Rawls

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Are human beings "largely amoral, if not incurably cynical and self-centered"? (Rawls, 1993, lxii) Must they be driven mostly, as Hobbes (1994, 58) said, by "a perpetual and restless desire of power after power"?

For the young John Rawls, whether man can be moral was a question on which human existence turned. In his early 20's Rawls had been considering the priesthood. Instead he found himself a soldier in the vicious Pacific theater of World War II. The horrors of the war exploded the foundations of his Christian belief. Rawls could make no sense of a good god who creates beings that are inherently corrupt, much less ones predestined to cause the atrocities he saw around him. A sniper's bullet grazed his skull; his troop train passed through the devastation that had been Hiroshima; he heard early reports about the Holocaust. Was this the world that human nature condemns us to? Or is another future possible for us?

> The great evils of human history—unjust war and oppression, religious persecution and the denial of liberty of conscience, starvation and poverty, not to mention genocide and mass murder—follow from political injustice, with its own cruelties and callousness… Once the gravest forms of political injustice are eliminated by following just (or at least decent) social policies and establishing just (or at least decent) basic institutions, these great evils will eventually disappear. (Rawls 1999, 6-7)

Rawls devoted the rest of his life to imagining a moral order. Within a just society, Rawls thought, the great evils would no longer torment man. And a world of such societies could at last be at peace with itself.

For justice and peace to be within our reach, our nature must permit them. Humans must be not irredeemably amoral, cynical, self-centered. Rather, "human beings must have a moral nature, not of course a perfect such nature, yet one that can understand, act on, and be sufficiently moved by a reasonable political conception of right and justice to support a society guided by its ideals and principles." (Rawls, 1993, lxii) Rawls saw his life's work as imagining a moral order realistic enough to redeem a credence in man's moral nature. And, as we will see, Rawls held that belief in man's goodness can itself be crucial for keeping human evil from being human destiny.

Hobbes said of himself that he was born twins with fear. After the war, Rawls's constant companion was hope: hope that humans can do the right thing for its own sake, hope that citizens can favor the common over division—and so hope that man can sustain a just society and a peaceable world.

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Justice as Fairness

Rawls's hope is not that humans will always act rightly (we know they will not), but that in the right circumstances they can act rightly—reliably, and for its own sake. His hope is that there can be a form of society that fosters a *sense of justice* in those growing up within it: a willingness to act fairly towards other people, even at the cost of narrow self-interest.

Rawls calls this the challenge of *stability*. In a stable society citizens' sense of justice will regulate their pursuit of their own interests, and—what is more—citizens will feel that acting justly is part of a good life for them. Rawls asks what such a social order would be like. What would a society be like that would call forth in all its citizens a strong, dependable, and reflectively-endorsed desire to do right?

Rawls's answer is that stability can be achieved by a social order that proclaims the value of each and every one of its members—openly, and at the deepest level. "The most stable conception of justice," Rawls (1971, 261) says, "is one that is perspicuous to our reason, congruent with our good, and rooted not in abnegation but in affirmation of the self."

Rawls's description of what such a society would look like—his theory of a just and stable society—is called "justice as fairness." Justice as fairness is constructed around a moral vision of people, and of how people should relate to each other. Rawls hopes that we will see ourselves in this picture, and be drawn to its depiction of what our lives together could be. If this vision is accurate and attractive, then the challenge of stability can be met.

The Conceptions of Person and Society. In Rawls's language, the moral vision of people and their proper social relations is built upon a *conception of the person* and a *conception of society*. These are the two most basic ideas of justice as fairness. Individuals are conceived as *free and equal*, *reasonable and rational*, and society as *a fair scheme of cooperation*.

Let us examine these two conceptions more closely. Citizens in Rawls's vision of the just society are free and equal in that each has political standing in their own name: citizens are not property (like slaves) or dependents (like children), and their political status does not turn on their membership in some group (like a church). Each person can take responsibility for their own life, and all have the same basic abilities to take part in the society's common life.

Rawls describes the just society as a fair scheme of cooperation. This emphasis on cooperation might not resonate with us on a bad day, watching coworkers fighting to climb the ladder and politicians sent into battle by opposed special interests. Immersed in today's struggles, the best we might expect from our society is that it be a predictable system of competition, where self-interest cancels self-interest well enough that no person or group ever gains too much power.

Yet that is the cynical view of humans and society that Rawls is trying to replace with his more hopeful vision. Rawls accepts that citizens want more of the good things for themselves—more rights, more freedoms, more authority in their jobs, more money, more respect in their society (these are what Rawls calls *primary goods*). People are, in this sense, *rational*. Yet citizens in Rawls's moral vision are not only rational, they are also *reasonable*. Reasonable citizens are willing to do their part to uphold fair principles so long as others do so too. Reasonable citizens will support an overarching system of cooperation, in which any

competitive institutions (markets, politics) respect and promote a distribution of primary goods that is fair to all.

