

Liberalism Beyond Justice: Citizens, Society, and the Boundaries of Political Theory

John Tomasi

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Considering Soulcraft as well as Statecraft

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In *Liberalism Beyond Justice*, John Tomasi argues that liberalism has normative commitments other than those embodied in its conception of justice. Moreover, he insists that statecraft cannot help but be soulcraft. Given these ideas and the standard liberal commitment to neutrality regarding ways of living, Tomasi concludes that liberals must expand their concern beyond the conception of justice they offer and, indeed, that they may need to constrict that conception. In particular, liberals may need to limit their concerns with material egalitarianism. They may be able to continue embracing some minimum amount of guaranteed social welfare, but that minimum will be substantially lower than Rawlsians think. In the following review I will discuss further this Tomasian argument.

To understand *Liberalism Beyond Justice*, it is useful to separate two layers of questions. The first concerns how we ground political theory, and the second concerns how broadly we take the theory's domain. Academic liberals today divide about the proper way to ground their theory, but, if Tomasi is right, they are in all too much agreement about its domain. Regarding its grounding, some theorists, rejecting the later Rawls's moves, remain committed to a comprehensive or, as Tomasi calls it, ethical, basis of liberalism. Others, including Rawls and many of his followers, reject that for a "merely political" basis. Although Tomasi does not tell us clearly which of these approaches he favors, he goes on to critically discuss political liberalism. He is addressing Rawlsians rather than their critics; though he would likely be happy to bring some of the critics into the fold, his main concern is to encourage the former to accept a previously unseen conclusion of political liberalism.

¹ All page references are to Tomasi's *Liberalism Beyond Justice*. I am grateful for helpful comments from Bill Hawk, Amy H. Sturgis, and Jim Taggart.

Given that Tomasi makes use of two layers of questions, there turn out to be four possible positions: merely political liberalism, merely political liberalism that is substantive, ethical liberalism, and ethical liberalism that is substantive. The two that are not “substantive”—i.e., that are restricted in scope—are, in Tomasi’s language, “derivative” since they ignore “the thickly eudaimonistic ... element of human living-together” (65). Rawls and his followers (“High liberals”) are merely political liberals. (Lockean liberalism may be an example of an ethical but derivative view. Communitarianism may be an example of an ethical and substantive political view.) Tomasi seems content to accept the merely political grounding of liberalism, but seeks to encourage the adoption of the substantive view. To those expecting Tomasi to argue for a comprehensive liberal view, this is something of a surprise. It is also a mark of Tomasi’s insight that he recognizes that one can argue for an expanded scope of concern without discussing the grounding of one’s theory. (Tomasi, though, could have made this clearer earlier in the book.) A novel position, his concern is not with the grounding of liberal theory, but with its scope.

Regarding its domain, Tomasi indicates, all liberals seem to agree to keep liberalism’s concern confined to the public realm. Given that restricted domain, the chief interest of liberals has been answering the question, “When is political coercion justified?” (65) This pits modern and contemporary liberals—“from Kant to Mill and through to the most recent work by Rawls”—against the ancients (64). According to the republican thinking Aristotle represents, along with Rousseau and Machiavelli, a complete understanding of justice would recognize that statecraft is soulcraft. After all, “the state exists for the sake of a good life” (62, quoting Aristotle 1177a15-25). Tomasi seeks to expand the domain—or at least the recognized scope of effect—of liberal political theory to recognize this. “Rather than being simply derivative from the public norms in a liberal society,” Tomasi’s conception of citizenship “is a *substantive* or *eudaimonistically directed* understanding of liberal good citizen conduct” (67).

Tomasi announces his concern with eudaimonia at the outset. He begins the book by asking whether a state wherein citizens have a full commitment to social justice would be an attractive society and whether “the legitimate instantiation of liberal principles of justice [would] itself

make a society a *success* as a liberal society” (xiii, xv). Tomasi's main question is not whether liberalism is a necessary condition for a good society, but rather whether liberalism's conception of justice is a sufficient condition for a good society. Stated this way, two things should be clear: first, Tomasi is not questioning the necessity of liberalism; second, and more importantly, he is insistent that its conception of justice is not the whole of liberalism. His concern, then, is to encourage us to think about what else liberalism must include to guarantee that a liberal society be attractive and successful. As his title indicates, Tomasi seeks to push liberal political thought beyond a discussion of justice to address the social world of liberal states. He thus reintegrates liberal political philosophy with social philosophy.

