It makes one ashamed – that men of our advanced years should turn a thing as serious as this into a game.

Seneca\textsuperscript{1}

One of Edward's Mistresses was Jane Shore, who has had a play written about her, but it is a tragedy & therefore not worth reading.

Jane Austen\textsuperscript{2}

To Isaiah Berlin, the idea “that all good things must be compatible . . . and perhaps even entail one another in a systematic fashion [is] perhaps one of the least plausible beliefs ever entertained by profound and influential thinkers.”\textsuperscript{3} So says pluralism of monism. The claim is meant to apply as much to politics as to ethics and it has led pluralists to argue that monists overlook the often inescapably tragic dimension of both these activities. Because if, when values conflict, we cannot turn to a systematic theory for guidance, then it seems we have no choice but to compromise and so do damage to what we believe to be good. That, at least, is what comes from negotiation, which is what pluralists recommend as the chief alternative to the application of monistic theories of justice. And they do so even though – or perhaps because – it means embracing an inherently unsystematic, and sometimes even dirty, world.\textsuperscript{4}

One might push this point even further. Monists do not merely fail to give the tragedy of politics its due; some of them can even be accused of treating it frivolously, because like a game.


Consider John Rawls’ vision of the “well-ordered society.” To Rawls: “In much the same way that players have the shared end to execute a good and fair play of the game, so the members of a well-ordered society have the common aim of cooperating together to realize their own and another’s nature in ways allowed by the principles of justice.” Now this is an astounding statement in itself, all the more so given that it has been passed over as unremarkable by the vast secondary literature on Rawls. Yet I want to take it even further since, though it appears that Rawls does not mean for his claim to serve as anything other than an analogy, the reality, as I shall show, is that justice as he conceives of it is a game.

I
But first I need to say something about why we consider games frivolous. The reason, simply put, is that they stand apart from our serious, practical concerns. Practical life is (mostly) serious because its values, which are all connected and so form a whole, just matter to us in that way. And one reason they do so is that the whole which practical life constitutes cannot be considered unified since fulfilling its values often requires contending with disorder. Partly this is because, as Samuel Todes once put it, “our experience is porous to the blind, dark, and worldless forces that we try to domesticate by bringing them into our world so as to make this world habitable and endurable.” And partly it is because, as pluralists claim, any ordering of that world will always be limited by the unsystematisable nature of our values. Hence, once again, Berlin: “The world that we encounter in ordinary experience is one in which we are faced with choices between ends

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6 This holism, it’s worth mentioning, is also behind why we consider the things we encounter in our practical lives as real – including, of course, those things that we do not experience directly (for we sense that our visual field, say, continues on behind our backs). See Maurice Merleau-Ponty, *Sense and Non-Sense*, trans. Hubert L. Dreyfus and Patricia Allen Dreyfus (Evanston, IL: Northwestern University Press, 1964), p. 51.

equally ultimate, and claims equally absolute, the realization of some of which must inevitably involve the sacrifice of others.”

So we can see why, in order to play a game, we need to step out of – some would even say leap from – the practical. Games stand apart, that is, both because there is a degree to which they are separate from the practical as a whole and because, at least when it comes to formal games, they are fundamentally ordered in a way that the practical is not. Of course the degree of this apartness varies and in fact ancient games were viewed as much less autonomous than are the modern. The Greeks, for example, never affirmed anything like the degree of separation between game playing and practical life that we (or at least most of us) do today. It is because Homer saw sports as a natural part of our practical lives that he believed they should mimic the reality of war (which was also, for him, eminently practical) and so used the epithet “grievous” to refer to both sports and battle. And while Plato obviously preferred philosophical over military struggles, he also seems to have thought that life is best when everyone is playing games. That said, it is hard to believe that, even way back then, game playing was not considered an activity that was to at least some degree circumscribed, forming an island of fun amidst the seriousness of the practical. For there seems to be something virtually primordial about the idea; playgrounds, after all, are almost invariably marked off.

Getting a grasp of precisely how games are separate from the practical can be tricky, however. For one thing, while it is true that games are inherently unproductive, property may still change hands between the players. This is one reason why we can expect gamblers, at least,


10 See E. Norman Gardiner, *Athletics of the Ancient World* (Oxford: Clarendon Press, 1955), pp. 19-22. On at least one occasion the Bible may go even further since it uses the term for “to play” or “to make sport” (*letzakhek*, לְצַחֵק) in a way that could mean “to fight to the death.” See Judges 16:25-27, which some interpret as portraying Samson as having to fight wild animals for the amusement of the Philistines.


to complain that Johan Huizinga goes too far when he suggests that games can serve no material interest. Yet to play a game is still not *per se* to create wealth of any kind, because while some people may certainly play for a living whatever remuneration they receive is best understood as coming from *outside* of the game. I make this claim on the basis of what I consider a fundamental distinction: between the ends that are internal to a game, on the one hand, and those which, being situated in practical life, are external to it, on the other. This accounts for why, even though games are inherently unserious, we can still choose to take them more or less seriously. Think of ice hockey. Those who play it professionally certainly have a reason to be sober about it since it serves as a source of both income and recognition. We might say something similar about its fans – at least when it comes to a country such as Canada where the game has long claimed a place as an important pastime, indeed so much so that a great deal of Canadians’ pride has become wrapped up in it. But while values such as earning a living, achieving recognition, and upholding pastimes can all be associated with ice hockey, thereby making it serious through giving it a place in practical life, they all nevertheless remain external to the game. For the only ends one needs to fulfill in order actually to play it are those such as scoring goals, making saves, winning, and so on. These, then, are internal, since they can be affirmed *for no other reason* than that they make playing the game possible. And that is precisely why our attitude towards them can be playful rather than serious.