In Rawls's moral conception, society is fair at a very deep level. First, citizens see each other as fundamentally equal, regardless of accidents of birth. It is unfair for citizens to get more power or opportunities *only because* they are white, or male. It is unfair for citizens to get better jobs or more pay only because they are fortunate enough to be born to parents who could send them to better schools, or only because they happen to have skills that the economy needs right now. The basic rules of society should not favor some citizens over others solely because they have been lucky enough to have good families, or to have more potential for developing some marketable skill. This is why, Rawls says, libertarianism must be rejected as an ideal of a just society—its most basic rules for determining 'who gets what' track factors irrelevant to the status of equal citizenship, like how much money a child inherits, or whether her genes give her movie-star looks.

There is an ongoing effort (called "luck egalitarianism") to base political theory on a Rawlsian negative precept that *it is unfair for social shares to be based on luck*. (Lippert-Rasmussen, 2009) Yet Rawls used his negative precept only in a preparatory stage—only to clear the ground of unfairness. The ground so cleared, Rawls then begins his second, substantive stage, setting out his robust positive ideal of fair cooperation. The positive ideal is an ideal of social unity. It is an ideal of a society in which equal citizens "agree to share one another's fates." (Rawls, 1971, 102)

In Rawls's ideal, citizens start with a presumption of equality: all are equal, so *prima facie* all should get the same. Yet in a Rawlsian society citizens view the natural and social differences among them as a shared resource for everyone. The social system may offer more rewards to those more fortunately endowed—not because the fortunate merit more in some elemental sense, but because unequal rewards can work to everyone's benefit. For example, raising the salaries of doctors can enable medical students to invest in better training—and having better-trained doctors helps everyone in society, including those with the lowest wages. It can be fair for doctors to earn more: not because doctors deserve a reward for their high IQs, but because their earning more creates a better society for all citizens.

In Rawls's ideal of a fair system of cooperation, citizens "share one another's fates" in arranging society so that the good fortune of some works to the advantage of all, including the least advantaged. This is an ideal of citizens who relate to each other as equals on a deep level. And, returning to the theme of stability, it is an ideal that affirms the value of each citizen on its face.

The Original Position. So far this vision is inspiring but abstract—it is not yet clear what it comes to. Many kinds of political theory, after all, claim to be grounded in freedom and equality and fairness. Rousseauean theories centered on the political powers of the *demos* claim to give expression to freedom and equality, yet so do Lockean theories that emphasize the private rights of the individual. Freedom and equality form the stuff of socialist criticisms of constitutional democracy—and also of conservative critiques of the welfare state. (Rawls, 2001, 2, 8)

To turn abstract ideals into distinctive principles of justice Rawls asks us to join him in performing a thought experiment, the *original position*. With the original position Rawls aims to transform the hard question of 'what are fair terms of cooperation among free and

equal citizens?' into the more manageable question of 'what would free and equal citizens *agree to* under fair conditions?'

Were we all to gather in real life to agree on the basic rules for our society, the resulting agreement would surely not be fair. Some of us would be richer, and so could bribe others to shade the rules in their favor; others would be physically stronger, and could negotiate with threats. With the original position Rawls asks us to imagine all of these factors disruptive of fairness removed. We imagine a situation in which each citizen is present as truly free and equal, and we carefully control the conditions so that these citizens are situated exactly fairly with respect to each other. When we work out what free and equal people would agree to when fairly situated, we will see this agreement as defining our ideal because it embodies the ideas of freedom, equality and fairness in their purest forms.

Rawls constructs the original position from the basic idea of a fair system of cooperation among free and equal citizens. Rawls models fairness through blindness with a *veil of ignorance*: no one knows whether they are male or female, young or old, highly talented or not, part of a majority or minority race. (Here we see Rawls's negative precept at work: social shares should not be based on luck.) Citizens are free, each speaking in her own name: so each person in the original position speaks only for herself—not for anyone else or any group. Citizens are equal, their worth as citizens not relative to their wealth or strength: so no one in the original position can bribe or threaten another. All of these factors irrelevant to justice are kept out of the original position, leaving only free and equal persons in fair conditions to reach agreement. If each person tries to get the best deal for themselves when unfairness is impossible, what would the resulting agreement be?

The Choice of Principles. What the persons (or the "parties") in the original position are agreeing on are the most fundamental principles for their society. These principles are much more general than the laws debated on a typical day in a legislature. They are even more general than most provisions in national constitutions. The parties are agreeing to the foundational terms of citizens' ongoing cooperation: principles by reference to which a constitution should be written and interpreted. They are agreeing to principles for regulating society's *basic structure* of institutions.

Rawls's main concern is whether the parties in the original position would agree to order their society by utilitarian principles. Maximizing utility is a salient aim in today's public policies. The political imperative to increase national economic growth, for example, as well as the pervasive cost-benefit analysis of public policies, are naturally seen as utilitarian in their rationale. Yet Rawls believes that given a choice, the parties would not go for utilitarianism, but rather for a different standard of justice: the principles of justice as fairness.

