

To cite text:

Mladenović, Ivan (2021), "Political Liberalism and Justificatory Secularism", *Philosophy and Society* 32 (1): 79–88.

Ivan Mladenović

POLITICAL LIBERALISM AND JUSTIFICATORY SECULARISM

ABSTRACT

In this paper I analyze Cécile Laborde's conception of justificatory secularism. Laborde points out that in her formulation and defense of the conception of justificatory secularism, she follows Rawls' conception of political liberalism to a certain extent. For that reason, I first provide a sketch of Rawls' conception of political liberalism. Then I focus on justificatory secularism, trying to show to what extent it displays similarities with the conception of political liberalism, but also how it differs. I am interested in whether justificatory secularism represents a better alternative to the conception of political liberalism or whether these two conceptions should be considered complementary.

KEYWORDS

political liberalism,
justificatory secularism,
religion, legitimacy,
public reason

In this paper I will analyze Cécile Laborde's conception of justificatory secularism.¹ This conception does not defend full secularization of social and political life, however it holds that there have to be certain restraints to influence of religion on politics. The main feature of Laborde's standpoint is that justification of coercive laws must be made in terms of secular reasons. It asks in what way secular justification of political decisions can also be acceptable for citizens of faith and why it is important that justification should not be in terms of religious reasons. In that sense, Laborde's standpoint has similarities with the conception of political liberalism formulated by John Rawls. Moreover, Laborde points out that in her formulation and defense of the conception of justificatory secularism, she follows Rawls's conception of political liberalism to a certain extent (Laborde 2013a: 165). But she also claims that in some

¹ This paper was realized as a part of the project No. 43007 financed by the Ministry of Education, Science and Technological Development of the Republic of Serbia. Earlier version of this paper was presented at the symposium within the Summer School *Equality and Citizenship* held at the University of Rijeka, June 25–29, 2018. I am grateful to participants of the conference for very helpful discussions.

aspects justificatory secularism diverges from political liberalism, or at least some of its dominant interpretations.

For that reason, I will first provide a sketch of Rawls's conception of political liberalism. It should be pointed out that in doing so, I will focus on those points that are crucially important for understanding justificatory secularism. Then I will analyze justificatory secularism, trying to show to what extent it displays similarities with the conception of political liberalism, but also to what extent it differs from it. In the last part of the paper I turn to some criticisms of justificatory secularism. I will be interested in whether justificatory secularism represents a better alternative to the conception of political liberalism or whether these two conceptions should be considered complementary.

Rawls's conception of political liberalism for the purpose of this paper could be sketched in the following way:

1. The assumption of pluralism: Political liberalism applies to societies which are characterized by (reasonable) pluralism of comprehensive doctrines.
2. The condition of public justification: In pluralist societies, it is not acceptable to justify coercive laws with any (reasonable) comprehensive doctrine (whether religious or nonreligious).
3. The liberal principle of legitimacy: Hence within political liberalism, the liberal principle of legitimacy holds which requires that constitutional essentials should be acceptable to all citizens on reasonable grounds.
4. The public reason condition (a): When deciding about constitutional essentials and questions of basic justice, officials, but also citizens, should offer only public reasons (reasons which are acceptable to all reasonable citizens).
5. The public reason condition (b): The ideal of public reason requires that all officials, judges and citizens respect the constraints of public reason in their public deliberations.
6. The public reason condition (c): Exceptions from conditions 4 and 5 are possible in cases when "in due course proper political reasons – and not reasons given solely by comprehensive doctrines – are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support" (Rawls 1997: 784).

To explain: Rawls starts from the assumption that contemporary democratic societies are characterized by the fact of reasonable pluralism. Actually, they are characterized by a considerably broader pluralism regarding various dimensions. However, Rawls thinks that for applying the conception of political liberalism, the focus should be on reasonable pluralism. He considered reasonable comprehensive doctrines those doctrines that do not reject the basic tenets of the liberal-democratic society. The conception of political pluralism is not applied to any kind of pluralism, but primarily to pluralism of reasonable comprehensive doctrines.