Kurt Riezler thus seems to me to have captured what is going on here perfectly. As he writes, when it comes to play

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14 Which, incidentally, is one reason why I find it so odd that we Canadians have yet to raise an eyebrow at the fact that no Canadian team has won a Stanley Cup championship since 1993. One notes that the National Hockey League’s head office moved from Montreal to New York City in 1989. One also notes that conspiracy theorizing is often a form of play.

15 My way of distinguishing between internal and external goods thus differs from Alasdair MacIntyre’s in his *After Virtue: A Study in Moral Theory* (Notre Dame, IN: Notre Dame University Press, 1984, 2nd ed.), pp. 187-91. To me, goods that are strictly internal to given practices must be at least partly “aesthetic” because there is a degree to which they are, like those internal to games, separate from the goods of practical life. As for the latter, while they may be upheld as either intrinsically or merely instrumentally good, they are all more or less integrated since, as I have suggested, they form a whole.
we are partly concerned but without linking this partial concern to other parts or
to the whole of our concern. It does not count. In severing the link that connects
this part with other parts we treat a “partial” concern as if it were no part of
anything. Thus the part, not being conceived of as part, is not a part. In the
seriousness of ordinary life all partial concern remains partial because it is
connected with some of or all our other concerns. The “merely” in our playing
seems to point not to a partial concern, but to a distinction in which our concern in
playing is separated from our other concerns.\textsuperscript{16}

Playing, in other words, is different from the serious activities of practical life since the latter
reflect concerns that are parts of it as a whole whereas to play is to be, to a degree, separate from
that whole. This separation is, moreover, reinforced by the fact that unlike with, say, the need to
work, players are supposed to be wholly free to enter the game – to take the leap – or not. In fact
the freedom of players to choose to play is essential to one sense, namely the contractualist, of
the idea of fair play: if people agree to play a game then they can be said to have chosen to
impose its rules on themselves and so they should respect those rules.\textsuperscript{17} All of which is to say
that the more players play not simply because of the “love of the game” (“amateur,” we note,
comes from the Latin for “to love”) but because they are driven by values external to it, those
which are situated in practical life – indeed the more those values are seen to influence the game
in any way – then the more people will worry that the spirit of the game has been undermined.
And the less fun will it be to play it.

The separation between games and practical life also depends, I have claimed, upon the
degree of formality of the game: the more formal, the greater the separation. Consider a man who
is willing to do no more than “play around” with a woman; we say that he doesn’t have serious
intentions towards her since he’s interested only in sex and not in forming a genuine relationship.


\textsuperscript{17} See Heather Sheridan, “Conceptualising ‘Fair Play’: A Review of the Literature,” \textit{European Physical
Education Review} 9, no. 2 (2003): 163-84, pp. 170-2. It’s worth pointing out that the idea of fair play is of relatively
recent vintage, it having originated with the crystallisation of certain crude and dangerous sports into ball games
with defined rules that took place in the public schools of Victorian Britain. See Charles Tennyson, “They Taught
the World to Play,” \textit{Victorian Studies} 2, no. 3 (March 1959): 211-22, p. 212. Of course this was part of a much
deeper and more widespread development. See Charles Taylor’s discussion of “the rise of the disciplinary society”
in his \textit{A Secular Age} (Cambridge, MA: Harvard University Press, 2007), ch. 2, parts 2-5.
While we may assume that a connection exists between his practical, sexual desires and her body, which he views as an object that he might use to satisfy them, and so that he is to this limited extent serious about her, he nevertheless still remains separate from her as a person. For once those desires have been satisfied he wishes to go no further; she is to have no connection with the rest of his life.

The playing of a formal game (ice hockey, chess, etc.) is more separate from the practical and so consists of behaviour that is even less serious. That is why it is often said to take place within a separate order, “a little cosmos of its own.” Because whereas the practical as a whole is, as pluralists claim, unsystematisable, formal games are governed by what John Searle has called “constitutive rules” and such rules, Searle tells us, “come in systems.” Among other things, this means that they can in no sense contradict each other since otherwise it would become exceedingly difficult to play the game. Of course there are many systematically unified practices in our practical lives that we do not consider games: think of following a recipe for making dinner or of the procedures that one must respect in order to apply for a professional post. But these things are not done in order to fulfil some strictly internal end; on the contrary, their basic point is the achievement of something (a meal, a job) that is useful to us in our practical lives. And so we take them seriously, they being directly connected to, hence extensions of, those lives. Not so the ends that, as we have seen, are internal to a game, which is precisely why we can choose to “take a break” and play it.

II

So games are (i) separate, to a degree, from practical life, since they are (ii) constituted by strictly internal ends, those which are affirmed for nothing other than the sake of the game. Furthermore, (iii) formal games, being governed by systematic rules, are ordered whereas practical life, as a whole, is not. I hope it is nevertheless clear that I do not mean for these to serve as a set of necessary and sufficient conditions for some analytic definition of “games.” I agree with Wittgenstein that the concept is simply not definable in this way. Still, enough has

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18 Riezler, p. 505.
been said about it that we should be ready for the comparison with Rawls’ conception of justice. I begin by noting how, in the first footnote to a very early paper, Rawls tells us that he conceives of social practices as systematic: “I use the word ‘practice’ throughout as a sort of technical term meaning any form of activity specified by a system of rules which defines offices, roles, moves, penalties, defences, and so on, and which gives the activity its structure. As examples one may think of games and rituals, trials and parliaments.” Rawls even goes on to illustrate his understanding of the nature of social practices by drawing parallels with the behaviour of those who play baseball. Evidently, he believes that such practices are governed by constitutive rules, something that he states explicitly in his *Theory of Justice* when he describes institutions as “a set of constitutive conventions. Just as the rules of games do, they specify certain activities and define certain actions.” Rawls is thus clearly an exponent of what Hubert L. Dreyfus has called “theoretical holism,” according to which human practices can be spelled out in theory, “the systematic interrelation of distinguishable elements,” precisely because they express unified belief systems.

