

# John Rawls and His Legacy

*Special Issue edited by  
Anna Elisabetta Galeotti and Valentina Gentile*

Anna Elisabetta Galeotti, Valentina Gentile  
Introduction

David A. Reidy  
Rawlsian Liberalism and/as American  
Progressivism

Anna Elisabetta Galeotti  
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Just Reasonable Multiculturalism  
and the Problem of Internalized Coercion

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*To the memory of Salvatore Veca*



Anna Elisabetta Galeotti  
and Valentina Gentile

## Introduction<sup>1</sup>

### I.

The year 2021 has had special relevance for the Rawlsian community of political philosophers. It coincided with two important anniversaries related to the philosopher's life and career, namely 100 years from his birth and 50 years after the publication of *A Theory of Justice* (hereafter *TJ*). Dozens of conferences and workshops were organised across the world gathering "new" and "old" generations of political philosophers, who in different ways, had been influenced by Rawls' paradigm. A series of journal articles, edited books and other publications appeared in the last year celebrating Rawls' career and debating about his legacy. In line with this trend, this special issue, is intended to pay tribute to Rawls' scholarship, broadly understood.

In December 16-17 2021, an international conference, gathering together Italian and international Rawlsian scholars, was held at LUISS

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<sup>1</sup> The articles included in this collection were originally presented at the Conference "What Justice? The legacy of John Rawls 100 years after his birth" held at LUISS University in December 2021 organized by Elisabetta Galeotti, Valentina Gentile and Sebastiano Maffettone and financially supported by Centro Einaudi (Torino). The editors of this special issue are thankful to all the participants and especially to Enrico Biale, Luigi Caranti, Ian Carter, Mario De Caro, Alessandro Ferrara, Megan Foster, Rainer Forst, Benedetta Giovanola, Erin Kelly, Federica Liveriero, Pietro Maffettone, Tito Magri, Domenico Melidoro, David Reidy, Roberta Sala and Ingrid Salvatore, for their insightful contribution to the conference' discussions.



University of Rome to assess Rawls' legacy for contemporary political philosophy and for the Italian academic community, in particular. This special issue is the result of that conference. In turn, *BdL* is the appropriate venue for publishing such a collection, as it was here that the two seminal Rawls' articles "Justice as fairness" and "Distributive Justice" firstly appeared in Italian translation in 1977.

The role played by Rawls' work in reshaping the approach to political philosophy in the Italian academic community has been crucial and long-lasting. The two above-mentioned articles, published in 1977 in *BdL* led to a first 'discovery' of Rawls in Italy. In the same period, the publisher Feltrinelli in Milan started considering a translation of *TJ*, while a group of young scholars (among whom two contributors of this issue: Elisabetta Galeotti and Sebastiano Maffettone) coordinated by Salvatore Veca at the Feltrinelli Foundation started reading, studying and discussing this important and massive book. It was a time when the Italian philosophical community had to face the breakdown of Marxism as the prevalent theoretical framework until then. In Italy, Rawls' theory contributed to a change of paradigm, in three important ways. First, methodologically, his argumentative style as well as his way of reasoning represented a novelty in our academic culture, until then dominated by continental philosophy. Second, Rawls' theory led to a return of normative theory that had been pushed aside in the territory of ideological or personal convictions. Rawls disclosed the possibility for scholars to present and discuss alternative views of distributive justice in a rigorous way. His approach opened the possibility to prospect social change and reform outside the lens of any philosophy of history, and that was very refreshing and empowering. Finally, his work contributed to a rediscovery of liberalism in a historical moment when political terrorism (and, especially, the experience of the Red Brigades) was demonstrating that dismissing liberal values and rights unavoidably brings to unacceptable political and moral wrongs. The translation of *TJ*, published in 1981, represented a turning point of Italian political philosophy in all three respects above mentioned, whose main effect has been to sensibly reduce the distance between the Italian and the international community of political philosophers.

