

# JOHN RAWLS'S THEORY OF A JUST SOCIETY

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John Rawls has been one of the most influential voices in discussion and debate about the shape of liberal democracy over the past 40 years. Best known for his two lengthiest works, *A Theory of Justice* (1971) and *Political Liberalism* (1993), several of Rawls's insights are, for most contributors to political discussion, so pervasive as to form part of the unconsciously assumed landscape.<sup>1</sup> For others, most notably politicians of the new-left's 'third way' such as Tony Blair and Gerhard Schroeder, his approach as a considered whole has been the guiding force behind their own

political philosophy.<sup>2</sup> For Christians wishing to contribute to political discussion, a critical understanding of Rawls is therefore vital.

In his collected works, Rawls has attempted to provide a complete theory of how political society ought to operate in a democratic context. In content, his theory is very similar to the classical liberalism of Locke, Jefferson and Mill in its emphasis on the various fundamental freedoms that are to be accorded the individual vis-à-vis some kind of sovereign, representative government.<sup>3</sup> However, in method, it purports to be altogether different. Rawls's objective is to produce a theory of liberal democracy that is suitable for the pluralism of the late-modern era.<sup>4</sup> He does not wish his proposal to be dependent upon any sectarian "comprehensive doctrines or worldviews"—that is, any secular ideology or religious opinions which may not be universally accepted in a diverse society.<sup>5</sup>

The hegemonic, comprehensive claims of both Christianity and the universal human Reason of the Enlightenment, as well as any other comprehensive claims for that matter, are therefore eschewed by Rawls as he strives to give his theory a foundation which will be acceptable to all.<sup>6</sup> Instead, the common basis for Rawls's political society is the more relativistic notion of an 'overlapping consensus': political society should be founded upon, and only upon, those ideas that empirical observation of liberal societies suggests that virtually all sane people in such societies appear to agree upon.<sup>7</sup>

At the centre of Rawls's theory stands his idea of justice, which he specifies to be 'justice as fairness'. All people have the right to be treated fairly by the political structures and office-bearers of society. This does not necessarily mean that all people should always be treated in identical ways, but rather that all citizens have the right to be treated as persons of fundamentally equal value with an equal right to participate in the political order.<sup>8</sup> Rawls justifies this view of justice, and the theory of liberal democracy that arises from it, by suggesting that the way to find out what principles of justice a liberal democracy ought to embody is by considering what principles people would choose if they did not know how they, personally, were going to be affected by them. He poses and answers this question by setting up an 'Original Position' in which a group of people are imagined to be deciding on appropriate principles of justice for society prior to entering into any kind of political order.<sup>9</sup> His hypothetical participants are placed behind a 'veil of ignorance'—that is, they know nothing about their social position and natural

endowments, and hold no religious or ideological commitments which might cause them to favour any one kind of society over another.<sup>10</sup> However, they do all possess a *capacity* for developing some kind of conception of the good and a *capacity* for a sense of justice of some kind.<sup>11</sup> They are also aware that in order to protect and exercise these capacities, they need certain ‘primary goods’—namely, the basic democratic liberties, as well as a basic level of self-respect, income and opportunities.<sup>12</sup> In establishing his Original Position in this way, Rawls’s aim is to explore what kind of political society people would choose to establish if they were removed from the distorting influences of their sectional interests and partisan ideological commitments. His underlying assumption is that society should be understood as a fair scheme of cooperation between free, equal and rational citizens.<sup>13</sup>

The principles that Rawls believes would result under such ‘ideal’ conditions are:

1. Each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others;
2. Social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.<sup>14</sup>

In framing these two principles, Rawls assumes that the parties to his Original Position would choose to make the worst-off place in their proposed society as good as possible, lest they find themselves in this position once the veil of ignorance has been lifted.<sup>15</sup> For this reason, while Rawls recognises that some inequalities may exist in order to provide an incentive for some to perform difficult vocational roles for the common good, such inequalities may only be permitted if they do serve the public good and if all have an equal opportunity to access those roles which deliver superior rewards.<sup>16</sup> Rawls also emphasises

that the first principle is to take priority over the second in the event of any apparent conflict between maximising liberty and guaranteeing equality.<sup>17</sup>

