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Veil of Influence: The Legacy of John Rawls

I never met the Harvard political philosopher John Rawls, who died on November 24, 2002, at the age of 81. But as someone teaching and writing about political theory over the past few years I am, like hundreds of others, exploring terrain which he did more to shape than any other theorist of the past century or more. His influence is not always easy to trace; political theory in 2003 is an umbrella term for highly diverse debates from globalisation to multiculturalism to nationalism, and Rawls's influence is evident in the rejection as much as in the embrace of his style and framework. However, few would begrudge his singular reputation. His masterpiece, *A Theory of Justice* (1971), is a monumental work of grand theory offering a vision of the just society that is pursued in relentless depth. Its sheer scope, ambition and attention to detail set it apart from English-language political theory as practiced for many years previously, among liberals at least.

The importance and influence of Rawls's work is much debated. Rawls did little to promote his ideas; by all accounts he was a reserved and modest man, preferring the quiet life of a philosophy scholar to public or policy advocacy. Though he recast political theory his critics are legion, from the right and the left, feminists and 'communitarians' and multiculturalists. It is often said that he had much less influence on political parties and public policy – in the real political world, in other words. But here too the picture is uneven. His legacy, for the liberal left in particular, may come to rest more in the evocative symbols he bequeaths than particular policy prescriptions. That may sound dismissive, but the symbolic power and attraction of his vision of society as a system of social co-operation among equals may yet prove a counterweight to the micro-managed and marketised world of New Labour.

1. Breaking the mould?

To assess his legacy, we need to appreciate just how dramatically Rawls changed the contours of political theory. Normative theories that address the legitimacy of state power and action – the big 'ought' questions of politics, and not just the descriptive 'is' ones – were in crisis before *A Theory of Justice*. Prominent figures lamented that the late 1950s and early 1960s that large-scale political philosophy was 'dead'. Others celebrated this apparent demise; the heirs of the 'ordinary language' school were bemused by the idea of grand system-building and sought to concentrate on exploring the common uses and meanings of terms like justice, equality, freedom and rights.

A Theory of Justice challenged head-on these claims and suspicions. Rawls criticised 'intuitionism', the idea that we can figure out what (e.g.) equality means by interrogating our intuitive thoughts about it in enough depth. Less directly he challenged Marxist claims that markets wholly undermined equality. Most clearly, however, Rawls attacked his main liberal opponents, the utilitarians, for not taking rights seriously. According to Rawls, utilitarians would be happy with an overall increase in utility or happiness in society, even if its distribution was terribly uneven and many people could not share in it (or worse, were exploited to produce greater

utility for others). He argued that: ‘In a just society the rights secured by justice are not subject to political bargaining or to the calculus of social interests’¹ In other words, governments and citizens were constrained by rights that must be respected even if ignoring them were beneficial in other ways. Or as the philosophers put it, the right has priority over the good.

At the core of Rawls’s theory were the two principles of justice:

- (1) each person is to have the equal right to the most extensive liberty compatible with a similar liberty for others
- (2) Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged; and (b) attached to positions and offices open to all under conditions of fair equality of opportunity.

This looks complex, but at one level it is not. The first principle holds that we should be free as possible to set the course of our own lives. Rawls is, after all, a liberal. The bottom line was about individual people and their freedom to live their lives as they choose. There was no higher value than liberty.

The intensely debated key part of the second principle is the need to make inequalities work to the benefit of the least advantaged (or the ‘worst off’). This is Rawls’s famous ‘difference principle’. The core idea is this: social and economic inequalities are not wrong, or bad, in themselves. They only become indefensible when they don’t operate to improve the position of the worst off (such as those on the lowest incomes). In the economics-driven jargon, we have to ‘maximin’ – maximise the minimum payoff. Rawls views society as a large-scale experiment in social co-operation. The luck and the talents of the better off – including their genetic talents, which are just a matter of chance and are not exactly ‘deserved’ – *can* be used to improve their own wealth and position. If this were not allowed, if we were to take a more radical, levelling egalitarian approach, then according to Rawls individuals would have few incentives to innovate, to create wealth. But, he argued, this is only acceptable up to a point. As long as those in the worst off positions are benefiting *as well*, then inequalities can be just.

Having principles is fine, of course, but why should we accept *these* ones? Rawls was in no doubt that we all would and should accept them. The two principles do not just come out of the blue. Rawls argues that they would be chosen in an *original position* behind a *veil of ignorance*. The original position is more-or-less Rawls’s version of the much older ‘state of nature’ of famous contract theorists like Hobbes, Locke and Rousseau. It is an imaginary place, an ‘initial position’, outside society, where a group of people meet, in order to define ‘the fundamental terms of their association’ – or, how their society should be shaped and run. People in the original position are behind a veil of ignorance: they don’t know their age, class, race, religion, or any other particular facts about themselves. They are choosing, self-interested people, but stripped down to their human essence. In this odd, hypothetical position, behind the veil, Rawls asks: what principles would they (you, me) choose to govern the basic structure of society?

