

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)

Introduction

“The smarter you get, the smarter it gets.”

(Hilary Putnam on *A Theory of Justice*)

In 1971 the philosophical world was waiting both literally and metaphorically for *A Theory of Justice*. Many philosophers eagerly anticipated it because John Rawls had already published key elements of his theory in a series of articles, and for several years he had circulated drafts of sections of the book. Just a year after its publication, one author began his review by stating that “Rawls’ theory of justice is too well-known to need detailed exposition.”¹ Metaphorically, the field of political philosophy was waiting for it because, in the words of Isaiah Berlin in 1964, “no commanding work of political philosophy has appeared in the twentieth century.”² The field was looking for such a work in order to escape from what was widely believed to be its very poor condition. Perhaps the most dramatic expression of this despondent state was Peter Laslett’s declaration, in the introduction to his 1956 collection *Philosophy, Politics and Society*, that “For the moment, anyway, political philosophy is dead.”³ This certainly overstated the case, but his identification of “the culprit” revealed clearly what he thought had gone wrong in the field: “The Logical Positivists did it.”⁴

¹ B. Parekh, “Reflections on Rawls’s Theory of Justice,” *Political Studies*, 20 (1972), p. 478.

² Isaiah Berlin, “Does Political Theory Still Exist?” in *Philosophy, Politics and Society* (second series), Peter Laslett and W. G. Runciman, eds. (Blackwell, 1964), p. 1.

³ Peter Laslett, “Introduction” in *Philosophy, Politics and Society*, Peter Laslett, ed. (Blackwell, 1956), p. vii.

⁴ *Ibid.*, p. ix. For a contemporaneous analysis that speculates on the explanation for changes in the emphasis and approach to political theory, see P. H. Partridge, “Politics, Philosophy, Ideology,” *Political Studies*, 9 (1961). A useful discussion of the period is Brian Barry, “Political

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)

The work of T. D. Weldon was characteristic of this approach. In an article included in Laslett's 1956 collection, Weldon declared that "The purpose of philosophy . . . is to expose and elucidate linguistic muddles; it has done its job when it has revealed the confusions which have occurred and are likely to recur in inquiries into matters of fact because the structure and the use of language are what they are."⁵ Its purpose is decidedly not to advocate one set of moral principles over another. Individual philosophers, like anyone else, can promote their favored principles, but such advocacy cannot rise to the level of true philosophy. Indeed, it is "dishonest to misstate the logical character of such pronouncements and to claim special status for them; that is, to pretend that they are like the highest grade of physical principles when they are in fact like the lowest."⁶ For the purposes of philosophy properly understood, "any set of principles would do equally well."⁷

Although Rawls was not the first political philosopher to reject this vision of philosophy, *A Theory of Justice* burst open the dam and revealed how narrow it had been. Suddenly, vast new areas of enquiry were available to philosophical investigation. It became respectable for political philosophers to defend substantive and even controversial evaluative principles. Rawls showed that philosophical reflection could offer justifications for specific conceptions of justice. Not all principles "would do equally well." When Rawls wrote that "[t]he analysis of moral concepts and the a priori, however traditionally understood, is too slender a basis" from which to develop a substantive theory of justice (*TJ*, 51/44), the logical positivists would have agreed. From that assumption they drew the conclusion that philosophy had no business engaging in such a project at all. *A Theory of Justice*, however, showed how political philosophy can offer a defense of substantive principles by exploring territory beyond the traditional limits of conceptual analysis.

The immense influence of *A Theory of Justice* on contemporary political philosophy is explained in large part by the fact that it brought philosophical respectability to the project of justifying moral

Argument after Twenty-Five Years: An Introduction to the Reissue in *Political Argument: A Reissue with a New Introduction* (University of California Press, 1990).

⁵ T. D. Weldon, "Political Principles" in Laslett, *Philosophy, Politics and Society*, p. 23.

⁶ *Ibid.*, p. 33. ⁷ *Ibid.*, p. 34.