It is apparent from this survey of Rawls’s theory that he explicitly articulates or implicitly assumes particular views on matters which the Christian message also speaks to. Rawls’s edifice rests on specific opinions about human nature and personhood, social relationships between persons, the role of comprehensive ‘ideologies’ in society, and, above all, of justice itself. These must be considered in turn in order to develop a considered Christian evaluation of Rawls.

Rawls’s understanding of humanity shares much with the biblical view. He rightly recognises that people are to be seen as individuals in social context—and therefore neither in atomistic isolation nor as not being essentially

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separate from one another.<sup>18</sup> Rawls correctly assumes that people are fundamentally equal, and that this equality is not to be undermined by any part of the political order that deprives people of certain basic rights that facilitate their participation in human

society as cooperating equals.<sup>19</sup> However, according to the Christian account, this equality is an *ontological* given or, more precisely, a gift of God who has created all people as bearers of the divine image for the purpose of participating in the divine project. For Rawls, on the other hand, the equality of all is merely a *self-evident* given which is not grounded in any ontological structure of reality or teleological purpose. Human equality does not reflect or serve any higher end; in fact, the highest end to which humans can turn their liberties and their (equal) opportunities is the defence of human liberty and equality. This implies that, while Rawls allows that people are free to form their own private conceptions of the good, the pursuit of such conceptions must remain a private affair; the only purpose for which humans may engage in legitimate public cooperation is the

furtherance of human equality and liberty.<sup>20</sup> For the Christian, on the other hand, human equality is the servant of cooperation in a rather different, divinely-directed cause. Likewise, our liberty is a means to a greater, God-given end: that of freely serving and submitting to the divine Lordship and, as a consequence, freely serving others.<sup>21</sup>

Rawls’s anthropology is problematic at other points as well, not just because it is at odds with the Christian conception of Man, but because it fails its own test of being universally acceptable in a modern liberal society rather than merely founded on one or another sectarian ideology. Rawls’s conception of the Original Position assumes that the participants are not only free and equal, but also ‘reasonable’.<sup>22</sup> The actors behind the Veil of Ignorance, whoever they are, can be relied upon to consistently give the same answers which Rawls gives to the question of a just society because they are *rational* actors. While almost all other potentially



constituent qualities are stripped away in the Original Position, human rationality is taken to be a universal element which is shared by all. In making this assumption, Rawls demonstrates that he is in fact not as different from traditional 'Enlightenment liberals' with their reliance on human Reason, as he claims.<sup>23</sup> He does appear to have bought into a 'sectarian ideology'—one which has become increasingly discredited with the advance of postmodernism over the past three decades. In his more recent works, Rawls has tried to answer this criticism by redefining his view of Reason so as to not treat it as an ontologically defined universal characteristic, but merely as what all people in a liberal society would regard as 'reasonable'.<sup>24</sup> However, this move raises further problems as it entails either asserting that contemporary society has a unitary view on what constitutes 'reasonable' (a tall order in view of the pluralism which Rawls is so conscious of) or ruling out some perspectives on what constitutes rational opinion.<sup>25</sup> In view



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a voluntarist fashion as a means of expressing the will of the autonomous person, rather than the will of God.<sup>29</sup> Rawls's privileging of rationality as a universally shared characteristic of all citizens effectively disenfranchises from the position of citizenship any person who does not share the ability to reason as the persons in the Original Position do. The senile, the mentally disabled, young children and the unborn all are seen in practice by Rawls's theory as non-members of society.<sup>30</sup>

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of data such as Rawls's recent assertion that no person can 'reasonably' claim that first-trimester abortions should not be performed, it would appear that Rawls has chosen the latter course.<sup>26</sup> Reason remains the dominant element in Rawls's anthropology, though it is Rawls's particular view of reason.