Second, if we start from the assumption of pluralism, then it is not acceptable to provide public justification for coercive laws in terms of reasons specific for comprehensive doctrines. Given that the adherents of other comprehensive doctrines will not find such reasons acceptable, one has to look for some common ground of public justification. Someone might think that a comprehensive doctrine can be imposed on other members of society by force, simply because it is correct. For Rawls, this would contradict not only the assumption of pluralism, but also the entire conception of political liberalism. One of the basic aims of this conception is to find a common ground of public justification that would be acceptable to all citizens in societies which are characterized by the fact of reasonable pluralism. For that reason, political liberalism looks for an agreement that would be achieved on reasonable grounds.

Third, this sort of an agreement is specified by what Rawls terms the liberal principle of legitimacy. He formulates this principle by saying that the “exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational” (Rawls 1996: 217). It is obvious that Rawls’s liberal principle of legitimacy is not focused on any kind of a coercive law, but on constitutional essentials which should be acceptable to all citizens on reasonable grounds. However, the question arises in what way it is possible to arrive at this type of an agreement and in that respect public reason is crucially important. The three remaining conditions can hence be considered the public reason conditions.

The first of these conditions, the public reason condition (a) requires that when deciding about constitutional essentials and questions of basic justice all those included in that process, that is, not only officials, but also citizens, should offer public reasons, that is, reasons that are based on political values independent of any comprehensive doctrine. The next condition (b) says that the ideal of public reason is achieved when all those participating in decision-making regarding constitutional essentials respect the limits of public reason, that is, do not offer reasons typical of a comprehensive doctrine. For Rawls, this pertains to public discussions, but also voting concerning constitutional essentials should not be based on comprehensive doctrines. It is noteworthy that the public reason condition (b) can be interpreted in two ways. The stronger interpretation of this condition entails that it is applied not only to public deliberation regarding constitutional essentials, but also to discussions regarding all other laws.² The weaker interpretation of this condition implies that it is applied only to constitutional essentials, but not to public deliberations on other laws (or at least not so strictly). It should be pointed out that for Rawls, this condition holds in institutional forms of public deliberation, and that it is not applied to debates in what he terms the background culture i.e. discussions within the more broadly conceived public sphere of civil society.

2 For the stronger interpretation of this condition, see Cohen 2011: 261, 271.

Finally, Rawls thinks that there are certain exceptions to what I called public reason conditions (a) and (b) in cases when offering reasons from the perspective of a comprehensive doctrine could in due course advance the perspective of the public reason. He called this „the wide view of public reason”. In this context Rawls evokes the example of the abolitionists, who had offered reasons typical of a religious comprehensive doctrine in order to oppose the institution of slavery. He also points out that some statements of Martin Luther King Jr., that have a religious grounding advanced the public reason perspective. So, according to the wide view of public reason, offering reasons from the perspective of a comprehensive doctrine may be acceptable under what Rawls called “the proviso”: “reasonable comprehensive doctrines, religious or nonreligious, may be introduced in public political discussion at any time, provided that in due course proper political reasons – and not reasons given solely by comprehensive doctrines – are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support” (Rawls 1997: 783–784).

If we start from the assumption of pluralism and validity of the liberal principle of legitimacy, and if the conditions 2, 4, 5 and 6 are satisfied, we arrive at the conception of well-ordered democratic society. The conception of political liberalism thus not only offers a set of basic principles for a liberal-democratic society, but also conditions under which stability of the democratic society is possible. Nothing that has so far been said, except perhaps condition 6 is specific to the relationship towards religious comprehensive doctrines. However, all aforementioned conditions can be interpreted in a more specific way as determining the relationship towards religious comprehensive doctrines within political liberalism.

Therefore it is not surprising that an important question to which this conception should provide an answer was formulated by Rawls in the following way: “How is it possible for citizens of faith to be wholehearted members of a democratic society when they endorse an institutional structure satisfying a liberal political conception of justice with its own intrinsic political ideals and values, and when they are not simply going along with it in view of the balance of political and social forces?” (Rawls 1996: xxxviii). Rawls claims that the conception of political liberalism provides an answer to precisely this question. He says that political liberalism “does not aim to replace comprehensive doctrines, religious or nonreligious, but intends to be equally distinct from both and, it hopes, acceptable to both” (Rawls 1996: xxxviii). As I have already mentioned, the conception of justificatory secularism is in that respect very similar to political liberalism. Having considered Rawls’s view, I now turn to justificatory secularism.

