Political Philosophy versus Political Theory: The Case of Rawls

Stephen M. Griffin
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STEPHEN M. GRIFFIN*

INTRODUCTION

When academic disciplines clash, the consequences can be extremely revealing, as the conflict often exposes their fundamental assumptions. The reception of Rawls's theory of justice1 by political scientists who practice political theory is a case in point. While some political scientists hailed Rawls's theory in terms similar to its reception among philosophers and treated his ideas on their own terms,2 others were baffled by the idea that Rawls's theory should be thought relevant to the practice of politics.3 John Gunnell, for example, wrote in his critique of academic political theory that "Rawls's work is not about any human practice; it is not about any state of affairs. It is about concepts and logic."4 This criticism, and others similar to it, may startle those who approach Rawls's theory from political philosophy or law. But it is interesting in what it suggests about the assumptions of the different disciplines and about the possible limitations of Rawls's theory and academic political philosophy generally.

In this Article, I will examine criticisms of Rawls's theory made by political scientists, criticisms that center on the idea that his theory is not relevant to the real world of politics. This theme is prominent in the work of Benjamin Barber, John Gunnell, James Ceaser, Michael Walzer, and Bonnie Honig.5 One might think that this criticism is de-
cisively answered in Rawls’s *Political Liberalism*, but to the extent these scholars have reacted to Rawls’s recent work, they remain unconvinced. I will focus on four themes that characterize the critiques offered by these scholars: (1) Rawls does not address the real problems of twentieth-century politics, but instead displaces politics with his theory; (2) the original position is the source of the trouble with Rawls’s theory because it shows the impoverished nature of politics in a Rawlsian state; (3) Rawls’s new political turn does not solve the problems with his theory; and (4) philosophy has no special standing in democratic politics.

In general, I will argue that the critiques of Rawls offered by these scholars are not valid, but that they raise interesting questions that must be confronted. Two caveats, however, should be noted. First, it should not be assumed that the arguments these scholars offer are typical of work by political scientists on Rawls’s theory. Just as there has been a variety of reactions to Rawls’s theory among political philosophers, there is similarly a diversity of opinion among political scientists. I examine only one strand of opinion here. Second, it should not be assumed that these Rawlsian critics agree among themselves as to the correct way to pursue political theory. To the contrary, they disagree over what makes a theory properly “political.”

I. RAWLS’S THEORY AND THE REAL WORLD OF POLITICS

Perhaps the most common criticism of Rawls in the political science literature, illustrated by the quotation from Gunnell above, is that his theory has little or no relevance to the real world of politics. Benjamin Barber is the leading theorist advancing this line of criticism. From Barber’s perspective, Rawls offers not a theory of principles that can be applied to politics, but a metatheory about such a theory of principles. Barber contends that due to the influence of theories like Rawls’s, “philosophy has flourished while politics has wilted” in the postwar era. Political philosophy has led us away from politics as a participatory activity in which we deliberate about princi-

7. See, e.g., Honig, supra note 5, at 12.
8. See infra note 28.
9. See generally Barber, supra note 5.
10. Id. at 4-5.
11. Id. at 3.
pies and replaced it with an abstract inquiry into the foundations of political concepts.12

The idea that Rawls, Nozick, and other philosophers of liberalism are foundationalists is an important theme in Barber's criticism. Barber sees such theorists as turning to epistemology to ground their theoretical principles. Rawls thus turns to the original position to anchor his theory in "indestructible philosophical bedrock."13 Philosophers are primarily interested in establishing the truth or certainty of the propositions that constitute their theories of politics.14 This means they are "preoccupied with epistemology and inclined to cognitive imperialism."15

The idea that Rawls is wedded to a foundationalist epistemology is puzzling. One of the distinctive features of A Theory of Justice was its theory of justification, which relied on the concepts of a "reflective equilibrium" and "considered judgments."16 Rawls emphasized that "[a] conception of justice cannot be deduced from self-evident premises or conditions on principles; instead, its justification is a matter of the mutual support of many considerations, of everything fitting together into one coherent view."17 While it is possible to be misled by Rawls's comment that the argument from the original position aims to be strictly deductive,18 Rawls's theory of justification on balance points to a coherentist epistemology, not a foundationalist one.19 Further, Rawls is well known for arguing that moral theory can be pursued independently of other areas of philosophy, such as epistemology or metaphysics.20