This, then, accounts for Rawls’ faith in the project of constructing a theory of justice. Imagine coming upon a group of people in a park playing a game with which you are unfamiliar. You ask about its rules but they say that they have never really formulated them. And so you offer to do so yourself. The result leads you to propose certain reforms, reforms which, after having been tested by the players, you then reformulate – moving back and forth between theory and practice in this way until you settle upon a complete and systematic rulebook. Now this is, of course, precisely how political theorists are supposed to carry out the task that Rawls calls “political constructivism,” wherein the aim is to interpret “the great game of politics” in a way that achieves “reflective equilibrium” around a systematic set of principles of justice. And

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22 Ibid., pp. 37-8.


indeed the two principles that Rawls ultimately settles on are recommended to us as systematic: they have a lexical priority, hence are not to be weighed against each other at all, and when the various liberties asserted by the first principle are to be balanced this is so only by assessing them as a whole, “as one system,” meaning that there is still no sense in which liberty is to be sacrificed because of the needs of another value; rather, it is restricted “only for the sake of liberty itself.” Thus may we say that, just as with the referee or umpire of a sport or a game, no one charged with applying Rawls’ principles of justice should ever have to worry about getting their hands dirty. For that is what the systematic ordering of those principles supposedly provides.

Rawls also conceives of their ordering as stable in much the way that formal games are stable. When he describes his ideal society as well-ordered he means three things: that everyone in it accepts its principles; that its basic structure satisfies these principles; and that people generally comply with them in practice. Now all three, of course, also apply to games and their players: there must be a consensus about the rules; the set-up of the game must satisfy those rules; and the players must actually comply with them as they play (i.e. they should be neither cheats nor spoil-sports). Moreover, just as a “publicly recognized conception of justice establishes a shared point of view from which citizens’ claims on society can be adjudicated,” so may the players appeal to a common rulebook — through the neutral referee applying it — in order to determine how to play. Only when it comes to justice that referee will tend to be found sitting on the bench of the country’s supreme court.

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27 Ibid., p. 203.
28 Ibid., p. 244.
31 Rawls, *Political Liberalism*, p. 35.
32 See ibid., pp. 231-40. Thus whereas current U.S. chief justice John Roberts would probably not agree with the substance of Rawls’ principles, he would concur with the latter’s conception of his role. As Roberts declared during his confirmation hearings: “Judges are like umpires. Umpires don’t make the rules; they apply them.” Quoted in Bruce Weber, “Umpires v. Judges,” *New York Times*, July 12, 2009.
The well-ordered society is thus “a system that is in equilibrium,”\textsuperscript{33} by which Rawls means that it may be considered stable “whenever departures from it, caused say by external disturbances, call into play forces within the system that tend to bring it back to this equilibrium state.”\textsuperscript{34} This, too, is just like a game. One of the reasons Rawls loves baseball so much is that he believes its rules are in equilibrium:

from the start, the diamond was made just the right size, the pitcher’s mound just the right distance from home plate, etc., and this makes possible the marvellous plays, such as the double play. The physical layout of the game is perfectly adjusted to the human skills it is meant to display and to call into graceful exercise. Whereas, basketball, e.g., is constantly (or was then) adjusting its rules to get them in balance.\textsuperscript{35}

So when something happens to upset the balance there needs to be compensation. To illustrate, allow me to switch examples to a more Canadian sport: say some kids are playing street hockey while wearing in-line skates. It begins to rain and so they remove their skates in order to continue the game while wearing sneakers. In so doing, we may say, they have managed to uphold the basic principles of the game and maintain its equilibrium. The well-ordered society is said to react to disturbances in exactly the same way. Say there’s a terrible terrorist attack and more are threatened. In response, the state strives to increase security while maintaining as much respect as possible for civil liberties. Thus is the society’s stability said to depend upon its capacity “to return”\textsuperscript{36} itself to equilibrium. And notice the assumption here, namely, that the challenges to that equilibrium are in no sense considered opportunities for progress, for bringing the society to a new and better state overall by virtue of transformations arising from the disturbances. For there appears to be nothing fundamental to be learned about justice from dealing with them; we are instead to be guided by “non-ideal theory,” which is itself able to present a “reasonably clear

\textsuperscript{34} Ibid., p. 457.
\textsuperscript{36} Rawls, \textit{Theory of Justice}, p. 457.
picture of what is just”\textsuperscript{37} because it relies upon the already developed ideal theory for direction. It is the very same with games: while there are occasions when players may have to do such things as alter their equipment in order to keep playing, such changes ought always to be guided by the game’s basic rules, which must remain fixed (at least during play).

