

Jon Mandle and David A. Reidy (eds.) *A Companion to Rawls*.

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Book review for *Ethics*.

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John Rawls apparently once said the following to his moral philosophy students: “It is easy to kill a subject by demanding too much of it early on: a subject needs to be guided by big intuitive ideas, particularly at the start ...” (9).

Rawls’ own big ideas continue to attract many. Perhaps the single most important big idea that underlies and has guided his work over many decades is that normative political claims – e.g. claims about justice or legitimacy – require a distinctive method of justification. In his presidential address to the APA in 1973, Rawls expressed this idea in terms of a call for the independence of “moral theory” from other areas of philosophy such as epistemology and metaphysics. (Rawls must have taken a very dim view of the metaethics of his time). The call was fuelled by skepticism about the possibility of invoking moral truth in the justification of normative claims, especially in the political domain. The skepticism is epistemic, not metaphysical – Rawls in no way denies the existence of moral and religious truths and it is clear that he takes people’s moral and religious feelings very seriously. Nor does this epistemic skepticism degenerate into some form of nihilism – the view that because moral truth is not available, nothing

really matters. Epistemic skepticism did not deter Rawls' great optimism about the possibility of a society effectively regulated by principles of justice.

While Rawls' big ideas continue to attract, they also divide political philosophers. Some have found his ideas enormously fruitful, as testified by a large and still growing body of work in Rawlsian political philosophy. Others, however, have rejected Rawls' project wholesale. Perfectionists object that Rawls' proposed "epistemic abstinence" (Raz) cannot work and that moral truths thus need to be brought back into the justification of normative political claims. Others – notably those in the libertarian camp – object that Rawls' theory of justice as fairness does not go far enough in its respect for individual values and that his optimism about justice stretches too far.

*A Companion to Rawls* is primarily aimed at those working in the Rawlsian tradition. As the editors – David Reidy and Jon Mandle – state in their introduction, its main purpose is to provide "a serviceable roadmap for current and future work on Rawls" (1).

The *Companion* is divided into six parts and thirty-one chapters. Part one, with the title "Ambitions", includes a fascinating chapter by Reidy tracing the origins of Rawls' big ideas to his writings as an undergraduate and graduate student at Princeton. Part two of the *Companion* is dedicated to Rawls' methodological contributions, the area in which we find Rawls' most influential innovations: the reflective equilibrium method, the original position thought experiment, and the idea of (political) constructivism. Anthony Laden discusses the relationship between the reflective equilibrium method and constructivism, unfortunately from a somewhat idiosyncratic angle. Jon Mandle's

chapter focuses on the original position. The great merit of his chapter is that, like Reidy's, it looks at how Rawls' thinking has developed over time.

While the original position makes its first appearance in Rawls' writings only in 1963, Rawls' concern with the justification of normative practical claims already takes center stage in his 1950 PhD thesis "A Study in the Grounds of Ethical Knowledge". There, Rawls compared "authoritarian" and "positivistic" ethical theories – today we would probably say non-naturalist realist and expressivist – and rejected them for the lack of guidance that they offer given the practical nature of moral reasoning. The first is overly dogmatic and the second too skeptical, even nihilist. As Mandle shows, the solution to the problem that Rawls was grappling with in his PhD thesis already draws on elements of the reflective equilibrium method, the original position, and the idea of constructivism.

Larry Krasnoff's excellent chapter traces the development of Rawls' constructivism over time. In *A Theory of Justice (TJ)*, Krasnoff explains, a theory is called constructive if it proposes "criteria for ordering a plurality of practical claims" (76). This understanding of constructivism is compatible with a range of theories about the grounds of normative judgments. As Rawls acknowledges in *TJ*, utilitarianism, too, is a constructivist theory in this first sense. In his later writings, beginning with the Dewey Lectures, Rawls makes the stronger claim that is commonly associated with constructivism today, namely that the grounds of (some) normative judgments are themselves constructed, i.e. dependent on our practical deliberation.

Constructivism in this second sense is compatible with a moral interpretation and with Rawls' political interpretation. Moral constructivism is a theory of the grounds of moral judgments at large. It involves a metaphysical claim about the substantive irrealism of moral truths: moral truths do not exist attitude-independently, but are the outcome of our practical deliberation. Rawls does not endorse this metaphysical claim. But, Krasnoff argues, Rawls' political constructivism is nevertheless distinctively Kantian insofar as, in the political domain at least, it regards the constructivist method as not only necessary but also sufficient for the justification of normative claims.

This interpretation of Rawls' political constructivism, correct, in my view, can be contrasted not just with moral constructivism, but also with moral realism. Non-naturalist realists such as Derek Parfit and Tim Scanlon have turned to the reflective equilibrium method as a way to overcome the age-old epistemological challenge that non-naturalist realism faces. The thought is that the reflective equilibrium method, consisting in going back and forth in the comparison between considered normative judgments, normative principles, and normative theories, offers a non-mysterious answer to the question of how normative claims are justified. But while moral realists can consistently argue that reflective equilibrium is necessary for justified normative claims, they cannot accept that this – or any other – constructivist method is ever sufficient, in any normative domain. As Scanlon also realizes, for a realist such as him, “the question one asks cannot be ‘Will this judgment be among those I arrive at if I reached reflective equilibrium?’ The question is rather ‘Is this judgment correct?’” (Being Realistic About Reasons. [Oxford University Press 2014], 103). For Rawls, it is, of course, precisely the former that is decisive – at least for the justification of political claims.

