

POSTSCRIPT:

“RAWLS AND THE DUTY TO POSTERITY” IN RETROSPECT

John Rawls's *A Theory of Justice* has probably influenced my philosophical career more than any work published in the twentieth century. But that is scarcely surprising, since it was the subject of my doctoral dissertation. Moreover, by “influence” I do not necessarily mean “concurrence.” By reading Rawls I experienced less of a conversion than a clarification, elaboration and ratification of ideas that I had earlier encountered elsewhere and adopted independently. Also, as I will elaborate below, I found several problems with Rawls's theory which disqualify me from “disciplehood.”

These earlier ideas were articulated by several “moral cognitivists” of the time (i.e, the sixties and seventies), most notably Kurt Baier, Marcus Singer, Michael Scriven, Stephen Toulmin, and Kai Nielsen, under the name of “The Good Reasons Approach.” This is an eclectic view, with elements drawn from rule utilitarianism, social psychology, game theory, and the linguistic analysis and contextualism of the later Wittgenstein.

In the mid-sixties, early in his career (and mine), Kai Nielsen gave a series of TV lectures on “Sunrise Semester.” His lecture on “The Good Reasons Approach,” which I very fortunately recorded and have replayed several times, had a formative and lasting influence upon my position in moral philosophy. I vividly remember the thought experiment that he offered his audience (here in paraphrase): “Suppose you were able to choose the society that you were to live in, but without knowing your place in that society. What sort of a society would you choose?” This, of course, is precisely the question that Rawls asked, as he proceeded to construct his “Original Position.”

Nielsen's anticipation in that lecture of Rawls's theory, “Justice as Fairness,” was further articulated in Nielsen's book, *Reason and Practice*:

Morality is ... a system of social control that functions primarily equitably to adjudicate conflicting wants, needs, and human aims in such a way so as not only to make social life possible and tolerable but also to diminish as much as possible human harm and suffering. [T]he very *raison d'etre* of morality is to adjudicate between the frequently conflicting and divergent desires and interests of people, in order to give everyone as much as possible of whatever it is that each one will want when he is being rational, when he would still want what he wants were he to reflect carefully, and when his efforts to satisfy his own wants are constrained by a willingness to treat the rational wants of other human beings in the same way. (Harper and Row, 1971, p. 304).

Compare this with the following excerpt from the third paragraph of *A Theory of Justice*:

[A]lthough a society is a cooperative venture for mutual advantage, it is typically marked by a conflict as well as by an identity of interests. There is an identity of interests since social cooperation makes possible a better life for all than any would have if each were to live solely by his own efforts. There is a conflict of interests since persons are not indifferent as to how the greater benefits produced by their collaboration are distributed, for in order to pursue their ends they each prefer a larger to a lesser share. A set of principles is required for choosing among the various social arrangements which determine this division of advantages and for underwriting an agreement on the proper distributive shares. These principles are the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation. (p. 4).

Michael Scriven's *Primary Philosophy* (McGraw-Hill, 1966, Ch. VII) also had a profound effect on my thinking, prior to my encounter with Rawls. And Scriven's contextualist and game theoretical account of the "advantages" of a moral order, likewise anticipated the central themes of Rawls's work. I could extend this list of pre-dissertation influences (many of which are evident and cited in the body of the dissertation), but these should suffice to indicate that I was well "primed" to encounter *A Theory of Justice* with much sympathy, interest and concurrence.

Although I completed my study of Rawls's book, and then my dissertation, profoundly impressed with the cogency of many of Rawls's arguments and with the extraordinary coherence and integration of his theoretical system, to this day, I believe that there are many unresolved problems with Rawls's theory, "Justice as Fairness." I have dealt at length in the dissertation with the difficulties with Rawls's account of "justice between generations," and thus need not repeat them here. However, prominent among my other concerns are the following:

--- I felt, early on, that his device of "reflective equilibrium" raised problems of *circularity* in his argument, and furthermore that the "considered moral judgments" that enter into reflective equilibrium made the theory vulnerable to charges of cultural relativism. As I read further on in the book, and then re-read the book, these qualms receded, though they never fully disappeared. On reflection, I realized that "reflective equilibrium" in ethics *might* be as harmless (and still as heuristically useful) as the "iterative process" in scientific method, whereby progress is achieved through the dynamic and progressive interaction of experience-observation, conceptual refinement, and theoretical revision.

