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### **The Enduring Significance of John Rawls**

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John Rawls, who turned 80 this year, is the most distinguished moral and political philosopher of our age. Initially isolated in a world of Anglo-American philosophy preoccupied with questions of logic and language, Rawls played a major role in reviving an interest in the substantive questions of political philosophy. What makes a society just? How is social justice connected to an individual's pursuit of the good life? By now, the influence of his ideas and his impact as a teacher, first at Princeton, Cornell, and the Massachusetts Institute of Technology, and then for many years at Harvard, have made those questions central to philosophy, and our age rich in arguments about justice, respect, and liberty.

In 1999, the National Endowment for the Humanities honored Rawls with the National Humanities Medal. In a similar celebration of his importance, Harvard University Press has been releasing a series of his previously unpublished or revised works: an updated edition of the landmark *A Theory of Justice*; a volume of *Collected Papers* (edited by Samuel R. Freeman); *Lectures on the History of Moral Philosophy* (edited by Barbara Herman); *The Law of Peoples*, his most extensive statement on transnational justice; and, most recently, *Justice as Fairness: A Restatement*, an overview of his main ideas (edited by Erin Kelly). All of that makes it a good time to assess the nature of Rawls's influence, which has done so much to shape contemporary political philosophy.

In the 1950's and 1960's, when Rawls was starting his academic career, Anglo-American philosophers treated dismissively the tradition of ethical and political reflection embodied in the works of such thinkers as Aristotle, Hobbes, Hume, Rousseau, Kant, and Hegel. Philosophers who followed the influential movement called logical positivism saw only two meaningful types of inquiry: empirical investigations into matters of fact, and conceptual discussions of the meanings and uses of terms. Since philosophy was not an empirical, fact-finding discipline, it had to be assigned

the role of conceptual analysis. Everything else was nonsense. Whole tracts of the subject were relegated to the outer darkness, and it was arrogantly thought that most of the great thinkers of the past had made a crude error about what philosophy could sensibly speak about. Insofar as moral and political philosophy continued to exist at all, it was in the very reduced form of studying the meanings of moral terms and the force of ethical language. The theories concocted were not without interest; but they left a huge gap.

Still, people need norms to guide them, in both personal and political life. And it seems reasonable to suggest, especially in the political life of a democracy, that we ought to deliberate together about the principles that guide us. Philosophers have traditionally played a part in that public deliberation. Kant, for example, saw philosophers as important agents in reducing herdlike public behavior and promoting deliberation. Giving full freedom of speech to philosophers, he said, was even an essential precondition of lasting peace among nations: Philosophers could state the importance of peace so effectively, synthesize so well the reasons why citizens in a republic favor it, that their leaders could not fail to listen.

When philosophers refuse to play that sort of public role, things can go badly awry for democratic deliberation. Although Rawls rarely alludes to concrete historical events, in his 1996 introduction to the expanded edition of *Political Liberalism* he strikingly insists that the silence and cynicism of intellectuals in the Weimar Republic contributed to the rise of fascism. If people despair of reason, he says, they will turn to irrational sources of authority. One could say something analogous about the time of Rawls's early career, which included the period of escalating American involvement in Vietnam. With all those positivist philosophers casting aspersions on the whole business of normative argument, public culture still had to get its principles from somewhere -- in this case, mostly from degenerate forms of Utilitarianism that crept into public policy (which should have known better than to endorse them) through economics.

Thus some of the very real faults in classical 18th- and 19th-century Utilitarianism -- its failure to give a sufficiently central place to ideas of justice and rights, its tendency to treat people as means to the end of general social well-being -- came to deform our public justification of our actions (making us comfortable, for instance, with discussing the killing of human beings in crude terms of

aggregate costs and benefits). In 1971, when Rawls published *A Theory of Justice*, it was about time for someone to revive the tradition of setting political thinking on a foundation of moral argument, and in a way that criticized the influential, and deeply flawed, Utilitarian norms.

