

CHAPTER ONE

A BRIEF HISTORY

The problem that political liberalism as a philosophical stance is meant to solve can be stated quite directly: How is it possible to have a just society over time composed of free and equal citizens who are divided, sometimes profoundly so, by incompatible comprehensive religious (or philosophical) doctrines that are nonetheless reasonable? As a result of the Enlightenment, one way of responding to this problem is to try to find a new *comprehensive* philosophical and secular doctrine that would provide a synoptic worldview to deal with all of life's problems, that would be suitable to the modern world, and that would replace the supposedly outmoded faith of the Christian ages. But contemporary, Rawlsian *political* liberalism has no such comprehensive ambitions in that its aim is to adjudicate in a fair way disputes that arise among defenders of various comprehensive doctrines, whether religious or nonreligious. Pluralism—indeed reasonable pluralism—is a given, and the intention is not to replace or even to abandon comprehensive religious (or philosophical) doctrines, but neither is it to provide these doctrines with what Rawls calls “a true foundation.”¹

Rather, the intention is to defend *public* reason-discourse in politics. If comprehensive religious (or philosophical) doctrines are to be justified or given foundations, it is on some nonpublic (not exactly private) basis, as we will see. Hence whatever ideas of the good are to be found in political liberalism have to be appropriately public. That is, the truth or falsity of these comprehensive, nonpublic, religious (or philosophical) doctrines is not a matter for political liberalism to decide. At the heart of this position is a distinction that originates in democratic political culture marked by reasonable pluralism, a distinction that creates problems quite different from those faced in the ancient world.

In Socrates' day there was only one Athenian religion, a civic religion with public social practices, as detailed by Walter Burkert.² To be religious was to be a trustworthy member of society and vice versa. And to be a trustworthy member of society involved serving on juries and performing other duties associated with good citizenship.³ Rawls is on shaky ground when he claims, without argument,

that Homer's *Iliad* and *Odyssey* were not sacred texts (in what sense were they not sacred?—Plato was scandalized by Homer's stories because they inaccurately portrayed the *gods*), that Greek religion was not dependent on priests (what of the priests and priestesses at the holiest place in ancient Greek religion, Delphi?), and that in Greek religion immortality did not play a central role (although not a negligible role, either, as in the Orphic cult, the Pythagoreans, and the Eleusinian mysteries). Although some of his comments on the particulars of ancient Greek religion are shaky, his main point is certainly on the mark: ancient Greek religion, in general, and Athenian religion, in particular, was a civic religion of the *polis* that held something of a monopoly on religious sensibilities. There was no alternative idea of the highest good to the Homeric gods and goddesses (which shows that the *Iliad* and *Odyssey* were, in fact, sacred texts).

Further, for my purposes it is crucial to note that these gods and goddesses set the terms of politics. They were of noble birth; they explicitly sought honor, wealth, and prestige; and they, like human beings, were concerned for family and friends. The problems with which contemporary political liberalism are meant to handle, however, were only vaguely anticipated by the ancient thinkers when they *partially* rejected the Homeric worldview. In the early modern period, however, three major changes ushered in liberalism in an explicit way: (1) The Reformation in the sixteenth century fragmented the religious unity of the Middle Ages, a unity that was just as strong as that in the ancient *polis*. This religious pluralism eventually fostered pluralism of other kinds, which became a permanent feature by the eighteenth century. (2) The development of the modern state with its central administration had to negotiate its way between the aristocracy and the rising middle class. And (3), the rise of modern science in the seventeenth century brought about an inquisitiveness with respect to nature that required freedom of inquiry.

On Rawls's view, medieval Christianity had five characteristics that distinguished it from ancient civic religion, characteristics that were called into question in the modern period due to the three aforementioned changes that ushered in liberalism: (1) medieval Christianity tended to be authoritarian; (2) because it was a religion of salvation, medieval Christianity tended to insist on true belief as the Catholic Church taught it; (3) as a result, it was a doctrinal religion with a creed that was to be believed; (4) it was a religion with the authority to dispense grace as a means to salvation; and (5) it was an expansionist religion of conversion. When this muscular religion divided, it gave birth to a rival authoritative and salvationist religion. Luther and Calvin were as dogmatic and intolerant as the Catholic Church had been. This led to trouble, as is well known. In fact, the need for liberalism became especially apparant due to the religious wars in the aftermath of the Reformation, when the modern understanding of freedom of thought and liberty of conscience came into existence. Pluralism itself made religious liberty possible rather than anything intended by the Catholic Church or Luther or Calvin.⁴