Laborde thinks that justificatory secularism primarily pertains to the type of justification which is acceptable in public domain when enacting laws and policies. In this regard, the version of secularism which it espouses does not pertain to substantive issues regarding the content of laws and policies that should be enacted, but normatively adequate forms of their justification. Laborde

reiterates the claim that “the state must be secular so that ordinary citizens do not have to be secular” (Laborde 2013a: 169, 185). I will organize my presentation of justificatory secularism in such a way to understand, first, what Laborde means by saying that “the state must be secular,” and, second, what she means by saying that “ordinary citizens do not have to be secular”. In analyzing justificatory secularism, I will rely on my earlier sketch of political liberalism, in order to see the points on which there is agreement and the points where these two conceptions differ.

First, Laborde also starts from what I have termed the assumption of pluralism. She says that “in a society characterized by ethical pluralism, state-authorized coercion needs to be justified, and it needs to be justified to the people – to all of us, despite the differences that divide us” (Laborde 2013a: 165). According to Laborde, the problem regarding religious reasons is that they cannot provide that sort of justification. Instead of an agreement, in pluralist societies they are rather a source of divisions and disagreements. Regarding justification of laws on the basis of religious reasons, Laborde stresses that “at least in pluralistic Western societies with a history of religious conflict, it is controversial and divisive in a particular way” (Laborde 2013a: 167). Precisely because of that, she thinks that justification of coercive laws cannot be based on religious grounds. So political liberalism and justificatory secularism both start from the assumption of pluralism. Furthermore, both positions imply that if we start from the assumption of pluralism, it cannot be acceptable to justify coercive laws in the light of religious reasons. Considering that Rawls in that regard talks about comprehensive doctrines in general, which may or may not be religious, Laborde even more explicitly specifies secular reasons as normatively adequate grounds for justification of laws and policies.³ She says that “when officials seek to justify laws and policies, they should exercise religious restraint, and appeal solely to secular grounds for their rulings and decisions” (Laborde 2013a: 167). I will return to this point shortly.

Second, justificatory secularism also accepts the condition of public justification. I have already considered this point, but it should be pointed out that Laborde provides additional elaboration by specifying what she terms the Non-Imposition Norm (NIN). Namely, she says that justificatory secularism is primarily oriented towards “justification of political power” and “justification of democratic coercive laws” (Laborde 2013a: 165, 166). We have seen earlier that justification of coercive laws is precisely to what condition 2 pertains. The version of this condition in the form of the Non-Imposition Norm holds that “there is something particularly wrong about the official imposition of religious views, *qua* religious, on citizens” (Laborde 2013a: 169). Laborde argues that this type of separation between church and state characteristic for the Non-Imposition Norm is actually based on four assumptions. These are the assumption that the state is incompetent regarding religious doctrines, that religion has often been a source of deep political conflicts, that religious disagreements are

3 For Laborde’s view on secular reasons, see Laborde 2013b: 74–75.

very deep because they pertain to some fundamental issues and that religious features and practices often divide religious people into separate groups (Laborde 2013a: 168). We have seen earlier that Laborde primarily refers to officials. Now we can go back to this issue in the light of the Non-Imposition Norm. Laborde claims that the essential feature of justificatory secularism is that the Non-Imposition Norm is primarily applied to officials when they discuss and decide about coercive laws and policies. So religious restraint is strictly applied to officials when they provide public justification of political decisions.

