98 pp. \$30.00 (cloth), \$11.95 (paper).

*DEMOCRATIC PROCEDURES AND LIBERAL CONSENSUS* by George Klosko. Oxford, UK: Oxford University Press, 2000. 271 pp. \$49.95 (hardcover).

*LIBERALISM BEYOND JUSTICE: CITIZENS, SOCIETY, AND THE BOUNDARIES OF POLITICAL THEORY* by John Tomasi. Princeton, NJ: Princeton University Press, 2001. 163 pp. \$55.00 (cloth), \$15.95 (paper).

*DEMOCRATIC DISTRIBUTIVE JUSTICE* by Ross Zucker. Cambridge, UK: Cambridge University Press, 2001. 336 pp. \$70.00 (hardcover).

When John Rawls published *A Theory of Justice* in 1971, he initiated and inspired a new era in democratic theory. That book played the catalytic role it did because Rawls jolted political and moral philosophy out of what had been their relatively passive, second-order stances toward their subject matter. Moral philosophers had confined themselves largely to the role of underlaborers, to borrow Locke's phrase, writing about the language of morals and seeking to resolve verbal and conceptual puzzlement regarding moral propositions. Political theorists had functioned largely as intellectual historians and textual hermeneuticists, clarifying and critiquing the paradigmatic normative models of figures such as Mill and Madison, Locke and Rousseau. Rawls abandoned such intellectual modesty and boldly set out a constructive argument about the moral foundations of democracy, locating these foundations in an original account of distributive justice.

Pushed by Michael Sandel's critical reconstruction of what he argued was the implicit metaphysic presupposed by the substantive claims of *A Theory of Justice*, a reconstruction in which Rawls did not acquiesce, Rawls then turned to reflect upon what he saw as the appropriate philosophical presuppositions

that should inform—and limit—democratic norms. These presuppositions should be, he argued, “political” in at least two senses: they should take their bearings from political rather than metaphysical conceptions of democratic persons, and they should confine themselves to what was necessary to regulate social cooperation rather than venturing into comprehensive conceptions of the human good. The justificatory discourse of democratic politics should bound itself accordingly, respecting the limits of “public reason” and avoiding reliance upon imperatives dependent upon contested and comprehensive moral viewpoints.

The responses to Rawls’s arguments thus have appeared in two waves, as it were. The first wave of these responses was directed toward the claims about social justice and their role in determining democratic practices and institutions. Some of these arguments were largely critical in nature, scrutinizing the logic behind the difference principle, the priority of liberty, the notion of primary goods, and so on. Other theorists such as Robert Nozick, Michael Walzer, Bruce Ackerman, Brian Barry, and David Miller were inspired to produce alternative constructive models of their own. The second wave of responses was directed toward issues and regulative norms arising from the conception of “political liberalism.”

Ross Zucker’s *Democratic Distributive Justice* and Stuart Hampshire’s *Justice Is Conflict* fall into the first of these categories. Both of them seek to provide an alternative account of social justice and the role it should play in guiding political practices and social policy. George Klosko’s *Democratic Procedures and Liberal Consensus* and John Tomasi’s *Liberalism beyond Justice* fall into the second category. They probe in different ways the foundations and the boundaries of political liberalism, challenging *inter alia* Rawls’s depiction of an overlapping consensus within contemporary democratic societies and the constraints and biases generated by political liberalism’s account of the constraints of public reason and the limited reach it accords to political theorizing about the shape of a good democratic society.