It is because of the above that, though Rawls considers the so-called “realistic utopia”\textsuperscript{38} that is his ideal society to be appropriate only given contemporary social and political conditions, I believe it can, at least in aspiration, be said to share something with Aldous Huxley’s \textit{Brave New World}, whose Controller boasts contains “the stablest equilibrium in history.”\textsuperscript{39} For neither has room for fundamental conflict, that which would undermine any systematic ordering. And so it is that we find another of the novel’s characters comparing life within it with the playing of a game.\textsuperscript{40}

That said, as we have seen it is not enough for something to be systematically ordered for it to serve as the basis of a game; it must also be separate, or at least separable, from the values of practical life, and this because it is constituted by strictly internal ends. Yet that is precisely how Rawls, at least, conceives of what he has come to call his “political” conception of justice. True, in \textit{Theory of Justice} he says only that the principles of justice \textit{may} not be relevant to everyday practical life, since they are presented as concerned with “the basic structure of society . . . the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation” and this means that they “may not work for the rules and practices of private associations or for those of less comprehensive social groups. They may be irrelevant for the various informal conventions and customs of everyday life; they may not elucidate the justice, or perhaps better, the fairness of voluntary cooperative arrangements or procedures for making contractual agreements.”\textsuperscript{41} By the time of \textit{Political Liberalism}, however, Rawls has come to emphasise that the principles are strictly “political,” by which he means that they are to be contrasted with those contained within “comprehensive doctrines” since they are

\textsuperscript{37} Ibid., p. 246.


\textsuperscript{40} See ibid., p. 38.

\textsuperscript{41} Rawls, \textit{Theory of Justice}, pp. 7, 8.
expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society. This public culture comprises the political institutions of a constitutional regime and the public traditions of their interpretation (including those of the judiciary), as well as historic texts and documents that are common knowledge. Comprehensive doctrines of all kinds—religious, philosophical, and moral—belong to what we may call the “background culture” of civil society. This is the culture of the social, not of the political. It is the culture of daily life, of its many associations: churches and universities, learned and scientific societies, and clubs and teams, to mention a few.42

One might object that even this says only that justice is something conceptually distinct from everyday practical life. To be separate in the way that a game is the ends of justice must, again, be strictly internal; one must be able to participate for no other reason than what we might describe as a “love of justice.” But surely this is precisely what Rawls means by his famous declaration that justice is “the first virtue.”43

For justice as he conceives of it is capable of standing alone and so of being neither intrinsically nor instrumentally linked to practical life. He makes clear that there is no intrinsic link when he specifies that a political conception is a “freestanding view” which is independent of any and all of practical life’s comprehensive doctrines and so is something that can be “expounded apart from, or without reference to, any such wider background.”44 It works “entirely within [its] domain and does not rely on anything outside it.”45 As for an instrumental link, Rawls the Kantian is careful to rule this out by asserting that a political conception is more than a mere modus vivendi, more than some “social consensus founded on self- or group interests, or on the outcome of political bargaining.”46 Because justice is something that ought to be affirmed “for its own sake”47 and, in that sense, it is just like the internal ends of a game.

43 See *Theory of Justice*, p. 3; and *Political Liberalism*, p. 147.
46 Ibid., p. 147; see also *Theory of Justice*, p. 475.
As for the way in which citizens may become involved in the politics that respects justice as so conceived, Rawls distinguishes between how they may do so, something that he says must be entirely voluntary, and how they and all other citizens enter and leave the society as a whole, which for theoretical purposes he limits to the wholly non-voluntary paths of birth and death. Because, to Rawls, “there is no political obligation, strictly speaking, for citizens generally.” Or as we might wish to put it here: “they don’t have to play if they don’t want to.”

So it should come as no surprise that Rawls appeals to the principle of fair play to account for why those who do choose to get involved in politics are obligated to respect his conception of justice as well as to comply with all of the other requirements associated with any special roles they might have in the polity. Once, Rawls went much further, invoking fair play as the reason why everyone should obey the law, but he has since come to ground this in what he calls the “natural duty of justice” instead. For he has concluded that “obligations” must be limited to cases of wholly voluntary consent, noting that “we acquire obligations by promising and by tacit understandings, and even when we join a game, namely, the obligations to play by the rules and to be a good sport.” This is why Rawls asserts that, when it comes to respecting his favoured version of political liberalism, what he has famously called “justice as fairness,” then as long as the institutions are just and practitioners have voluntarily chosen to participate in them, they should do their fair share as defined by this conception of justice. Thus while Rawls does say that a legal system based upon it will be distinct from other associations such as games because of its “comprehensive scope and regulative powers,” the difference is ultimately only one of degree rather than of kind. Think of it this way: even if we vastly increased the number and types of possible penalties in ice hockey, as well as replaced the penalty box with jail, this would certainly raise the stakes but, at the end of the day, ice hockey would remain a game.

So perhaps Rawls will, in the end, concede that his well-ordered “political” society is itself a kind of game. And yet he obviously means for us to take it seriously. Its principles were certainly formulated in an earnest rather than playful spirit, and this is also how Rawls expects us to receive them – we are talking about justice, after all. Nevertheless, as we have seen, this end is internal to the purportedly systematic unity that is the basic structure, which is to say that it is just like that of a game. Rawls is, however, willing to consider its impact upon the world outside. As he writes:

We cannot, in general, assess a conception of justice by its distributive role alone, however useful this role may be in identifying the concept of justice. We must take into account its wider connections; for even though justice has a certain priority, being the most important virtue of institutions, it is still true that, other things being equal, one conception of justice is preferable to another when its broader consequences are more desirable.54

This shows that Rawls is open to taking into account the consequences of his game of justice for ends external to it and, to that degree, he can be said to treat it seriously. Yet it still does not even achieve the status of what are sometimes called “serious games,” those war games, video games, and simulations that are played primarily for purposes, particularly educational, that lie outside of them.55

This, then, is why I conclude that Rawls fails to take politics seriously enough. One might nevertheless still object: how, if at all, would adopting his theory or one like it be harmful to practice? I believe that it can be said to have this effect in two ways: one as regards those who participate directly in politics, and the other as it relates to those who do no more than follow it.

