
Critical Exchange

Rawls, Islam, and political constructivism: Some questions for Tampio

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This Critical Exchange is a response to doi:10.1057/cpt.2011.27 ‘A defense of political constructivism’ by Nicholas Tampio

In his provocative article, ‘A Defense of Political Constructivism’, Nicholas Tampio does two things: first, he demonstrates how Rawls’s engagement with Hegel leads him to develop a metaethics that departs from Kant’s more abstract and formal approach in favor of one that takes context and culture into account; second, he argues that Rawls’s metaethical approach, political constructivism, provides a promising basis for addressing potential conflicts between ‘Euro-American Muslims’ and liberal culture and institutions. I think that Tampio largely succeeds in his first endeavor and will have little to say about it. However, I will argue in this brief response that his account of the normative implications of Rawls’s political constructivism involves a misinterpretation of Rawls’s theory. I then remark upon Tampio’s focus on Islam as a paradigm case of a problem for political liberalism. Finally, I argue that Tampio does not show that Islam is illiberal or unreasonable, and if it were, Rawls’s theory does not exhibit the kind of openness to dialogue with unreasonable doctrines that Tampio suggests.

Political Constructivism

Tampio argues that, in departing from Kant, Rawls provides us with the resources to reach a principled accommodation with cultural and religious minorities that may not embrace liberal values and principles. He says that ‘Rawls envisioned the possibility that political constructivism had the flexibility to adjust if the public culture changed – say, by an influx of “decent” immigrants who do not (yet) share liberal democratic cultural norms’ (p. 4). ‘[P]olitical constructivism’, he states, ‘could create new standards’ and ‘[t]he very metaphor of construction implies that human beings have a choice’ (pp. 5, 13). ‘Rawls views many of the key components of his political theory



as “essentially contestable” and under changed circumstances political constructivism might lead to ‘new political principles’ (pp. 14, 21). Hence, Tampio presents Rawls’s theory as providing principles that are highly sensitive to, and contingent on, the configuration of a particular society at a specific point of time. He suggests that Rawls’s theory is quite open-ended in its normative implications.

This reflects a misreading of Rawls’s metaethics (political constructivism), his normative theory (political liberalism) and the relation between them. To see why, one need only consult Rawls’s own description of his view. Political constructivism holds that:

the principles of justice (content) may be represented as the outcome of a certain procedure of construction (structure). In this procedure, as modeled by the original position, rational agents, as representatives of citizens and subject to reasonable conditions, select the public principles of justice to regulate the basic structure of society. This procedure, we conjecture, embodies all the relevant requirements of practical reason and shows how the principles of justice follow from the principles of practical reason in union with conceptions of society and person, themselves ideas of practical reason. (2005, pp. 89–90)

The conceptions of society and persons that Rawls utilizes are ‘society as a fair system of cooperation and of citizens as free and equal’ (2005, p. 90), and Rawls calls doctrines that reject these conceptions ‘unreasonable’. It is the introduction of these two conceptions that represents the main way in which Rawls’s metaethics is historicized: he incorporates into the very foundations of his theory these notions, which he believes are implicit in democratic, constitutional regimes. Note that this does not imply that any change in the composition of society may provide an occasion to reconsider the principles of justice that Rawls defends. Rather, what is striking is how highly constrained correct thinking about justice is on Rawls’s view. He holds that once one accepts his conceptions of society and persons, the requirements of practical reason lead inexorably to his principles of justice.

In light of this, it is difficult to see how, on Rawls’s theory, the introduction of a new, potentially illiberal minority into a liberal society could alter the principles of justice that he defends. Unless this introduction leads to the abandonment of the democratic conception of society and persons, or unless (even less plausibly) it changes the very requirements of practical reason, it is far from clear how this would occur. So the question is, on Tampio’s account, what feature of Rawls’s argument would be altered by the introduction of a new minority? Would it change, say, one of the features of the original position, such as the veil of ignorance, the motivation of the parties and so on?



At one point Tampio seems to suggest that it is the content of wide reflective equilibrium that would be altered (Note 2). But Tampio does not elaborate and thus his readers are left to wonder how such an argument might play out.

Furthermore, it is difficult to know what ‘new political principles’ Tampio has in mind. Although it may be true that ‘one cannot hope to politically construct principles in an essay’ (p. 21), Tampio owes it to the reader to say something about the changes to Rawls’s principles to which he believes new kinds of cultural and religious diversity might lead. Does he have in mind changing the protection of civil and political rights endorsed in Rawls’s first principle? A revision of the principle of fair equality of opportunity? Or of the difference principle? Or perhaps of the lexical ordering among them? All of this remains obscure in Tampio’s discussion, and leaves us with the as-yet unanswered question: What new principles does Tampio have in mind, and how, within a Rawlsian framework, would he derive them?

Why Muslims?