Like Rawls, Ross Zucker believes it possible for theory to provide us with a convincing substantive account of distributive principles and standards for how a society should allocate its resources. He also agrees with Rawls that adherence to these principles should be considered to be one of the defining features of what we can properly call a democracy. And, again in parallel with Rawls and perhaps even more clearly and definitively, he argues that there is “no insuperable barrier to including these principles within the constitutional principles of a democracy” (p. 290). Unlike Rawls, Zucker’s theory is a desert theory of sorts, albeit a rather unusual, distinctive, and novel one. Rawls’s account of justice as fairness is premised on the claim that there are, for all practical purposes at least, no valid and ascertainable grounds for claims of

pre-institutional desert. Hence, fairness for morally equal democratic citizens should be understood as consisting in the greatest possible equality in the distribution of primary goods consistent with the admonition of rational prudence to avoid any distributive principles that would make everyone worse off. Zucker in contrast argues that we can identify rational and persuasive justification for individual moral rights/entitlements to equal shares of some portion of a society's GNP, justification that is based upon individual desert.

What is most novel in Zucker's theory are the grounds he puts forward for these individual entitlements to equal shares of a portion of GNP. He offers in this context two lines of argument that converge upon these claims of right. The first argument is an unusual theory of what constitutes an economic contribution to society. The second argument is a novel theory of economic community.

According to Zucker, virtually all previous theories of economic contribution, whether classical or socialist, have been inadequate because they look exclusively to constructive participation in economically productive activities for their definition of what counts as a "contribution." Such production oriented models are insufficient, Zucker contends, because "consumers contribute to the determination of value" (p. 99). They do so because unless something is "an object of effective demand" then it "has no economic worth" (p. 98). Therefore "consumptive attributes fulfill the criterion for entitlement as much as productive activities do," to wit: "they give rise to creative activities in an economic sense—they contribute to the value of commodities" (p. 104).

To supplement this account of desert based upon economic contribution, Zucker argues that all the participants in a market system—again on both supply and demand sides—should be seen as members of an "economic community." All are participating cooperatively in a "common activity." A market is a community because "the participants share certain attributes, actions, and ends" (p. 170). Indeed, "profit maximization forms a common activity with preference maximization, not simply as an alternative to it" (p. 171). Moreover, Zucker insists, this constitutes "an irreducibly systemic process" (p. 114) in which people "cannot be analytically separated in terms of cooperation. . . . In common actions, individuals are equally parts of the action and should receive equal compensation" (p. 164).

It is easy to sympathize with Zucker's moral intuition that something has gone significantly amiss in a political economy in which the average CEO makes 415 times the salary of the average manufacturing worker, up from 35 times that amount a mere three decades ago (p. 22). But his argument is unlikely to win many converts. It is beset by deep flaws from its theory of eco-

conomic value to its sociology of community to its audacious political and constitutional theory. Consider the last of these first. Zucker insists that the redistributive economic entitlements he champions can properly be given constitutional status. Constitutional rights, he tells us, should not be determined by political procedures but rather by “theoretical deduction” (p. 294). And there is “no insuperable barrier” (p. 290) to the constitutional subsumption of the rights claims generated by his own theoretical deductions, he tells us, even though he recognizes that all theories of economic rights are controversial. His own particular theoretical deductions, indeed, are “controversial” to the point of idiosyncrasy. His “is a novel idea,” he writes, since “no contemporary theory of property” other than his own “considers consumer contributions to value (exchange-value) as a ground of entitlement” (p. 105). Besides being a controversial minority viewpoint, the distributive principle to which he would accord constitutional status is highly indeterminate, for Zucker does not specify exactly what portion of GNP is properly subject to equal distribution. Nor does he specify the procedures or criteria by which that determination could be made.

The theories of economic contribution and community upon which the entitlement claims are based also suffer from serious difficulties. The crucial and counterintuitive claim that consumption should be seen as an economic contribution and hence as deserving of compensation seems to rest upon a fundamental conceptual confusion that elides the difference between effective demand and the mere possession of “consumer attributes such as wants and needs” (p. 279). It is of course correct to say that nothing has economic value unless it is an object of effective demand, but it does not follow that the mere having of “wants and needs” therefore constitutes the making of an economic contribution warranting compensation. The crucial word here is the modifier in “effective demand.” Needs become contributions to the creation of economic value only when they are backed by the resources to make them “effective,” and that result occurs only when those with the needs have produced something others want in order to generate the wherewithal to make their demand effective. That means, in short, that Zucker’s “theoretical deduction” of individual rights claims from consumer activities *per se* is a *non sequitur*.