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)*Introduction*

3

principles. Almost as important, however, was the content of the principles that it defended. While there certainly were some dissenters, when the book was published there was a widespread assumption that some form of utilitarianism must be correct. One of Rawls's central tasks was to "offer an alternative systematic account of justice that is superior . . . to the dominant utilitarianism of the tradition." (*TJ*, viii/xviii) By the end of the decade, H. L. A. Hart could write:

We are currently witnessing, I think, the progress of a transition from a once widely accepted old faith that some form of utilitarianism, if only we could discover the right form, *must* capture the essence of political morality. The new faith is that the truth must lie not with a doctrine that takes the maximization of aggregate or average general welfare for its goal, but with a doctrine of basic human rights, protecting specific basic liberties and interests of individuals, if only we could find some sufficiently firm foundations for such rights to meet some long-familiar objections.⁸

With the publication of *A Theory of Justice*, utilitarianism – which holds that morality requires that we maximize the aggregate or average level of happiness – could no longer be taken for granted.

It would be hard to overstate the importance of *A Theory of Justice* to political and ethical philosophy. It was not unusual for reviewers to compare Rawls's work to that of the giants in the history of philosophy such as John Stuart Mill and Immanuel Kant.⁹ Whatever their many disagreements, virtually all contemporary political philosophers recognize the centrality of John Rawls's great 1971 work to their field. Brian Barry calls it "the watershed that divides the past from the present,"¹⁰ and Robert Nozick's assertion remains as true

⁸ H. L. A. Hart, "Between Utility and Rights" [1979] in *Essays in Jurisprudence and Philosophy* (Oxford University Press, 1983), p. 198.

⁹ See, for example, "The Good of Justice as Fairness," *Times Literary Supplement*, May 5, 1972, p. 505; Marshall Cohen, "Review of *A Theory of Justice*," *New York Times Book Review*, July 16, 1972, p. 18.

¹⁰ Barry, "Political Argument after Twenty-Five Years," p. lxix. Reflecting on the intellectual world in which *Political Argument* was first published in 1965, he observes: "The difference can be simply but entirely accurately characterized by saying that *Political Argument* belongs to the pre-Rawlsian world while the world we live in is post-Rawlsian." (p. lxix) Compare Jonathan Wolff: "Contemporary English-language political philosophy began in 1971 with the publication of *A Theory of Justice*, and the announcement of a new journal *Philosophy and Public Affairs*" ("John Rawls: Liberal Democracy Restated" in *Liberal Democracy and its Critics*, April Carter and Geoffrey Stokes, eds. (Polity, 1998), p. 118).

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)

4

Rawls's A Theory of Justice

today as it was in 1974: "Political philosophers now must either work within Rawls' theory or explain why not."¹¹

BIOGRAPHY

John Bordley Rawls – "Jack" to his friends and acquaintances – was born in Baltimore in 1921.¹² His father was a successful lawyer who had dropped out of high school to work in a law firm, where he taught himself law and soon passed the bar exam. His mother served as president of the Baltimore chapter of the League of Women Voters, and both parents were very interested in politics. After attending schools in Baltimore, he was sent to high school at an Episcopalian school in Kent, Connecticut. Upon graduation in 1939 he enrolled at Princeton. After some uncertainty he wound up majoring in philosophy, where Norman Malcolm was an important influence. His senior thesis, submitted in 1942, was entitled "A Brief Inquiry into the Meaning of Sin and Faith: An Interpretation Based on the Concept of Community,"¹³ and Rawls seriously considered going to the Virginia Theological Seminary to prepare for a career as a priest. Instead, after graduating a semester early in January, 1943, he enlisted in the army and was sent to the Pacific for two years. He served in New Guinea, the Philippines, and in occupied Japan. Although he viewed his service as "singularly undistinguished," he was awarded a Bronze Star for work behind enemy lines.

His wartime experience was formative and led to the abandonment of his previous religious faith. Years later, he wrote:

How could I pray and ask God to help me, or my family, or my country, or any other cherished thing I cared about, when God would not save millions of Jews from Hitler? When Lincoln interprets the Civil War as God's punishment for the sin of slavery, deserved equally by North and South, God is seen as acting justly. But the Holocaust can't be interpreted

¹¹ Robert Nozick, *Anarchy, State, and Utopia* (Basic Books, 1974), p. 183.

¹² The two best sources of biographical information on Rawls are Thomas Pogge, *John Rawls: His Life and Theory of Justice* (Oxford University Press, 2007), and Samuel Freeman, *Rawls* (Routledge, 2007).

¹³ John Rawls, *A Brief Inquiry into the Meaning of Sin and Faith: With "On My Religion,"* Thomas Nagel, ed. (Harvard University Press, 2009). See also the discussion in Eric Gregory, "Before the Original Position: The Neo-Orthodox Theology of the Young John Rawls," *Journal of Religious Ethics*, 35 (2007).