It seems that up to this point there is full agreement between political liberalism and justificatory secularism. It is less clear whether justificatory secularism fully accepts the liberal principle of legitimacy, the way Rawls specified it. I think that within justificatory secularism some form of the liberal principle of legitimacy is assumed, if not explicitly, then at least implicitly. Namely, Laborde emphasizes that her understanding of justificatory secularism “is essential to liberal legitimacy and democratic deliberation” (Laborde 2013a: 166). Hence, there is no doubt that Laborde maintains that justificatory secularism contains a certain form of liberal legitimacy. However, when I say that a certain form of liberal principle of legitimacy is implicitly assumed, I primarily have in mind that the idea of reasonableness does not appear within the conception of justificatory secularism. For this reason, in my presentation of political liberalism, I have put the term “reasonable” in brackets in order to facilitate comparison with justificatory secularism. Despite the fact that Laborde accepts the assumption of pluralism and the liberal principle of legitimacy in a certain form, she does not do that the way Rawls does in terms of reasonableness. Is this difference crucial for divorcing justificatory secularism from political liberalism? I think that it is not and that the main differences lie elsewhere. Namely, one of the main features of reasonable citizens, in Rawls’s view, is that “they are prepared to offer one another fair terms of social cooperation (defined by principles and ideals) and they agree to act on those terms, even at the cost of their own interests in particular situations, provided that others also accept those terms” (Rawls 1996: xlii). Although not presented in those terms, justificatory secularism implicitly assumes that the mode of justification of coercive laws should be such that it is acceptable to all. Hence in that regard political liberalism and justificatory liberalism are quite similar. The difference between these two conceptions lies primarily in what I have termed the public reason conditions.

I have started the analysis of justificatory secularism with Laborde’s statement that “the state must be secular so that ordinary citizens do not have to be secular”. So far I discussed the first part of this statement. Now I turn to the second part of the statement which says that “ordinary citizens do not have to be secular”. To what extent justificatory secularism in that respect diverges from political liberalism. The public reason condition (a) emphasizes that at least when constitutional essentials and questions of basic justice are concerned, the strict obligation to offer public reasons does not only hold for officials, but also for citizens. Unlike such understanding of the public reason condition (a),

Laborde points out that under justificatory secularism, the Non-Imposition Norm does not pertain to citizens at all. How to understand this difference? First of all, one should take note that unlike Rawls, Laborde does not talk about constitutional essentials and questions of basic justice, but about justification of coercive laws. Her standpoint is that when justification of laws and policies is concerned, citizens do not have an obligation to follow the Non-Imposition Norm, that is, offering religious reasons can be justified. But the question is why wouldn't the obligation that citizens offer public reasons, as within political liberalism, hold?

The explanation offered by Laborde pertains to revision of what I have termed the public reason condition (b). According to this condition, officials and citizens participating in public deliberation on constitutional essentials and questions of basic justice are equally constrained by the limits of public reason. According to justificatory secularism, these constraints should not hold for public deliberation in which citizens take part. Laborde maintains that imposing any constraints on public deliberation would be detrimental to freedom of speech and freedom of conscience. It could be said that Laborde in that respects espouses moderate form of secularism, which leaves ample space for religious reasons in citizens' debates. The statement that "ordinary citizens do not have to be secular" means that religious restraint is not applied to public debates of citizens. Laborde points out that her standpoint differs in that respect from political liberalism, or at least its dominant interpretations:

It should be clear by now that justificatory secularism diverges from more demanding accounts of the role of public reason in political debate. Rawlsian philosophers, notably, argue that when citizens propose to use collective coercive power, they should put forward special kinds of reasons – reasons that are 'public' in the sense that they are not grounded in comprehensive, controversial conceptions of the good and draw, instead, on a shared political conception of justice. By contrast, justificatory secularism does not require that citizens only appeal to secular or public reasons, nor that they share a fixed, full conception of justice. Rather, it emphasizes the role of public deliberation in the identification of relevant principles of political justice. This is because general principles of public reason remain inconclusive and indeterminate unless and until they are interpreted, weighed and ranked in relation to the specific issues at stake. And such weighing and ranking will, naturally, be done against the background of the deep, diverse non-public views which people bring to their deliberations. While we should expect that, in a well-ordered liberal democracy, public decisions will be justified by appeal to secular reasons (as per NIN), free deliberation about deeper 'reasons for reasons' is necessary for the evaluation and selection of appropriate secular reasons. (Laborde 2013a: 170–171)