Rawls had been working on the book for more than 20 years and had published a group of influential articles that had already made his main ideas familiar to philosophers, but the publication of the book had a dramatic impact. It went on to sell more than 200,000 copies and to be translated into some two dozen languages. A shy man who has always been reluctant to give public speeches, and even interviews, Rawls did nothing to promote the book's popularity: The ideas took hold through their own power, decisively shifting the climate of debate not only in philosophy but also in such fields as economics, law, and public policy. By now, these ideas are central starting points in many nations for discussions of justice.

Rawls's views are always presented abstractly and are often difficult for nonphilosophers to penetrate. But he has given new specificity and vigor to one of the most valuable legacies of the liberal political tradition: the idea that a person has a dignity and worth that social structures should not be permitted to violate. Thirty years after publication of *A Theory of Justice*, with all the discussion of rights and pluralism that has ensued, it is easy to forget that a whole generation of our political and moral philosophers had virtually stopped talking about that idea, and about how it can guide a religiously and ethnically diverse society like our own.

Both in *A Theory of Justice* and in subsequent work, Rawls, like Kant, has held that the moral judgments of ordinary people are an essential starting point for good political deliberation. But, again like Kant, he has also maintained that philosophical tradition and argument have an important role to play in sorting out what we think, particularly by putting alternatives before us with sufficient rigor and clarity that we fully appreciate how to choose among them.

Citing Aristotle and Henry Sidgwick, the 19th-century English philosopher, as his guides, Rawls envisages ethical reflection as basically Socratic: We hold up alternatives found in philosophical tradition to our own "considered judgments," asking which among them we take to be the most firm and nonnegotiable. (Believing that slavery is wrong is an example of a firm considered judgment.) Seeking consistency and fit, we sometimes revise our judgments to

accommodate a powerful theory that impresses us; but often we reject or revise a theory to suit our considered judgments. In political life, we must also seek a fit with our fellow citizens: The judgments underlying basic political principles must be positions that all reasonable citizens can endorse without doing violence to other aspects of their most deeply held values.

Rawls sees his work as supplying one theory that reflective citizens can consider as they try to figure out what they really think: a theory based on ideas from the tradition of Kantian liberalism. He represents himself as adding a new chapter to Sidgwick's *The Methods of Ethics* (1884), considered one of the most significant works on ethics in English. While Sidgwick defended Utilitarianism, however, Rawls hopes that his chapter will show the grave defects in Utilitarianism.

The intuitive idea from which Rawls's theory starts is simple and profound: "Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override." In other words, the pursuit of a greater social good should not make us mar the lives of individuals by abridging their basic rights and entitlements. In particular, Rawls is concerned with the many ways in which attributes that have no moral worth -- like class, race, and sex -- frequently deform people's prospects in life. Even if racism and sexism could be shown to maximize social utility, he says, they would still violate our basic sense of fairness.

What would a politics based upon this intuitive moral idea of what Rawls calls "justice as fairness" look like? He believes that our intuitions about good social outcomes are indeterminate and unreliable. We get more traction on the problem, he argues, if we focus on the idea of "procedural justice," attempting to design a procedure that embodies, in its very structure, the moral ideal of justice. If we do our job well, we can be guaranteed that, whatever this procedure puts out, it will be, by definition, just.

The procedure Rawls develops in *A Theory of Justice* is the famous device of postulating an "original position" -- a hypothetical situation in which people of roughly equal ability decide to agree on principles of social cooperation, without knowing how anybody is placed in society. That position, itself, provides a model of a deeply held moral norm. As Rawls puts it in the famous last sentence of the book, "Purity of heart, if one could attain it, would be to see clearly and to act with grace and self-command from this point of view."

It is very important to see that Rawls's model of "purity of heart" has two parts. First is the description of people in the hypothetical situation of choosing principles for living together. They are imagined as rational, self-interested individuals who aim to do as well for themselves as they can, who are roughly equal in capacity (no one can easily dominate all the others), and who have needs that can be met more effectively by cooperation than by noncooperation.