## II.

John Rawls' work, and especially *TJ*, has profoundly shaped the contemporary debate in political philosophy. Indeed, after the publication of *TJ* philosophers were faced with the alternative of either speculating within that paradigm or, as Nozick put it, to "explain why not" (1974, 183). In that sense, Rawls' *TJ* has been the pillar on which contemporary political philosophy has been re-founded. Our special issue is precisely aimed at exploring the ways Rawls' legacy, more broadly understood, is still alive in contemporary political philosophical debate.

Rawls' theory, also known as justice as fairness, is based on the exceptionally simple and widely shared moral ideal according to which "each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override" (Rawls 1971, 3). Starting from this basic idea, justice as fairness was meant to challenge utilitarianism, then a predominant paradigm in both moral and political philosophy. In Rawls' view, the utilitarian attempt to maximize social welfare was not only practically problematic – due to the difficulty to determine the social good – but also and, most importantly, profoundly unjust as the priority of maximizing social welfare could (and often did) violate this basic moral ideal. In contrast with this view, Rawls believed that just institutions should guarantee all people's access to a plurality of social goods, including rights and opportunities, wealth and the social basis for self-respect, to make effective use of their freedoms. Therefore, what counts from the point of view of justice is that social institutions can satisfy those principles which accord with this moral idea, namely his two principles of justice. The two principles of justice – the first concerning liberties and their priority, the second, the difference principle, properly representing the distributive criterion, offer what is perhaps the most sophisticated philosophical synthesis between "rights-based liberal individualism and social democratic wealth redistribution" (Laborde 2002, 133).

At the heart of Rawls' theory, there is an ideal of social cooperation based on reciprocity. In this sense, the two principles are required to mediate among people's conflicting interests which might unfairly influence the division of both advantages and burdens deriving from social cooperation. Rawls believed that such ideal of social cooperation would be endorsed by rational individuals under circumstances of uncertainty,

such as those characterizing his original position, and under the related constraint of the veil of ignorance, compelling self-interested individuals to reason as moral agents. Yet, he was also aware that the stability of such a conception could not be guaranteed only out of these hypothetical circumstances. In other words, if the original position shows that the two principles are “collectively rational” (Rawls 1971, 497), it cannot grant that the view of social cooperation regulated by the two principles will be stable over time. Stability requires that people acquire certain moral psychological predispositions leading to the internalization of the two principles. A theory of stability, which was meant to complement the philosophical justification of the principles, was therefore presented in the third part of *TJ* (see also McClennen 1989, 3-4).

The problem of the stability became a crucial theme of Rawls’ second book, *Political Liberalism* (hereafter *PL*, 1996). Here, Rawls realized that people are not only motivated by the desire of gaining more from social cooperation, for they also have interests deriving from their ethical, philosophical and religious views which might conflict with each other and therefore destabilize a fair system of social cooperation. This second problem introduces the issue of pluralism and the idea that the stability of a political conception of justice as fairness cannot be uniquely based on citizens’ inner adherence to this view. In *PL*, citizens’ adherence to a sophisticated view of toleration and to the liberal principle of legitimacy secure a stability “for the right reasons”, which is compatible with the circumstances of persistent disagreement about the good life (Rawls 1996, xxxix and xl). Stability was thus entrusted not only to citizens’ internalization of the principles of justice, but also to an intersubjective dimension that was absent in the first formulation, namely the ‘overlapping consensus’ (see on this also Gentile and Foster 2022).

The recognition of the fact of reasonable pluralism requires a rethinking of justice as fairness in terms of a political conception understood as distinct and yet still compatible with a plurality of liberal and non-liberal conceptions of the good life or, as Rawls calls them, reasonable comprehensive doctrines. Ideas such as “overlapping consensus” and “public reason” play a key role in this context to foster the compatibility between the political conception and the domain of the ethical, philosophical and religious, views. Thus, stability now depends on whether reasonable

citizens, endorsing different ethical worldviews, are able to honor the criterion of reciprocity and mutually recognize their equal role in the construction of a shared political liberal horizon.

