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Teze disertační práce

Liberalism and its Justification in Contemporary Political

Philosophy

Liberalizmus a jeho ospravedlnenie v súčasnej politickej filozofii

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I. The basic question and its motivation

This thesis is motivated by what I take to be an important and worrying gap between the beliefs of contemporary liberal-democratic societies and their possible theoretical justification. On the one hand, there is a wider than ever consensus on basic acceptable modes of interaction between the state and its citizens. The orthodoxy of extensive human rights and limited powers of the government is taken for granted and the actions of our societies, both internal and international, indicate a strong and universal belief in basic liberal principles. We are clearly upset when societies all over the world blatantly violate our values – even the ones that we ourselves have come to endorse only a few short decades ago (consider the international reactions to criminalizing homosexuality in Uganda and the fact that gender equality is one of the priorities of Western aid for Afghanistan). There might be a certain level of hypocrisy involved when choosing to mute the criticism of certain countries while amplifying it towards some others, but the overall picture is nonetheless one of genuine confidence in the rightness of our principles concerning the equal political and individual rights of citizens and the limited role of government in the life of political society.

Given our strong political convictions, one would expect them to have a robust theoretical backing. After all, the liberal standards put quite demanding and non-trivial burdens upon governments and they are, importantly, built very deeply into the global institutional architecture as it was developed after the end of the Second World War (for example in Universal Declaration of Human Rights or Helsinki Accords). Nonetheless, the strong beliefs manifested in these international documents do not seem to display an equally strong theoretical support. The rough agreement we observe at the level of political values and principles in liberal democratic societies completely evaporates when confronted with the need to justify them. When we are asked about the basis of human freedom and equality, about the reasons behind our claim to human rights, protection, and a share of political power, the answers we come up with are much less confident and certainly less generally shared than what might be expected or even required given the strength of the practical principles we endorse.

This thesis offers a long answer to one relatively simple question. I enquire *what we can philosophically say to justify liberalism as a mode of political existence of society*. However, even though I discuss a fair share of authors along the way, it is not my ambition to give a complete historical overview of answering this question. I only present some of the arguments within this field, ones that are or were recently popular and influential. Moreover, this thesis has a certain kind of narrative structure, presenting a unified body of arguments rather than a series of disjointed sections. Therefore, any possible ambition

for completeness is overridden by the aim to work organically towards the answer I consider to be the strongest and most persuasive, laid out in the last chapter.

II. Self-ownership and value pluralism

In Chapter I, I analyze the attempts to justify liberalism that seem to be both very simple and highly compelling, coming from the proponents of self-ownership and value pluralism respectively. Generally speaking, these philosophers claim that a justification of liberalism is a feature of one uncomplicated argument, taking the facts of self-ownership or value pluralism as the starting points. If they are successful, the road towards liberalism is very much straight-forward, as it basically follows from one more or less transparent assertion. However, I examine both of these argumentative strategies and find them unpersuasive.

The justification of liberalism coming from the proponents of self-ownership takes the form of the following argument:

- (1) Individuals have certain rights based in their property relation to their bodies and possessions;
- (2) These rights are manifested as duties that state ought to respect;
- (3) No illiberal state can do so;
- (4) Therefore, every state must be liberal in order to fulfil its duties.

However, I argue that self-ownership is simply a wrong tool to adopt for any justificatory exercise of this type. My first (conceptual) argument is a simple *reductio ad absurdum*. In its first step, I claim that self-ownership cannot be reducible to body-ownership, as that would imply that also animals are self-owners – which is clearly absurd. I argue that only moral agents can be self-owners, since it is their self-relation that purportedly creates the wide normative constraints upon others. In other words, one can be a self-owner only insofar as she is a moral agent. In the second step, I look at the conceptions of ownership (property) adopted by the proponents of the concept (e.g. Peter Vallentyne, Michael Otsuka and others), which consists in a list of interpersonal rights (the rights of control, compensation, free transfer, etc.). As it turns out, combining the two steps is impossible. The type of property rights that the proponents of self-ownership are manifestly interested in are clearly inapplicable to the “self” understood as moral agent. It is very much unclear how it could be possible to lose control, compensate for or transfer moral agency. To put it differently, property and corresponding property rights are necessarily interpersonal and tied to social institutional relations. However, our self-relation is not. Therefore, the talk about the

ownership of the self is a category mistake, as it stipulates a property relation of a subject that (on the account of property that the proponents of self-ownership themselves adopt) cannot be owned.