Justice as fairness is defined by two principles, and Rawls tests each principle against utilitarianism from the perspective of the original position. In the first test, Rawls asks whether the parties would prefer the utilitarian principle whose goal is the highest average level of well-being, or rather his first principle of equal basic rights and liberties:

> **First principle of justice as fairness**: Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all. (Rawls, 2001, 42)

Rawls's first principle requires that each citizen be secured equal rights of free speech and equal liberty of conscience, equal rights to free association as well as equal rights to vote and to hold public office. For these last two rights Rawls's principle requires not just formal political equality, but equally valuable political liberties: citizens should have the same opportunities to influence the political process, and to hold public office, regardless of their social class (citizens' political liberties should have *fair value* as he puts it). Rawls means to prove that the parties in the original position would prefer his principle of equal basic rights and liberties to the utilitarian alternative of maximum aggregate welfare.

Rawls argues that each party would prefer to secure equal basic rights and liberties, rather than gambling with the utilitarian principle. The parties will rationally "maximin": optimize the worst outcome that could befall them. While the utilitarian principle aims at the highest *average* level of welfare, it may be that the best way to boost the average is to curtail the liberties of some citizens for the sake of benefits to others. A societal majority might be much happier, for example, if certain minority religious groups were not eligible to hold positions of power in the government. Yet the parties, behind the veil of ignorance and so not knowing whether they are members of any majority or minority group, would not be willing to risk ending up in a society where their liberties are seriously infringed. To do so would not be to take their own deepest commitments seriously. Moreover, they reason that utility-based public discussions on basic rights would breed mutual suspicion and distrust, as different groups would put forward speculative arguments that average utility could be increased by limiting the liberties of other groups. The first principle of justice as fairness takes such divisive debates permanently off the public agenda, by publicly securing each citizen the same basic rights as every other. Each of the parties in the original position will see this fostering of mutual trust as good from their own perspective.

Having used the original position to confirm his first principle of equal basic rights and liberties, Rawls then uses it to argue for his second principle of justice, which regulates socio-economic goods such as the powers and positions of office, and wealth and income:

> **Second principle of justice as fairness**: Social and economic inequalities are to satisfy two conditions:
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> **a)** They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*;
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> **b)** They are to be to the greatest benefit of the least-advantaged members of society (the *difference principle*).

Fair equality of opportunity requires that citizens who have the same talents, and the same willingness to use those talents, should have the same educational and economic opportunities regardless of where they start in life. With this principle in operation, we should expect for instance that broad earnings categories come to be filled equally by people born into different social classes (one quarter of people with the highest earnings were born in the poorest quarter of the income distribution; one quarter were born into the richest quarter; and one quarter were born in each of the two classes in the middle).

The difference principle requires that social institutions be arranged so that any inequalities of wealth and income work to the advantage of all, and particularly to those who will be worst off. For example, if four possible economic systems produce the following distributions of wealth and income, the difference principle will favor the third because it is the system in which the least-advantaged do best.

Economy	*Least-Advantaged Group*	*Middle Group*	*Most-Advantaged Group*
1	20	20	20
2	24	30	50
3	40	60	100
4	34	100	400

Rawls evaluates his second principle against utilitarianism from the perspective of the original position with a second test. Would the parties prefer his two principles, or would they prefer his first principle plus average utilitarianism, constrained by some "social minimum" that is secured for all citizens? (Rawls, 2001, 119-34)

Rawls argues that the parties will prefer his two principles. This time, Rawls says, the argument has nothing at all to do with maximin reasoning. (Rawls, 2001, 43n.3) Rather, the parties would prefer his second principle because it engenders a sense of reciprocity in society that is better for everyone. The utilitarian principle will be hard on the least advantaged. They will rightly suspect that their well-being is being sacrificed to give more advantages to those already most favored; this will be hard on their self-respect, and on their willingness to act as fully cooperating members of society. And again, public debates among the classes over which economic policies will increase average utility, and where to set the social minimum, will tend to foment a social discord that dampens the prospects of all. Under the second principle, by contrast, all citizens work toward an economy that is evidently good for each person, with special attention to the good of those who do worst by it. A publicly reciprocal economic order will therefore be more stable. Overall, such an order will best promote the good of each.

The Institutions of Justice as Fairness. Having tested his two principles against utilitarianism and found them superior, Rawls describes institutions that would realize those principles. His ideal is a *property-owning democracy*. In a property-owning democracy all citizens' basic rights and liberties are secured equally, and measures are taken to maintain roughly equal influence on politics: public funding of elections, restrictions on campaign contributions, and more equal access to the media keep the public agenda from being captured by the rich. Fair equality of opportunity is promoted by public provision of high-quality education, especially for the least-advantaged, and by an assured minimum income and health care for all. The economic structure works to disperse ownership of productive resources widely among citizens, deterring disruptive concentrations of economic and political power.