Barber's insistence on seeing Rawls as a foundationalist can be better understood once it is appreciated that, for Barber, there is no

12. Id. at 4-8.
13. Id. at 56.
14. Id. at 8.
15. Id. at 10.
18. Id. at 121.
19. For useful commentary on this point, see John Stick, Can Nihilism Be Pragmatic?, 100 HARV. L. REV. 332, 347 n.54, 350 n.66, 363 (1986).
such thing as nonfoundationalist political philosophy. According to Barber, all political philosophers are necessarily foundationalists. This follows from the way Barber understands the nature of philosophy. Philosophy is a form of inquiry that involves seeking an absolutely certain basis for our beliefs. That is why Barber regards philosophers as being “preoccupied with epistemology.” Barber assumes that since political philosophers operate in this tradition, all political philosophers must be foundationalists. Whatever the validity of Barber’s assumptions with respect to philosophy in general (and they are probably not valid at all), it is apparent that they do not apply to Rawls. Hence, if Rawls’s theory is irrelevant to real-world politics, it is not because of its foundationalist character.

While Gunnell does not accuse Rawls of foundationalism, he is also unconvinced that Rawls’s theoretical treatment of the concept of justice has anything to do with ordinary politics. For Gunnell, Rawls’s theory is an academic work that is essentially only a commentary on other academic work, a commentary that then provides the occasion for further irrelevant commentary. Such theories never leave the boundaries of the university to confront politics on its own terms. Gunnell writes, for example, that “[t]he analyses of political concepts that began to appear, and which culminated in Rawls’s study of justice, were in many ways illuminating and useful, but they had little more to do with actual political life and language than most metaethics had to do with actual moral issues.” For Gunnell, there is an unbridgeable gap between academic theorizing and the real world of politics: “[t]he debate about liberalism, its end, its revival, its idea of justice, and so on, is not really a debate about any political practice or belief.” If the works of Rawls, Nozick, Dworkin, and Ackerman appear to relate to politics, it is only as “a kind of displaced or philosophized ideology.”

The virtue of Gunnell’s criticism is that he asks hard questions that academic scholars would rather not answer. What is the relation of all this theorizing to politics? Does the level of abstraction in Rawls’s theory doom it to irrelevance? Gunnell notes that the question of whether academic theory should influence politics is rarely

22. Id. at 10.
23. See Gunnell, supra note 3, at 135.
24. Id. at 173.
25. Id. at 177.
26. Id. at 176.
faced. Do academic theorists possess some special expertise that would allow them to help policymakers? Unfortunately, Gunnell undermines his sweeping criticism of nearly all academic political theory and political philosophy by never making it clear what a truly relevant theory of politics would look like. Gunnell never cites any theoretical works that meet his criteria of relevance. One suspects, therefore, that they are impossible to satisfy.

More importantly, a good case can be made that Rawls's theory had a real influence on American politics. The irrelevance that Gunnell posits looks less plausible once we consider Rawls's impact on American constitutional law, a part of American politics that these Rawlsian critics rarely mention. I will pursue this point in more detail below. For now, I would simply note that there is good evidence that Rawls's theory had a significant impact on American lawyers and judges.

Alan Ryan notes that *A Theory of Justice* "shaped the way

27. *Id.* at 200.

28. Whatever standard Gunnell employs, it is a strict one. Barber's theory of participatory democracy, for example, is too academic for Gunnell. *Id.* at 177. Here Gunnell refers to Benjamin Barber, *Strong Democracy* (1984).

Gunnell does briefly suggest at the end of the book that some feminist political theory does "speak[] to and for an actual audience," and so constitutes a form of nonalienated political theory. *Gunnell*, *supra* note 3, at 222. But this suggestion that political theory must speak to an actual audience is not spelled out and defended.


teachers in every American law school talk about rights and has set the agenda of political thinkers inside and outside the academy for the intervening 22 years. It has had a considerable impact on the politics of those years as well." Gunnell thus underestimates the influence of Rawls's work by not taking account of its impact on American law.