In the first two chapters, Tomasi nicely discusses two interwoven questions. The first is whether political liberalism is really merely political. After explaining in fine detail how political liberal values of the public sphere spill over into (or cause the erosion of) the nonpolitical social sphere, he asks the second: how can we limit the spillover effects so as to erode social constructs in the nonpublic realm as little as possible? He later argues that if one wants to endorse political liberalism—or, we might think, simple and equal respect for diverse religious and cultural traditions—one must try to so limit the spillover effects. He rightly indicates that this may require substantial changes in government policy (as I will discuss below).

It is instructive to rehearse the genesis of (and motivation behind) political liberalism and Tomasi does so exceptionally well. Given the ambition of liberalism to “define the common good of political association in terms of a minimal moral conception,” so as to remain neutral between conceptions of the good, liberals classically share a “commitment to the moral importance of individual choice-making” (3, 4). This is central, for example, to Rawls's *Theory of Justice*. In the decades following the appearance of *Theory*, however, opponents began to criticize this shared commitment of liberalism in favor of a Romantic tradition that emphasized community. What those criticisms indicated—at least on the plausible read Tomasi offers—is that the assumption of autonomy as a value was less neutral—because less shared—than liberals believed. Hence, if they truly wanted to remain neutral, they would have to start with an even thinner assumption. Rawls responded with political liberalism, which assumes only that individuals are politically autonomous.

According to political liberals, so long as people are politically autonomous and can affirm liberal political principles (to get an overlapping consensus) “on the basis of their own views of what gives life its ultimate meaning and value,” it does not matter if they are autonomous in their private lives (7). Tomasi, however, indicates an important practical problem with this view. Simply put, sociologically, “liberalism has the same transformative and homogenizing implications as ever before” (9). Political liberalism tends to erode the nonpublic (i.e., private) social structures as a “spillover effect” and this worries Tomasi as much as it does liberalism’s critics.

Once we recognize that the “wide social culture generated by any regime’s public norms”—the “ethical background culture”—serves as a “kind of map of meaning to citizens” the problem is clear (11). Liberals take citizens to be “capable of entering at any time” the evaluative perspective of public reason and there is “no context that is private in the sense that rights protections are not relevant” (13).² So, for example, when schools teach students both about competing religions and that they are (or will be) politically autonomous, it is not far-fetched to think some of them will come to think they can choose to reject their own religion. (The problem is far more pervasive than the example indicates. As Tomasi discusses, subjects to a king tend to “connect vertically” while citizens of a democracy do not (11-12, using Wood’s discussion). In short, citizens’ background culture permeates how they live their lives.) As a result, there is no neutrality of effect. This is a familiar charge against liberals, but Tomasi is not willing to simply accept it and continue. In his view, political liberals in particular have a further obligation. He believes that in order to remain politically neutral and at the same time to continue to gain the assent of citizens with diverse cultural and religious traditions, political liberalism must be willing at least to minimize the spillover effects.

Tomasi notes that “the most reasonable conception of justice is the one that affirms peoples’ interest in developing the full set of moral powers they have as citizens” (101). These moral

² Citizens know this as specified by the *political liberal proviso*: “political liberalism honors the claims of those who reject those traditional liberal values *provided only that* they [1] acknowledge the principles of the political conception of justice and [2] appreciate its political ideals of person and society” [13, following John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 200].

powers, it seems, require personal individuation, wherein an individual is capable of using “self-reflexivity to take the viewpoints of persons outside her own group” so that she is “aware of her freedom to choose among those perspectives for herself” and thus is able to construct her own worldview autonomously (81). That worldview may be one wherein full moral and political autonomy takes center stage or one where it does not. One may adopt a form of life in which connections to others are of central importance (82), and people who do must have their chosen worldviews respected. One may reasonably wonder, of course, in what sense individuals choose worldviews. I assume Tomasi is working with a presumptive understanding of choice—i.e., one wherein we presume all have chosen their worldview unless we are given good reason to think otherwise. Should such reason be present, though, it is unclear what should be done. That Tomasi does not try to answer this difficult question is only minimally disappointing, however, as it is one of the biggest questions for liberals today and no one else has offered anything close to a satisfactory answer. Should we guarantee that all individuals have a real ability to choose? How? And if we managed to do it, would it not have spillover effects of a tremendous proportion? And what is a “*real* ability to choose” anyway?