Regarding the practitioners, treating politics as if it were a game encourages them to engage in overly adversarial, because competitive, behaviour. True, not all games are competitive, but the vast majority of them are; indeed competition is virtually their raison d’être, not to mention being a large source of the fun. And if those in politics are faced with a conflict and are seen as players in a game then they certainly will compete. This means that they will

54 Ibid., p. 6.
view each other as not merely “opponents” but also “adversaries,” since when the basic objective is to win then one can only do so if the other loses. This is a problem because it makes it virtually impossible for each to respond to the conflict by engaging in conversation, which is an extremely fragile mode of dialogue that aims to realise and develop the common good. Those who would converse about conflicting values do so because they hope to transform them in a way that truly reconciles and this means striving to develop a solution that is genuinely “win-win” for all concerned. The slightest rigidity, however – which is what inevitably comes from the defensiveness that attends the sense that one is facing an adversary – and it becomes exceedingly difficult for people to undergo the sometimes radical changes necessary for bringing such reconciliations about.56

R rigidity is also what comes from a commitment to a previously formulated system of rules since it significantly limits what may be transformed. This is another reason why the citizens who would respect Rawls’ theory are almost certain to become adversaries when they conflict. Hence the irony in how Ronald Dworkin, another theorist, has chosen to open a recent book. He does so by calling for shared common ground in a set of political principles in order to counter what he, along with many others, has come to see as the alarmingly belligerent nature of contemporary American politics.57 Because Americans, Dworkin worries, are “no longer partners in self-government; our politics are rather a form of war.”58

Dworkin is not only, like Rawls, a monist as regards politics (“political values are finally unitary, not plural”59) but he is also one as regards ethics.60 Yet he too advocates a liberalism that consists of two systematically interlocked principles as a basis for justice. So though Dworkin’s principles differ somewhat from Rawls’, they can both be said to share in the belief that it is indeed principles that we require if real argument is to be possible. But notice what is meant by

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59 Ibid., p. 155.

this: “I mean ‘argument,’” Dworkin writes, “in the old-fashioned sense in which people who share some common ground in very basic political principles debate about which concrete politics better reflect these shared principles.” 61 Now while this certainly is one of the old-fashioned senses of the term, wherein parties advance their reasons in order to “score points” on each other in the hopes of winning the debate, there is also another sense, namely, argument as that which is exchanged between the participants in a conversation. It too requires that things be shared in common, but these are best conceived of as transformable, value-expressing practices rather than as grounding principles.62 And surely it is more of this kind of argument that we need if we are concerned about an overly adversarial politics. Dworkin, however, seems to have room only for debate, which is why, when faced with a combative citizenry, he is able to do no more than insist that “we need to find ways not merely to struggle against one another about these issues, as if politics were contact sports.”63 As if politics as non-contact sports was acceptable.

So we may assume that, just like with Rawls’ justice as fairness, Dworkin’s “partnership democracy”64 is going to be a highly adversarial affair. Their ideal citizens are partners, that is, only in the sense that those who compete within the same game are partners. And this means that we can expect their competition to take two main forms. First, there is that which we can associate with those who practice ordinary politics as members, say, of competing parties or interest groups. Second, there is that which takes place when such competitions have broken down, which is to say when conflicts have arisen over fundamental issues that touch on what Rawls calls the basic structure. On such occasions it seems to me that it is Dworkin who has the more realistic take on what can happen. For just as when a game has been suspended because the application of its rules has become an issue, Dworkin, at least if we take his many interventions published in the New York Review of Books as an indication, would have the more articulate citizens take on a role comparable to that of a team’s captain and plead their case before the justices of the supreme court, the referees. Rawls, by contrast, would have those citizens somehow switch altogether from competition to cooperation and engage in “public reason,” a

61 Dworkin, Is Democracy Possible Here?, p. 5.
62 See my From Pluralist to Patriotic Politics: Putting Practice First (Oxford: Oxford University Press, 2000), esp. ch. 3; and my “Patriotic, Not Deliberative, Democracy” and “From Moderate to Extreme Holism,” both in Patriotic Elaborations.
63 Dworkin, Is Democracy Possible Here?, p. xi.
64 See ibid., pp. 143-7.
form of deliberation that is said to be exemplified by none other than the supreme court justice. Rawls, in other words, would have citizens stop being players and become referees themselves.⁶⁵

That there is something schizophrenic about this “dualism”⁶⁶ should be evident. What is less evident is why Rawls considers it plausible. Yet if we follow Dworkin there are at least two reasons why we should assume that the pleading he recommends will continue on in the competitive spirit of before: first, the tendency of lawyers to advocate positions in the language of rights encourages the view of their conflict as consisting of a “clash of rights” and this is simply too abstract and adversarial to allow for real conversation;⁶⁷ and second, because that is simply how it is done, for just as with a team captain no self-respecting lawyer today ever knowingly pleads in a way that could serve the interests of the opposing side.⁶⁸

Moreover, we can also assume that, at least on occasion, what is done will be – and I say this without exaggeration – immoral. Because there is something about systematically rule-based contexts that encourages those within them to act in morally questionable ways – as long, that is, as they comply with the rules. Arthur Isak Applbaum has put the point as follows:

> Deception and violence are presumptive moral wrongs, but the rules of the game of poker permit deception, and the rules of boxing, football, and hockey permit violence. It is widely believed that lying in poker and tackling in football are morally permissible, and this is so because the rules of the games of poker and football permit such actions. Similarly, it is widely believed that the permissive rules of professional games such as lawyering, business management, and elective politics generate moral permissions to engage in deceptive and coercive tactics that, if not for their game permissibility, would be morally wrong.⁶⁹