The way Tampio frames the whole discussion is often ambiguous or troubling. We can start with Tampio’s frequent use of the term ‘Euro-American Muslims’. To whom does this phrase refer? ‘Euro-American’ is conventionally used to refer to Americans (parochially interpreted as citizens of the United States) of European descent. It is often used as a synonym (or a euphemism) for ‘White American’. This meaning would imply that Tampio is referring to Muslim Americans of European descent. I suspect, however, that this is not what he intends. Rather, from the context, it seems that Tampio means simply Muslims living in the United States (or in the Americas?) or Europe.

It is also unclear whether Tampio has in mind native-born Muslims, immigrant Muslims or both. There is plenty of textual evidence that Tampio is primarily concerned about immigrant Muslims (p. 17 and note 2). If this is his focus, he does not say why. Muslims have a long history in the United States (Curtis, 2009), and as such their presence is not a ‘new’ phenomenon, calling for ‘new’ principles. Or is Tampio worried about the cultural attributes of new immigrants, rather than about Islam itself?

Even more troubling than the (implied) conflation of Muslims and immigrants is the way that Tampio seems to equate Islam with illiberalism, and the dominant culture in the United States with liberalism. He writes of ‘liberals and Muslims’ (p. 21) as if these were two mutually exclusive categories. In considering the issues raised by the presence of Muslims, he suggests that ‘we decide amongst ourselves’ how to respond to them (p. 6). The ‘we’ that is addressed here is ‘left-liberals who ... care about the future of Muslim–non-Muslim relations’ (p. 6). The ‘we’ is ‘us/liberals’ and the issue is how to think



about issues raised by ‘them/Muslims’. This is a problem not only because of how Tampio frames his audience, but more profoundly in its implication that Muslims cannot be liberals.

In any case, framing the issue as liberalism versus Islam is highly problematic. This is clearly demonstrated by the responses by Islamic scholars Azizah Y. al-Hibri (1999) and Abdullahi An-Na’im (1999) to Susan Moller Okin’s essay, ‘Is Multiculturalism Bad for Women?’ (1999). Okin, too, can be interpreted as framing her title question as a clash between good, Western liberals and bad, non-Western Others. The responses by al-Hibri powerfully challenge that framing by demonstrating that Islam is open to a range of interpretations, and that these interpretations are the subject of vigorous internal contestation among Muslims. In addition, as Susan Song (2007) has argued, it is a mistake to assume that the ‘majority’ culture in Western societies is more liberal than the culture or religion of immigrants. Focusing on issues of gender, Song writes that ‘the majority culture is not always less but rather differently patriarchal than minority cultures’ (2007, p. 4). Song’s analysis suggests that political theorists should stop framing issues of multiculturalism as versions of the question, what should ‘we’ liberals do about illiberal minorities?

That the dominant political culture of the United States is not necessarily liberal is obvious from the most cursory look at its political discourse. Large and politically influential constituencies are more than happy to use state power to privilege their own comprehensive conception of the good. The most prominent example is fundamentalist Christians, who would use state power to promote their religion, their vision of ‘traditional family values’ that subordinate women, and their preferred policies that disadvantage conceptions of the good of which they disapprove. These home-grown fundamentalists are surely a greater threat to the liberal character of American culture and politics than are Muslims, who are a comparatively small and politically weak group.

To his credit, Rawls himself never makes these mistakes. On more than one occasion Rawls cites Islamic scholars who argue that some versions of Islam are far more liberal than is often thought possible. He notes that ‘many Muslim writers deny that Islam sanctions the inequality of women in many Muslim societies, and attribute it to various historical causes’ (1999, p. 110 n. 39). Elsewhere he cites the work of An-Na’im (1990), who argues that Shari’a supports constitutional democracy. Rawls uses this as an example of how those with a religious comprehensive moral doctrine can nevertheless endorse political liberalism. ‘This is a perfect example of overlapping consensus’, he writes (1999, p. 151 n. 46). In describing his position on the relation between political liberalism and religious worldviews, he states, ‘I hold that, except for fundamentalism, they [“the major religions”] can support a constitutional democratic regime. This is true for Catholicism (since Vatican II) and much of Protestantism,

Judaism, and Islam' (2005, p. 438). So Rawls does worry about the problem that 'fundamentalism', as an unreasonable comprehensive doctrine, poses for a liberal society, but he never singles out Islam (see also Rawls, 1999, pp. 126–127; 2005, pp. 482–483). Why, then, does Tampio focus on Islam, rather than fundamentalism more generally? Or, if he wants to focus on a concrete case, why not take Christian fundamentalists rather than Muslims as the paradigmatic illiberal religious group in the American context?