James Ceaser describes Rawls as being part of the "new normativism", which ignores the method of inquiry pursued by "traditional political science." According to Ceaser, traditional political science asks first what form of government or regime exists in a given state. In bypassing this question, theories of justice risk irrelevance in that the kind of regime determines how ethical or value questions should be answered. Ceaser implies that the values needed to maintain a regime will be relative "to that regime's point of view." The question of what maintains a regime is the key point for Ceaser. He states that there are always conflicts between principles of right, such as principles of justice, and the values needed to maintain a regime. Since "[t]he maintenance of political regimes always exacts a price in the world of moral concerns," the usefulness of abstract theories of justice is limited.

Ceaser does not present a detailed critique of Rawls's theory, so his observations about theories of justice are only useful for what they reveal about the approach of some political scientists to questions of value. Ceaser asserts that value standards are relative to regimes, but does not argue at any length in favor of this position and does not deal with any of the objections to value relativism. Ultimately, whether Ceasar's arguments are relevant depends on the extent to which theories like Rawls's emerge from a perspective external to all existing political regimes, or are built up from the materials provided by particular regimes. If the latter is the case, as I shall argue in section four,

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31. Ceaser, supra note 5, at 95.
32. Id. at 95-96.
33. Id. at 95.
34. Id. at 96.
35. Id. at 97.
36. Id. at 99.
37. Id. at 114.
then we are not faced with a stark choice between choosing a regime or the abstract values we live by.

Bonnie Honig charges Rawls with displacing politics by advocating a juridical theory that emphasizes effective administration over politics and democracy.\textsuperscript{38} Honig divides theories of politics into “virtue” theories such as those of Kant, Rawls, and Sandel and virtù theories, exemplified by Nietzsche and Arendt.\textsuperscript{39} The essential difference between the two types of theories is their attitude toward what Honig calls “the disruptions of politics.”\textsuperscript{40} Virtue theories dislike political conflict and seek to reduce or eliminate it by conceiving politics along administrative and judicial lines.\textsuperscript{41} Virtù theories support democratic politics, especially radical democratic politics,\textsuperscript{42} by accepting and celebrating the need for political disruptions and “the perpetuity of political contest.”\textsuperscript{43}

Honig adopts the virtù perspective and uses it to criticize Rawls’s work.\textsuperscript{44} Honig’s basic objection to virtue theories, and Rawls’s theory in particular, is best conveyed by this summary: “To accept and embrace the perpetuity of contest is to reject the dream of displacement, the fantasy that the right laws or constitution might some day free us from the responsibility for (and, indeed, the burden of) politics.”\textsuperscript{45}

This summary is useful because it captures an important similarity among the political theorists I have been discussing. All of these theorists are fond of politics, but it is politics apparently without constitutionalism, the rule of law, and, of course, lawyers or judges. It is understandable that these theorists should be wary of those who would draw a sharp line between law and politics and claim primacy for the law; but this does not justify the lack of discussion of these

\textsuperscript{38} See Honig, supra note 5, at 2, 4, 10.
\textsuperscript{39} Id. at 2-4. Honig does not justify the idiosyncratic use of the term “virtue” to describe Rawls’s theory.
\textsuperscript{40} Representative works by the authors Honig discusses include: Hannah Arendt, On Revolution (1963); Immanuel Kant, Kant’s Political Writings (H.B. Nisbet trans. & Hans Reiss ed., 1970); Friedrich Nietzsche, The Will to Power (Walter Kaufmann trans., ed. & R.J. Hollingdale trans., 1967); A Theory of Justice, supra note 1; Michael J. Sandel, Liberalism and the Limits of Justice (1982).
\textsuperscript{41} Honig, supra note 5, at 2.
\textsuperscript{42} Id.
\textsuperscript{43} For Honig’s support of radical democracy and the project of decentering the state, see id. at 128-29, 210.
\textsuperscript{44} Id. at 2.
\textsuperscript{45} Id. at 5. It should be noted that Honig is critical of both theories. She appears to prefer the virtù perspective because it has been overlooked in recent political theory. She believes, however, that politics consists of both virtue and virtù, and that both theories are necessary in a desirable political order. See id. at 205.
topics, especially considering that it occurs in the context of criticizing Rawls's work.