The ideal of just relationships envisaged in *PL*, and the criterion of reciprocity attached to it, was then further developed in Rawls' third work, *The Law of Peoples* (hereafter *LoP*, Rawls 1999). Here, Rawls' paradigm is extended to the international domain of sovereign states, characterized by a form of pluralism even more pronounced than that of a domestic society. According to this project, both liberal peoples and non-liberal, yet decent regimes – together comprising well-ordered peoples – might come to endorse the principles of international justice that ought to govern the relations among them. Once again, the justificatory device adopted in this work is an amended version of the domestic original position. Rawls thought that representatives of both liberal and non-liberal regimes could come to endorse eight principles that are based on generally recognized norms in international law, including self-determination, *pacta sunt servanda*, non-aggression and respect for what is seen as a minimal conception of human rights (e.g. Beitz 2001).

### III.

As mentioned above, Rawls' theory has had an unprecedented and huge influence on political philosophy both in the US and in the rest of the world. Yet, the scholarly debates inspired by Rawls' theory have unsurprisingly deeply changed over the years. Since the appearance of *TJ* and for all the seventies and early eighties, the scholarly debate was mainly focused to the first part of *TJ* and concentrated on the discussion about the plausibility of two principles of justice and on the distributive principle, the difference principle especially. In the subsequent two decades, the discussion was extended to other issues presented in *PL* questioning the very ideal of stability underpinning an overlapping consensus over a purely political liberal conception of authority in contemporary democracies marked by a profound pluralism of ethical views and identities. In the last two decades, the interest in Rawls's work has further expanded beyond the perimeter of competing conceptions of distributive justice and rival theorizations of toleration, questioning rather features of his

sophisticated framework that were previously seen either as background assumptions or as peripheral aspects of this construction.

The outcome is a Neo-Rawlsian political philosophy, a theoretical context where both critics and supporters of justice as fairness are critically rethinking not only its background assumptions but also its plausibility in light of the complex political reality contemporary democracies are facing.<sup>2</sup> In our view, Neo-Rawlsian political philosophy includes, yet it is not limited to, issues such as: the proper role of normativity, the relationship between the ideal and non-ideal theory and the so-called “methodological turn” (Erman and Moller 2015; Valentini 2012), the place for empirical and historical considerations in this framework, as well as the plausibility of property-owing democracy and the ideal of progressivism implicit in such an institutional model. All the contributions included in this special issue deal with some of these topics and this introduction is meant to provide the readers with a guidance to navigate such a Neo-Rawlsian horizon motivated by the conviction that this paradigm (or some extended version of it) still represents a crucial methodological and theoretical reference for contemporary political philosophy.

#### IV.

Within the contemporary discussion of the Neo-Rawlsian political philosophy we identified three important streams which have been discussed in the articles included in this collection: 1) Justice as fairness and its context; 2) Justice as fairness and non-ideal theory; 3) Justice as fairness and the future of normative philosophy.

**1. Justice as fairness and its context.** In contrast with a prevalent reading which considers justice as fairness as both ideologically and institutionally connected to the mid-century, post-war, American Consensus (see, especially, Forrester 2019), David Reidy

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<sup>2</sup> ‘Neo-Rawlsian philosophy’ should not be confused with ‘neo-Rawlsianism’, an expression coined by Forrester (2022) aimed at encompassing the several different forms of egalitarian liberalism emerged in the second post-war era which, in various ways according to Forrester (2022, 4), have been influenced both ideologically and methodologically by Rawls’ theory.

proposes an alternative fascinating historical contextualization of Rawls' progressivism. He shows that Rawls' theory should be better understood as an attempt to revive the political ideals animating early progressive republican liberal democrats such as Herbert Croly, Woodrow Wilson, and Theodore Roosevelt. Central to Reidy's argument is the claim that Rawls' ideal of a property-owning democracy, the institutional economic model favored by justice as fairness is compatible with such an early republican democratic ethos, while fundamentally differs from the welfare state capitalism as emerged in the post-war era. This was so not only with reference to its fundamental socio-economic structure, but also and, perhaps most importantly, with reference to the political values, including Rawls' commitment to international peace and cooperation as well as his firm resistance to all forms of capitalism, which this institutional ideal was meant to reveal.