Rawls explicitly rejects both the welfare state and laissez-faire capitalism. The welfare state generates a demoralized and disengaged underclass by depriving the worst-off of sufficient political, educational and employment opportunities while leaving most of the economy in the hands of the wealthy. Laissez-faire capitalism will be at least as bad as the welfare state along those dimensions. The aim of a property owning democracy is to enable all citizens to participate in society and pursue their own ends with robust public support. "The least advantaged are not, if all goes well, the unfortunate and unlucky—objects of our charity and compassion, much less our pity—but those to whom reciprocity is owed as a matter of basic justice." (Rawls, 2001, 139)

Looking over Rawls's original position argument for his two principles, two features of his strategy stands out. One is how the argument pivots from the first principle to the second. Rawls knows that most of us hold strong commitments to the equal basic rights and liberties that his first principle guarantees. His strategy is to show that the perspective used to justify these equal basic rights and liberties (the original position) also points to a socio-economic order that is much more egalitarian than what we have now. Rawls's original position argument says this: when we work out why equal rights and liberties are so important to us, we will see (perhaps to our surprise) why fair equality of opportunity and the difference principle should be important to us as well. When we discover the reasons for equal political liberties, Rawls suggests, we'll discover that these reasons require social and economic equality too.

Justice and money. A second notable feature of Rawls's argument for justice as fairness connects his ideal of social equality with the need for stability with which we began. Recall that Rawls is looking to describe a society in which each person growing up develops a strong, dependable, and reflectively-endorsed desire to do what is right—a desire to act on the society's principles of justice. Rawls believes that stability can be secured by equality. The egalitarian society he describes is one whose principles proclaim the value of each citizen, publicly and in full voice.

For certain social goods (like political power) it is not logically possible for some people to have more without others having less. For such goods Rawls tries to secure each person an equal share. Other goods (like income) are not zero-sum: it is possible for everyone to be better off by allowing inequalities. For these goods, Rawls's goal is that the overall system publicly aims to work for the good of each—and especially aims to work for those who end up with the least. Inequalities are allowed only because they benefit everyone. Each person develops a strong attachment to these principles of justice, because every person can see how these principles open affirm their own worth.

Certain of the citizens' attitudes within Rawls's stable society are strikingly different from those common within our own society, especially when it comes to the importance of money. This passage merits careful attention:

> It is a mistake to believe that a just and good society must wait upon a high material standard of life. What men want is meaningful work in free association with others, these associations regulating their relations to one another within a framework of just basic institutions. To achieve this state of things great wealth is not necessary. In fact, beyond some point it is more likely to be a positive hindrance, a meaningless distraction at best if not the temptation to indulgence and emptiness. (Rawls, 1971, 290)

Society cannot be stable if people base their self-worth on greater wealth, because the goal of having more money than others is not one that everyone can achieve. The "losers" in a system where esteem comes from riches will rightly conclude that their society is not built for them—and will likely, politically, check out.

In Rawls's just society citizens gain self-respect from seeing their own good publicly affirmed by their institutions. Under the difference principle, even those who end up with the least know that the economy works for their benefit. To return to the positive ideal of community described above, in justice as fairness citizens view the natural and social differences among them as a shared resource, to be employed for the benefit of all. Every person develops an allegiance to their society because they see how its rules encourage citizens not to do each other down, but to share one another's fates.

Political Liberalism

Rawls maintained throughout his life that that justice as fairness—his vision of free and equal citizens cooperating fairly—is the most just, and the most stable, ideal for a modern constitutional democracy. Yet the way he presented this vision changed dramatically from his first book, *A Theory of Justice* (1971), to his second, *Political Liberalism* (1993). Rawls came to believe that the stability of society depended not only on the justice of its basic institutions, but also on the *legitimacy* of the exercise of coercive power by the state.

Rawls in fact realized that his first presentation of justice as fairness generated paradox. In *A Theory of Justice* the grounding conceptions of person and society are presented as simply part of the truth. People *are* free and equal—essentially, metaphysically—so the most just and stable society will treat them in accordance with how they are. In that book Rawls went so far (1971, 251-57) as to sketch a Kantian interpretation of justice as fairness wherein the original position represents the perspective of our autonomous noumenal selves (or perhaps self), undivided by the contingencies of the perceptible world. Yet Rawls discovered that such a metaphysical understanding of free and equal persons cannot order a society without contradicting freedom itself.

The metaphysical interpretation of justice as fairness defines what *Political Liberalism* calls a *comprehensive doctrine*—a partisan view on the nature of humans and the highest values in life. Yet in a free society there will be many different comprehensive doctrines: some philosophical, some religious, some neither. None of these doctrines can be coercively imposed on all citizens without risking the great evils that (as we have seen) it is Rawls's primary aim to avoid:

> A continuing shared adherence to one comprehensive doctrine can be maintained only by the oppressive use of state power, with all its official crimes and the inevitable brutality and cruelties, followed by the corruption of religion, philosophy, and science. If we say a political society is a community when it is united in affirming

> one and the same comprehensive doctrine, then the oppressive use of state power with all the attendant evils is necessary to maintain political community… In the society of the middle ages, more or less united in affirming the Catholic faith, the Inquisition was not an accident; its suppression of heresy was needed to preserve the shared religious belief. The same holds, we suppose, for any comprehensive philosophical and moral doctrine, even secular ones. (Rawls, 2001, 34)

In this passage Rawls says that shared adherence to any comprehensive political philosophy, even a liberal one, will require state oppression on the order of the Inquisition. It may give philosophers pause.