Religious divisions remain. But these and other divisions should not be seen, not even by Catholics, as a disaster, but rather as the understandable outcomes of the activity of human reason. To see pluralism as a disaster is, in effect, to see the free use of human reason itself as a disaster. There is actually something intellectually exciting about the possibility of a reasonably harmonious and stable pluralist society. Until liberalism came on the scene, not even this possibility, much less its actualization, was clearly seen. It was previously assumed (as the long history of intolerance indicates), and in some circles it still is assumed, that a reasonably harmonious and stable society requires agreement on a single comprehensive religious (or philosophical) doctrine, on *the* common good. On this assumption intolerance was actually a virtue. But once people have to cooperate with others who seem quite different from them, it is much more difficult, if not impossible, to think that they are literally damned because they do not share one's own beliefs and hence should not be tolerated.

Reflective people came to see two basic alternatives: mortal conflict moderated only by exhaustion *or* equal liberty of conscience and freedom of thought. Rawls's political liberalism takes to heart the depth of this latent conflict still found whenever there is religious (or philosophical) pluralism. One way to try to resolve this conflict, but not the only way, is to try to establish a basis of moral knowledge *completely* severed from ecclesiastical authority. Hume and Kant tried to do just this by insisting that morality be accessible to everyone (not just the clergy) who is morally reasonable and conscientious, that the moral order arise from human nature itself (rather than from God's intellect), and that we bring ourselves in line with morality without the need for external (divine or hellish) sanctions. This is quintessential comprehensive liberalism rather than the more modest Rawlsian, political liberalism to be defended in the present book.⁵

Contemporary problems in liberal theory surrounding race, ethnicity, and gender can be dealt with in the terms required to respond to the intellectual problems brought to light by the Reformation, as we will see. By focusing on a few classic problems we should be able to respond to several others, even if Rawls's theory will ultimately need to be supplemented even regarding his own restricted concern for political justice. If religious (or other) liberty is to be denied—as when Calvin wanted to kill Servetus—we must justify such a denial in terms every reasonable person can understand *and* accept. Without these terms we would be left with a comprehensive doctrine that could be maintained only by the oppressive state use of deception or power. Neither Plato's "noble" lie nor the Inquisition were accidents in that the suppression of dissent or heresy were needed to preserve the regnant comprehensive doctrine. The same would have to occur if society were organized along utilitarian or Kantian lines *if* these views were seen as comprehensive.⁶

There is a significant difference between a political view that allows for a plurality of opposing, yet reasonable, comprehensive doctrines and one that holds that there is but one such doctrine. Plato, Aristotle, St. Augustine, and St. Thomas

Aquinas each defended a version of the latter alternative. Indeed, since the Greeks the dominant view has been that there is but one rational conception of the good—the common good—and that the aim of political philosophy, along with theology and metaphysics, was to determine its content. And some contemporary comprehensive (rather than political) liberals still hold on to this view, which was also shared by Kant and Mill.⁷ Just as it is unreasonable to impose coercive laws on morally reflective members of another sect because one thinks that there is no salvation outside of one's own church, it is also unreasonable for utilitarians and deontologists to push their case too hard.

These comprehensive doctrines—both religious and nonreligious—are unreasonable as *political* views because they take the public's political power, in which citizens should have an equal share, to enforce a view concerning which people may very well differ uncompromisingly. Note that Rawls is not saying that the dictum *extra ecclesiam nulla salus* (outside the church there is no salvation) is false; rather he is claiming that to use the public's political power to enforce it is unreasonable. It is perfectly consistent within political liberalism to say that it would be unreasonable to use political power to enforce our own comprehensive religious doctrine on others, even if we believe it to be true, and even if our comprehensive religious doctrine should become so popular that it becomes dominant.⁸