**2. Justice as fairness and non-ideal theory.** For many scholars, contemporary political philosophy is facing a methodological turn (see Valentini 2012; Erman and Moller 2015). Issues such as the proper relation between extant social practices and normative principles, the relationship between ideal and non-ideal theory, as well as the role of morality and moral judgements in political theorizing are dominating this debate and Rawls' theory is often the target of these critiques. As well-known, in *TJ* Rawls drew a fundamental distinction between the ideal and the non-ideal theory, so that justice as fairness was developed within a set of idealised assumptions, such as strict compliance and historical and economic favourable conditions (Rawls 1971, 8, 245ff). Such idealization has been strongly criticised by supporters of a non-ideal approach to justice (see, for example, Sen 2006 and Mills 2005). In her paper, Elisabetta Galeotti provides a fresh contribution to this debate by showing that, if we should resist to Mills' charge of ideology to Rawls' ideal theory, it is nonetheless necessary to rethink critically the ideal and non-ideal theory nexus. Recovering Kymlica's idea of societal culture, Galeotti argues that this is the context where asymmetries of power and several forms of inequality linked to status emerge. In her view, the societal culture is the proper object of the non-ideal

theory which is needed to supplement Rawls' ideal theory. The discussion shows how the very ideal of reasonableness might help in (re)shaping just relations among citizens in real-world circumstances, characterized by unequal epistemic relationships. Yet, Galeotti warns us, this is possible only if ideal and non-ideal theory are both parts of the same theoretical enterprise.

### **3. Justice as fairness and the future of normative philosophy.**

Still related to the methodological debate discussed above is the role of normative theory in contemporary political philosophy. In a philosophical context dominated by positivism in both law and social sciences, Rawls' theory introduced a novel way to understand the relationship between normative thinking and political philosophy. Justice as fairness provided a powerful normative enterprise aimed at critically evaluating and justifying liberal democratic institutions. Yet, if it is widely recognized that Rawls' theory stimulated a new normative turn in political philosophy, several works are increasingly questioning the overall plausibility of this normative project.

The two articles concluding this collection, written by Alessandro Ferrara and by Sebastiano Maffettone, contribute to a better understanding of Rawls' normative project while providing two powerful defenses of normative theorizing in political philosophy. Alessandro Ferrara presents a sophisticated reconstruction of the normative project of justice as fairness, with special emphasis on the transition from *TJ* to *PL*. According to Ferrara, there is a fundamental discontinuity between what might be considered a still Platonic normative framework, the one presented in *TJ*, and the view of post-foundationalist normativity emerging in Rawls' political turn. In this second work, Ferrara argues, the recognition of the problems associated with the early formulation of view of stability brings Rawls to recast normativity as fundamentally associated to the ideal of public reason and the two standards of the reasonable and the most reasonable.

In his article, Sebastiano Maffettone presents a thought-provoking reconstruction of the anti-utopian political realist critique of Rawls' normative project. In the attempt to identify the reasons of the decline of faith in normative theory, Maffettone identifies

two important facts: the current crisis of democracy and the recent postmodern turn in philosophy, which he calls new metaphysics. Deeply influenced by these two important facts, political realists are skeptical about the strict moralism of Rawls' model of normativity. The concerns raised by these scholars are important ones for Maffettone, who envisages a compromise between realist and moralist desiderata. In conclusion, the author presents a solution aimed at combining two important aspects of any good normative theory, namely descriptive plausibility and normative adequacy.

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David A. Reidy

## **Rawlsian Liberalism and/as American Progressivism**

“No one takes democracy seriously anymore”

*John Rawls, in several letters to friends  
and colleagues over the 1990s*

### *Abstract*

Without denying that the new century has pushed center-stage new political problems, I want in this essay to push back against the idea that *TJ* and Rawls’s work more generally are best understood as artifacts of the so-called mid-century, post-War, American consensus and so now of interest mainly for historical and perhaps aesthetic reasons. I aim to show that, notwithstanding some overlap, neither *TJ* nor Rawls’s work more generally articulates and defends, as a matter of substantive political commitment, the so-called mid-century American liberal consensus. Rawls’s substantive political commitments are better understood in relation to earlier 20th century American progressivism and to the complex crisis of American democracy that was already unfolding decades before the Great Depression and World War II. Understood thus, *TJ* and Rawls’s work more generally belong to and advance an enduring American tradition of progressive republican liberal democratic nationalism. To this tradition belong not only America’s greatest 19th century presidents, Thomas Jefferson and Abraham Lincoln, but also two of its greatest 20th century presidents, Theodore Roosevelt and Woodrow Wilson, as well as the now mostly forgotten early 20<sup>th</sup> century American intellectual father of the progressive republican liberal democratic nationalist vision that Rawls would do so much to revive and advance, Herbert Croly.