A Christian perspective must take issue both with the privileged position Rawls gives to human rationality, as well as with the particular form of reason that he advances. Biblically, man's rational faculties serve the purpose of better knowing and performing the will of God.<sup>27</sup> They are but one part of the whole person, body and spirit, rather than the primary constitutive element.<sup>28</sup> For Rawls, Reason is not only the primary constitutive element in human nature, it is also something exercised in

Rawls also assumes that people in the Original Position—people who are acting rationally, as people really ought to act in an ideal world—are essentially risk-averse.<sup>31</sup> They will choose a political order that gives priority, above all else, to ensuring that the lowest positions in society are as generously provided for as possible. While such an outcome is a positive one, given the Bible's concern for the disadvantaged, the idea that human behaviour should be primarily geared towards the minimisation of risk is at odds with the equally biblical emphasis on going out of one's way (i.e. taking risks) for the sake of others or the greater good of the Kingdom.<sup>32</sup>

Rawls's Original Position also mistakenly assumes that the ideal human state in which to make decisions about ethical matters, such as justice, is from

a position of disinterested impartiality in which the person is abstracted from all of the social realities which normally surround her. This assumption is erroneous because it fails to recognise that authentic human existence is, in fact, *defined* by such concrete, differentiating factors as social relations, not in the absence of them. Our unique identities are inseparably bound up with the concrete contexts in which God has placed us. Christian theology recognises the variegated complexity of humanity,<sup>33</sup> an empirically observable fact that many of Rawls's non-Christian critics also castigate him for ignoring.<sup>34</sup> It is *this* reality, which results in historical phenomena such as the plurality of views in a liberal society, that Rawls wishes to address. Rawls's answer to this situation is to create a hypothetical context in which all of the differences which really matter to people—family ties, local affinities and religious/ethical convictions—are eradicated.<sup>35</sup> Rawls rightly recognises that people in the Original Position ought to focus on impartially recognising the claims



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of the Other.<sup>36</sup> However, this proposition is an easy one when the 'Other' has been reduced to a person without any characteristics which differentiate him from yourself, when he, like you, has only enough left to him to be defined as a late-modern liberal.<sup>37</sup> Rawls thus solves the 'problem' of human diversity by suggesting that only our relatively few similarities have any place in our common, public life together.

A better approach would be to recognise that human diversity is not a problem, but as much a foundation of healthy human community life as our similarities. In Eden as well as in the church, human differences are ordered to the goal of complementarity; they help us to live together more effectively.<sup>38</sup> Our diversity thus *supports* human relationships, rather than undermining them. When human social life is reduced to merely focussing on our universal similarities to create a stable overlapping consensus, a static view of human society results in which there is no impetus for change or improvement.<sup>39</sup> The reality of human interaction, however, is very different. As Habermas emphasises, it is characterised more by flux, movement and debate than by agreement on a few universally shared basics and by agreement that all other things should not matter or even be seriously discussed in the public forum.<sup>40</sup> A plurality of opinions can push people in community to strive for something better than its current perspective.<sup>41</sup> Such an acceptance of the place of meaningful public debate as well as of consensus also leaves open a place for Christian prophecy, the ability of the church to challenge society with God's perspective.<sup>42</sup> For what if our current conception of the 'correct' political order is wrong? What if our current conception of 'justice' is wrong?