Respect for those who adopt a form of life in which connections to others are of central importance demands the limitation of spillover effects that erode chosen community-centered ways of life. Hence, the impracticability of neutrality of effect does not negate the fact that “the ambition to *minimize* the unintended effects of liberal politics is [still] a recognizably liberal ambition” or that “political liberals ... should do the most they can to protect all formally admissible citizens from the direct (though unintended) consequences of policies and laws that are to be enacted pursuant to liberal justice, consistent with their primary commitment to treating all citizens as [politically] free and equal” (101, 102). In Tomasi’s language, given a “metapolitical version of the doctrine of double intention,” a “full conception of justice might include ... a [cultural] *tax-flattening principle*,” the point of which is to minimize and counteract culture-erosive spillover effects whenever possible (101, 102). So, for example, when schools teach students about competing religious traditions, the school might also explain that it is neither endorsing those traditions nor asking the students to do so (94). Given that there is a limit to how far any system can minimize spillover effects, one may wonder if Tomasi’s attempt to adjust the Rawlsian framework can succeed. His message, though, is constrained: it is not that

we must eliminate any and all spillover effects, but that they should be minimized where feasible. Surely that is possible. Moreover, "Unless justice positively requires it, political liberals have no business endorsing policies the effects of which inadvertently favor some politically reasonable views over other ones" (74).

Given all that said above, it is not surprising that Tomasi adds a fourth psychological law to Rawls's original three. Recall that these laws, if accurate, explain how a liberal society can be stable by socializing individuals, through successive stages, to accept a "morality of principle," which is necessary for liberal society. The first law indicates that children come to love parents and thus makes possible a "morality of authority" as children learn to accept their parents' authority as to what is acceptable behavior. The second law indicates that individuals build on the first to accept duties to others who are trusted to reciprocate; it thus makes possible a "morality of association." The third law indicates that individuals build on the prior two to develop a sense of justice while recognizing that they benefit from just social arrangements; here we have, for the first time, a "morality of principle" (80). Rawls's account of moral development ends here, and Tomasi adds his fourth law: building on the prior three, an individual recognizes others "creating the eudaimonistic fabric of their lives through the *way* they exercise their political autonomy" and learns to "develop the art of exercising his political autonomy in a *way* that he finds fulfilling, since he recognizes that he and those for whom he cares must continually create the eudaimonistic fabric of their lives through the practice of that art" (85, emphasis added).

Having political autonomy is one thing. Tomasi's fourth law indicates, though, that citizens individuate themselves in different ways and so can exercise political autonomy in different ways. Any individual citizen thus can develop his own "particular understanding about the *meaning* of his public autonomy [which] is conceptually distinct from his simple understanding that he *is* politically autonomous" (45). Though all share the understanding that they are politically autonomous, they may have different *compass concepts*, "by which each understands what his political autonomy means to him" (45). These compass concepts are the result of the intersection (or "interface," as Tomasi says) of "the impartial concerns addressed by public reason and those thicker, more identity-dependent concepts by which individual liberal citizens

steer whenever their political autonomy is engaged” (45). We use our compass concepts to navigate the map of “society’s [ethical] background culture”; they give us our bearings in the social world (46).

One might wonder now where Tomasi is going with all of this. His answer is in his final chapter, which is, importantly, a swerving in the path, an easily missed new track. It is an especially thoughtful chapter, but given the magnitude of its implications—and that the shift in argument compounds its difficulty—extension and greater clarity would have been beneficial. Up to this point, Tomasi’s argument is straightforward and easily accepted by many in the liberal tradition. This is the chapter likely to meet the most resistance. All of this means that the chapter deserves special attention.

Recall that Tomasi’s thesis puts in question “the assumption that the normative domain of ‘liberalism’ and that of ‘justified political coercion’ map closely onto each other” (112). The latter, which Tomasi equates with the realm of justice, is, he thinks, narrower than the whole of liberalism’s normative commitment. Liberalism goes *beyond justice*. Now note that the goal of liberals is (or should be) to protect liberty (and the other moral powers associated with it). But if its conception of justice is only one component of liberalism, it might turn out that the best way to protect liberty is *not through its conception of justice*. As such, theories that restrict the scope of justice might be concerned with liberty (etc.) even though it does not take center stage in their conceptions of justice (112). So, for example, when critics claim that libertarianism takes property rather than liberty to be of primary concern,³ it may be that this is true only of libertarianism’s conception of justice and that the broader libertarian theory has far more normative space for its concern with liberty (111). David Schmidtz, for example, advocates a consequentialist libertarianism with a conception of justice that gives center stage to property, but which (it is argued) maximizes liberty (etc.).⁴ (Of course, there may be versions of libertarianism that have conceptions of justice that do not take property as their central concern. Some may take toleration, for example, as central.)