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)*Introduction*

5

in that way, and all attempts to do so that I have read of are hideous and evil. To interpret history as expressing God's will, God's will must accord with the most basic ideas of justice as we know them. For what else can the most basic justice be? Thus, I soon came to reject the idea of the supremacy of the divine will as also hideous and evil.¹⁴

In early 1946 Rawls returned to Princeton on the GI Bill to pursue graduate work in philosophy. He spent a year at Cornell, where Malcolm was then a professor, and returned to Princeton to write his dissertation, "A Study in the Grounds of Ethical Knowledge: Considered with Reference to Judgments on the Moral Worth of Character," during the 1948–9 year. Months after he went on a blind date with Margaret Fox ("Mardy"), the two were married in the summer of 1949. Upon receiving his degree Rawls taught as an instructor at Princeton for two more years, during which time he was able to read widely in fields outside of philosophy, especially in economics. He received a Fulbright fellowship to spend the 1952–3 year at Oxford, where he attended a lecture course by H. L. A. Hart and a seminar taught by Isaiah Berlin and Stuart Hampshire. In 1953 he was hired as an assistant professor at Cornell, and he received tenure there in 1956, despite having published only two articles.¹⁵ In 1958 he published "Justice as Fairness,"¹⁶ which was the name of the theory that he would develop and refine for nearly a half-century. The following year he accepted a one-year visiting professorship at Harvard. While he was there, Massachusetts Institute of Technology, which had no independent philosophy department, offered him a tenured position. Two years later, in 1962, he returned to Harvard, where he would remain until his retirement in 1991. Despite a significant stutter, he became an immensely popular undergraduate and graduate lecturer. Over the course of his career he served as advisor to many graduate students (including a striking number of women) who, in turn, have made significant contributions to the field.

A very modest man, Rawls declined numerous awards and honorary degrees over the years. Among those that he accepted was the

¹⁴ "On My Religion" [1997] in *A Brief Inquiry into the Meaning of Sin and Faith*, p. 263.

¹⁵ The two were "Outline of a Decision Procedure for Ethics" [1951] (based on his dissertation) and "Two Concepts of Rules" [1955], both in *Collected Papers*, Samuel Freeman, ed. (Harvard University Press, 1999).

¹⁶ In Freeman, *Collected Papers*.

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)

National Humanities Medal, awarded by President Clinton, in 1999. He also granted very few personal interviews. However, in one interview conducted in 1991 he stated that he “began to collect notes [for what would become *A Theory of Justice*] around the fall of 1950 after I had completed my thesis.”¹⁷ During the twenty-year period of its development he published many articles that, subject to various degrees of revision, were incorporated into *A Theory of Justice*. According to his student, friend, and editor, Samuel Freeman, “Rawls often said that he sees these papers as experimental works, opportunities to try out ideas that later may be developed, revised, or abandoned in his books.”¹⁸ After *A Theory of Justice* Rawls continued to work on justice as fairness, publishing more articles, revising, extending, and defending the theory. And after another approximately twenty-year period, in 1993 he published his second book, *Political Liberalism*.¹⁹ Two years later, following a conference celebrating the twenty-fifth anniversary of the publication of *A Theory of Justice*, Rawls suffered the first of a series of strokes. In the remaining seven years of his life he continued to work. With the assistance of his wife, friends, and colleagues, he completed a new introduction to *Political Liberalism*, “The Idea of Public Reason Revisited,” and *The Law of Peoples*, and participated in the editing of his *Collected Papers* and of three collections of his lectures: *Lectures on the History of Moral Philosophy*, *Justice as Fairness: A Restatement*, and *Lectures on the History of Political Philosophy*.²⁰ He passed away at his home in Cambridge, Massachusetts, on November 24, 2002.

Nearly fifty years after his wartime experiences Rawls would write that the destruction of Hiroshima and the fire-bombing of Japanese cities “were great evils” that the political leadership of the United States had a duty to avoid.²¹ As well as opposing the US war in Vietnam, he also believed that the 2-S deferment, which allowed

¹⁷ “John Rawls: For the Record,” *The Harvard Review of Philosophy* (Spring, 1991), p. 39.

¹⁸ Samuel Freeman, editor’s preface, *Collected Papers*, p. ix.

¹⁹ John Rawls, *Political Liberalism*, expanded edn. (Columbia University Press, 2005).