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⁶⁵ See Rawls, Political Liberalism, ch. 6.
⁶⁶ Ibid., p. xxi.
⁶⁷ As I argue in From Pluralist to Patriotic Politics, ch. 7. On why rights talk of the kind favoured by Kantian liberals is inappropriate even for negotiation, see Mary Ann Glendon, Rights Talk: The Impoverishment of Political Discourse (New York: Macmillan, 1991).
Applbaum, however, fails to see that this points to a problem with the very idea of conceiving of the professions he mentions as games; indeed, he even goes on to construct an (albeit highly restrictive) argument based on fair play in order to justify certain immoral but rule-respecting behaviours in public and professional life.70

I have said that treating politics as a game can also have a detrimental effect on those who do no more than follow it. We can appreciate how by distinguishing between “spectators,” on the one hand, and the members of an “audience,” on the other. Spectators are individuals who are separate from, essentially untouched by, whatever they are watching since they treat it as no more than a source of entertainment, i.e. as spectacle. An audience, by contrast, is a communal entity since its members are concerned with how what is transpiring may affect their common good. Instead of allowing themselves to get “carried away” and look upon events purely aesthetically, then, audience members engage critically, as listening interpreters,71 and this means that just like the interlocutors in a conversation they may have an edifying, because transforming, experience.72

Justice as fairness, however, would make a spectacle of politics. For one thing, just as modern sports spectators are separate from the players they watch,73 Rawls, as we have seen, wants us to conceive of ordinary citizens as separate from those who participate in politics. For another, as with all competitions justice as fairness’ agonism lends it great entertainment value. Because surely it is not only the “members of an orchestra, or players on a team, or even both

70 See Applbaum, pp. 121-35.


72 Readers may have noticed the affinities between those I am calling spectators and audience members and those who attend what Bertolt Brecht has called “dramatic” and “epic” theatre respectively. See Brecht, Brecht on Theatre: The Development of an Aesthetic, ed. and trans. John Willett (New York: Hill and Wang, 1992), chs. 8, 13, 18, 20, 53-4; and Brecht, “Theatre for Learning,” trans. Edith Anderson, in Carol Martin and Henry Bial, eds., Brecht Sourcebook (New York: Routledge, 2000). Charles Taylor blurs this distinction, and so that between the domains of the aesthetic and the practical, when he writes of how someone experiencing his first live symphony concert can be “enraptured not only by the quality of the sound [something aesthetic], which was as he had expected quite different from what you get on records, but also by the dialogue between orchestra and audience [something practical].” Taylor, “Cross-Purposes: The Liberal-Communitarian Debate,” in Philosophical Arguments (Cambridge, MA: Harvard University Press, 1995), p. 191. But genuine, serious dialogue is one thing, spectators and orchestra playing-off of each other is quite another; otherwise put, it makes sense to speak of someone “engrossed” in a dialogue but never “enraptured.”

teams in a game, [who] should take pleasure . . . in a good performance, or in a good play of the
game, one that they will want to remember.”74 The joys of spectatorship are, moreover,
facilitated by the “distance” of citizens from the political arena, since it allows them to keep from
feeling affected in any deep way. To be so affected they would have to engage as the members of
an audience instead, and for that it is necessary to emphasize how, though they are not directly
involved, they nevertheless still are so indirectly. One might, for example, praise how their
conversations about politics deep within civil society can influence the state’s agenda.75 Rawls,
however, would have citizens keep their “personal deliberations and reflections about political
questions” ensconced within associations, such as churches and universities, that are to make no
contribution whatsoever to public discourse about “constitutional essentials and matters of basic
justice”76 (unless, presumably, you happen to be a professor publishing in defence of political
liberalism).

It is worth pointing out that citizens as audience members may still find aspects of
politics entertaining, not least because attempts at political conversation, whether theirs or
politicians’, will tend to break down and so will have to make way for negotiation, which is
adversarial and not merely oppositional. Nor should we overlook the necessarily competitive
nature of elections. That said, at least these citizens’ critical attitudes should prevent them from
getting carried away into the domain of “the aesthetic.” This will be so, however, only if they
manage to avoid much of what currently passes for political journalism, whose obsession with
strategy, polls, scandals and other forms of infotainment is one of the main reasons why politics
as spectacle already virtually rules the day.77 Regardless, the point that I wish to make here is
simply that adopting justice as fairness, or any other such theory, will serve only to further
entrench that rule.

Treating politics as a game can also affect citizens by sapping what Rawls would call the
“strength”78 of their sense of justice, hence undermining a major source of his regime’s stability.

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74 Rawls, *Political Liberalism*, p. 204.
75 As I do when I argue that we should never draw a solid line between the citizens in civil society and state
agents. See my *From Pluralist to Patriotic Politics*, ch. 5; and “Patriotic, Not Deliberative, Democracy,” p. 39.
5; and James R. Compton, *The Integrated News Spectacle: A Political Economy of Cultural Performance* (New
York: Peter Lang, 2004).
Otherwise put, justice as fairness subverts itself. Riezler’s statement above about how play stands apart from our ordinary practical concerns indicates why: when things are separate from practical life then we may still care for them, of course, but no more so than we care for “mere” games. And there is no reason to expect that this would ever change since, as Dreyfus has pointed out, “in so far as games work by temporarily capturing our imaginations in limited domains, they cannot simulate serious commitments in the real world.” 79 The reason for this is that when values are contained within a unity such as that constituted by a systematic set of rules then they will appear as sheltered from risk since there can be no real conflict between them, hence no danger that one might have to get one’s hands dirty by compromising them. It is just such risk, however, that is crucial for developing a sense of commitment. This is a fundamentally Kierkegaardian point, and indeed Kierkegaard has gone so far as to suggest that a loss of commitment is the ultimate fate of all spectators, all those whom he identifies as members of “the public”: 80

that abstract whole formed in the most ludicrous way, by all participants becoming a third party (an onlooker). This indolent mass which understands nothing and does nothing itself, this gallery, is on the look-out for distraction and soon abandons itself to the idea that everything that any one does is done in order to give it (the public) something to gossip about. 80

Rawls should expect nothing less of the citizens who he would have follow the politics of justice as fairness as if they were watching a game.