Political Liberalism and Unreasonable Doctrines

Tampio argues that Rawls's theory provides the resources to accommodate illiberal groups that embrace what would be considered, from the point of view of political liberalism, unreasonable comprehensive doctrines. One could argue that Rawls's conception of 'reasonable' is far too narrow, since it excludes many doctrines that enjoy support from large numbers of adherents. I cannot explore these matters in detail here, but wish only to point out that, even on Rawls's arguably constricted view of what counts as reasonable, Tampio does not demonstrate why the version of Islam that he considers, that of Al-Alwani, is unreasonable. He offers three reasons for thinking that it is: first, Islam comes out of a different cultural context than Western (and more specifically American) liberalism, with a different set of founding documents (pp. 17–18). Second, 'Al-Alwani does not hold a conception of the person as a free and equal moral being' (p. 18). Third, 'Al-Alwani thinks that there is a trap in the language of reasonableness' because of its democratic and secular connotations (p. 18).

Yet Tampio's discussion does not provide a reason to think that Al-Alwani's version of Islam is unreasonable. Coming from a different political culture, the first reason, certainly does not mean that the doctrine is unreasonable. Nor does the third factor, the suspicion toward the secular and democratic cast of Rawls's conception of reasonableness, mean that Al-Alwani's Islam is itself unreasonable. Indeed, Tampio quotes Al-Alwani to the effect that Islam 'may provide a Muslim route to many of the same goals as political liberalism' (p. 19). This is exactly what Rawls had in mind when he cited An-Na'im's thought as 'a perfect example of overlapping consensus' (1999, p. 151 n. 46). Political liberalism does not require all citizens to embrace its principles of justice for the same reasons. Rather, the idea of an overlapping consensus is that citizens may find reasons for embracing political liberalism from within their own respective comprehensive doctrines. Only the second reason cited by Tampio potentially raises the issue of reasonableness. If a version of Islam denies the democratic conceptions of society and persons, this could certainly be a basis for thinking that it is unreasonable from the point of view of political liberalism. Yet Tampio never states how it is that Al-Alwani's Islam



rejects these conceptions. Instead, he ends up concluding that this is *not* a reason for concluding ‘that Al-Alwani is unreasonable by Rawlsian criteria’ (p. 18). So is Al-Alwani’s Islam unreasonable or not? Based on what Tampio has presented, we have no grounds to conclude that it is.

In any case, the thrust of Tampio’s discussion is that Rawls’s political constructivism has something special to offer adherents of unreasonable doctrines, but when one turns to Rawls’s works themselves one is struck by how little Rawls has to say about unreasonable doctrines. For example, *Political Liberalism* addresses itself to the problem of finding the proper basis for social cooperation in the face of ‘*reasonable* pluralism’ (2005, p. 4, emphasis added). About unreasonable doctrines Rawls has this to say:

Of course, fundamentalist religious doctrines and autocratic and dictatorial rulers will reject the ideas of public reason and deliberative democracy. They will say that democracy leads to a culture contrary to their religion, or denies the values that only autocratic or dictatorial rule can secure. They assert that the religiously true, or the philosophically true, overrides the politically reasonable. We simply say that such a doctrine is politically unreasonable. Within political liberalism nothing more need be said. (2005, p. 488)

Now one may wish to fault Rawls for remaining safely within the realm of ‘ideal’ theory and for thereby avoiding the practical issues raised by unreasonable doctrines. But the present point is that, on Rawls’s own account, far from providing an opening for dialogue, political liberalism does not address unreasonable doctrines at all. Rather, the principles of justice affirmed by the theory determine how and to what extent unreasonable doctrines (and the practices that flow from them) are to be tolerated (2005, p. 441 n. 3). Where, then, does Tampio find a basis for thinking that political constructivism provides an opening for the kind of dialogue that he envisions?

Conclusion

Tampio states that ‘the audience for this piece is primarily political theorists torn between Enlightenment and Reformation liberalisms, that is, rights-based theories that emphasize the moral ideal of autonomy versus the political good of toleration’ (p. 6). He never returns to the debate between these two versions of liberalism, though, and it is not clear how his account is intended to adjudicate it. Does it find a middle way between them, or does his argument demonstrate the superiority of one over the other? In any case, it is pretty clear where Rawls himself comes down. In his later work, Rawls presents his theory

not as a comprehensive doctrine but as a strictly political one that can be endorsed from within a number (though not an unlimited range) of comprehensive doctrines. In this sense, Rawls's later views may indeed prove to be more accommodating to minorities than other liberalisms. This is not because of his historicized metaethics, but rather is an implication of the *political* nature of his liberalism. It is a consequence of the domain to which his principles apply, and not of their flexible character. Within the political domain, Rawls never suggests that his principles are or should be subject to revision in the face of religious or cultural pluralism. Instead, political liberalism, on his view, sets the terms and the limits of that pluralism.

I hope to have raised some questions that will encourage Tampio to further elaborate and clarify his argument. I look forward to his response, both in this venue and in his future work.

So, back to you, Nick. You get the last word – for now.

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