A stable political society is not necessarily one that must constantly use or threaten force; rather it can consist in the establishment of an overlapping consensus among people with different comprehensive religious (or philosophical) doctrines who come to value politically liberal institutions for their own sake. For example, in the sixteenth century Catholics and Protestants did not share an overlapping consensus. Members of both faiths wished their rulers to punish heretics.⁹ When the principle of toleration was initially accepted, it was not as part of an overlapping consensus shared with members of another faith, but as part of a mere *modus vivendi* or a Hobbesian truce. If either faith had become dominant, the repression would continue. Until the development of liberalism, the fair terms of cooperation among Catholics and Protestants were extremely narrow. Toleration and liberalism grew hand in hand along with the view that citizens can be allowed to have irreconcilable conceptions of the good and of the common good, a pluralism that we can now see as quite normal.¹⁰

Although we will be returning to this Rawlsian view of history throughout the book, an initial challenge should be considered now from Russell Hittinger, who thinks both that Rawls is a historical relativist by privileging a liberal political philosophy that just so happens to be popular in our historical era and that Rawls denigrates the political views of those who came on the scene before the liberal era because of their perfectionism. Hittinger correctly notes that PL does not so much depart from the principles of TJ as it changes the background against which these principles are to be understood. And this background is historical and political, even if the original position is still ahistorical and hypothetical. Hittinger

agrees with Rawls that liberalism did not emerge simply as a response to the religious wars in that it emerged also as a response to the problem of how to replace a morality based on ecclesiastical authority. This replacement was attempted by various comprehensive liberalisms that Rawls himself now wishes to criticize. But Hittinger wonders how Rawls's notion of public reason would have to change if a theorist were to grant the social facts of feudal Europe a certain finality.

Presumably this would lead to a medieval comprehensive doctrine rather than a version of liberalism. Thus, according to Hittinger, there is a degree of historical relativism in Rawls's theory, a charge I will examine in more detail in connection with Rawlsian reflective equilibrium. Hittinger's (and Franklin Gamwell's) main criticism, however, is that perfectionism is not necessarily at odds with reasonable pluralism, as Rawls thinks. For example, theological debate between Catholics and Protestants does not necessarily imply incommensurate positions on the value of religion or the family. Indeed, Hittinger thinks that a *limited* perfectionism not only comports with, but actually facilitates, reasonable pluralism, say by having a government encourage religion as long as denominational differences are respected. Not all conflicts between comprehensive doctrines are as entrenched as those between Catholics and Protestants in the sixteenth century or between contemporary fundamentalists in Judaism and Islam.¹¹

But Hittinger plays right into Rawls's hands here. By requiring the adjective "limited" before perfectionism, Hittinger is admitting that political justice requires that *some* sort of restraint on our comprehensive doctrine is required if we are to be fair to others with a different comprehensive doctrine. And the fact that not all disputes between comprehensive doctrines need be as acrimonious as those between Catholics and Protestants in the sixteenth century is not so much a criticism of Rawls's thought, as Hittinger thinks, as a confirmation of it: Catholics and Protestants get along with each other these days (Northern Ireland aside, although there are rays of hope even here) *precisely because* they have been civilized by liberalism. They have come to realize that insistence on the whole truth in politics—with "whole truth" corresponding to one's own comprehensive doctrine—is incompatible with democratic citizenship and the idea of legitimate law. They now agree that fundamental political questions should be decided by public reasons that might be shared by *all* citizens as free, equal, and reasonable-rational.

Public reason has several noteworthy effects: it can quiet divisiveness and encourage social stability. But it is also important that these effects be brought about for the right reasons. Although Catholics and Protestants initially agreed to the principle of toleration as a mere *modus vivendi* or Hobbesian truce, eventually they came to see toleration and public reason as valuable in themselves. Christianity has come a long way from the days of Constantine (fourth century) when heretics were punished; from the time of Pope Innocent III (thirteenth century) when there was a religious war against the Albigenses; and from the early modern period following Pope Gregory IX, who established the Inquisition. Given this background it is not

surprising that the persecuting zeal that has been the great curse of the Christian religion should be shared by Luther and Calvin and other Protestant reformers, and that most of the American colonies had known established churches of some kind (Congregationalist in New England, Episcopalian in the South).