III

One reason why pluralists cannot be accused of treating politics as a game is that there is no sense in which they conceive of it as standing apart from practical life. To them, politics may be neither systematically ordered, since it cannot without serious distortion be made subject to a systematically unified set of rules, nor separate, since the negotiations that pluralists recommend

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are considered at least partly instrumental to the values being defended, values that are integral to practical life. These negotiations are only “partly” instrumental because they are also premised on the virtue of toleration, meaning that those involved are expected to make concessions not simply because they have been unable to find a way to eliminate their adversaries (if that were so then we would do better to speak of realpolitik, as distinct from pluralist, negotiations). Pluralists endorse toleration because they believe that, though adversaries do not share each other’s ends, the plurality of values and so ways of life in the world means that they should nevertheless see them all as morally legitimate and so as worthy of a certain minimum of respect. That said, toleration remains but one value among many, which is why pluralists do not endorse it uncompromisingly. Hence Stuart Hampshire who, though he refers to “fairness” to account for why he believes negotiation is the basis of just conflict resolution, means something very different by the term than does Rawls. Because instead of the fairness of the neutral referee applying systematically unified rules or principles, Hampshire wants to invoke something disunified, “the kind of imperfect fairness that may emerge from procedures which are themselves compromises, from the relics of history.”

Yet by giving primacy to negotiation pluralists can be accused of taking politics too seriously. This is because a politics which consists of no more than negotiation and so compromise is, as pluralists never stop reminding us, going to be a dirty, indeed often tragic, affair. Only by granting a place to the reconciliations, as distinct from accommodations, that conversation, as distinct from negotiation, can sometimes make possible may room be made for a politics that is not only tragic but also comic. For reconciliation is the central goal of comedy; as the literary theorist Northrop Frye once put it, “the theme of the comic is the integration of society.” Of course social integration is a serious, practical business – as serious as the development of citizenry’s common good. Yet comedy shows that it can be accompanied by humour and other amusements, which is why we may say that a politics which is comic is one that will have at least some playful elements sprinkled upon its surface. All of which is to say that we can be serious about politics without being solemn.

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Now integration requires that there already be some integration to begin with, which is why citizens and their representatives must affirm that they share a common good in the first place (even if they happen to disagree about its meaning). Only this way can they approach each other as opponents who are not also adversaries, since it is about nothing other than what their common good requires in a given case that they need to converse. This means that they must recognize each other as members of the same political community, as “friends” of a civic sort. Pluralists, however, ultimately have room for only a fragmented, because plural, society, for a multiplicity of partial groupings that, as we have seen, do no more than negotiate with each other when they conflict.

The irony here is that, by encouraging us to take politics too seriously, pluralists would bring many of the same problems that come from treating it as a game. Take their assumption that a conflict must be adversarial. Unlike with the competitors in a game, the adversaries here are understood as “natural enemies” who can, at best, negotiate with each other in good faith, hence make demands and put pressure on each other as they struggle to reach an accommodation. This still rules out conversation since, as pointed out above, it is hard to feel secure enough to listen with an open mind when one is being confronted with a demand and so the threat of having to give up something important. Not that there will be much worth listening to anyway since whatever the other has to say will be designed to extract concessions rather than bring shared understandings.

And so the absence of conversation means that there will be little to learn. More, perhaps, than could come from treating politics as a game, since negotiation at least requires us to get clear on how our values should be ranked, on how much weight they should be given when faced with the demands of the other. Negotiators might also discover something about which tactics are most effective in getting those others to make the concessions we desire. But all this is far from the sometimes profound learning that can come from engaging in genuine conversation, which is all about developing a sense of the deeper meanings that our values can have for us. And this is precisely what we must do if we are to transform those values and reconcile the conflict; we need to learn about their proper place in the practical whole, in the common good that we share with our fellow citizens.

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83 Hampshire, _Innocence and Experience_, p. 74.
Pluralists would also sap our commitment to our values. Of course they are well aware of one of the forms that this takes since they themselves recommend it. I am thinking of their repeated calls for balance and moderation, which are only to be expected since the willingness to compromise is essential to successful negotiation. But pluralists completely miss the other form. It arises from an aspect of their philosophy of language, namely, their belief that values lay claim to two dimensions of meaning: one contextual, in which values are present in the concrete with other values, and another abstract, in which a value’s core is said to exist as isolated and universal.\(^4\) Pluralists sometimes see it as part of their job to construct analytic definitions of these cores since the clarity they believe this provides is supposed to help us with the practical reasoning required when we have to negotiate conflicts in context. Thus does Berlin, for example, write of the need “to isolate the pure ore of egalitarianism proper” or to prevent whatever “monstrous impersonation” or “sleight of hand” is made possible by the “confusion” or “confounding” of liberty with other values.\(^5\) Yet perhaps the most purely abstract articulations of values are, Berlin suggests, provided by the leaders of oppressed groups, those whose “noble eloquence” is especially evident when

for a brief instant their utterance has a universal quality . . . The formal possession of power is unfavourable to that truly disinterested eloquence – disinterested partly at least because fulfilment is remote, because principles shine forth most clearly in the darkness and void, because the inner vision is still free from the confusions and obscurities, the compromises and blurred outlines of the external world inevitably forced upon it by the beginnings of practical action.\(^6\)

Presumably, this is when values are at their most powerful, their most able to motivate us to uphold them, because they have yet to undergo the compromises required when they are

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involved in conflicts with other values in practical contexts. So it is when they are in this abstract state that we might expect their supporters to be the most committed to them.