Zucker’s repeated assertions that the process of cooperation in economic activities is “irreducible” are similarly problematic. Assessments of the individual marginal productivity made by the marketplace are highly imperfect, but they provide reasonable approximations of the value of various contributions. And Zucker trades heavily upon very vague and problematic notions of what constitutes a “community.” He calls the striking of a bargain between opposing interests as “a common action” (p. 173), for example, insisting

therefore that the standard account of an economic exchange “does not grasp the common elements in it” (p. 175).

This combination of idiosyncratic economic sociology and stipulative constitutional imperatives seems, therefore, unlikely to be successful either as theory or as a guide to practice. Contemporary capitalist economies create levels of inequality that demand redistributive adjustments by the state. But these adjustments are justified only partly by claims of justice—which themselves will always be multiple and contradictory—since they are based in large measure upon the sociological imperatives of a democratic society, considerations of economic prudence, and the requisites of a decent society. Moreover, the determinative judgments about how much redistribution and to whom always will and always should be made by the sovereign citizenry rather than by academic theorists who nominate themselves to play that role. To address the problems that rightly trouble Zucker we would be ill-advised to marry neo-Comtean political fantasies of theory-determined governance with neo-Rawlsian epistemic fantasies of moral geometry. We would be much better advised to draw our moral and strategic inspiration from Madison, Marx, and what Charles Anderson calls the pragmatic liberalism that recognizes and acts upon the legitimate public interest in the governance of all large-scale social enterprises and institutions, including economic corporations. We need new mechanisms of democratic governance to exert countervailing power and not aspirants to be what Helvetius called “true doctors of morality” to issue constitutional dictates based upon their theoretical constructions.

In *Justice Is Conflict*, Stuart Hampshire takes it as given that efforts such as those of Rawls and Zucker to produce a definitive standard of distributive justice to govern democratic politics are futile. In contrast to Zucker’s notable certitude, Hampshire confesses his deep skepticism regarding matters of moral epistemology. This skepticism is directed at both the foundations and the horizons of political theorizing. About the time Rawls published *A Theory of Justice*, Hampshire developed a settled conviction, he tells us, that “it was a mistake to look for a moral theory . . . that could serve as a justification or foundation of [his] political loyalties and opinions” (p. ix). And these political loyalties and opinions “where challenged did not any longer include or entail any generalizable account of a future ideal society or of essential human virtues” (p. x).

Because people have and will always disagree about substantive principles of social justice, the best and only place to look for justice and fairness is in the procedures deployed to resolve and adjudicate these conflicts. Since conflict is normal, all societies have need for such procedures; so fairness in these procedures, writes Hampshire, “is acknowledged as a value in most cul-

tures, places and times; fairness in procedure is an invariable value, a constant in human nature" (p. 4). What makes these procedures fair is their adherence to the defining principle of adversary argument: hear the other side. "In each case," says Hampshire, "the fairness of public procedure depends as its necessary condition upon this very general prescription's being followed" (p. 9).