Luckily the United States as a whole steered clear of establishment and of a confessional state. At least partially because of the success of religious freedom in the United States, eventually (at the time of Vatican II) even the Catholic Church put forth its Declaration on Human Freedom (*Dignitatis Humanae*), where the principle of religious freedom in a constitutional democratic regime is praised. This religious freedom is *now* seen to rest on a traditional *religious* principle: the dignity of the human person. All persons, regardless of their faith, have religious liberty on the same terms.¹² As John Courtney Murray aptly put the point:

A long-standing ambiguity had finally been cleared up. The Church does not deal with the secular order in terms of a double-standard—freedom for the Church when Catholics are in the minority, privilege for the Church and intolerance for others when Catholics are a majority.¹³

In sum, Rawls is hardly a historical relativist, as Hittinger suggests, in that there has been slow *progress* at work in the last several centuries regarding questions in political philosophy that affect religion, a progress that entails a substantive moral judgment that could not be justified in a historical relativist scheme. And on Rawlsian grounds religious perfectionists must first limit the scope of their comprehensive religious doctrines (so as to impartially establish justice) *and then* explore the degree to which their perfectionistic standards are compatible with (or conducive to the flourishing of, according to Hittinger) reasonable pluralism.¹⁴

It has always been Rawls's view that the normal conditions of justice involve circumstances where human beings cooperate for mutual advantage, circumstances that are typified by conflict, however, as well as by commonality. And it is obvious why there are conflicts even among moral people: human beings are not indifferent as to how the benefits produced in a social setting of moderate scarcity are to be distributed. These differences of opinion are based on a diversity of religious (or philosophical) doctrines. But they are not necessarily due to human selfishness. Just as in the absence of danger there would be no occasion for the virtue of courage, so also without the conditions of moderate scarcity and without concern regarding how resources will be distributed there would be no need for justice. The fact that there is such a need is more due to these conditions than to any flaw in human nature.¹⁵

In fact, even the spiritual ideals of saints and heroes can be opposed irreconcilably, and when such an opposition comes to the surface the results can be tragic. The point here is that justice, by definition, is the virtue of practices where there are assumed to be competing interests. Disputes about justice and rights would not exist at all, perhaps, if the persons involved were saints *who agreed on a common*

ideal. The qualification here makes us realize how unlikely it is that we can avoid the complex business of ameliorating disputes among reasonably moral people who are not saints. These ameliorative efforts involve: (1) judgments citizens must make regarding the justice of legislation and social policies, knowing full well that reasonable others will have different opinions; and (2) decisions on the constitutional arrangements that will provide the most just means available of adjudicating these disputes, for example, through the imperfect procedural justice device of majority rule.¹⁶

Because of the clash of political beliefs, the principle of loyal opposition ought to be accepted as a normal condition of political life. Indeed, without the concept of loyal opposition the politics of democracy cannot long endure because a lack of unanimity is part of the very circumstance of justice *even* among honest individuals who desire to follow the same principles, say if they are members of the same political party or the same religious affiliation.¹⁷ These ideas regarding reasonable pluralism, clearly evident in TJ, are emphasized even more in PL, where a democratic society is characterized not only by a pluralism of comprehensive religious (or philosophical) doctrines, but also by a pluralism of *reasonable* comprehensive religious (or philosophical) doctrines.

For example, even among religious believers there is quite a difference of opinion between those who take the Bible literally (however problematic this view might be) and those who take it seriously but not literally. And there is an interesting question as to how the former can support a just democratic regime. Not all reasonable comprehensive doctrines are liberal on their face. And, as before, it is not enough that religious believers accept democratic decision-making procedure as a *modus vivendi*. The stability of a just democratic society requires that religious believers be *wholehearted* members who are not merely “going along” with democracy in view of the balance of political forces arrayed against them. Rawls’s desire to bring religious believers—even biblical literalists or those obedient to church authority—within the politically liberal fold is evidence that his political liberalism is quite different from the comprehensive liberalism of the Enlightenment. The goal is not to strike a balance or an average between competing comprehensive doctrines, but to formulate a liberal *political* view that defenders of nonliberal *comprehensive* doctrines can endorse. This is the key to overlapping consensus.