In a free society, Rawls claims, citizens will come to have quite divergent world views. Some may be Kantians, some may be Catholics, some may be Muslims, some may be militant atheists. This diversity is inevitable and not regrettable: free minds will reasonably disagree on the most profound issues in life. Yet no one of these comprehensive doctrines may be imposed on everyone without violating basic freedoms. And in any society there can only be one law. The state must either fund or not fund religious schools; the law must either grant or deny equal rights to women; sodomy and pornography must be either permitted or forbidden; there can only be one set of rules for running the economy at any one time.

The Challenges of Toleration. Rawls here confronts himself with the classic problem of toleration, which he divides into two connected challenges. The first challenge is moral: how can it be right to enforce *one* law on citizens so diverse in their basic outlooks? The second challenge is the familiar one of stability. How can a society that imposes one law on a diverse citizenry gain the willing and lasting cooperation of each of those citizens? Inevitably this one law cannot align with everything every citizen believes is right. So how can a society that enforces one law activate in citizens a strong, dependable, and reflectively-endorsed desire to do what the law requires?

In meeting these twin challenges of legitimacy and stability Rawls rejects one option out of hand. Toleration should not rest simply on a social balance of power (a *modus vivendi*). A mere political compromise that allows religious freedom, for example, may not be secure—this freedom may be taken away should the balance of power shift decisively to one religious group or another (or to the militant atheists). More profoundly, in a *modus vivendi* citizens do not tolerate each other's religions because this is the right thing to do, but only as an expedient given their (perhaps temporary) inability to impose their rule on the rest.

A Political Conception of Justice and an Overlapping Consensus. The best way to meet the two challenges of toleration, Rawls claims, is for a society's laws to be based on a *political conception of justice*. A political conception is not presented as true—for citizens have different views about the truth—but as *reasonable* for every citizen to endorse. A political conception is a freestanding module: it is not defined by any particular controversial comprehensive doctrine, and is therefore able to fit within many of them. A political conception can attract the wholehearted and enduring support from each member of a diverse society, because it makes no commitments on the deep issues that divide them—metaphysical, religious, or otherwise.

Because it is free from factional foundations, a political conception can gain the support of citizens with widely different commitments. Citizens support the same conception, and for moral reasons, yet each for *their own* moral reasons. The Kantian sees how the political conception can flow from her philosophical position, the Catholic affirms the

political conception as part of Catholic dogma, the Muslim finds it in the Koran, and so on. In an *overlapping consensus* every citizen fully endorses the political conception, each from the perspective of her own comprehensive doctrine. An overlapping consensus is more stable than a mere *modus vivendi* because each citizen affirms the political conception as the ultimate and proper basis for the society's laws, whatever the balance of power in society happens to be, or whatever it becomes.

The vision of a society united by an overlapping consensus on a political conception is an ideal, like the vision of a society ordered by the principles of justice as fairness. Rawls gives no guarantee that an overlapping consensus must happen; he only seeks to prove that one is possible. And an overlapping consensus can only be possible if people have the right moral psychology—if people can in fact be reasonable. Reasonable people do not just insist on their own view, come what may. Rather reasonable people desire "for its own sake a social world in which they, as free and equal, can cooperate with others on terms that all can accept." (Rawls, 1993, 50) Indeed reasonable people want to live in a society governed by rules that all can accept, even more than they want society to be governed by their own partisan view. Here we see again Rawls's hopeful view of human psychology: not as demanding power after power, but as allowing people to prioritize reciprocal relations of mutual respect.

Should an overlapping consensus come about, then the challenges of legitimacy and stability will be met. It is legitimate to enforce one law when that law is acceptable to each reasonable person from within their own point of view. Law based on a political conception is justifiable "at the tribunal of each person's understanding." (Rawls, 1993, 391; citing Waldron 1993, 62). Each citizen understands how the law is compatible with their own world view, and how enforcing that law will not impose a sectarian philosophy—their own, or any other's. Each citizen also willingly abides by this law, for this law expresses their own fundamental commitments. The reasonable Kantian sees the law as Kantian, and is motivated to follow it as such—and similarly for the reasonable Catholic who sees the law as Catholic. Every citizen sees good reason to accept society's laws, even when they do not align perfectly with her own preferences, because the reasons she has for accepting those laws are ultimately her own reasons.