In the second argument, I argue that self-ownership as a concept is necessarily too 'greedy'. It tends either to dominate or to overpower all other values, creating a monistic worldview with property rights at the very centre. There are two main reasons for this tendency. The first one is that self-ownership indeed can play a role of the only master-value in political philosophy. A surprising amount of our intuitions connected with freedom, autonomy, protection, respect, and recently even equality (with the so-called left-libertarians) can be explained and covered by self-ownership. This means that any Occam-razor supporting proponent of self-ownership will be reluctant to allow other independent values into his conceptual apparatus. Secondly, the problem of self-ownership is that it only knows one kind of wrongdoing – trespassing. This means that rape and unsolicited use of one's pencil are in their core the same offences. Indeed, this is my understanding of Nozick's famous 'taxes equal slave labour' argument. However, if the same principle is to be used in the cases of torture as in the cases of distributive justice, then the sheer moral strength of the principle that is supposed to explain why torture is wrong will overrun any other normative considerations – and that is why self-ownership is too greedy. Self-ownership, when applied widely, structurally does not allow other values to play their part, it overpowers them. Therefore, the concept should be unappealing to anyone that believes in an elementary plurality of political values.

I take it that since self-ownership is conceptually unstable and establishes an implausible reduction of political values into property rights. As such, it is an unsuitable basis for a justification of liberalism. As a result, the whole liberal tradition starting with Locke and currently embodied in various strands of libertarianism simply cannot offer a persuasive answer to my basic question.

In the second part of the chapter, I analyse a possible argumentative move from pluralism to liberalism, which originated in Isaiah Berlin and received wide attention amongst his followers and interpreters. The basic claim is that if human values are plural, political regimes have a reason to endorse this plurality. And if liberalism is the best type of regime for fostering and maintaining diversity, this would mean that we have a reason to adopt liberalism.

However, as with self-ownership, I argue that this piece of reasoning is laden with problems. First of all, it is often quite unclear exactly what the authors mean by pluralism and how specifically is it to play a role in the argument. If pluralism is an empirical fact, then no normative consequences seem to follow.

The same is true if value pluralism is a metaethical fact – first of all it is difficult to ascertain that this fact indeed obtains and secondly the proponents of this argument do not give us reasons why and how should metaethical facts be directly relevant for a constitution of political society.

Moreover, there are strong conceptual reasons why value pluralism is prescriptively barren, regardless of its theoretical refinement. To put very crudely, the successful argument from value pluralism to liberalism would go from the acknowledgement of multitude of values to their containment (a liberal regime cannot encompass all human values, only a limited selection of them). Therefore, an argument from pluralism to liberalism has an air of a paradox that its proponents fail to persuasively address.

Taken together, I argue that the main problem with the straightforward justifications of liberalism as exemplified by self-ownership and value pluralism lies in the lacking context of an elaborated and successfully defended conception of person. This conception is either paper thin (in case of self-ownership it consists in one normatively heavy assertion of property-relation to my 'self'), non-existent (as with the neo-Berlinian proponents of value pluralism), or too vague (as with Berlin himself). As a result, the justification of liberalism that these authors pursue remains hopelessly disconnected from the nature of human societies, which renders it unpersuasive and argumentatively inadequate. A possibly successful justification of liberalism must include a conception of person that is much more carefully elaborated and much more vigorously defended. Moreover, this conception of person must never be the one and only foundational consideration. It needs to be supplemented by a view of society and human interaction within it.

III. The limits of Rawlsian liberalism

Chapter II assesses the one contemporary political theory that does have the requisite complexity – the theory of justice as fairness by John Rawls. In it, I focus on the factor that the justifications of liberalism mentioned above seem to be lacking – a worked-out conception of person that can explain and anchor liberal principles once the thin layer of value assertions is stripped down. I propose a detailed analysis and interpretation of a conception of person in Rawls, its content and its role in developing his theory of justice. The most important part of his conception is what Rawls calls “the two powers of moral personality” – our sense of justice and capacity to adopt a conception of good.