¹ John Rawls, *A Theory of Justice*, p.4.

The trick behind the original position and the veil of ignorance is that, because we are stripped of our particular identities, we are forced to choose for everyone (or – for anyone we *might* be). Self-interest is made to work for the common good. By using the position and the veil, writes Rawls, ‘One excludes the knowledge of those contingencies which sets men at odds and allows them to be guided by their prejudices’² The circumstances of the choosing make the ultimate choices – for his two principles - fair and impartial. Rawls assumes that these rational people (that is, all of us) would prioritise freedom of speech, expression, worship, and so on (the first principle), but that we would also want to guard against our being at the bottom of the social and economic heap by making sure the rich can only get richer if the poor also benefit in the process.

That is the gist of his theory of justice. The theory has generated so much debate that thousands of articles have been written subjecting every small element in this argument to forensic examination. But the big picture is this: in 1971, this was a tremendously and unusually ambitious attempt to get to the root of what justice means and why we should accept a just society along these lines. Referring to Rawls’s revival of the idea that ‘a person has a dignity and worth that social structures should not be permitted to violate’, Chicago philosopher Martha Nussbaum writes that ‘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’³

I have concentrated on *A Theory of Justice*, but Rawls has published other books since then, most notably *Political Liberalism* (1993).⁴ In this book, Rawls defends his theory of justice as ‘political not metaphysical’. He moves to a view where people in a society may have ‘comprehensive doctrines’, such as religious convictions, which are incompatible with others’ similar doctrines. But still we have to live together. So placing limits on how people reason *in public* is important – they should not argue from within their comprehensive doctrines, but rather offer arguments that others can reasonably agree with. In that way, one might be able to achieve an ‘overlapping consensus’ among adherents to different comprehensive doctrines.

Political Liberalism seemed to be different to *A Theory of Justice* – more political, grounded, realistic, accepting pluralism of faith and belief more fully. It put the original position to one side, as just one way among legitimate others of finding one’s way into public reason, and seemed less ambitious, addressed as it was only to those already living in liberal democratic societies. Certainly some liberal political theorists were dismayed. Brian Barry, reviewing *Political Liberalism*, wrote that ‘I believe that the first time Rawls got it roughly right, and that the line he pursues in the new book is thoroughly misguided’.⁵ My own view is that, despite surface appearances, little really changed in Rawls’s theory from the first to the second book, and that critics who assumed otherwise were paying too much attention to changes in wording and not enough to deeper continuities of structure. For example, debate in the ‘public

² TJ, 19

³ M. Nussbaum, ‘The Enduring Significance of John Rawls’, in *The Chronicle of Higher Education*, 20 July 2001

⁴ J. Rawls, *Political Liberalism*, New York, Columbia University Press, 1993.

⁵ B. Barry, ‘Good For Us, but Not For Them’, *The Guardian*, 14 August 1993.

political forum' in *Political Liberalism* seems different from the original position of the earlier book, but he or she is similarly restricted in the type of arguments that can be put forward to others.⁶

2. Influence and importance

The influence of *A Theory of Justice* on political ideas has been uneven. Anglo-American liberal political philosophy was reshaped by it – Rawls's book set the parameters for debate from the moment it was published. Prominent philosophers in that tradition have been fulsome in their tributes to Rawls; Thomas Scanlon of Harvard says that Rawls's work 'revived and reshaped the entire field, and its profound influence on the way justice is understood and argued about will last long into the future'. Joshua Cohen of MIT says that Rawls 'wouldn't have gone in for rankings, but his work has a place among the greatest tradition of moral and political philosophy that would include Plato, Aristotle, Rousseau'.⁷

In the political world itself, Rawls's influence is more uncertain, and difficult to detect. His brand of 'left wing liberalism' may have seemed radically welfarist in the US, but much of continental Europe, with established collectivist traditions and widely-accepted welfare state provision, could view his ideas as rather mainstream. There is little evidence of direct influence on US Supreme court decisions or on Democratic Party ideology or policy – especially into the Clinton era. The establishment of the Social Democratic Party in the early 1980s in the UK led to a flurry of interest in Rawls's ideas. Former Labour deputy leader Roy Hattersley has been most prominent in discussing Rawls in mainstream UK politics, and claiming for him a place at the centre of Labour thinking. But *A Theory of Justice* has been translated into more than 25 languages, and it has been said to have been influential among some Chinese dissident groups. That should be no surprise. As Rawls argued, 'The limitation of liberty is justified only when it is necessary for liberty itself'⁸).

3. The critics

Even Rawls's admirers are his critics. The libertarian right were upset by his difference principle apparently forcing the better off to work for others without their consent – a sort of inverse wage slavery. Feminists have criticised the way in which he has apparently taken the institution of the family as natural, overlooking injustices that can arise for individuals within families. Critics who more recently stress the importance of recognising social and cultural difference wonder, on a philosophical level, if the 'person' in the original position is really a person at all, so stripped are they of all the particularities that make them who they are in the first place. Communitarians criticise the abstract individualism of Rawls's theory, arguing that we draw our sense of self from the localities and communities we inhabit, and that we possess no 'essence' beyond that.