This raises the question of the adequacy of Rawls's characterisation of justice 'as fairness'. Christians would want to affirm the central place that Rawls gives to justice,<sup>43</sup> as well as his assumption that all people ought to be treated as if they are fundamentally equal.<sup>44</sup> While

the assumption is a good one, in accord with the Christian view of humanity outlined above, it is not sufficient for a complete theory of justice. Although justice always ought to be administered fairly and impartially, it also needs to judge rightly and mercifully. Justice judges rightly when it recognises that its decisions must reflect the underlying structure of reality.<sup>45</sup> Such decisions are properly *ethical* decisions that recognise the way that things really are in God's world. It is for this reason that Rawls excludes such considerations: unlike fairness, rectitude in judgement is the preserve of the competing ideological positions which he wishes to bring together on the neutral ground of liberal democracy.<sup>46</sup> However, the exclusion of any concept of moral rectitude from the public sphere raises some serious problems in practice for Rawls's theory. For it is possible, indeed common, for fair decisions to still appear manifestly unjust, even to liberals like Rawls.<sup>47</sup> The

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even division of a deceased's estate into small portions among her surviving children may be equitable, but it may not be necessarily satisfactory in the eyes of society: one beneficiary may already be very well provided for, while the other is dependent upon the inheritance for his family's livelihood. The sense of injustice is sharpened further if it is the case that the former beneficiary has done little for the deceased, while the latter cared for her at great cost for many years. Solomon's initial proposed 'distribution' of the baby claimed by two mothers would have been equitable, given that neither could provide clear evidence of her claim, but it would not have been just.<sup>48</sup>

Rawls proposes that justice should be seen as 'fairness' because a consensus exists in contemporary liberal societies around fairness as the concept which best embodies our view of justice. However, in contemporary liberal societies, 'fairness'

has become a very debased idea, one which is often used to support the unjust claims of the powerful. Libel laws and statutes on limited liability were originally designed to protect the liberty and full equality of ordinary citizens.<sup>49</sup> In contemporary liberal societies, however, they have become the means by which major corporations enforce their claims to 'fair' treatment in the face of media efforts to call them to account, and damages claims for unsafe workplace practices.<sup>50</sup>

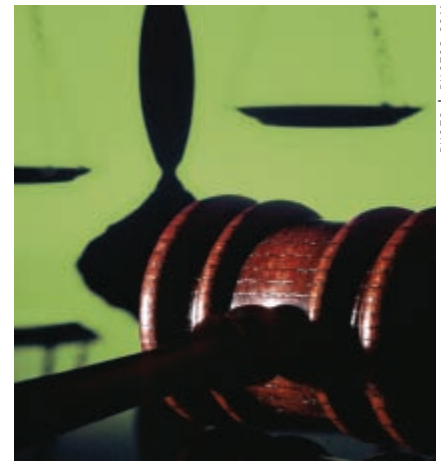


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Fairness alone, without rectitude, does not enable society to become more just because it does not allow unjust institutions and laws to be changed if they already meet the requirements of fairness. This is in part because fairness in our current context has become a very relativistic concept—the very reason why it is so attractive to Rawls.<sup>51</sup> Public statements about fairness tend to be calls for one's own group to be treated fairly with respect to other groups. A fair society thereby degenerates into a competitive struggle between vested interests, for whom parliament and the courts are merely fields in which to fight the battle rather than institutions dedicated to the public good.

A Christian perspective on justice would also stress the place of mercy alongside fairness and rectitude. This is because it recognises all human justice to be merely provisional manifestations of God's ultimate government of the

world—a government which judges mercifully as well as rightly and fairly.<sup>52</sup> A Christian view of justice admits that all people—judges and rulers as well as those judged and ruled—are fatally flawed and so if judged fairly and rightly would be convicted.<sup>53</sup> The Christian ruler must therefore judge humbly, recognising that when he declares against the wrongdoer, he himself is also a wrongdoer, even if of a less serious kind at the present.<sup>54</sup> Awareness of one's own need for forgiveness should incline us to mercy.<sup>55</sup> The Christian recognises that the Other is more than someone who 'happens' to be an equal; she is the image of God, for whom Christ has died so that she might be offered forgiveness. She therefore ought to be loved, not merely treated fairly.<sup>56</sup> Human relationship is not just a recognition of the equality of the Other, but also an embracing of the other as one who shares the same origin, nature and purpose with us in the will of God.<sup>57</sup> Human relationships, including socio-political ones, therefore need to incorporate commitment to one another's good, as well as acceptance of one another's right to basic liberties and opportunities.