Hampshire offers several arguments on behalf of according this general prescription its status as the one universally valid principle of justice. One of these arguments is Humean in inspiration, another follows the logic of Judith Shklar's *Ordinary Vices*, and a third is formally Kantian. First, like Hume in his "experimental" and pragmatic account of moral theory, Hampshire argues that the very ubiquity of adversarial procedures of conflict resolution testifies both to their grounding in the moral sentiments of the human species and to their success in protecting the peace and security of society. Second, following his admonition that the moral justification for political arrangements should "turn toward the particular case and also toward the negative case" (p. x), Hampshire argues that practices predicated upon his procedural principle of justice function to prevent the evil of domination. Domination is, he writes, "a great political evil that any citizen may be expected to feel as evil" (p. 79); hence, to the extent that "prevent domination" may be seen as a valid precept of political morality like Judith Shklar's "avoid cruelty," the prescription *audi alteram partem* is thereby warranted. Finally, Hampshire argues that the designation of procedural justice as a "necessary condition" of successful conflict resolution permits it to be justified by a "transcendental argument" (p. 42) in the Kantian sense of that term. The principle "hear both sides" of an argument "is imposed by the individual on himself as the principle of rationality" (p. 10). When individuals engage in practical reflection, when they deliberate morally, they review reasons on both sides and carry on an internal dialogue that is logically adversarial. Public procedures of conflict adjudication merely institutionalize this constitutive logic of moral deliberation, and thus their "authority and justification are to be found in the structure of practical reason itself" (p. 42).

Hampshire's suggestive and imaginative argument rewards careful reading. His skepticism regarding the potential attainability of definitive criteria of substantive social justice carries real weight, and his constructive exploration of the possibility of looking instead to deep and universal human intuitions about procedural fairness has its merits. Furthermore, his claim that the essence of procedural justice is a function of the intrinsic dynamics of a dialogically conceived practical rationality is a plausible way of retrieving the element of truth in the Enlightenment's faith that human reasoning had moral dimensions to it.

There are, nonetheless, some problems and potential pitfalls here. In the first place, however warranted Hampshire's skepticism may be about the capacity of the human mind or of our moral sentiments to converge upon a single widely persuasive standard of substantive justice, his own account may be excessively indeterminate in this respect. One might want to insist with Rawls that there are, at a minimum, persuasive formal limitations upon what could count as acceptable principles of right. And one might want to argue along with David Miller that the indeterminacy afflicting substantive principles of justice is a function not of the absence of reasonable criteria for morally proper distributions but rather of the plurality of these criteria—such as desert, need, and entitlement. If this plurality of standards prohibits moral unanimity on questions of substantive justice, it nonetheless produces a finite number of reasonable conceptions and not *carte blanche* for insisting upon the rational parity of whatever pattern of distribution one might like.

Second, it can be wondered whether Hampshire's wish to accord the status of a human universal to his adversary principle of procedural justice can be rendered fully compatible with his recognition of the multiple forms taken by that principle in different cultures. He depicts this variety of adversarial procedures as the reconciliation of the proper moral claims of universality and particularity. But that reconciliation seems possible only at the price of conceiving the universal element—adversarial confrontation—in a very thin sense. For some adversarial procedures seem hard to depict as the embodiment of dialogic and deliberative practices of hearing both sides. Hampshire himself mentions dueling as one example of an adversarial procedure, for example. And perhaps trial by torture and the taking of personal conflicts to a witch doctor for resolution could also count as adversarial procedures in the context of ascribing universal status to that norm. But if this depiction is useful in upholding the claim of universality, it seems inconsistent with the characterization of adversarial procedure as the externalization of *proairesis*. Another way of conveying the difficulty here is to say that Hampshire may have to choose between the Humean claim of empirical universality grounded in sentiments of the whole human species and the Kantian claim of transcendently derived universality. And either choice has its costs. Opting for the thin, empirical Humean reading introduces plurality and indeterminacy into his model, but opting for the more determinate and morally robust Kantian reading weakens the claims about pan-cultural subscription to its norms. Hampshire's account is genuinely insightful and appealing, but it does not fully succeed in its most ambitious aspiration to reconcile completely the tensions between universality and particularity and those between legitimacy by rational content and legitimacy by consensual acceptance.

That is, however, no damning failure, since the challenge is likely insurmountable.