There are two main outcomes of my interpretation of Rawls and his conception of person. The first one is that his conception of person is omnipresent in his theory, when every crucial argumentative turn is either strongly supported or directly determined as by the conception of person he adopts. This means that his theory in fact stands and falls with his conception of person, making it the single most important piece of Rawls' liberalism. Secondly, I argue that the argumentative support that Rawls and later political liberals offer for this conception of person is ultimately insufficient and unpersuasive.

There are two possible ways to read Rawls as trying to support his conception of person. One is descriptive, trying to establish that his conception of person is embedded in liberal societies as we find them. The second is deliberative, trying to provide an independent argument supporting it. Unfortunately, none of them work. The descriptive interpretation, in spite of being favoured and strengthened by contemporary political liberals, is unable to bear the weight of Rawls' rather specific use of moral personality. Rawls and his followers (like Jonathan Quong) argue that a conception of citizens as free and equal holders of moral personality is 'implicit in public culture of liberal-democratic societies' and the Rawlsian liberalism only takes this conception and works out its political implications, ultimately arriving at 'justice as fairness'. This assertion, however, is unable to bear critical scrutiny. Given the crucial importance of moral personality for Rawlsian enterprise, it is necessary for political liberalism to show that the values embodied in the adopted conception of person are somehow uniquely relevant for political theory and not merely arbitrarily stipulated as something that fits Rawls' personal intuitions about the content of justice. There are two possibilities how political liberals can do that, dubbed by Jonathan Quong the 'internal' and 'external' versions of political liberalism. I argue that none of them works, as the Rawlsian moral personality is neither necessarily implicit in broader liberal project, nor a part of actual worldviews of (nearly) all citizens of liberal-democratic countries.

The deliberative one does not fare much better. Grounding the conception of moral personality on a normative conception of social cooperation is an interesting move, but Rawls does not develop the idea further. As it stands, the normative idea of social cooperation can either slide back into the descriptive interpretation ('liberal societies understand cooperation thusly'), or it remains an unwarranted normative fiat (an underdeveloped normative assertion), similar to the one used by the friends of self-ownership ('we should understand social cooperation in this way').

All in all, Rawls' conception of person is compelling, although it is openly and unambiguously liberal and possibly controversial. It is one of the great virtues of Rawls that he consciously tries to avoid the heavy normative proclamations of the type used by the friends of self-ownership. Nevertheless, his arguments

do move in a circle, where liberal assumptions vindicate liberal conclusions. My interpretative attempts to break the circle either by grounding the assumptions in the public culture or by producing an independent argument for them failed. The normative conception of person used by Rawls remained unjustified, in spite of its considerable refinement and theoretical sophistication.

Thus, his theory might work relatively well while the conception of person is in place, yet it only moves the burden of justification one step further. Now, it is this conception itself that needs to be justified in order for liberalism to be persuasively supported. Rawls does provide us with a complex picture of moral personality and social cooperation that is needed to for a potentially successful justification of liberalism. However, he is less than clear on the sources of this picture, which casts doubt on the whole enterprise that is built upon it. His justification of liberalism is certainly incomplete. Rawls does not offer a compelling answer to my question – at least not all of it.

IV. The liberal conception of person

In Chapter III, I confront the problems I identified in Rawls and I develop a relatively complex argument in multiple stages. Firstly, I seek to justify the Rawlsian notion of moral personality and its key role in the enquiry about an acceptable political regime. Secondly, I purport to show that a certain form of political recognition is necessitated by our possession of moral personality. In the last stage, I claim that only the liberal forms of political recognition are possible in societies of certain type – and that this type is predominant in contemporary world. The arguments I propose should, hopefully, constitute a philosophical backing of liberalism that is both sufficiently robust and argumentatively sound, helping to at least partially fill the worrying gap between the domination of liberalism and its philosophical support.