This brings us to the heart of what is wrong with Rawls's theory. In essence, he is arguing that rational, selfish people, detached from their concrete identity and context, will freely choose to create a society that is truly just. However, Rawls's own theory brings to the fore the weaknesses of this claim. In order to prevent themselves from taking advantage of those at the bottom of the social

order, the parties to Rawls's Original Position must choose a system of justice which preserves citizens' basic liberties and equality at the cost of their ability to work together to build a better, less minimalist conception of justice. The result is a society which carries the name 'just', but which cannot ultimately live up to its claims as long as it excludes the Christian perspective on justice—a perspective which shows humanity the way beyond enslavement to its own fundamental selfishness. ©

## ENDNOTES

- 1 As an indication of the importance of his views in the academy, within 10 years of its publication in 1971, Rawls's *A Theory of Justice* had generated more than 2,500 full-length journal articles of commentary: S. Freeman, 'Introduction: John Rawls—An Overview'. Pages 1-65 in *The Cambridge Companion to Rawls* (Ed. S. Freeman. Cambridge: CUP, 2003), 2.
- 2 D. Dombrowski, *Rawls and Religion* (Albany, N.Y.: State University of New York Press, 2001), 4.
- 3 Freeman, 'Rawls', 3.
- 4 Gordon, D. Review of J. Rawls, *Justice As Fairness: A Restatement*. *The Mises Review*, 7:4, (Winter 2001): n.p.
- 5 Rawls, *Justice*, 40ff.
- 6 J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), 195ff.
- 7 In his earlier writings, Rawls believed that it was still possible, in the fashion of traditional liberalism, to identify certain universal beliefs about how society should be organised. Empirical observation could draw these common truths out after considerable effort even if they were not 'self-evident' as Jefferson believed. Eg. *Justice*, 499ff. However, in his later works, Rawls abandoned any such truth-claims altogether in favour of what he argues is a purely pragmatic, 'political rather than metaphysical' means of identifying a common basis on which liberal societies can agree to live, the overlapping consensus: *Liberalism*, 385-95.
- 8 Rawls, *Justice*, 86ff.
- 9 *Ibid*, 102-122.
- 10 *Ibid*, 118-123.
- 11 *Ibid*, 130-38.
- 12 *Ibid*, 176ff.
- 13 *Ibid*, 10.
- 14 *Ibid*, 53.
- 15 A. Swift, *Political Philosophy* (Cambridge: Polity, 2001), 24-25.
- 16 Rawls, *Justice*, 228ff.
- 17 *Ibid*, 138. This is because Rawls believes that no rational person, when freed from the constraints of ideology, religion, and social position, would agree to surrender their basic liberties in order to benefit economically. Surrendering such liberties would compromise their ability to develop and articulate their conception of the good and of justice, an ability which Rawls considers to be integral to any concept of personhood in a liberal society.
- 18 K. Barth, *Church Dogmatics*. (Ed. & Trans. G.W. Bromiley and T.F. Torrance. Edinburgh: T&T Clark, 1960), CD III/2, p. 382ff.
- 19 Such deprivation of rights necessary to people's participation in society includes not only basic liberties but also fundamental needs such as sustenance and dignity. For a discussion of several of the biblical passages that imply these ideas, see: D. Forrester, 'Social Justice and Welfare.' Pages 195-208 in *The Cambridge Companion to Christian Ethics* (Edited by R. Gill. Cambridge: CUP, 2001), 204.
- 20 See esp. Rawls, *Liberalism*, 174.