There is an important structural or constitutional aspect to politics in all contemporary democracies. Even in countries without single-document written constitutions, there are some political rules that are more fundamental than others. These fundamental rules can have an important impact on political life. The example of the U.S. Constitution is obvious here. But these theorists never discuss the structural aspect of politics. This is important when assessing Rawls because his theory is designed for the purpose of evaluating the justice of the basic structure of society. The basic structure of society includes the political constitution. Rawls focuses on the basic structure because of its importance in affecting the character and life prospects of individuals and because a just basic structure is required to preserve background justice over time.

This emphasis on the basic structure partly accounts for the juridical nature of Rawls's theory that gives these theorists such trouble. Rawls's theory is juridical in its emphasis on the priority of liberty and the importance of various rights and liberties, and its endorsement of a constitution, a bill of rights, and judicial review. These theorists appear to reason that because Rawls's theory has juridical elements, he is committed to the idea that politics must be juridical. But Rawls is not committed to any such claim by virtue of his focus on the basic structure. The only claim he is committed to is that the justness of the basic structure is an important question for a theory of social justice. Rawls's principles in no way determine that politics in a Rawlsian state will have a juridical cast.

These observations are especially relevant to Honig's criticisms. Rawls's theory appears juridical and administrative to Honig because she never distinguishes between the different kinds of politics and political rules necessary in a complex democratic state. Honig imagines that Rawls is trying to do away with democratic politics. All Rawls is doing, however, is arguing for the importance of the basic structure as the primary subject of a theory of social justice and focusing attention on the main elements of the political order in the basic structure: the constitution and the set of rights it guarantees. Honig

46. See A Theory of Justice, supra note 1, at 7; POLITICAL LIBERALISM, supra note 6, at 257-58.
47. See id. at 258.
48. See id. at 265-71.
mistakes this emphasis on the basic structure for the idea that democratic politics should be controlled through judicial and administrative means. In fact, Rawls never advances this position.

I have emphasized the structural and constitutional aspects of Rawls's theory in reaction to the criticisms advanced by these political theorists because by not discussing the question of the context in which democratic politics takes place, these theorists miss the main import of Rawls's theory. Another important way these theorists go wrong about Rawls's theory is by misunderstanding the nature of the original position.

II. THE POLITICS OF THE ORIGINAL POSITION

The original position is probably the most famous element of Rawls's theory of justice. In *Political Liberalism*, Rawls continues to emphasize its importance. Yet the proper understanding of the original position has always been a major source of controversy for Rawls's theory. Scholars disagreed over how to understand the concept of the original position advanced in *A Theory of Justice*. Was the original position to be understood as a rational choice situation or as a forum for reasonable argument? Was the original position intended to be a description of a societal ideal or an artificial construction useful only as a heuristic device? Disagreements about these issues and others relating to the original position troubled many who were attracted by Rawls's theory.

Rawls now recognizes that the account advanced in *A Theory of Justice* was compatible with several different and conflicting understandings of the original position. He now denies, for example, that the original position is designed to set up a choice situation that can be resolved solely through rational decision theory. Even in *A Theory of Justice*, however, Rawls made several remarks relevant to the controversies that later broke out over the interpretation of the original position, remarks that did not receive the close attention they deserved. He stated that "it is important that the original position be interpreted so that one can at any time adopt its perspective." He also remarked that "[t]he motivation of the persons in the original position [mutual disinterest] must not be confused with the motivation

50. See *Political Liberalism*, supra note 6, at 22-28.
51. See *A Theory of Justice*, supra note 1, at 118-92.
52. See *Political Liberalism*, supra note 6, at 27.
53. Id. at 53 n.7.
54. *A Theory of Justice*, supra note 1, at 139.
of persons in everyday life who accept the principles that would be chosen and who have the corresponding sense of justice."\textsuperscript{55}

