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Book Review

Justice as Fairness: A Restatement, John Rawls (Cambridge, Mass: Harvard University Press, 2001).

In *A Theory of Justice* (1971, rev. ed. 1999), John Rawls developed a conception of justice dubbed "justice as fairness." The main idea was that principles of social or distributive justice are fair only if they would be selected by all to whom they apply under conditions preventing them from tailoring the principles to their own advantage. In nearly 600 densely argued pages, Rawls specified the conditions of choice, showed how they represent our underlying sense of justice, identified and explained the favored principles, indicated why they would be selected, illustrated their application, and argued for the stability and goodness of a society implementing them.

There was, however, Rawls later realized, a serious problem with the overall argument. It assumed that citizens would share the same set of religious, philosophical, and moral views -- what Rawls calls a "comprehensive doctrine." The difficulty, as he noted in *Political Liberalism* (1993), is that, "A modern democratic society is characterized not simply by a pluralism of comprehensive religious, philosophical, and moral doctrines but by a pluralism of incompatible yet reasonable comprehensive doctrines. No one of these doctrines is affirmed by citizens generally. Nor should one expect that in the foreseeable future one of them, or some other reasonable doctrine, will ever be affirmed by all, or nearly all, citizens" (p. xviii).

A Theory of Justice had blurred the distinction between moral and political liberalism. If justice as fairness required citizens to be *moral* as well as political liberals -- subscribing perhaps to the autonomy-promoting ethical theories of either Kant or Mill -- it was hopelessly unrealistic. Many people's reasonable moral outlooks are, as they understand them, grounded in a variety of religious world views and ways of life which do not emphasize individual autonomy. Others are simply less determinate. Consensus on Kant's or Mill's moral/philosophical liberalism, like consensus on Catholicism, could be established and maintained only with the oppressive use of state power (*Political Liberalism*, p.37). Thus Rawls began to distinguish moral from political liberalism and reformulated justice as fairness as a distinctively *political* theory of distributive justice -- one that could attract the support of an "overlapping consensus" of reasonable, yet incompatible, comprehensive religious, philosophical, and moral doctrines.

In *Political Liberalism*, then, Rawls distinguishes moral from political liberalism and focuses on the latter. Justice as fairness, he points out, is only one of a number of plausible liberal conceptions of (political) justice. Liberal conceptions are in general characterized by three conditions: "first, a specification of certain rights, liberties, and opportunities (of a kind familiar from democratic regimes); second, a special priority for these freedoms; and third, measures assuring all citizens,

whatever their social position, adequate all-purpose means to make intelligent and effective use of their liberties and opportunities" (p. xlviii). Justice as fairness, Rawls maintains, is the specific liberal conception that best satisfies these conditions. Still, the argument of *Political Liberalism* emphasizes the genus, liberal political justice. The species, justice as fairness, is frequently mentioned, but does not occupy center stage. In the light of all this, *Justice as Fairness: A Restatement*, has two aims. One is to reformulate and defend the conception of justice presented in *A Theory of Justice* as a distinctively political theory. The other is to incorporate into one unified statement the various changes and amendments Rawls has made to this conception in essays published from 1974 to 1989 and in *Political Liberalism*.

Justice as Fairness: A Restatement originated as lectures for a course on political philosophy taught at Harvard in the 1980s. The lectures soon evolved, according to editor Erin Kelly, as "a more or less complete restatement of the theory of justice as fairness" (p. xii). Illness, however, kept Rawls from reworking the manuscript into its final form as he had planned. Final editing and incorporating unfinished sections were undertaken by Kelly, a former student of Rawls whom he credits in this book and in *The Law of Peoples* (1999) for helpful discussion and valuable suggestions.

Part I of *Justice as Fairness* explains and relates a number of fundamental ideas: a well-ordered society; the basic structure of society; the original position; free and equal persons; public justification; reflective equilibrium; and overlapping consensus. These will be familiar to readers of *A Theory of Justice* and *Political Liberalism*. Part II then turns to the principles of justice that would be chosen under the ideally fair conditions represented by the original position. The principles, as revised, now read (p. 42f):

- (a) Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and
- (b) Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle).