Interpreting the Public Political Culture. The structure of Rawls's solution to the problem of toleration—an overlapping consensus focused on a political conception—may be clear enough. Yet the content of that solution is still uncertain. Rawls seems to have deprived his theory of any source from which to derive the substance of the law. When determining the law on, say, the political status of women, we cannot simply turn to Kantian, or Catholic, or Muslim doctrine without reproducing the problem of intolerance with which we began.

Rawls now draws on what he calls the *public political culture* of a liberal society: "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." (1993, 13-14) Deriving the substance of the law from the public culture of society removes the dangers of drawing on any partisan comprehensive doctrine, and it also supports the formation of an overlapping consensus. The major political ideals of society are ideals with which various comprehensive doctrines within society are most likely to have aligned already (one might think of the endorsement of religious freedom as a civil right within the Catholic doctrine of Vatican II). So these are the ideals on which existing comprehensive doctrines are most likely to be able to converge. Moreover, reasonable

citizens will see that the public political culture is the only non-partisan focal point of ideals common to citizens whose personal views divide them.

There are many reasonable interpretations of the public political culture of a modern liberal society, and so there are many political conceptions of justice on which a particular liberal society can base its politics. There are also, however, limits to this interpretative flexibility. Rawls says that any reasonable interpretation of a liberal public culture must have three features:

> 1. A reasonable interpretation will ascribe to all citizens familiar individual rights and liberties, such as rights of liberty of conscience, free expression, and free choice of occupation;
>
> 2. It will give special priority to these rights and liberties, especially over demands to further the general good (e.g., increasing national wealth) or perfectionist values (e.g., the promotion of high culture);
>
> 3. It will assure for all citizens sufficient all-purpose means to make effective use of their freedoms.

These features require certain institutional manifestations. For example all political conceptions will insist on fair opportunities for all citizens (especially in education and training), a not-excessively-unequal distribution of income and wealth, government as the employer of last resort, basic health care available to all citizens, and public financing of elections. Rawls states that libertarian principles cannot satisfy these conditions: a libertarian basic structure might allow, for example, excessive inequalities of income and wealth. Yet clearly many different political philosophies current in liberal democracies—from the more conservative to the more progressive—can qualify as political conceptions in Rawls's sense.

Justice as Fairness: A Political Conception. This includes Rawls's own justice as fairness. After his "political" turn, Rawls presents the basic ideas of justice as fairness not as secured by metaphysics, but as the most reasonable interpretations of the public political culture of a modern liberal democracy. Justice as fairness—now political, not metaphysical—offers its ideal of free and equal persons cooperating fairly as a *political self-conception* that can fit into any number of philosophical and religious traditions. The theory is thus one (and, Rawls believes, the best one) of a family of political conceptions, any of which can serve as the basis of a legitimate and tolerant social order free from the great evils of state oppression. Which political conception any society will choose—justice as fairness or some other—Rawls leaves to be settled by debate and by democratic procedures, the rules for which are themselves acceptable to all reasonable citizens.

Stepping back from Rawls's vision of a liberal society shows how much he highlights what can unite us, even as he acknowledges what will divide us. Within justice as fairness Rawls emphasizes citizens' *sense of justice*: their willingness to support fair principles, even at cost to their narrow self-interest. Within political liberalism, Rawls spotlights citizens' *reasonableness*: their desire to be tolerant, even at the price of living under laws that do not express the entirety of what they think is right. Rawls's hopeful vision of humans as capable of transcending their particularities to identify with the universal, and of doing the right thing because it is right, is continuous with the rationalist tradition to which he belongs. Whether one believes that humans can truly be motivated by fairness and toleration—and whether one believes that, under the right social conditions, these motivations can predominate—are matters for further reflection.

The Law of Peoples

The wars of the twentieth century, Rawls wrote (1993, lxii), "with their extreme violence and increasing destructiveness, culminating in the manic evil of the Holocaust, raise in an acute way the question whether political relations must be governed by power and coercion alone." Rawls's third and final monograph, *The Law of Peoples* (1999), returns to the investigations with which the young Rawls began. Is it possible for humans to avert the great evils persistent in their history: "unjust war and oppression, religious persecution and the denial of liberty of conscience, starvation and poverty, not to mention genocide and mass murder"? And for such evils to be averted, what must human nature and human society be like?

Liberal and Decent Peoples. As we have seen, Rawls's hope for humanity's future rests on the internal ordering of societies: "Once the gravest forms of political injustice are eliminated by following just (or at least decent) social policies and establishing just (or at least decent) basic institutions, these great evils will eventually disappear." (1999, 6-7) Rawls's hope here rests on two hypotheses: an *internal* thesis that just or decent societies can avoid great evils within their own borders, and an *internal-external* thesis that domestically well-ordered societies will set themselves against the great evils that threaten between states.

Proving the internal thesis for liberal societies—those stably ordered by some political conception of justice such as justice as fairness—requires no extra work. Rawls has already explained how such societies can be tolerant and unified over time, and given favorable conditions there is every reason to think they can also escape economic disasters like starvation and poverty. What Rawls adds in *Law of Peoples* is that non-liberal societies can also be part of this moral vision. Non-liberal but "decent" societies can also prevent the great evils internally, and (as we will see) can also be equal members of a just and peaceful international order.