²⁰ See “The Idea of Public Reason Revisited” [1997] in Freeman, *Collected Papers*; *The Law of Peoples* (Harvard University Press, 1999); *Lectures on the History of Moral Philosophy*, Barbara Herman, ed. (Harvard University Press, 2000); *Justice as Fairness: A Restatement*, Erin Kelly, ed. (Harvard University Press, 2001); *Lectures on the History of Political Philosophy*, Samuel Freeman, ed. (Harvard University Press, 2007).

²¹ John Rawls, “Fifty Years after Hiroshima” [1995] in Freeman, *Collected Papers*, p. 570.

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)*Introduction*

7

college students to avoid the military draft, was unfair. He held that if, in fact, circumstances were such that conscription was necessary, this burden should be shared equally, and that the children of the privileged should not be able, in effect, to buy their way out. In addition to the intrinsic unfairness, he thought that a society would be less likely to engage in aggressive and unjust wars if the children of the political elite were among those on the front lines. In 1966 he introduced a resolution to the Harvard faculty condemning the 2-S deferment, despite the fact that Harvard students were among its direct beneficiaries.²² For the most part *A Theory of Justice* avoids discussing particular policy matters such as these. However, one of the points where Rawls's more practical concerns become clear is in his discussion of conscientious refusal as it relates to a country's foreign policy. Acknowledging that conscription may in principle be defended despite its imposition of hardships, it is morally permissible only when "the risks of suffering from these imposed misfortunes are more or less evenly shared by all members of society over the course of their life, and that there is no avoidable class bias in selecting those who are called for duty." (*TJ*, 381/334) On the other hand, he continues, "the conduct and aims of states in waging war, especially large and powerful ones, are in some circumstances so likely to be unjust that one is forced to conclude that in the foreseeable future one must abjure military service altogether." (*TJ*, 381/335)

NON-ACADEMIC INFLUENCE

Despite the enormous influence of *A Theory of Justice* on academic philosophy and related fields such as political science and jurisprudence, Samuel Freeman comments that outside of academia Rawls's influence has been "nil."²³ This should be qualified somewhat for a few European countries such as Germany, the Netherlands, and the Nordic countries, and perhaps for the Chinese students who are said to have shown copies of *A Theory of Justice* to photographers during

²² See Robert Samuelson, "Faculty Shelves Draft Resolution after Debating for Hour and Half," *The Harvard Crimson*, January 11, 1967, www.thecrimson.com/article.aspx?ref=270764.

²³ Freeman, *Rawls*, p. 457.

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)

the Tiananmen Square protests in 1989.²⁴ Still, it is clear that *The New York Times* was wildly optimistic when, in naming *A Theory of Justice* one of the “Five Significant Books of 1972,” it asserted that “Rawls’s arguments are persuasive; its political implications may change our lives.” Rawls himself knew better, however, and commented that he was “pessimistic of philosophy’s influence.”²⁵ The practical influence of philosophical work is much more indirect and generally takes a very long time to percolate through a culture.

To take Freeman’s examples, consider Locke’s influence on the American Revolution a century after he wrote or Marx’s on twentieth-century communism.²⁶ Or consider what Rawls himself says in the introduction to the paperback edition of *Political Liberalism*. He notes that among the questions that political philosophers may consider is “whether a just and well-ordered constitutional democracy is possible and what makes it so.” The answer that we give to this question,

affects our background thoughts and attitudes about the world as a whole. And it affects these thoughts and attitudes before we come to actual politics, and limits or inspires how we take part in it. Debates about general philosophical questions cannot be the daily stuff of 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 . . . 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.²⁷

The practical influence of philosophy is gradual and indirect. Anyone who imagines that a philosophical argument could be deployed in the heat of battle to ward off physical attack is delusional. But this does not mean that philosophical arguments cannot have significant effects. As Joshua Cohen observes,

²⁴ See the various contributions to the “Symposium on the Reception of Rawls in Europe” in the *European Journal of Political Theory*, 1 (2002), and Ronald Dworkin’s remarks at Rawls’s memorial service, “John Rawls,” *The Harvard Review of Philosophy*, 11 (2003), p. 7.

²⁵ “Rawls is Given Two Awards for Book on Justice Theory,” *The Harvard Crimson*, December 7, 1972, www.thecrimson.com/article.aspx?ref=245388.