--- *The Original Position*. Rawls warns us early on (p. 21) that this should be treated as "an expository device" and thus that it should not be taken literally. However, the careless reader can get drawn into the "mind-picture" of this hypothetical assembly — and one even suspects that Rawls himself is occasionally distracted by "the creaking of the stage machinery," as R. M.

Hare so cleverly puts it. When I took pains to ignore the “stage machinery,” and came to realize that the very idea of an “assembly” of (plural) “parties” of the Original Position was gratuitous, it seemed to me that what we were left with was the familiar notion of “the moral point of view” — a concept conspicuous both in the history of ethics and in contemporary moral philosophy (e.g., from Adam Smith’s “impartial spectator” to Thomas Nagel’s “View from Nowhere”). (The term “moral point of view” is not indexed in *A Theory of Justice* and appears rarely in the book). Even so, the essence of “the moral point of view” (which is central to my own moral philosophy) is fairly well captured by “the Original Position.”

--- The “lexical priority” of the first principle (i.e. of equal liberty) over the second (the difference principle and equality of opportunity), struck me as excessively severe — especially so since *liberty* is itself a function of distributive shares and access to “offices and positions,” and *vice versa*.

These critical notes aside, *A Theory of Justice* remains an impressive work, and it fully deserves to be an enduring work as well. Political thought and practice in the United States has not moved in a direction in harmony with “justice as fairness.” Instead, it has followed more closely the course charted by his colleague, Robert Nozick, in *Anarchy, State and Utopia* (Basic Books, 1974). As I have repeatedly noted in my current political writings, I regard this as a great misfortune, not to be credited to the superior merit of the libertarian (e.g. Nozickian) position over the liberal (e.g. Rawlsian). Instead, libertarianism, as a Nietzschean “master morality,” has enjoyed the overwhelming advantages of wealth and power, which have dominated the media, purchased influence over our legislators and jurists, and “conned” the general public into passivity and acquiescence. (See Appendix II: “On Civic Friendship”).

Ever the optimist, I sense that the triumphant (so-called) “conservatism” of today may soon be done in by its own arrogance, greed, and excesses. As Lincoln noted, “you can’t fool all of the people all of the time.” (Much more about this may be found at my website, under “Shameless Liberalism” and “About Politics: Notes of a Reluctant Radical:” www.igc.org/gadfly).

Post Doctoral Work on the Posterity Issue. Five years after the completion of the dissertation, my anthology, *Responsibilities to Future Generations* was published (Prometheus, 1981). Remarkably, none of the papers that I selected for that book were by Rawls. That decision followed, ironically, from one of the strengths of Rawls’s book: *systemic coherence*. Taking §§44 (“Justice Between Generations”) out of *A Theory of Justice* and dropping it into the anthology, would have been like yanking a circuit board from a computer: neither can stand alone. Adding the necessary context (e.g., by explaining “the original position”) would have made for a prohibitively lengthy entry.

Apart from a couple of colloquium papers (delivered to an audience of Rawls-cognizant philosophers — see the “Foreword and Acknowledgments”), most of my post doctoral work on the posterity issue has developed independently from Rawls’s moral philosophy. Some of my

work developed out of Chapter III, which appears early in the dissertation before “justice as fairness” is addressed directly. Other papers have utilized concepts (e.g. “self transcendence”) which I *brought to* my analysis of Rawls’s position in this dissertation. I have never employed Rawls’s “original position” as part of my arguments, though “the moral point of view” is conspicuous in my work, and that latter concept has no doubt been greatly enriched through my encounter with Rawls’s book

My work on the Posterity Question continues today, as I am currently collecting my papers (published and unpublished) and integrating them into a book, *For Ourselves and Our Posterity*, which I hope to submit for publication in about a year.

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