⁶ M. Saward, 'Rawls and Deliberative Democracy', in M. Passerin d'Entreves (ed.), *Democracy as Public Deliberation* (Manchester University Press 2002).

⁷ 'Rawls Remembered', in *The Philosophy Magazine*, Issue 22, 2003, p.34.

⁸ *A Theory of Justice*, p.28.

On the left there is a good deal of argument about just how egalitarian Rawls's theory is. Clearly the difference principle supports a quite extensive welfare state funded through general taxation and designed to operate to the benefit of those in the most vulnerable socio-economic positions. At the same time, the acceptance of some inequalities, along with the priority accorded to individual liberty and the clear acceptance of the market society made many on the left suspicious. This ambiguity led to his use by both sides in debates from the 1980s over the 'crisis of the welfare state' across Europe. As Cecile Laborde has written, 'Rawls's emphasis on the priority of liberty and on the acceptability of inequality provided ammunition to those "neo-liberals" arguing for welfare cuts and market-based policies ... while his rehabilitation of distributive justice, by contrast, was attractive to those within the post-Marxist or non-Marxist left who sought to reconcile egalitarianism with economic liberalism'⁹. But the Blairite left (or perhaps 'right'), along with Clinton Democrats and many other European social democratic parties, have different agendas to that of Rawls. As Ben Rogers has written, left-of-centre parties and governments across the west 'speak the language of community, not of individual rights; of equality of opportunity, rather than equality of outcome; of desert rather than the difference principle'¹⁰

4. A legacy for the left?

The sheer scope and richness of Rawls's work will no doubt secure its future influence. As with other classics of political theory, it will prove to be a source of insight and inspiration for new political concerns and challenges. For example, one of the basic arguments of *A Theory of Justice* is that we do not *deserve* our genetic inheritance; it's just a matter of chance. Therefore, we do not have a right to benefit from exploiting our genetic advantages. Maybe it is reasonable, even desirable, to manipulate the genetic makeup of unborn babies? This is not an argument Rawls anticipated, but we are now making decisions about the uses of relevant technologies. Being very selective and speaking from a broadly left-liberal perspective, I would single out three broader possibilities, in no particular order.

First, although it has been sidelined in more recent work, by Rawls as well as by his commentators, the original position continues to offer a beguiling image of an ideal decision making procedure embodying openness, equality, impartiality and inclusiveness. Could it be approximated in the real political world? The past ten years or so have seen a highly fruitful debate about 'deliberative democracy' – indeed Rawls declared himself a deliberative democrat in the late 1990s.¹¹ Part of that debate was about potential decision-making forums like citizens' juries or deliberative polls, which bring together random samples of citizens and trusting them to make sense of issues and come to conclusions about them. Perhaps such forums reflect real-world potential for the original position? Could this hypothetical device provide a goal that might reinvigorate representative institutions that are widely seen as distant and lacking deep credibility? Rawls wrote that: "Of course, when we try to simulate the original position in everyday life ... we will presumably find that our deliberations

⁹ C. Laborde, 'The Reception of John Rawls in Europe', in *European Journal of Political Theory* 1 (2).

¹⁰ B. Rogers, 'Portrait: John Rawls', in *Prospect*, June 1999, p.55.

¹¹ J. Rawls, 'The Idea of Public Reason Revisited', in *The University of Chicago Law Review*, 64 (3), 1997.

and judgements are influenced by our special inclinations and attitudes” (TJ, 147). Quite so. But even necessarily distant approximations might be vast improvements on current institutions.

Second, as the swing of ideological fashion comes back round again and the benefits of positive public ownership of key services are articulated in the UK and elsewhere, the radical character and moral force of Rawls’s egalitarianism may serve as an ideological guide and inspiration. It seems to me that only those who would reject *wholesale* the market mechanism can regard Rawls’s difference principle as a feeble device that would do little to rectify significant social inequalities. There will always been room for disagreement, but surely a Rawlsian state would be much less apologetic about not getting involved in the public/private partnership funding routine, would seek to control behaviour less and meet basic needs more, would fund health and education to levels comparable to the highest to be found elsewhere in Europe, and would at the same time be quite libertarian when it come to lifestyles and the recognition of cultural difference.

And finally, underneath the decision-making procedures and the policy prescriptions, there is the Rawlsian vision of a society as a sphere of social cooperation, part of a world where we ‘value common institutions and activities as good in themselves.’ (TJ 522). An anodyne statement on one level, perhaps, but in privatising times it may stand as a symbol of profound and almost radical social vision. Especially when we remind ourselves that, as Rawls wrote, ‘The social system is not an unchangeable order beyond human control but a pattern of human action’ (TJ, 102).