These remarks have so often been ignored that in \textit{Political Liberalism} Rawls finds himself stating again that "[j]ustice as fairness is badly misunderstood if the deliberations of the parties, [in the original position] and the motives we attribute to them, are mistaken for an account of the moral psychology, either of actual persons or of citizens in a well-ordered society."\textsuperscript{56} These remarks by Rawls, taken together with a careful reading of the presentation of the original position in \textit{A Theory of Justice}, point toward an understanding of the original position that regards it as a heuristic forum for reasonable argument.\textsuperscript{57}

This understanding of the original position is lacking in the interpretations of Rawls's theory by the theorists I have been discussing. In particular, Barber and Honig commit the error, perhaps best analyzed by Brian Barry,\textsuperscript{58} of regarding the original position as a realistic description of the political process in a Rawlsian state. Barber thinks that the conservative strategies toward a choice of principles employed in the original position show that Rawlsian citizens are anti-capitalist, conservative in a political sense, and primarily concerned with their security and the achievement of a minimal standard of living.\textsuperscript{59} Since Barber thinks that the original position is a description of the Rawlsian state, he finds an obvious conflict between the Hobbesian state of nature implied by the stripped down quality of the original position and the Kantian well-ordered society that Rawls also advocates.\textsuperscript{60}

Honig interprets the original position as a real, final settlement on the structure of the state.\textsuperscript{61} Once the principles of justice are chosen, the constitution written, and the structure of the state established, there is no meaningful sense in which the initial choice can occur again. After this final settlement, in Honig's view, the questions considered in the original position are depoliticized because they cannot be meaningfully revisited.\textsuperscript{62} Citizens in a Rawlsian state get one chance, as it were, to get it right. Like Barber, Honig thinks on the

\textsuperscript{55} \textit{Id.} at 148.

\textsuperscript{56} \textit{Political Liberalism}, supra note 6, at 28 (footnote omitted). He notes that "[m]any have made this error." \textit{Id.} at 28 n.30.

\textsuperscript{57} I defend this position in Griffin, supra note 16, at 730-36.


\textsuperscript{59} See \textit{Barber, supra} note 5, at 65-66.

\textsuperscript{60} \textit{Id.} at 83-88.

\textsuperscript{61} See \textit{Honig, supra} note 5, at 135.

\textsuperscript{62} \textit{Id.}
basis of the original position that Rawlsian citizens are likely to be forlorn "rational, risk-averse, remorse-avoiding" creatures incapable of true democratic participatory activity.

The problem with the approach of Barber and Honig should be apparent. There is no politics as such in the original position because the original position is not a description of the real world. It is an artificial, heuristic device designed to clarify our ordinary arguments and intuitions about social justice and the design of the basic structure. The original position is thus a poor guide to the citizens and politics of a Rawlsian state. Much better indications of life in a Rawlsian state (at least as Rawls imagines it) are provided in Rawls's discussion of a well-ordered society in Part III of *A Theory of Justice*. But Barber and Honig generally do not discuss this part of Rawls's theory, or simply regard it as inconsistent with the picture of Rawlsian society they mistakenly derive from the original position. Their critiques of Rawls are clearly weakened by the extent to which they assume the original position is intended as a description of the Rawlsian state.

III. What Makes a Theory Truly Political?

It may seem unfair to refer to *Political Liberalism*, Rawls's most recent work, as I examine the critiques offered by these political science theorists. After all, their critiques are based largely on *A Theory of Justice*, not *Political Liberalism*. *Political Liberalism*, however, is a book substantially based on work that Rawls already published in a number of articles. All of these critics had a chance to read and assess these articles as they were published. Barber and Honig in particular refer specifically to some of the articles that reappear in somewhat altered form in *Political Liberalism*. Yet they are unconvinced that Rawls's turn toward the political has any impact on the criticisms they wish to advance. This raises the question of how Barber and Honig's understanding of what makes a theory truly political differs from Rawls's understanding.