In the first stage of my argument, I argue that the Rawlsian conception of person as possessing moral personality is not ‘implicit in democratic culture’, but is embedded even deeper, in the basic modes of human social interactions. Our ‘caring about justice’ and preoccupation with fairness are the natural modes of human cooperation, as shown by the research in behavioural science, anthropology, and developmental psychology. I use the research of Michael Tomasello to illustrate the point. I argue that the best strategy to ground a conception of person relevant for the enquiry about the most appropriate political regime is to start with this fact (with human preoccupation with justice) and then see what characteristics of human beings are implied in this assertion. Rawlsian moral personality (a sense of

justice and a capacity to adopt and follow a conception of good) certainly is. That represents a non-trivial reason to adopt moral personality as a starting point of the enquiry.

In the second stage, I analyze the consequences of the fact that human cooperation is viewed as a normative exercise between the agents possessing moral personality. The human beings develop what Peter Strawson calls 'reactive attitudes' to each other, signalling their understanding of other human beings as possessing responsibility for their actions and thus having a standing of an entity with its own normative viewpoint and, consequently, moral worth. When human beings cooperate, they view themselves and others as holders of valid moral claims, which is demonstrated by the reactive attitudes we exhibit once what we see as our valid moral claims have been breached.

Politically, I argue that the mutually acknowledged possession of moral personality leads to what has been described as a 'struggle for recognition' – a pursuit of political acknowledgement of persons as holders of moral claims that state, political society, and other citizens must answer somehow – either by accommodating them or by suppressing them with an overt oppression. Avoiding oppression, recognition can take multiple forms and historically was closely connected with family and particular religious social identities. The forms of recognition given by a political regime can take multiple forms and, historically, few if any of them were compatible with liberalism. I follow Axel Honneth in claiming that the historical forms of political recognition usually relied either on family structure (a person was recognized as a 'son of X', as belonging to a certain family or tribe) or on shared religious or cultural identity.

However, I argue that recognition is a normative political move that requires certain 'conditions of fit' to obtain. Simply put, for recognition to be successful, it must be both given by the political institutions and also taken by the person in question. In case these moves are not performed successfully, recognition does not obtain. To give an example, if a state is deeply nationalist, keen to give recognition to all the members of the constitutive nation, it might be difficult for members of ethnic minorities to feel at home and receive it. Similarly, a theocratic state with institutionalized state religion might be unable to give political recognition to its citizens of other faiths. For a political recognition to take place, there must be a certain alignment between what the citizen is prepared to accept and the political regime.

In my final arguments, I claim that a great majority of contemporary political societies exhibit relatively demanding 'conditions of fit' for political recognition. Pluralism of worldviews is one of them. Under the conditions of pluralism, a range of possible political regimes is restricted to the ones that are able to give

a belief-independent recognition to their citizens. And liberalism is the only type of regime that we know so far able to fulfill this condition. In my final argument, I stipulate what I consider to be the crucial feature of our contemporary understanding of value – the worth of human beings independent of their external identities and connections. This final premise enables me to show that liberalism is the only meaningful option for contemporary societies – when holders of moral personality seek for political recognition and they do not see external entities as granting it, it necessarily results in a liberal picture of the value of an individual as holder of rights and entitlements against everyone, including the political institutions.

The two arguments I propose can be summed up as two general conditions for a normative appropriateness of a political regime. If a society comes to view human beings as internally valuable, the external forms of recognition (via family or shared culture) become ineffective. A similar situation obtains for pluralism. If a society is diverse, then the external forms of recognition become inadequate. If these conditionals (and their premises) hold, liberalism is the only regime that can treat its citizens with institutional respect and recognition they ought to get as agents with moral personality, as internally valuable beings regardless of their other identities. These are quite weighty considerations favouring liberalism as a mode of existence of political society.

In a sense, my argument ends exactly where Rawls starts – with the basic ideas of fairness, freedom, equality, and general worth of human beings. This standpoint necessarily leads to liberalism as I understood it. If this standpoint is inevitable for modern political societies, then it is a strong consideration that can be mounted in favour of liberalism: A political regime needs to recognize its members, yet the only available form of recognition is one that respects them as individuals with an innate value. This makes for a general political presumption in favour of freedom and equality.

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