**Keywords:** Rawls, American progressivism, liberalism, democracy, constitutional reform, American politics

I.

It is increasingly common to hear that *A Theory of Justice* (*TJ*) articulates and defends a mid-century post-War American liberal consensus that was already passing by the time the book hit the shelves of bookstores and landed on desks of academics late in 1971. This often-heard observation, itself a necessary correction to earlier failures to recognize that Rawls began the work that would lead to *TJ* in the philosophical climate of the late 1940s and early 1950s, not the late 1960s a few years before *TJ*'s publication, is typically followed by a suggestion that it is long past time for political and legal philosophers and theorists, especially those drawn to liberal and progressive commitments, to move on, to get out from under Rawls's and *TJ*'s shadow, as it were. The problems of the new century demand a new political philosophy (Forrester 2019).

Without denying that the new century has pushed center-stage new political problems, I want in this essay to push back against the idea that *TJ* and Rawls's work more generally are best understood as artifacts of the so-called mid-century, post-War, American consensus and so now of interest mainly for historical and perhaps aesthetic reasons. I aim to show that, notwithstanding some overlap, neither *TJ* nor Rawls's work more generally articulates and defends, as a matter of substantive political commitment, the so-called mid-century American liberal consensus. Rawls's substantive political commitments are better understood in relation to earlier 20<sup>th</sup> century American progressivism and to the complex crisis of American democracy that was already unfolding decades before the Great Depression and World War II. Understood thus, *TJ* and Rawls's work more generally belong to and advance an enduring American tradition of progressive republican liberal democratic nationalism. To this tradition belong not only America's greatest 19<sup>th</sup> century presidents, Thomas Jefferson and Abraham Lincoln, but also two of its greatest 20<sup>th</sup> century presidents, Theodore Roosevelt and Woodrow Wilson, as well as the now mostly forgotten early 20<sup>th</sup> century American intellectual father of the progressive republican liberal democratic nationalist vision that Rawls would do so much to revive and advance, Herbert Croly.

A few preliminaries. First, if one sets aside more concrete institutional commitments and takes Rawls's well-known two principles of justice exhaustively to express his substantive political commitments, then his

commitments clearly overlap substantially with the so-called mid-century liberal consensus. Both include commitments to the priority of a familiar list of civil and political rights, to a conception of fair equality of opportunity more demanding than the elimination of *de jure* discrimination, and to an economy that works over time to the advantage of all sectors within its division of labor. Still, despite this overlap, Rawls's principles were more demanding than those orienting, whether explicitly or implicitly, the so-called mid-century liberal consensus. They included commitments to not only the priority of political participation rights but to securing for all their fair substantive value, to an especially robust conception of fair equality of opportunity requiring significant public health and public education initiatives, and to demanding constraints on mutually beneficial inequalities between sectors cooperating with the operative division of labor. Further, against the grain of the mid-century liberal consensus, Rawls offered his two principles of justice not as an ex-post standard by which to evaluate the political results of democratically aggregating interests and preferences, but rather as an ex-ante public framework for citizens and officials democratically to deliberate and decide matters constitutional, legislative and adjudicative.