As before, the first principle is prior to the second, and in the second the principle fair equality of opportunity is prior to the difference principle. The remainder of Part II explicates these two principles. Especially useful are: (a) the clear and direct explanation of the difference principle ; (b) the discussion of objections via counter examples; (c) the account of legitimate expectations, entitlement, and desert; and (d) the explanation of what it means to regard our native endowments as a "common asset." In my experience, the explication of these notions in *A Theory of Justice* often engender knee-jerk libertarian opposition. The revised accounts in *Justice as Fairness* are, in this respect, a significant improvement.

In Part III Rawls develops the argument for the two principles from the Original Position. Rawls clarifies the relation of the maximin rule to the structure of the argument and draws on the idea of *public reason*, a notion that plays little explicit role in *A Theory of Justice*. The argument for the difference principle is more direct -- and, in my view, more cogent -- than the one presented in *A Theory of Justice*. It is now more explicitly a form of reciprocity. Since the difference principle is, to my mind, one of the most important and compelling parts of the theory and because it has met

with great resistance (especially since the Reagan years), the revised argument is of great importance.

Part IV discusses some of the institutions in a society structured along the lines of justice as fairness. Here, among other things, Rawls responds to a number objections to *A Theory of Justice*. He distinguishes five kinds of social systems; (a) laissez-faire capitalism; (b) welfare-state capitalism; (c) state socialism; with a command economy; (d) property-owning democracy; and (e) liberal (democratic) socialism. Each of the first three, he argues, each "violates the two principles of justice in at least one way" (p. 137). This leaves (d) property-owning democracy and (e) liberal socialism as the only "ideal descriptions" that include "arrangements designed to satisfy the two principles of justice" (p. 138). When a practical decision must be made between them, we must look to a "society's historical circumstances, to its traditions of political thought and practice, and much else" (139). Though justice as fairness cannot itself make such a choice, it sets out guidelines for approaching it.

Rawls also responds to Susan Moller Okin's well-known objections about justice in the family (pp. 162-68), Amartya Sen's objections about the inflexibility of an index of primary goods (pp. 168-76), Marx's objections to liberalism (176-79), and the objection, frequently raised by students, about whether able-bodied individuals can refuse to work and then appeal to the difference principle for financial support, or as Rawls puts it, "Are the least advantaged, then, those who live on welfare and surf all day off Malibu?" (p. 179). Rawls' replies to these and other objections are as direct and detailed as we will ever have. And they are at least very plausible.

Part V centers on the question of stability. Though much of this will be familiar to readers of *Political Liberalism*, the accounts of: (1) how political liberalism is possible, and (2) why it is not utopian to think that in societies like ours justice as fairness may eventually attract an overlapping consensus of a sufficiently large majority to render it both effective and stable are usefully brief and direct.

Justice as Fairness is must reading for anyone passing judgment on Rawls' theory of justice. Its 200 clear and carefully argued pages provide the most complete, refined, and tightly argued version of the theory in its final form. The question, however, is how well it serves as an *introduction* to Rawls' thinking for readers unfamiliar with *A Theory of Justice* and *Political Liberalism*. Could someone unfamiliar with these two weighty tomes (running to nearly 950 pages) pick up *Justice and Fairness: A Restatement* and find it interesting, clear, and persuasive? Could it be the first, rather than the last, book one reads in order to understand Rawls' theory? How should it be used in the classroom? Can a teacher hoping to introduce Rawls to advanced undergraduate philosophy majors get away with assigning only *Justice as Fairness*?

Next semester I will be teaching a 3-credit senior seminar on Rawls' social and political philosophy for 20 philosophy majors. I want, among other things, to give them an idea of the breadth and depth of his work. What should I have them read -- and in what order? Can I dispense with both *A Theory of Justice* and *Political Liberalism* and cut directly to the chase by reading the shorter, pithier, and more up-to-date *Justice as Fairness: A Restatement* followed by Rawls' efforts to extend the theory to questions of international or global justice in *The Law of Peoples* (1999)? I don't think so, and for two reasons.