The reality, however, is quite the opposite, for commitment is normally a matter of presence in practical contexts. This is another Kierkegaardian point, one to which Dreyfus alludes when he declares that “it is a fundamental and strange characteristic of our lives that insofar as we turn our most personal concerns into objects, which we can study and choose, they no longer have a grip on us.” This is not really so strange, however, because we all know (or at least should know) that the more abstract something is, the more disconnected from context, the more separate will it be from our practical concerns and so from the things that really matter to us. That is why it takes no more than a cursory reading of some of the major speeches by the leaders of oppressed groups – think of Louis Riel’s final statement at his treason trial in Regina, 1885; of Theodor Herzl’s address to the First Zionist Congress in Basel, 1897; of Martin Luther King, Jr.’s “I Have A Dream” speech at the Lincoln Memorial in Washington, 1963; or of Nelson Mandela’s “I Am Prepared to Die” statement from the dock in front of the Pretoria Supreme Court, 1964 – to appreciate that their noble eloquence derives not from their abstractness but from how they articulate values in contextual rather than universal terms. What they are expressing, in other words, are agendas for action that take full account of the practical exigencies.

I want to close this critique of pluralism by suggesting that one reason why pluralists, with their tragic view of politics, end up relegating the isolated cores of values to the “darkness and void” is that otherwise the values risk becoming comic. For after all, there exists a whole genre of dramatic comedy based around what E.M. Forster has called “flat” characters, those who are dominated by a lone quality of mind or mood – what Ben Jonson, in keeping with the Renaissance psychology of his time, labelled a “humour.” Such dominance produces an

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exaggeration effect which makes the character into a caricature that we find funny. But instead of welcoming this as the basis of a form of moral or political satire, one which would highlight the need to transform the value in question so that it may be reconciled with others, pluralists hold on to their belief in the static purity of values’ abstract cores. This is why they limit any change to the compromising of negotiation and so why they end up with a politics that remains all too serious.

IV

A political philosophy that favours reconciliation over either the application of a systematic theory of justice or the struggle for balanced accommodation is one that would have us tread a path in between the metaphysical extremes of monism and pluralism. For it would encourage citizens to put their common good first by responding to conflict with conversation – and when a conversation succeeds it brings both integration, hence progress towards unity, and the kinds of shared understandings that respect difference and so diversity. In consequence, we might describe such an approach as aiming to move us “towards the One, as a many,” something which is only possible within a holistic, but not unified, practical context. That said, as I have implied, the practical is not so separate from the aesthetic that we cannot acknowledge the presence within the former of aesthetic structures such as comedy and tragedy, just as the internal ends of the aesthetic may be connected with others situated outside of it and so in the practical. Any line that we might draw between the two domains should thus be not only fuzzy but also dotted rather than solid.

Such a line would be very different from the “solid but flashing” one that, I would claim, is favoured by postmodernists. Postmodernism can be understood as beginning with the observation that the logic of monism (or “metaphysics”) leads it to expand “the game” beyond all limits. One response, that of Jean-François Lyotard, is to deconstruct it by embracing an incredulity towards the possibility of such a single “metanarrative” and so recognizing, alongside


92 Postmodernism is a form of “difference philosophy,” which, metaphysically speaking, is an approach that makes a paradoxical affirmation of both the one and the many, together. See my “Loving Wisdom,” in Patriotic Elaborations, pp. 237-43.
this metanarrative of incredulity, a plurality of (language) games.\textsuperscript{93} It is because Jacques Derrida believes that “play is always lost when it seeks salvation in games” that he favours a deconstruction that would make way for an originary “freeplay” instead, one that both accepts the constraints of “presence,” such as the structures constituted by a game’s rules, and disrupts them.\textsuperscript{94} It strikes me that this is very much like the “attitude of throwing off constraint” that is required for those forms of play beloved especially of children and improvisational performers.\textsuperscript{95} That is why I would go so far as to suggest that its universalization lends support to the famous contention of the melancholy Jaques in Shakespeare’s \textit{As You Like It} that “all the world’s a stage / and all the men and women merely players” (II.vii.138-9).\textsuperscript{96} But then this is precisely why, if we adults are ever to take our lives seriously, we should reject postmodernist approaches as contributing, perhaps even more so than does Rawls’, to the aestheticization of our lives (“play” being central to aesthetics since at least Kant and Schiller). Indeed this is something that, many have begun to note, has already gone far enough.\textsuperscript{97} And the danger here is a great one for it can bring with it a kind of “Gnostic threat”: by refusing the seriousness of life we can come to view the whole world as unreal and when that happens then, as the nihilist saying goes, anything is possible.

Needless to say, conversation is incompatible with such widespread aestheticization. Because conversation requires interlocutors who take their values seriously. And yet the many very real obstacles to conversing means that those of us who would grant it a place in politics need to be aware of just how often it can be expected to fail, leaving negotiation as the next best


option. This means that politics will indeed often have to be a tragic, rather than comic, affair. But at least we may be said to have given both tragedy and comedy its due, and so to have taken politics with just the right amount of seriousness.