In their books, George Klosko and John Tomasi interrogate and seek to problematize the claim or aspiration of Rawlsian political liberalism to have satisfied and reconciled the demands of procedural democratic legitimacy and substantive democratic social justice. The axis of this ambitious claim or aspiration is the argument that contemporary liberal democratic societies can establish moral foundations in broadly egalitarian principles of distributive justice subscribed to by an overlapping consensus of all the reasonable moral and religious orientations that can flourish within them. These foundations—by virtue of their consensual status and their moral force—also serve the practical function of providing stability to these regimes and keeping them from dissolving into contemporary replications of the Wars of Religion. Klosko and Tomasi go about their task in different ways, and their prescriptive concerns vary somewhat, with Klosko more concerned about the actual bases of liberal political stability and legitimacy and Tomasi more concerned about the boundaries and biases of liberal justice. But their arguments overlap and reinforce each other nonetheless, as they go about probing the weaknesses and ambiguities of what Tomasi refers to (adopting a term he attributes to Samuel Freeman) as “high liberalism”—most importantly the depiction of the relevant “consensus” and the constructions of “reasonableness” and “neutrality.”

Klosko challenges the Rawlsian depiction of an underlying consensus congenial to his own principles of justice by an extensive invocation of the empirical literature that has sought to examine the political attitudes and moral intuitions of (mostly but not exclusively American) citizens of contemporary liberal democratic society. Fairly reliable evidence exists from a significant number of these studies to sustain the general notion of a fairly broad consensus among the American citizenry on some fundamental democratic norms. The problem is that it is not the kind of consensus that Rawls and those inspired by him see or would like to see. That desired consensus, of course, would include and build upon agreement over constitutional procedures but would move on to incorporate in a powerful way principles of substantive justice closely akin to those endorsed by Rawls in *A Theory of Justice*.

Evidence for the kind of constitutional and procedural consensus that Rawls mentions and that Kurt Baier has argued is the truly plausible source of legitimacy in our own polity is quite substantial, Klosko finds. And this basis of consensus is very important, he argues, not least because it unites segments of the citizenry that otherwise diverge in regard to the norms they would invoke on matters of specific policy. When it comes to principles of substan-

tive justice, however, the picture is different and considerably less encouraging to Rawlsian aspirations. In the first place, significant disagreements exist, especially among competing political elites, on whether the distributive practices of welfare state capitalism are morally appropriate. And although there seems to be a dominant position on the proper criteria for economic distribution—a position garnering support from about 75 percent of respondents and experimental subjects—that position is not the one espoused by high liberalism. Instead, it centers about a standard of maximum average income with a floor, a standard accepted by those who endorse it on the ground that it incorporates what is valid in the competing claims of proportional and egalitarian schemes and finds room for the legitimate claims of both merit and need. Klosko also adduces evidence for a broad consensus on general principles of individual rights and liberties, despite disagreements over the nature and extent of the limits and qualifications that might be relevant to their concrete application—for example, regarding advocacy of sedition or the use of hate speech.

Klosko recognizes that Rawlsian political liberals might respond to this evidence in two ways. First, they might argue that the empirical findings lump together both reasonable and unreasonable views, when only the former should count. Alternatively or in tandem, they might argue that these expressed responses represent only superficial opinions that do not necessarily coincide with the deeper “intuitive ideas” Rawls claims to discern and excavate hermeneutically. But Klosko finds these rejoinders unpersuasive. Advancing a “more restrictive concept of reasonableness” than one centered upon norms of reciprocity, civility, and openness to discussion, he writes, is a strategy that “skirts circularity: By carefully crafting our concept of ‘reasonableness,’ we could ensure the adoption of virtually any principles whatsoever” (p. 21). And regarding the allusion to some allegedly deeper intuitive ideas that people hold, Klosko demurs that Rawls neither offers evidence for their presence nor explains “how disparate elements in liberal culture can be reconciled into a single set of intuitive ideas” (p. 195).