First, my hunch is that *Justice as Fairness: A Restatement* will be extremely tough going for readers not already familiar with the development of Rawls' thought in *A Theory of Justice* and *Political Liberalism*. Never an artful stylist, Rawls is (apart from the uncharacteristically snappy line about surfing all day off Malibu) dry as dust in *Justice as Fairness*. Worse still, there is none of the stage-setting one finds in *A Theory of Justice* or *Political Liberalism*. Since Rawls does little to motivate the discussion, readers unfamiliar with his theory will often be puzzled about what he's saying -- *and why*. In a rare interview in 1991 with the editors of the undergraduate journal *The Harvard Review of Philosophy*, Rawls says he hopes to get the manuscript of *Justice as Fairness* in shape: "It will be about the size it is now, less than 200 pages. I don't want it to get longer" (p. 44). This may partly explain the problem. Making the book self-contained, interesting, and accessible to newcomers would probably have required up to 250 pages. My hunch could perhaps be field-tested by asking bright students or interested colleagues unfamiliar with Rawls' theory to read only *Justice as Fairness* and tell us what they think. But I'm reluctant to run this experiment in my senior seminar.

A second reason for requiring students to read sections of *A Theory of Justice* and *Political Liberalism* before reading *all* of *Justice as Fairness* is that it provides an excellent opportunity to observe the fruits of philosophical reflection and give-and-take as it occurred in books, journals, and discussion between Rawls and his critics from 1971 until 1999. In the 1991 interview Rawls explains how he came to notice the inconsistency in *A Theory of Justice* between the commitment to democratic society and the assumption that everybody in such a society accepts the same comprehensive view. This required him to rethink and rework the theory to accommodate what he now calls the "fact" of reasonable pluralism. He says in the interview that he thinks he has "an obligation as a member of an academic community to reply to people if it can be done reasonably, and in a way that advances discussion . . . There are people whose criticisms are very good and they deserve an answer. That's all part of academic life" (p. 41). Students rarely have an opportunity to observe the development of a philosopher's thought as he or she responds to thoughtful criticism. Reading parts of *A Theory of Justice* and *Political Liberalism* before reading *all* of *Justice as Fairness* will, I hope, provide a useful object-lesson.

As things now stand, I plan to spend the first three weeks of the seminar on *A Theory of Justice*. I'll begin with a fairly polished overview/lecture worked out over the years for a number of different courses. Then we'll read and discuss sections 1-4, 11-15, 17, 20, 22, 24-26, 31, and 33-35; a total of about 98 pages of the revised edition. I will place copies of the book on reserve in the library and list it as a recommended book with the bookstore. We will spend the next four weeks reading most of *Political Liberalism* together with "The Idea of Public Reason Revisited," published in *The Law of Peoples*. After this we will focus on *Justice as Fairness*. A careful, critical reading will, I anticipate, occupy us for about three weeks. This leaves two weeks for *The Law of Peoples* and three weeks for a work-in-progress seminar where students present and discuss aspects of their final papers. A finished syllabus will be available in January 2003. Interested readers will find it on the Michigan State University, Department of Philosophy web site or they can e-mail me and I will send it as an e-mail attachment.

Let me conclude with a suggestion or invitation. At one point in the *Harvard Review* interview Rawls says: "I see political philosophy as addressing the citizenry -- not government, that's not who you are addressing -- [but] other people like you who comprise the electorate. It's important to carry

on political discussion at the deepest level, and to do it as clearly as possible so that it is accessible to people generally. In that indirect way, if they find your ideas convincing, you might change society for the better, or more realistically perhaps, you might prevent it from getting worse" (41). There is an irony here. Though I think Rawls' theory of justice is the best we have and that it has the potential to change society for the better, *Justice as Fairness* and the entire Rawlsian corpus is not, as he might hope, "accessible to people generally." I do not feel confident that I can urge "the citizenry," those comprising the electorate, to read through *Justice as Fairness* in order to have Rawls' conception of justice usefully make its way into legislative debates and discussions. What we need is a clear and engaging, inexpensive 60-100 page "Companion" to *Justice as Fairness* that will enable educated nonspecialists to understand and appreciate the cogency and power of Rawls' book, after which, I believe, they will agree that it articulates and defends what on reflection they themselves think of as justice when they consider themselves free and equal members of a well-ordered, democratic society.

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