63. *Id.* at 150.
64. See Barry, *supra* note 58, at 763.
65. See *A Theory of Justice*, *supra* note 1, at 453-577.
66. Rawls makes this point explicit in the introduction to *Political Liberalism*, *supra* note 6, at xiii-xiv.
67. Two of Rawls's articles are especially important. See John Rawls, *Kantian Constructivism in Moral Theory*, 77 J. Phil. 515 (1980); John Rawls, *Justice as Fairness: Political Not Metaphysical*, 14 Phil. & Pub. Affairs 223 (1985). Barber refers to these articles in *Barber, supra* note 5, at 56 n.3. Honig refers to the latter article in *Honig, supra* note 5, at 261 n.68.
By “political” liberalism, Rawls means a type of liberalism that assumes that it is unrealistic to expect citizens to agree on a single comprehensive philosophical doctrine (such as a religion like Catholicism) to regulate matters of social justice, especially questions of justice relating to the design of political institutions. The point of Political Liberalism is to explore how a well-ordered society that is regulated by principles of justice acceptable to all is possible despite the disagreement among citizens on comprehensive doctrines. Rawls’s purpose, then, is not to explore the meaning of democratic politics in general, but to focus on a specific question that developed out of reflection on whether his arguments in Part III of A Theory of Justice concerning the idea of a well-ordered society were sound.

Rawls’s project requires that he demonstrate how political liberalism will not rely on any comprehensive religious, philosophical, or moral doctrines, including controversial philosophical doctrines deriving from epistemology, metaphysics, or moral theory. As Rawls remarks, political liberalism is a “freestanding view” because it does not depend on the truth of any of these doctrines. For Barber and Honig, however, the new independence from controversial philosophical doctrines that Rawls hopes to achieve for his theory would not make his theory truly “political.”

From Barber’s point of view, Rawls’s theory cannot hope to be a truly relevant political theory until he abandons the original position. As shown above, Barber believes that the original position shows that Rawls is a typical philosophical foundationalist. Since Rawls remains wedded to the original position in Political Liberalism, Barber would no doubt continue to believe that Rawls is trying to ground his theory in an “indestructible philosophical bedrock.” Primarily due to his dependence on abstract notions like the original position, Rawls’s argument is “philosophical not even remotely political.” Barber sees the original position as replacing “ongoing political participation” with “a single, hypothetical moment of consent that obviates the need for all future political engagement.”

68. See Political Liberalism, supra note 6, at xvi.
69. Id. at xvii.
70. Id. at xvi. On the idea of a well-ordered society, see supra note 64.
71. Id. at 12-15, 58-66.
72. Id. at 12.
73. See supra text accompanying note 13.
74. Barber, supra note 5, at 56.
75. Id. at 89.
76. Id.
77. Id.
genuinely political theory involves specifying how we should cope with conflicts over conceptions of the good (Rawls's comprehensive doctrines) in circumstances where there are no philosophical standards to apply.\textsuperscript{78} Political theory is thus a completely separate enterprise from philosophy, for it is defined as applying to a subject (politics) that philosophers can never help us understand.

Honig critiques Rawls from the standpoint of a radical democrat, someone who wants to make sure that the political order is receptive to the "haunted artist, the rebel thinker, the born-again Christian, and the transvestite."\textsuperscript{79} Like Barber, Honig finds that since Rawls has not changed the fundamental elements of his theory, his theory cannot aspire to being political in the correct sense.\textsuperscript{80} A truly political theory would politicize citizens and call "on them to augment and amend the terms of their constitution as subjects and citizens."\textsuperscript{81} Such a theory would further alert "subjects to the significance of power in the consolidation of their institutions, identities, and practices, both public and private."\textsuperscript{82} Honig contends that Rawls's political liberalism is not political in this sense.\textsuperscript{83}

If it appears that there is no meeting of the minds between the Rawls of \textit{Political Liberalism} and the critiques of Barber and Honig, it is because Barber and Honig are so out of sympathy with Rawls's project that no amount of tinkering with the theory would meet their objections. To make his theory truly political by their standards, Rawls would not simply have to abandon the original position, but the entire abstract philosophical approach toward questions of politics that the original position represents. To the extent that the objections of Barber and Honig to Rawls's new work are based on the same ideas that animate their objections to \textit{A Theory of Justice}, their objections are vulnerable to criticism for the reasons already explored in the first two sections of this Article. The depth of their objections to the approach of political philosophy as a discipline, however, suggests the need to explore the role of philosophy in democratic politics.