The idea of political constructivism came to fruition in Rawls' second book, *Political Liberalism (PL)*. Further chapters that discuss this idea and related issues can be found in part four of the *Companion*, dedicated to that book. They include Aaron James' chapter on political constructivism and Jonathan Quong's on public reason. These chapters provide summaries of the authors' earlier writings on these topics.

Rex Martin's chapter discusses another of Rawls' iconic ideas – the overlapping consensus. The overlapping consensus addresses the worry that the agreement reached in the original position will be too thin to support a well-ordered society – Rawls' term for a society effectively regulated by principles of justice. If, however, there is sufficient support for the principles of justice from the standpoint of the comprehensive moral and religious doctrines that people are committed to, a well-ordered society starts to look possible. On this, shared by many Rawls scholars, the overlapping consensus appears primarily as a solution to the problem of stability, not the problem of justification. Martin's chapter helpfully teases out the stability component and the justification component in the overlapping consensus idea and defends the importance of the justification component in relation to Rawls' concern with "stability for the right reasons".

Stability for the right reasons is also the focus of Gerald Gaus' insightful chapter. Gaus introduces a subtle yet very important distinction between a population-level interpretation of the overlapping consensus and an individualized version. On the first interpretation, the central question is whether the values picked out by the principles of justice can be expected to be pervasive enough in society to guarantee stability. On this

interpretation, the overlapping consensus takes the place of the thin theory of the good that Rawls put forward in part three of *TJ* (helpfully discussed in Hill's chapter). The second interpretation, while appearing already in the 1993 edition of *PL*, becomes more dominant in the 1996 paperback edition of *PL*. On this interpretation, the justification of a conception of justice proceeds over three steps: first, justification from the point of view of the original position, second, "full" justification from the point of view of each individual in light of their comprehensive moral or religious doctrines, and, finally, public justification which aims at the endorsement of the shared political conception of justice by each citizen in light of their comprehensive doctrines. If full public justification, thus understood, is successful, it supports a conception of justice that will be stable for the right reasons.

In the final section of his chapter, Gaus links the move to an individualized interpretation of the overlapping consensus to the shift from justice to legitimacy that one can observe in Rawls' writings over time. Greater awareness of the depth of the reasonable pluralism that one finds in a democratic society, Gaus suggests, led the later Rawls to give up on justice as fairness and to adopt a view that one might call justice as legitimacy (my term).

Gaus is right that Rawls' understanding of what justifies normative political claims has shifted over time. But it would be wrong to collapse the distinction between justice and legitimacy as they apply to different domains. In Rawls' theory of justice, the two principles of justice as fairness apply to the basic structure – society's main political, economic, and social institutions. The requirements of legitimacy, by contrast, apply in the first instance to "constitutional essentials" and matters of basic justice", i.e. to that

subset of the institutions of the basic structure that establish how a society is governed. Only the first principle, the principle of equal basic rights and liberties, is applicable to that domain. Legitimacy is thus a weaker idea than justice and the requirements of legitimacy may be met when the requirements of justice are not (“Reply to Habermas”, 175). Weaker does not mean less important, of course. In fact, Rawls regards the justification of the main political institutions as being of “the greatest urgency” (*PL*, 227) in societies marked by deep pluralism. Understanding the relationship between justice and legitimacy in this way explains why Rawls, in his later writings, shifts the emphasis to legitimacy in response to worries about the possibility of a shared conception of justice: the requirements of legitimacy, while important, are less ambitious than the requirements of justice.

Understanding justice and legitimacy as related in this way also provides an answer to the question that Steven Wall raises in his chapter. Wall asks: “Can a just Rawlsian society fail to be legitimate?” (414). If this question is understood to refer to both Rawls’ theory of justice and his theory of political legitimacy, the answer is a clear no as the relationship between justice and legitimacy is a constitutive one. What establishes justice also establishes legitimacy. And while legitimacy is possible without justice, a just society in Rawls’ sense cannot fail to be legitimate (see also *PL*, 137 n. 5). If one rejects justice as fairness in favor of some perfectionist account, however, justice may no longer demand public justification and this would break the constitutive link between justice and democratic legitimacy. Wall seems to suggest that the lack of public justification is a small price to pay en route to the promised land of perfectionist normative truths about justice. But as long as the epistemic worries that Rawls raised remain unanswered, this is not an attractive route. In addition, my hunch is that any

moral epistemology that is robust enough to support normative principles for the political domain will give some weight to public justification.