- 21 Rather than merely cooperating with them to the extent that we can do so without putting ourselves at risk of the coercive power of others, as Rawls and liberalism in general would encourage us to do. The Christian position classically stated in M. Luther, 'The Freedom of a Christian', pages 585-629 in *Martin Luther's Basic Theological Writings* (ed. T. Lull. Minneapolis: Fortress, 1989), esp. pp. 616-19.
- 22 Rawls, *Justice*, 104.
- 23 A thorough demonstration of Rawls's affinities with Enlightenment liberalism on this point can be found in J. Hampton, 'The Common Faith of Liberalism', *Pacific Philosophical Quarterly* 75, 1994: 186-216.
- 24 Rawls, *Liberalism*, 48-54.
- 25 A criticism well argued by Jürgen Habermas in *The Inclusion of the Other* (Trans. C. Cronin. Oxford: Blackwell, 1998), 50ff.
- 26 Rawls, *Liberalism*, 243-44, n. 32.
- 27 Eg. Romans 12:1-2.
- 28 J. Calvin, *Institutes of the Christian Religion*. (Ed. J.T. McNeill. Trans. F. L. Battles. Philadelphia: Westminster, 1960), 1, XV, 2.
- 29 Eg. Rawls, *Liberalism*, 183.
- 30 Forrester, *Public Policy*, 132.
- 31 Rawls, *Justice*, 144.
- 32 Forrester, *Public Policy*, 120.
- 33 Both created humanity and redeemed humanity. On created humanity, God frequently addresses different people groups, eg. Genesis 4:17-5:32, especially 4:20-22, and Genesis 25:23. Nowhere are these distinguishing national characteristics condemned by Scripture, except where they involve idolatry on the part of those national groups spoken of. On redeemed humanity, note the fact that Paul is still able to address different instructions to males and females, slaves and masters, in a complementary fashion, while still affirming their fundamental equality, in Galatians 3:28.
- 34 Eg. Buchanan, A. 'Rawls's Law of Peoples: Rules for a Vanished Westphalian World', *Ethics* 110, July 2000: 697-721, and Habermas, 'Inclusion', 66.
- 35 The problematic character of this aspect of Rawls's thought is not only apparent from a Christian perspective; non-Christian critics have noted it as well: J. R. Saul, *On Equilibrium* (New York: Penguin, 2001), 180.
- 36 As Christians recognise, eg. J. Folk, *Doing Theology; Doing Justice* (Minneapolis: Augsburg Fortress, 1991), 41.
- 37 Forrester, *Public Policy*, 120.
- 38 Genesis 2:21-24; 1 Corinthians 12:12-26 respectively.
- 39 O'Donovan, *Desire*, 229.
- 40 Habermas, *Inclusion*, 69.
- 41 Forrester, 'Justice', Pages 360-62 in *The Oxford Companion to Christian Thought* (Ed. A. Hastings et. al. Oxford: OUP, 2000), esp. 362.
- 42 O'Donovan, *Desire*, 62-65.
- 43 In contrast to the manner in which other liberal theories such as utilitarianism tend to sideline justice in favour of less important goals such as efficiency and maximising average happiness. Cf. Nussbaum, M. 'The Enduring Significance of John Rawls.' *The Chronicle Review* (July 2001): n. p. Cited 23 May 2005.
- 44 Forrester, *Public Policy*, 133.
- 45 *Ibid*, 121.
- 46 Rawls, *Liberalism*, 190ff.
- 47 Forrester, 'Justice', 362.
- 48 1 Kings 3:16-28.
- 49 By protecting their reputations as good citizens in the former case, and their dignity and access to basic material needs after bankruptcy in the latter.
- 50 Forrester, *Public Policy*, 134-37.
- 51 J. Owen, *Religion & the Demise of Liberal Rationalism* (Chicago: UCP, 2001), 120.
- 52 O'Donovan, *Desire*, 49ff.
- 53 Eg. Colossians 4:1; Romans 3:19.
- 54 O'Donovan, *Desire*, 258.
- 55 Note well the Parable of the Unmerciful Servant in Matthew 18:21-35 (cf. Matthew 6:14-15).
- 56 We might add that Christ's incarnation and atonement has also effected a vindication of her created being: O'Donovan, *Desire*, 262.
- 57 Barth, *Dogmatics*, II/2, 324.