Then the second part of Rawls's model comes in: the "veil of ignorance," which ensures that the parties do not know where they will be placed in the resulting society. They do not know their class, race, or sex. They know that they all need "primary goods" like liberties, opportunities, powers, wealth, and income. The veil is the crucial part of Rawls's conception of the moral person. It is the part that supplies "purity of heart," in the form of a morally decent impartiality toward the projects of others. Rawls's idea is that, where social justice is in question, real people should always try to choose without being biased in the direction of their own special interests.

Rawls has often been criticized for assuming that people are egotistical, disconnected from others, uncaring. That criticism, however, is based on the mistake of supposing that the description of the parties in the original position is meant to be the entire account of a person. It is not. The veil is the other part, the concerned moral part. Rawls holds that we understand better what impartiality requires if we model it in this way, rather than trying to imagine ourselves making fair and sympathetic judgments with full information.

Starting from the basic idea of fairness, Rawls famously argues that all parties would insist on a very strong priority for basic liberties, because they would not want to risk something as important, say, as religious freedom on the luck of where they might be placed in society. Then he argues, more controversially, that the parties would prefer a distribution of basic goods that would tolerate inequalities (because inequalities provide incentives to production) only when those inequalities raise the level of the least well off.

That "difference principle" has been attacked from the right, by those who think that it is offensive to take from people what they earn by their talents. (But such critics too rarely spend enough time arguing in favor of a specific account of ownership: Rawls can, with Mill, hold that people do not really own what society requires to support the needs of others.) It has been attacked from the left, by

those who think that tolerating inequality subverts the aims of justice. (That argument probably underestimates the heterogeneity of most people's natures: We cheerfully go along with some public requirements of justice, even while we use the leeway left to us to get what we can for ourselves.)

The difference principle can also, I believe, be criticized for focusing too much on income and wealth as indexes of who is well off in a society. It seems perfectly possible that a group may do relatively well financially, but may sorely lack "the social bases of self-respect" (meaning that social institutions of various kinds do not affirm their worth). Rawls acknowledges that self-respect is a primary good, but his difference principle measures the least well off with regard to income and wealth alone. One might argue, however, that gays and lesbians in our own society, while not the least well off with regard to income and wealth, are very badly off with regard to the social bases of self-respect, in that such fundamental social institutions as the structure of marriage deny their equal worth. But Rawls's difference principle would not recognize them as a group in need of special attention to remove the inequalities that they suffer.

Rawls has also been criticized by feminists for his neglect of injustices suffered by individuals within the family. In his recent essay "The Idea of Public Reason Revisited," published in *The Law of Peoples*, he grants the justice of at least some of those criticisms. He now insists that the family is not a private realm immune from justice, and that the equal rights of women as citizens follow them wherever they are. He also indicates that he would favor giving a wife who has supported her husband with domestic work claim to half of his income in case of divorce. Yet he still gives parents a very large measure of unqualified control over the upbringing of their children, even when they deny girls equal opportunity by teaching them the unequal worth of females. Moreover, he still treats the American-style nuclear family as a quasi-natural unit, failing to acknowledge the extent to which it is, itself, the creation of laws and institutions that recognize some groupings of people and not others as salient for political purposes. Thus, he doesn't ask which groupings of people we should favor for purposes of laws governing taxation, inheritance, hospital visitation, adoption, immigration, and the many other areas of life to which traditional marriage is legally relevant; nor does he ask whether there is any good reason why a single institution should be the one that is most relevant to all those different areas of law. Look, by contrast, at a country like

France, which is thinking more expansively and resourcefully about these matters. In France, people who live together may form a household for the purposes of taxation and inheritance, even if their relationship is not marital, or even sexual -- they may be brother and sister. Sexual relationships, both same-sex and heterosexual, are deemed relevant to other legal privileges, for example hospital visitation, and traditional marriage is still given a privileged place in the area of adoption. That kind of separation of different spheres of privilege is very promising, even if one may not agree with each concrete decision French law makes.