To put the matter in different terms, for the ancients and medievals the main political problem concerned the doctrine of the good, whereas for us in the contemporary period the main political problem concerns justice for all, including justice for religious believers. Just as reasonable pluralism is a given in the contemporary world, so is the fact that not everyone buys into Enlightenment comprehensive liberalism. The most intractable struggles, it is assumed, are those concerning the highest things: most notably God and the good. The remarkable thing is not that we disagree, but rather the degree to which we can engage in just cooperation as free and equal citizens.¹⁸

The historical orientation to political liberalism should not be interpreted to mean that because political liberalism had a historical beginning, it will have an end as well. All indications are that reasonable differences among comprehensive religious (or philosophical) doctrines will be a continuing feature of political life into the foreseeable future. (Perhaps they were there at least implicitly in the ancient and medieval worlds, as well, but were suppressed.) Both the unreasonable sources of political disagreement (e.g., bias, blindness) and the reasonable ones to be explored in this book (especially in terms of the “burdens of judgment”) are almost certain to endure. It is not only unrealistic, but also a source of mutual hostility and resentment, to assume that political differences are due exclusively to unreasonable sources.¹⁹

There are three main features of reasonable comprehensive doctrines that are likely to continue. First, they are exercises in theoretical reason that cover the major religious (or philosophical) aspects of life in a more or less coherent manner; second, they are also exercises in practical reason in that they prescribe which values are to be considered significant; and third, they tend to rely on a tradition of thought that evolves slowly. Political liberalism encourages one to see familiar comprehensive religious (or philosophical) doctrines as reasonable even if one would never seriously entertain the possibility of converting to them. For example, a Catholic can see the worldview of a believing Jew as reasonable without ever seriously considering becoming a Jew, and vice versa. And it is unreasonable for Catholics or others to use political power to repress a reasonable comprehensive doctrine like Judaism, and vice versa. In other words, citizens in political liberalism should be assumed to always have two views: their own comprehensive doctrine and a political view that includes a cognizance of the many ways in which the wider realm of values can be understood and historically have been understood.²⁰

Given the reasonable differences among comprehensive religious (or philosophical) doctrines, citizens have a duty of civility to explain how their comprehensive doctrines support *public* reason, otherwise the adjective “reasonable” would not appropriately describe the abstract noun “differences.” In addition, the civility that characterizes relations among those with reasonable differences helps to hold in check the differences that arise from unreasonable sources.²¹

Nonetheless, there are some who are threatened by political liberalism no matter how prominent a place it procures for civility. For example, R. Bruce Douglass sees quite a distance between liberal religious believers or progressive Catholics, on the one hand, and political liberals or progressives, on the other. The latter have a hegemonic intent that bothers Douglass, although he admits that Rawls is correct regarding the fact of pluralism, a fact that is not only taken for granted by liberalism’s detractors, but is also part of the detractors’ self-understanding. That is, even many of liberalism’s sharpest critics have reconciled themselves to liberalism at least to this extent: their comprehensive view is but

one more point of view among others that also deserve respect. As Douglass sees things, this indicates more than a recognition of pluralism and more than a recognition of the legitimacy of other points of view. It also indicates, he thinks, and herein lies the hegemonic ambitions of political liberals, a tendency to place a premium on a certain conception of human existence, specifically a premium on choice.

Douglass is bothered by the nearly irresistible lure of liberalism's elective self: one *chooses* a view of the good, one *chooses* to join the Catholic Church or to remain a Methodist, and so on. Because political liberalism's overlapping consensus includes socialists and Aristotelians and Nietzscheans and Lutherans and Buddhists and hedonists it is not bothered by any of these individually, hence its view of the elective self remains intact. But it will not remain intact indefinitely because, according to Douglass (who relies a great deal on the thought of Michael Sandel²²), to assume that human beings choose their ends or their views of the good, rather than discover them as the ancients and medievals believed, is to rest content with precarious metaphysical (not just methodological) assumptions regarding human nature.²³

At a later point I will examine the relationship between political liberalism and philosophical anthropology, as well as the place of the good and the common good in political liberalism. We will see that Rawls's view is political rather than comprehensive and does not endorse the substantive philosophical anthropology attributed to him by Douglass or Sandel. At this point, however, I would like to emphasize the important concession that even an opponent to liberalism like Douglass has to make. The religious (or philosophical) positions of people in contemporary society are radically different from each other, hence the price moral people would have to pay for annihilating these differences is too costly. Contemporary antiliberals are, in some sense, liberals.