Prescriptively, Klosko’s conclusion coincides to a considerable extent with Hampshire’s. Klosko cites evidence from several studies which suggests that perceptions of procedural fairness are quite powerful in sustaining legitimacy even where respondents may have reservations about the substantive fairness of the outcomes of these procedures. And, again in concert with Hampshire’s norms of procedural justice, these perceptions of procedural fairness tend to turn about getting a fair hearing with opportunity for adversarial argument and presentation of evidence. Accordingly, on the same moral and prudential grounds adduced by Rawls in support of his argument

for the abstract idea (as contrasted with the putative content) of an overlapping consensus, Klosko argues for what he calls “procedural liberalism,” a regime based upon wide acceptance of democratic institutions and procedures, broad if not deep respect for civil rights and liberties, and distributive rules that combine merit and “real equality of opportunity.” Beyond these parameters genuinely political liberalism cannot go, at least at the present time, Klosko believes, without descending into fictive self-delusion or tentatious misrepresentation.

John Tomasi poses related but somewhat differently focused challenges for Rawlsian political liberalism. He is concerned in some respects with the content of the normative doctrine of “high liberalism.” But he is concerned more fundamentally with what he sees as its too narrow scope. Indeed, he argues that the excessively narrow boundaries of political liberal theorizing are an important source of what is questionable in its content.

Tomasi begins by posing a provocative question: if you knew that a particular society was completely just by the standards of your preferred conception of liberal social justice, “do you think this might be a society in which you would want to live” (p. xiii)? Obviously, this society would be preferable to a less perfectly just society, but if this were all you knew about it, could you conclude that you would like to live there? Tomasi says his own answer would be “I have no idea.” And the reason for that indecision is that a lot of what would make such a society attractive or not occurs beyond the boundaries of liberal justice. Especially important would be the way that these just public institutions intersected with and impacted upon the conditions of a good life as these are understood by the standards of its citizens’ more comprehensive conceptions of the good—what Tomasi calls their “compass concepts.” But liberal theory in general and political liberalism in particular seem oblivious to such questions because they have falsely assumed that all that is required of an adequate theoretical account and defense of a good liberal society is an adequate account and defense of liberal justified coercion. In contrast to that assumption, Tomasi argues that “there is important work for liberal theorists to attend to beyond their current fixation on questions of legitimacy and justification” (p. xvi).

The neglect by political liberalism of questions that arise at or beyond the boundaries of liberal justice, Tomasi argues, is particularly troublesome because it affects different subsets of liberal citizens differentially. This is a problem discussed but then effectively dismissed by political liberals under the heading of “neutrality of effect.” As Rawls and others have argued, the norms and institutions of political liberalism are neutral in intent *vis-à-vis* the different reasonable comprehensive moral viewpoints in society. But they

recognize that strict neutrality of effect is not really possible. It is thus in a sense regrettable that political liberalism may be inhospitable and corrosive toward some of these ways of life, especially more traditional religious ones. However, this unavoidable differential impact cannot be used as a grounds for rejecting the normative prescriptions of political liberalism since it represents the unintended and unavoidable collateral damage of justifiable policies. As Tomasi rightly observes, this amounts to a metapolitical version of the just war doctrine of double effect, with the same exculpatory purpose.

In the light of political liberalism's own self-construction and avowed moral aspirations, however, Tomasi regards this defense as inadequate. For what it condones is the *de facto* conversion of political liberalism into a more indirect but nonetheless powerful form of the more ethically comprehensive liberalism it criticizes and claims to eschew. "In terms of the psychic economies of real citizens' lives the effects of meeting the 'purely political' requirements of the one turn out over time to be indistinguishable from the comprehensive ethical requirements set out by the other" (p. 9).