\textsuperscript{78} \textit{Id.} at 89-90.
\textsuperscript{79} Honig, \textit{supra} note 5, at 173.
\textsuperscript{80} \textit{Id.} at 195.
\textsuperscript{81} \textit{Id.} at 196 (footnote omitted).
\textsuperscript{82} \textit{Id.}
\textsuperscript{83} \textit{Id.}
IV. PHILOSOPHY AND DEMOCRATIC POLITICS

As we have already seen, Barber questions the relevance of the entire field of academic political philosophy to analyzing the issues posed by democratic politics.84 Perhaps the most insightful critique of the relationship of philosophy to democratic politics, however, is that offered by Michael Walzer.85 Walzer's critique is of special interest because Rawls responds to Walzer's point of view in Political Liberalism.86

Walzer seeks to analyze the standing of the philosopher in a democratic society.87 Walzer thinks the relationship between philosophy and democracy is a problematic one because of the difference in perspective between the solitary philosopher seeking truth and the complex relationship between citizens in a democratic society.88 For Walzer, philosophy is an activity that is best done alone. The philosopher leaves society in order to find the truth and when the philosopher returns, having found the correct way to order the state, he or she is likely to find ordinary democratic politics a messy hindrance to the achievement of his or her philosophical ideal.89 The philosopher will inevitably be hostile to the plurality of opinions characteristic in a democracy because the philosopher knows that most of the opinions are false. The philosopher will seek to order the state according to the single truth that he or she has found, but this ordering can be fully achieved only if the philosopher is put in charge.90 Hence Walzer remarks, "[p]hilosophical founding is an authoritarian business."91

According to Walzer, if academic philosophers want to make a meaningful contribution to democratic politics, they must recognize that democracy is based on the will of the people, not truth or reason.92 Philosophers can make their arguments in the debates that occur in a democracy, but when they do so their arguments have no special standing simply because they are made by philosophers. Philosophers have no special expertise that would entitle their arguments to a privileged status in these debates.93 This point is also emphasized

84. See supra text accompanying notes 9-22.
85. See Walzer, supra note 5.
86. Political Liberalism, supra note 6, at 44-46.
87. See Walzer, supra note 5, at 379.
88. Id. at 379-83.
89. Id. at 382-83.
90. Id. at 381.
91. Id.
92. Id. at 383.
93. Id. at 396-97.
by Barber. For Barber, politics and the political judgment exercised by a democratic citizenry are sovereign over any claim of special expertise by philosophers. In the realm of politics, there are no criteria for decision other than those employed by democratic citizens.94

Walzer relates his argument to Rawls's theory by stating that the original position is an example of the characteristic withdrawal from the world that philosophers need to make in order to find the truth.95 Rawls disagrees with this interpretation of the original position and his project in general.

Political philosophy does not, as some have thought, withdraw from society and the world. Nor does it claim to discover what is true by its own distinctive methods of reason apart from any tradition of political thought and practice. No political conception of justice could have weight with us unless it helped to put in order our considered convictions of justice at all levels of generality, from the most general to the most particular. To help us do this is one role of the original position.96

Rawls sees the need for abstract theories and abstract ideas such as the original position arising from concrete value conflicts in the real world of politics. We turn to political philosophy to discover if there is a basis for resolving the conflicts.97 The agenda for political philosophy is thus set by the deep value conflicts that arise in the course of democratic politics.

We can now appreciate that there is a difference between Rawls and the political science scholars I have been discussing in the way the task of political philosophy is understood. I suggest that Walzer, Barber, Gunnell, and Ceasar all understand the critiques produced by political philosophers as critiques that are in some sense external to the society at which the critiques are directed. Since all of these political science theorists believe that value conflicts in a democracy can only be settled through democratic deliberation, they are understandably hostile to the idea that philosophers can come from the outside, as it were, and claim that their theories will solve the value conflicts.