Part three of the *Companion* is dedicated to *A Theory of Justice*, Rawls' first and most famous book. The chapter with the greatest philosophical sparkle in this section is Robert S. Taylor's essay on "The Priority of Liberty". Rawls controversially claimed that the first principle of justice as fairness should have lexical priority over the second principle of justice – concerned with issues of distributive justice – and any other considerations. The chapter considers three arguments that Rawls gives in support of his controversial claim. Taylor argues that two prominent arguments – the argument from self-respect and the argument from equal liberty of conscience – fail. They leave justice as fairness vulnerable to the dogmatism charge that has often been raised against the priority of liberty. A third argument, however, Taylor calls it the hierarchy argument, can be made to work. The hierarchy argument defends the priority of the first principle in relation to their role in securing the conditions for the development and exercise of rationality. The problem, Taylor argues, is that while this argument secures the role that Rawls wants to attribute to the first principle, it does so by effectively endorsing a Kantian conception of the person, one that privileges persons' rational autonomy. Taylor thus concludes that Rawlsians have to confront the following dilemma: either give up on the priority of liberty or endorse the Kantian conception of the person and, with that, a comprehensive moral doctrine.

There may, however, be a way out of this dilemma that Taylor hasn't considered.

Krasnoff's argument I discussed earlier is helpful in this regard. According to Krasnoff, what Rawls borrows from Kantian constructivism is not a commitment to the



substantive value of autonomy that can only belong to a comprehensive moral doctrine. Instead, it is the procedural role that autonomy plays in a constructivist theory of the justification of normative claims, at least in the political domain. Since Taylor's hierarchy argument, too, focuses on the procedural role of autonomy, the second horn of his dilemma begins to look quite harmless: the priority of liberty can be supported provided one accepts what Rawls calls the political conception of persons, according to which persons "regard themselves as self-authenticating sources of valid claims" (*PL*, 32), at least when it comes to matters of justice in a democratic society.

Part five of the *Companion* is dedicated to Rawls last main book, *The Law of Peoples*. This part is especially to be welcomed as the otherwise excellent *Cambridge Companion to Rawls* does not cover Rawls' *Law of Peoples* and related research on global justice.

Global justice has been one of the most active fields in political philosophy in recent years. This part of the *Companion* is, unfortunately, relatively thin and much more could have been done to engage with those recent developments. This said, it includes some first-rate chapters. Gillian Brock very helpfully situates Rawls' theory of human rights in the broader debate on this topic. It also includes a highly interesting chapter by Darrel Moellendorf on just war theory – not an area usually associated with Rawls' work.

Some of my favourite chapters of this *Companion* are gathered in the last part, entitled "Conversations with Other Perspectives". I learned a great deal from the excellent chapters by Jonathan Riley on Rawls and John Stuart Mill, by Kenneth Baynes on Rawls and Juergen Habermas, by Daniel Little on Rawls' relationship to economics, and by S. A. Lloyd on Rawls' approach to the history of political philosophy. But two chapters truly stand out in this part. The first is Barbara Fried 's lucid and wonderfully crafted chapter

on Rawls and libertarianism. It considers what Rawls would have said if his focus had been, not on the rebuttal of utilitarianism, but on the rebuttal of libertarianism. Fried argues that Rawls' theory of justice offers answers to questions that libertarians must confront as well – e.g. questions about the normative starting-point for a procedural theory of justice. The likely answers to those questions, Fried contends, would move the libertarian theory of justice closer to Rawls'. Paul Guyer's brilliant chapter focuses on Rawls' main objection to utilitarianism – that it neglects the separateness of persons. Guyer argues that the contrast between a Kantian deontological theory and a utilitarian teleological theory tends to be overdrawn, including by Rawls. Teleological and deontological elements can be found on both sides of the alleged divide. Guyer first shows that Rawls wrongly traced what he saw as utilitarianism's main flaw to the impartial spectator theory developed by Adam Smith and David Hume. That theory has more resources to give priority to justice than Rawls allows. Vice versa, Guyer argues, both Rawls and Kant rely more heavily on teleological considerations than is commonly thought.

Fried's and Guyer's chapters belong to a handful of other chapters that will also be of interest to scholars who do not self-identify as Rawlsians. My main complaint about this *Companion* is that not more chapters, however valuable in other respects, have this quality. To be fair, as I mentioned earlier, *A Companion to Rawls* is primarily aimed at those working in the Rawlsian tradition. And there can be no question that as a roadmap to Rawls' work, the *Companion* is a great success. Chapters such as Paul Weithman's on the religious aspect of justice as fairness, Samuel Freeman's on the basic structure, or Thomas Hill's on stability, to name just a few, showcase the very best of Rawls scholarship. In addition, there are a number of chapters that offer very helpful

guidance to those new to a topic in Rawlsian political philosophy. I am thinking, for example, of Zofia Stemplowska and Adam Swift's excellent chapter on ideal and non-ideal theory – a distinction between that has attracted much attention lately – and of Richard Duggan's chapter on citizenship.

Many chapters, however, will not manage to engage those who are not already Rawlsians, either because they presuppose too much Rawlsiana or because they do not go philosophically deep enough to address those who reject Rawls' main ideas. I may be wrong about this, of course. But if this were the outcome, it would betray another of Rawls' big ideas, namely of aiming at an inclusive, non-sectarian way of doing political philosophy.

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