A decent society may have a public political culture quite different from a liberal society. Basic institutions may be organized to favor a dominant religion, for example: these institutions may exclude women and religious minorities from holding office, and may have no place for electoral democracy. Still, the government of a decent society regularly consults with representatives of all social groups; it allows protests and responds to them conscientiously; and it permits those who wish to emigrate to do so. A decent government also secures core human rights for all: rights to personal security and property, freedom from slavery and formal equality before the law, rights to subsistence and basic liberty of conscience, and protections against genocidal attacks. Citizens of liberal societies will certainly not see a decent society as just. Yet they will consider decent societies to merit toleration, and indeed some measure of respect, because these societies are internally well-ordered enough to prevent the great evils.

Satisfied Peoples. Rawls's internal-external thesis is one of the most distinctive and under-explored pieces of his international theory. Rawls, as many who were moved to meditate on the second world war, concluded that the aggression of states flows from their defects within: "the internal institutional structure of these societies made them inherently aggressive and hostile to other states." (Rawls, 1999, 8) Writing of early modern Spain and France as well as Nazi Germany, he says,

> Their fault lay in their political traditions and institutions of law, property, and class structure, with their sustaining religious and moral beliefs and underlying culture. It is these things that shape a society's political will. (Rawls, 1999, 106)

Indeed Rawls emphasizes domestic human rights violations as precursors to war at least as much as he emphasizes their inherent wrongness.[2] Getting the internal structure of societies right is the key to world peace, and this is where both liberal and decent societies succeed.

Because of their internal structures liberal and decent peoples are *satisfied* peoples: they are intrinsically non-aggressive. Liberal peoples, for example, will not war with one another "simply because they have no cause to." (Rawls, 1999, 8) A liberal people has interests in guaranteeing its security and its national boundaries, in protecting its free institutions and its culture, and in maintaining its proper self-respect. But such a society "is not moved by the desire for world power or national glory; nor does it wage war for purposes of economic gain or the acquisition of territory." (Rawls, 1971, 379) A liberal people has no national religion that it wishes to spread, and if it wishes to get richer it will prefer to trade rather than fight. Decent peoples are, Rawls says, likewise satisfied in themselves, having no reason to war with other liberal or decent societies.

Rawls's strong version of liberal internationalism presents a vision wholly different from the dominant theory in international relations, which is realism. In realist theory the internal political structure of states is largely irrelevant, and by definition no state can be satisfied. States from a realist perspective are primarily distinguished by their relative military and economic power, and each state always strives to increase its security and wealth in whatever ways are available. Realist theory is the self-conscious successor to Hobbesian self-interest theory, applied to the international realm. What Rawls presents is a more hopeful vision of moral psychology—this time, of the moral psychology of the collective agents that are peoples.

For Rawls the hope is not that peoples will always act rightly—we know they will not—but that in the right circumstances they can act fairly towards other peoples, even at the cost of their own narrow self-interest. Rawls's description of the self-conception of well-ordered peoples parallels the description of the self-conception of the individual in his domestic theory. Liberal and decent peoples see themselves as free in that they are politically independent of other peoples, and as equal in seeing themselves as equally deserving of respect. And, crucially, these peoples are reasonable: willing to honor fair terms of cooperation as long as others will also do so, and unwilling to impose their partisan political ideals on others. Rawlsian peoples are Rawlsian people writ large.[3]

Rawls's International Principles. As in his domestic theory, Rawls sets out an original position thought experiment to transform abstract conceptions to specific principles. This time the original position aims to discover what fair terms of cooperation would be among free and equal peoples. Rawls declares that this second original position would select eight principles to order the international basic structure:

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[2] Rawls devotes only a footnote (2000, 94-5 n. 6) to discussing a hypothetical society that violates human rights internally, but is peaceful externally.

[3] Wenar and Milanovic (2009) critiques Rawls's internal-external thesis.

> 1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
>
> 2. Peoples are to observe treaties and undertakings.
>
> 3. Peoples are equal and are parties to the agreements that bind them.
>
> 4. Peoples are to observe the duty of nonintervention (except to address grave violations of human rights).
>
> 5. Peoples have a right of self-defense, but no right to instigate war for reasons other than self defense.
>
> 6. Peoples are to honor human rights.
>
> 7. Peoples are to observe certain specified restrictions in the conduct of war.
>
> 8. Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime. (Rawls, 1999, 37)

Rawls also suggests that peoples might agree to form international institutions to coordinate their political and economic relations, such as idealized versions of the United Nations, World Bank, and World Trade Organization.