Since writing *A Theory of Justice*, Rawls has also become increasingly worried about religious pluralism, and about whether deeply religious citizens can accept the basic tenets of liberalism without doing violence to their deepest convictions. Even if some people have a religious basis for not believing that liberty and equality are central to all aspects of their personal lives -- if, for example, they belong to a religion that teaches obedience to authority as a central virtue, or to one that holds that males and females are unequal -- must the liberal state treat them as second-class citizens by stating that liberty and equality, in every part of life, are essential for a worthwhile life? So many liberals, Mill probably among them, have thought. Rawls demurs.

Recasting, although not repudiating, the core ideas of *A Theory of Justice in Political Liberalism*, he argues that all modern societies have continuing differences about basic matters of value and the ultimate meaning of life. These disagreements persist, and they do not seem to be based on misunderstanding or obvious error. We cannot expect, for example, that all citizens will shortly accept a single religion as the one true religion. So we should agree to respect one another's differences. That means, Rawls thinks, that the political principles of a liberal society must be presented in such a way as to be acceptable to citizens who hold a wide range of different positions about such metaphysical matters as whether immortal souls exist, or whether the ultimate meaning of life is to be found in the worship of God.

Sometimes things get delicate. Suppose the political doctrine teaches, as ours does today, that men and women are fully equal as citizens. That means, according to Rawls, that they must be treated equally not only in such matters as voting and political participation; they must also be treated equally in distributing all primary goods. But that still does not mean that men and women

are equal in some ultimate metaphysical sense. Rawls believes that political actors in a liberal society should not directly contradict the views of religions that posit inequalities between men and women. For instance, he suggests that a Supreme Court justice, in an opinion on sex discrimination, should say only that all people are equal as citizens and not that men and women are equal by nature. To many critics, that might seem an insufficiently ringing endorsement of human equality. On the other hand, I think Rawls is right to show people the respect of letting them sort out for themselves how to integrate their political and moral ideals.

Rawls is least convincing on transnational matters. Speaking from the point of view of an older world of autonomous nation-states, he has little to say about how the global economy and multinational agreements are eroding the state's role today. Nor does he provide helpful guidance in thinking about what richer nations might owe to poorer nations, in areas, like the global environment, that affect us all. I think we just have to say that it remains for others to use the core idea of Rawls's views in a way that productively addresses the current global situation.

But is the core itself flawed? Because Rawls sets himself within the social-contract tradition, he conceives of citizens as rough equals, benefiting from cooperation because each needs things that others supply. That effaces the more asymmetrical forms of dependency that human life contains: the need for care in infancy, extreme age, and periods of severe illness or a lifetime of severe disability. Such needs pose problems of justice: The requirements of the cared-for must be met, and their self-respect preserved, without exploiting caregivers. No modern society has fully solved that problem, and the equality of women is frequently at stake, since women do a very large proportion of the caregiving.

Rawls recognizes that kind of problem, but suggests that it be left for a later stage of political choice, after basic principles are chosen. That's too late, because the issue of care profoundly affects the entire structure of working and family life: Something like the need for care in times of extreme dependency should form part of the initial list of "primary goods" that citizens consider as they choose basic principles (to summarize an argument made by Eva Feder Kittay, in her 1999 book, *Love's Labor*).

More deeply, we may need to call into question the whole idea of a social contract for mutual advantage as a way of thinking about choosing basic political principles. It simply cannot sufficiently



express the dignity of those who give and receive care. Instead of a Kantian image of people, which stresses rationality and reciprocity, we may need to move more to an Aristotelian image, which sees dignity and need as subtly intertwined. Instead of picturing one another as rough equals making a bargain, we may be better off thinking of one another as people with varying degrees of capacity and disability, in a variety of different relationships of interdependency with one another.

When we make that basic criticism, however, we are not only following Rawls's methodological suggestion -- that we search for reflective equilibrium by holding up theoretical alternatives to our own considered judgments, in Socratic fashion. We are also bringing one deep part of Rawls's own conception to bear against another, saying that the contract doctrine may not do full justice to the idea that each person has an inviolability based upon justice. Even in moving away from Rawls, we are fully engaged with him. Surely that is a sign of his work's depth and enduring significance.

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