The assumption that political philosophy must rely on external critiques, however, is only an assumption. What these political science theorists overlook is that there are differing traditions within political philosophy and moral theory over how to approach the task of analyze-

94. Barber, supra note 5, at 13-17.
95. Walzer, supra note 5, at 389.
96. Political Liberalism, supra note 6, at 45. Rawls does not cite Walzer's article here, but it seems clear that he is referring to Walzer's point of view. See id.
97. Id. at 44-46.
ing normative beliefs. Rawls represents a tradition that these theorists do not discuss or acknowledge. That tradition is based on the idea that the best way to conduct philosophy is by inquiring into the beliefs and conceptions that are already prevalent in society. Martha Nussbaum notes that this tradition is as old as the questions of Socrates and the inquiries of Aristotle. According to this tradition, “[p]hilosophy takes its material from the interlocutor. It is not indoctrination, it supplies nothing from outside. By sorting out systematically and clearly what people all too rarely sort out for and within themselves, it performs a major public service....”

A more proximate inspiration for Rawls's approach comes from moral theory. In A Theory of Justice, Rawls associated his idea of reflective equilibrium with the methods of Aristotle and the British moral philosopher Henry Sidgwick. Sidgwick believed that the best way to conduct moral inquiry was to examine the moral conceptions actually held in society, to make them consistent as far as possible and then, through comparison, discover which conception was the most sound. Similarly, Rawls remarks that “[t]he most we can do is to study the conceptions of justice known to us through the tradition of moral philosophy and any further ones that occur to us, and then to consider these.”

As might be expected, in Political Liberalism Rawls emphasizes drawing on “the public culture itself as the shared fund of implicitly recognized basic ideas and principles.” Since Rawls now emphasizes that his theory is a political one, part of the reflective equilibrium he hopes to achieve is with the political conceptions of justice already held by citizens. Rawls makes no claim that his theory has a special status in politics or that he has political expertise simply in virtue of having produced a complex philosophical theory. His approach suggests that his theory is offered as a contribution to democratic deliberation. The idea is not to impose the theory on citizens, but to persuade them that it is a reasonable way of organizing and justifying at least some of the beliefs they already hold. This is an attractive view of the role of philosophy in a democratic society, a view that is not vulnerable to the objections made by Walzer, Barber, and others.

99. Id.
100. See A THEORY OF JUSTICE, supra note 1, at 51 & n.26.
102. A THEORY OF JUSTICE, supra note 1, at 49.
103. POLITICAL LIBERALISM, supra note 6, at 8.
This Article has investigated criticisms of Rawls's theory common to a number of theorists in political science. The criticisms show that the theorists object to Rawls's theory partly because of their conception of philosophy in general. They believe that philosophers seek their truths outside society, that they are foundationalists who are little interested in the complex reality of ordinary democratic politics, and that they offer theories that tend to depoliticize important issues by relegating decisions concerning them to unelected judicial or administrative bodies. They criticize Rawls's theory in part because they believe his theory has all of these qualities.

I have attempted to show that these criticisms are mistaken as applied to Rawls's theory and I have suggested that many other philosophers besides Rawls would not endorse the caricature of philosophy offered by these political science theorists. These criticisms remain interesting nonetheless because they reveal a stance toward political theory that is usually not reflected in journals of philosophy or law.

In some respects, these political scientists are more wedded to the past than either philosophers or legal scholars. When they feel the need to mention works that actually engage politics in a meaningful way, they cite The Federalist Papers or Tocqueville's Democracy in America. No twentieth-century political theorists need apply. At the same time they insist that political theory must be engaged with the politics of the here and now, but they seek a specific kind of engagement, one they are hard pressed to identify. Discussing the relationship of freedom and equality, the basis of constitutional rights, the priority of liberty and so on are not enough. One suspects that they would demand that a concrete analysis of the historical situation of our political system and of contemporary politics precede any attempt to analyze normative questions in an abstract way. This is not necessarily unreasonable, but as the example of Rawls's theory shows, it is not the only way to contribute to democratic politics.

104. See Barber, supra note 5, at 205; Ceasar, supra note 5, at 96.
105. This is suggested by Ceaser's insistence that an analysis of our regime precede any attempt to engage in abstract normative analysis. See Ceaser, supra note 5, at 95-97.