³ See, for example, G.A. Cohen’s *Self-ownership, Freedom, and Equality* (New York: Cambridge University Press, 1995).

⁴ See, in particular, Schmidtz’s half of *Social Welfare and Individual Responsibility: For and Against* (with Robert Goodin, Cambridge University Press, 1998).

Seen in this light, the High (derivative) liberalism of Rawls and his followers likely entails a conception of justice with an overly expansive reach that supplants “the great variety of other ways that well-meaning individuals think or might have come to think of their relations with their fellow citizens” (113). Its conception of justice, that is, might be “a single evaluative perspective, a single socially constructive concept ... allowed to run amok,” to become “an ethical bully” (114, 121). Tomasi’s point here is simply that the material egalitarian focus of Rawls and his followers may turn out to be unacceptable given that a genuine adherence to merely political liberalism includes a recognition that people will individualize in different ways, some of which require non-justice-based social connections.⁵ Tomasi’s argument here parallels arguments Peter Singer makes that the commodification of blood causes a loss of significance of the voluntary donation of blood.⁶ Simply put, if a society’s conception of justice required an egalitarian distribution of material goods, it would undercut various comprehensive worldviews and “reasonable forms of benevolence ... that are not reducible to justice” (119; see also 118). But according to political liberalism—whether derivative or substantive—those worldviews are “arbitrary from the moral point of view” (109). Political liberalism should thus not undercut them (109). Indeed, undercutting reasonable worldviews can undercut people’s sense of self-respect when that sense is undergirded by their worldview (120). (Presumably, if there are spillover effects that erode unreasonable (rather than merely illiberal) worldviews, they should be allowed to have their erosive effect.)

If Tomasi is correct that a conception of justice that includes material egalitarianism can undercut worldviews and self-respect, then though a conception of justice may necessarily include “some guaranteed social welfare minimum,” “that minimum must be defined as significantly lower” in a merely political liberalism (122). Political liberals must make “room for socially constructive motives of a sort that cannot be reduced to the public reasons on which

⁵ It’s worth noting that the worldviews of such people still count as “nonpublic norms,” what Tomasi calls “liberal virtues.” Tomasi takes himself to be a liberal virtue theorist, à la Galston and Macedo (see 60), though he thinks their lists of liberal virtues are too narrow (see 74). He rightfully recognizes that his own listing—or better, “understanding”—of the liberal virtues will be “untidy” given the variety of acceptable comprehensive doctrines (see 75-78, especially 78).

⁶ See Peter Singer, “Freedoms and Utilities in the Distribution of Health Care” in *Ethics and Health Policy*, ed. Robert Veatch and Roy Branson (Cambridge: Ballinger Publishing Company, 1976, 175-193; see especially 185).

conceptions of justice feed,” and hence must be “more modest about the range of material egalitarian concerns” they can address through their conception of justice (124). High liberalism, it seems, does not survive in political liberalism (124). Two points about this are worth emphasizing. First, it does not mean that political liberals must limit their concerns about material egalitarianism, but rather that they must limit those concerns they address *through their conception of justice*. They may address them in the normative space outside that conception but within their theory. Second, Tomasi is explicitly *not* offering this argument “as a full defense of some new version of libertarianism—a political libertarianism, for example” (148, note 34).

Tomasi paints a richer picture of liberalism, pushing us to accept a political liberalism with substance. That is, though merely political, his liberalism insists that we give serious considerations to the eudaimonia of potential citizens of a liberal society. It thus indicates that liberals have more normative work to do than merely defending a conception of justice. In the future, I think, we shall see others coming to similar conclusions, though perhaps from other directions. I myself have long suspected that an alternative approach is to defend a comprehensive (i.e., “ethical”) liberalism that is derivative and because of its constrained domain, offers more room for eudaimonist concerns (as these would be absent from the political theory, they would not allow the invocation of state involvement). Thanks to Tomasi, I now see that I was taking political philosophy to be narrower than it need be. Justification of political coercion is only part of the story; one’s liberal theory can and should address eudaimonistic concerns as well. That, perhaps more than anything else, is the lesson we should all take from *Liberalism Beyond Justice*.