Like Bonnie Honig, Tomasi insists that political liberalism must be more attentive to its potentially adverse and prejudicial impact upon its "remainders" and cannot be content to say with regard to its confessed non-neutrality of effect: nothing without loss; you lose; sorry. Moreover, these "remainders" in his account are not a relative few marginal characters like the quirky fellow in *A Theory of Justice* whose life plan was combing blades of grass. Rather these include what arguably is a majority of reasonable citizens whose moral compasses do not make justice the centerpiece of their lives. Genuine neutrality, genuine reciprocity, and genuinely equal treatment instead require political liberalism to take active measures to mitigate or compensate for the "spillovers" of its doctrines and institutional practices. Political liberalism must aim at "compass concept neutrality" as

a natural consequence of the basic liberal ambition: to find a mutually beneficial form of association that respects each as free and equal while not intentionally advancing any one view of the good life over any other politically reasonable one. (P. 55)

Taking this obligation seriously, Tomasi argues, would require some significant revisions to the dominant form of political liberalism—revisions that would push it away from Rawlsian high liberalism in the direction of Galston's "diversity liberalism." It would require revisiting the concept of social justice itself and the role it is asked to play in governing our social relationships: "fairness may well require that the concept justice be relied upon to do less of the work of social construction than material egalitarian liberals have long

wished” (p. 124). It would require a more pluralistic theory of liberal citizenship, one whose “account of liberal virtues must be precisely as diverse as the society to which it is meant to be normatively applied” (p. 76). And it would seem to demand a more complex form of civic education, one that does not focus solely on the liberal political virtues while demanding a principled neglect of conceptions of more comprehensive ethical virtues but one that instead would attend as part of its task to “the complex interface of those nonpublic normative concepts with the norms of public reason” (p. 88).

These studies and arguments of Klosko and Tomasi overlap and interact in interesting ways, and they should generate attention and controversy. The controversy has the promise of producing real illumination and improvement in our theories of pluralistic liberal democracy, since they should challenge adherents of the dominant version of political liberalism to confront and improve and/or revise their account of a well-ordered democratic society. Klosko’s and Tomasi’s queries will require careful scrutiny and specification of the most important soft spots in this theoretical orientation. For these soft spots are the ambiguities, equivocations, and tendentious constructions of the core notions of consensus, reasonableness, and neutrality—and these are the notions that Klosko and Tomasi problematize. The pivotal role of these problematic concepts derives principally from Rawls’s attempt to reconcile his substantive account of social justice with the hermeneutic and pragmatic turn he took when prompted by Sandel’s attempt to discern what he saw as the implicit metaphysic beneath justice as fairness. What Rawls and those who have followed in his path have wanted to do is to solve simultaneously the prudential problem of democratic stability and the moral question of democratic social justice. They have aspired to and claimed to have devised a theory of democratic social order that satisfies the demands of democratic procedural legitimacy by reliance upon a putative overlapping consensus among members of the (reasonable) democratic citizenry while at the same satisfying the demands of substantive democratic justice as they construe them. The difficulty is that, at least within the prevailing background political culture depicted in the studies Klosko canvasses and sketched more impressionistically by Tomasi, these aspirations cannot be rendered fully coherent. High liberals may, in the face of the challenge by Klosko and Tomasi, be forced to abandon some of the equivocations and creative sociological hermeneutics that have sustained their ambitious enterprise. They may have to choose between—or at least clearly differentiate—an ethical formative project devoted to achieving the widespread endorsement and institutionalization of principles of justice they favor and a prudential political project devoted to achieving social comity and stability through reliance on an existing broad consensus upon constitutional procedural principles and

a hybrid compromise of proportional and egalitarian principles of social justice that Rawls might have difficulty regarding as fully “reasonable.”

In addition, both the theory and the practice of liberal democratic pluralism could be enhanced by accepting Tomasi’s pointed invitation to move beyond the recent tendency to circumscribe our civic aspirations within the parameters of the issues of justice and legitimate coercion. However central the virtue of justice may be to political institutions, the ultimate concern of most citizens is with their capacity to lead what their moral compass recommends to them as a good life. Both the moral force and the political appeal of liberal justice, therefore, will depend upon its ability to sustain and cohere with these larger life projects to the fullest extent possible.

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