²⁶ Freeman, *Rawls*, p. 458. ²⁷ Rawls, *Political Liberalism*, p. lix.

Cambridge University Press

978-0-521-64667-3 - Rawls's a Theory of Justice: An Introduction

Jon Mandle

Excerpt

[More information](#)*Introduction*

9

When the Gestapo arrive, philosophy's time has long passed. To avoid the great horrors of political life, political values need to be a settled part of the public culture. . . . [Philosophy can] articulate principles of political morality, defend them from the cynicism of self-styled realists, hope they take hold in the background culture, and show that that hope is reasonable.²⁸

Still, some critics disparage political philosophy, and moral theory more generally, for not being effective tools in influencing people's behavior. Richard Posner, for example, argues that “[m]oral intuitions neither do nor should yield to the weak arguments that are all that philosophers can bring to bear on moral issues.”²⁹ He continues:

academic moralism has no prospect of improving human behavior . . . [because] the analytical tools employed in academic moralism . . . are too feeble to override either narrow self-interest or moral intuitions. And academic moralists have neither the rhetorical skills nor the factual knowledge that might enable them to persuade without having good methods of inquiry and analysis.³⁰

It appears that the only useful role that Posner can imagine for moral theory is the propagandistic one of convincing otherwise immoral or amoral people to become moral. So conceived it aims to convince others to behave in ways that are already known to be correct. Given this understanding, Posner plausibly concludes that academic philosophy is not especially well suited to bringing about such changes in behavior. Unlike academic moralists, Posner allows that those that he calls “moral entrepreneurs” can effectively propagandize for morality, but they do so primarily through non-rational methods. “If you want to make a person disapprove of torturing babies, show him a picture of a baby being tortured; don't read him an essay on moral theory.”³¹

Richard Rorty exhibits a similar attitude when he argues that we should put aside abstract theories of human rights in order to concentrate on the “manipulation of sentiments.”³² For Rorty the best that philosophy can achieve is to tell us what we already know: “the most

²⁸ Joshua Cohen, “The Importance of Philosophy: Reflections on John Rawls,” *South African Journal of Philosophy*, 32 (2004), p. 118.

²⁹ Richard Posner, *The Problematics of Moral and Legal Theory* (Harvard University Press, 1999), p. ix.

³⁰ *Ibid.*, p. 7. ³¹ *Ibid.*, p. 52.

³² Richard Rorty, “Human Rights, Rationality, and Sentimentality” [1993] in *Truth and Progress: Philosophical Papers*, vol. III (Cambridge University Press, 1998), p. 176.

philosophy can hope to do is to summarize our culturally influenced intuitions about the right thing to do in various situations.”³³ As we will see when we discuss Rawls's idea of “reflective equilibrium” in chapters 1 and 5, there is a sense in which this is correct. Moral knowledge cannot come from anywhere but our own reflective consideration. But this does not make it trivial or obvious, and there is an important role for philosophy other than promoting what we already know.

As Rawls conceives it, the task of political philosophy is not one of propaganda in which we attempt to manipulate the sentiments of those who do not already share our moral outlook. Nor is it to establish a firm foundation from which to establish the possibility of moral knowledge. Rather, the goal is to help make progress toward resolving the many uncertainties and tensions within our already rich set of moral principles, beliefs, hunches, and prejudices. If we were as confident about all moral questions as we are about the wrongness of torturing babies there would be little practical need for moral theory, and we could get on with the propagandistic project of manipulating sentiments. But in many areas, especially in matters of public policy, we are far less certain about what justice requires. For example, we may be conflicted and unsure about the moral permissibility of imposing taxes on the wealthy to assist the poor. On the one hand, we may think it is unjust for some to have so much while others lack basic necessities. But on the other hand, we may be pulled by a sense that such taxation would be an unjust restriction on the liberty of the wealthy. Conflicts like this, Rawls believes, show that,

there is at present no agreement on the way the basic institutions of a constitutional democracy should be arranged if they are to satisfy the fair terms of cooperation between citizens regarded as free and equal. This is shown in the deeply contested ideas about how the values of liberty and equality are best expressed in the basic rights and liberties of citizens so as to answer to the claims of both liberty and equality.³⁴

Utilitarianism, in particular, cannot “provide a satisfactory account of the basic rights and liberties of citizens as free and equal persons, a

³³ *Ibid.*, p. 171. ³⁴ Rawls, *Political Liberalism*, p. 4.