Rawls on World Governance. These eight principles (especially 1-7) are familiar from the current international order. Several principles (especially 4-8) acknowledge the possibility of a less-than-ideal world in which not all states are liberal or decent. *Outlaw states* threaten world peace to gain glory or territory, or violate the human rights of those within their borders. Such states may be coerced, always within the bounds of just war, and with the aim of eventually encouraging them to join the society of well-ordered peoples. *Burdened societies* suffer from serious social or economic pathologies (such as overpopulation) that prevent them from achieving or maintaining liberal or decent institutions. The international community has a duty to render assistance to such societies, until they can become members of that community as self-sufficient participants.

This Rawlsian vision of a perpetually peaceful international society is more sanguine than the realist depiction of permanent Hobbesian anarchy among states. Yet Rawls's vision is considerably less ambitious than those that see progressively greater integration and equality across borders, and it is revealing why this is so. Rawls rejects cosmopolitan dreams of a world state out of hand. Like Kant, he holds that such a state would either be despotic or destabilized by peoples struggling to become autonomous.

Rawls also has no truck with proposals to increase democracy across national borders, or to disperse sovereignty away from national governments. One common worry is that these proposals would require dangerous leaps into the unknown, but this is not Rawls's main concern. For Rawls these proposals cannot even get started. There is, for Rawls, no problem that they solve.

Avoiding the great evils of human history is Rawls's primary aim. Since he believes his society of peoples would achieve this aim, he endorses it and sees no need to go beyond it. He sees the citizens of well-ordered societies—liberal or decent, as may be—as satisfied members of satisfied peoples. Such citizens understand how their social institutions accommodate their own convictions in the context of their country's political traditions, and

how their society's basic laws secure their status as participants in a scheme of social cooperation. They are proud of being members of a self-determining political community, deserving of equal respect as such by other states no matter how much more or less populous or powerful these are. They see the principles that the international community puts in place to secure the independence and equal standing of their society, as well as the mutual assistance provisions that help countries fallen on hard times. Why should such citizens want to disperse political power away from their institutions of national self-determination, and why should they want to gain political power at transnational or global levels? What problem would this solve?

One leading answer to this question is that citizens of poorer states should be concerned with their economic condition relative to citizens in richer states, considering their relative disadvantage in wealth and income to be distressingly arbitrary or unfair. Yet this, to Rawls, is again to give a counterproductive emphasis to money instead of justice.

> The final political end of society is to become fully just and stable for the right reasons. Once that end is reached, the Law of Peoples prescribes no further target such as, for example, to raise the standard of living beyond what is necessary to sustain those institutions. Nor is there any justifiable reason for any society's asking for more than is necessary to sustain just institutions, or for further reduction of material inequalities among societies. (1999, 119)

People within satisfied peoples are themselves satisfied. And the idea that each nation should always strive to raise its economic level is merely bourgeois ideology: "The thought that real saving and economic growth are to go on indefinitely, upwards and onwards, with no specified goal in sight, is the idea of the business class of a capitalist society." (Rawls, 1999, 107 n. 33) A satisfied people may sometimes opt for economic growth to achieve some particular purpose, but once it has secured liberal or decent institutions it can—and probably should—remain at a stationary state of zero real growth. For nations, as for individuals, beyond some point questing for greater wealth, "is more likely to be a positive hindrance, a meaningless distraction at best if not the temptation to indulgence and emptiness." This Rawlsian ideal of nations that no longer aim at limitless growth is noteworthy, and may become increasingly attractive in our times.

The Urgency of Hope. The arc of Rawls's thought, from justice through toleration to peace, originated in his urgent need to envision a world not doomed by selfishness and *pleonexia*. The specific historical events that so concentrated Rawls's mind—the wounding of German and Japanese national pride at the 1919 Paris peace conference, the decay of these nations' internal politics that turned them into aggressively dissatisfied powers, the cataclysmic war that ensued—are now long past. Yet Rawls's question persists for each of us. We must ask whether we must resign ourselves to a world that is at best a balance of power, or whether we can believe that better is possible. For Rawls the answer to that question turns on whether people, and peoples, have a moral nature, which in some attainable circumstances can dominate their narrow self-interest. For Rawls the answer is yes.

Rawls believes that his theories describe a world that is the best we can hope for: a "realistic utopia." And Rawls tries to show us the urgency of our taking responsibility for our position on such ideals. Whether we believe that human nature makes such visions feasible, or hopelessly naïve, can itself have real political consequences:

> Debates about general philosophical questions cannot be the stuff of daily politics, but that does not make these questions without significance, since what we think their answers are will shape the underlying attitudes of the public culture and the conduct of politics. If we take it for granted that a just and well-ordered democratic society is impossible, then the quality and tone of those attitudes will reflect that knowledge. A cause of the fall of Weimar's constitutional regime was that none of the traditional elites of Germany supported its constitution or were willing to cooperate to make it work. They no longer believed a decent liberal parliamentary regime was possible. (1993, lix)

Whether we hold a realistic hope for a rightful world matters. It matters to whether our own young soldiers will be sent to war, and whether we ourselves will hear a late-night knock on the door.

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Bio note

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