Laborde concludes that justificatory secularism "advocates less stringent limitations on legitimate democratic debate than Rawlsian theories of public reason" (Laborde 2013a: 172). However, there is certain ambivalence regarding Laborde's view on public deliberation. Namely, we have seen that the public reason condition (b) can be interpreted more strongly to mean that public reason

constraints apply not only to public deliberations regarding constitutional essentials, but also to public deliberations regarding other laws. The weaker interpretation says that public reason constraints apply only to public deliberations on constitutional essentials, but not on other laws. Finally, according to Rawls, these constraints are not applied to citizens' deliberations within civil society. It is certain that Laborde does not advocate the stronger interpretation of the public reason condition (b). However, it is not quite clear whether her statement that religious restraint does not apply to citizens should be understood as the weaker interpretation of this condition or that it is simply not applied within civil society. There is ample textual evidence that the latter is the case. But if so, then her standpoint, contrary to previous statements, does not at all differ from political liberalism, given that public reason constraints according to Rawls do not apply to discussions within civil society. On the other hand, Laborde says that justificatory secularism pertains to coercive laws. But then why would in public deliberation on coercive laws religious restraint apply to officials, but not to citizens debating the very same laws?

It is important to consider how Laborde interprets the public reason condition (c) in order to see her answer to that question. So far we have seen in what way Laborde explains why religious restraint is strictly applied to officials, but not to citizens. However, she claims that apart from officials and citizens, candidates for certain posts and leaders of parties that are not necessarily a part of legislative institutions also play an important role in the political domain. She calls this type of politician citizen-candidate (Laborde 2013a: 170). Namely, it is not clear whether religious restraint equally applies to them as to other officials. Laborde's solution to this problem can be understood according to Rawls's proviso. Laborde maintains that the Non-Imposition Norm applies to citizen-candidates, but not equally strictly. It means that they should try to provide public reasons for their proposals to the utmost possible measure, but considering that religious restraint is not applied to them equally strictly, they can in certain cases offer religious reasons as well. Rawls's proviso would be satisfied in case of their election to legislative functions, because in that case religious restraint would have to strictly apply to them. It seems that some form of Rawls's proviso is also behind the division of labor within justificatory secularism. Namely, citizens' debates within civil society, which allow offering religious reasons, can be understood so that they satisfy Rawls's proviso because in due course they are translated into secular reasons in debates of officials concerning coercive laws. Laborde thinks that without these debates, it would not be possible to know which of religious reasons can be translated into secular terms (Laborde 2013a: 171). This means that debates within civil society have an important role, because they reveal deeper reasons that stand behind secular reasons offered by officials in order to justify laws and policies.

Recall that according to justificatory secularism, officials have a strict duty of religious restraint, citizen-candidates have a limited duty of religious restraint and citizens do not have such a duty at all. However, we have seen that Laborde, unlike Rawls, does not mention constitutional essentials. We have

seen that for Rawls public reason constraints also apply to citizens participating in public deliberation on constitutional essentials.⁴ This is because constitutional essentials should be acceptable to all citizens on reasonable grounds. The first objection to justificatory secularism is that, unlike political liberalism, its standpoint does not make clear whether religious restraint should apply to citizens participating in the debates on constitutional essentials.

The second problem concerns the weaker interpretation of the public reason condition (b) from the perspective of justificatory secularism. Namely, as I have already argued, there is certain ambivalence regarding public deliberation within justificatory secularism. It can be understood as a non-institutionalized public discussion within civil society. But it can also be understood as an institutionalized form of public discussion regarding coercive laws. Obviously, Laborde maintains that as regards the former, religious restraint does not hold for citizens.⁵ However, it is not entirely clear what justificatory secularism proposes as regards the latter. On the one hand, given that religious restraint does not apply to citizens under justificatory secularism, it should not apply to citizens in the case of an institutionalized form of public deliberation. But on the other hand, given that it applies when justifying coercive laws, it should also apply in case of citizens offering justification for coercive laws in institutionalized forms of public deliberation.

The third problem concerns the revision of the public reason condition (c). Actually, two objections can be made here regarding implicit reliance on Rawls's proviso. We have seen that the behavior of citizen-candidates in the public domain can be understood so that it satisfies Rawls's proviso. However, if the same persons who from period $t1$ to period $t2$ had not had the strict obligation of religious restraint, from period $t2$ have a strict obligation of religious restraint, it can lead to the problem of psychological inconsistency, and even pragmatic inconsistency. The second objection concerns another revision of Rawls's proviso. The citizens' debates within civil society, according to Laborde, reveal deeper reasons on which laws are based. Rawls's proviso is satisfied when these deeper reasons which can also be religious reasons are translated into secular reasons when laws are officially justified. However, the problem with this view is that, contrary to the basic intention of justificatory secularism, coercive laws can then be based on religious reasons.

4 This was Rawls's standpoint in *Political Liberalism*. Later in his paper "The Idea of Public Reason Revisited", Rawls leaves out an explicit mention of citizens when discussing to whom the ideal of public reason should apply. Hence it could be said that justificatory secularism is much closer to Rawls's later standpoint. However, it should also be pointed out that there are other formulations in *The Idea of Public Reason Revisited* which show that Rawls had not fully given up on the original idea that the ideal of public reason should also apply to citizens' debates (Rawls 1997: 773).

5 Considering that Laborde divorces public deliberation from requirements of public reason, the pressing question for justificatory secularism is to determine an appropriate type of deliberative toleration. For the idea of deliberative toleration, see Bohman 2003.

There is no doubt that justificatory secularism has provided certain alternative solutions when compared to political liberalism.⁶ We have seen, however, that political liberalism offers answers to certain issues which remain open within the conception of justificatory secularism. I have argued that for an analysis of justificatory secularism, it is of utmost importance to understand its connection with political liberalism. To conclude, political liberalism and justificatory secularism should be viewed as complementary conceptions which inform and complement each other in some important aspects. An utterly unexpected consequence of analyzing justificatory secularism is that this conception throws new light on public deliberation.

References

- Bohman, James (2003), „Deliberative Toleration“, *Political Theory* 31 (6): 757–779.
- Cohen, Joshua (2011), „Establishment, Exclusion, and Democracy’s Public Reason“, in: Wallace R. J., Kumar R. and Freeman S. (eds.), *Reasons and Recognition: Essays on the Philosophy of T. M. Scanlon*, Oxford: Oxford University Press, pp. 256–275.
- Laborde, Cécile (2013a), „Justificatory Secularism“, in: D’Acosta G., Evans M., Modood T. and Rivers J. (eds.), *Religion in a Liberal State*, Cambridge: Cambridge University Press, pp. 164–186.
- . (2013b), „Political Liberalism and Religion: On Separation and Establishment“, *Journal of Political Philosophy* 21 (1): 67–86.
- Rawls, John (1996), *Political Liberalism*, New York: Columbia University Press.
- . (1997), „The Idea of Public Reason Revisited“, *The University of Chicago Law Review* 64 (3): 765–807.
- Schuppert, Fabian (2017), „Secular Republicanism? An Analysis of the Prospects and Limits of Laborde’s Republican Account of Religion“, *Ethnicities* 17 (2): 172–188.

Ivan Mladenović

Politički liberalizam i sekularizam opravdanja

Apstrakt:

U ovom radu analiziraćemo stanovište sekularizma opravdanja koje je nedavno formulisala Sesil Laborde. Laborde jasno ističe da prilikom formulisanja i odbrane koncepcije sekularizma opravdanja u određenoj meri sledi Rolsovo shvatanje političkog liberalizma. Zbog toga ćemo u ovom radu najpre ponuditi skicu Rolsove koncepcije političkog liberalizma. Potom ćemo analizirati stanovište sekularizma opravdanja i nastojaćemo pritom da ukažemo u kojoj meri ono ima sličnosti sa koncepcijom političkog liberalizma, ali i u kojoj meri se od nje razlikuje. Tako da će nas prvenstveno interesovati da li koncepcija sekularizma opravdanja predstavlja bolju alternativu u odnosu na koncepciju političkog liberalizma ili na te dve koncepcije treba gledati kao na komplementarne.

Ključne reči: politički liberalizam, sekularizam opravdanja, religija, legitimnost, javni um

6 On this point, see also Schuppert 2017.