Second, the American tradition by reference to which I think Rawls's substantive political commitments are best understood undeniably continued, though in modified and steadily compromised or diminished form, through most of the 20<sup>th</sup> century. It would be a mistake not to see it as extending to President Franklin Delano Roosevelt's (FDR's) "New Deal" and President Lyndon Johnson's "Great Society" and so to the so-called mid-century liberal consensus. But from FDR's election in 1932 through the publication of *TJ*, the American tradition to which Rawls wished to contribute steadily yielded to a more legalistic and technocratic form of welfare and warfare administrative state capitalism. Not long after *TJ*'s publication, it began to yield further to a neoliberal globalist capitalism. Unsurprisingly, Rawls repeatedly observed in correspondence over the final decade of the 20<sup>th</sup> century that after many decades it seemed finally that Americans had abandoned, though he had not, their self-understanding as a distinct and non-fungible people progressively realizing itself as a republican liberal democratic nation. This erosion of national self-understanding and purpose unfolded over many decades. Because *TJ* was published just before the so-called mid-century liberal

consensus in America, running from FDR's New Deal through Johnson's Great Society, began itself to yield to a neoliberal globalist capitalism, those keen to resist further erosion were understandably drawn to *TJ* to defend the mid-century liberal consensus. In so doing, they ignored the ways in which *TJ* constituted a critique of that consensus and a call to return to an earlier tradition of American political thought that began to fall into eclipse after World War I.

Third, my focus is primarily on the substantive political commitments of *TJ* and Rawls's work more generally. It is with respect to these that I suggest we do better to read Rawls and *TJ* in relationship to early 20<sup>th</sup> century American progressivism than its modified and diminished expression in the form of the so-called mid-century liberal consensus. Were my focus primarily on matters philosophical and methodological, I would be drawing more (though not exclusive) attention to Rawls's interaction with and debts to mid-20<sup>th</sup> century developments (e.g., post-positivist 'analytic' philosophy). In fact, I would argue that Rawls is best read as putting mid-century philosophical and methodological resources to work in the articulation and defense of substantive political commitments more fully expressed by early 20<sup>th</sup> century American progressivism than the mid-century liberal consensus.

Finally, fourth, Rawls often said that there was little in his work that was original, that he had simply assembled into a coherent whole, and clarified the implications of, ideas and insights long recognized by others. Though this overstates the case, it is true enough. Still, readers have often characterized Rawls's work as breaking radically from the American political tradition (Schaefer 2007). In what follows, I hope to show that while Rawls does break from a fair amount of the so-called mid-century American liberal consensus, he does so for the sake of continuity with an American tradition the roots of which run back to the Founding generation but the flower of which first blooms only in the early 20<sup>th</sup> century.

Now, the plan. I begin with a more fine-grained sketch of the so-called mid-century liberal consensus in America, noting various point of disagreement between it and Rawls's and *TJ*'s substantive political commitments. I then sketch the development of early 20<sup>th</sup> century American progressivism with which Rawls substantive political commitments are more easily aligned, noting Rawls's contact with those commitments through his family and Herbert Croly's anticipation of the task that Raw-

Is himself would undertake decades later. I then briefly conclude with a comment about Rawls's relevance to the restoration of a shared and public American self-understanding and sense of national purpose.

## II.

The so-called mid-century American liberal consensus emerged out of the Great Depression, President Franklin Delano Roosevelt's (FDR) New Deal, and the victory of Allied Forces in World War II. As with other historical generalizations, it is descriptively accurate only if one views things from a suitable distance. Examined up close, mid-century American liberals disagreed over a great deal. And political tides shifted over the middle of the 20<sup>th</sup> century (Beck 1987). Already in 1944, sensing a shift in political winds, FDR dropped his progressive vice-president, Henry Wallace, and ran for re-election with the more conservative Harry Truman as his vice-presidential running mate. Shortly thereafter, with FDR's death and then the war's end, the more conservative wing of the mid-century liberal consensus continued to challenge the more progressive wing. Having become President upon FDR's death, Truman won reelection in 1948 defeating the slightly more conservative, liberal Republican Thomas Dewey. But progressivism was nevertheless in retreat, even if the retreat was slower with Truman's victory than it would have been with Dewey's. Progressives found themselves politically stalled by headwinds arising from eruptions of Cold War anti-communist hysteria, anxiety about the size and reach of the growing modern technocratic and administrative bureaucratic state, and reactionary resistance to federal action taken to eliminate racial segregation in Southern states. In the 1952 presidential election, the liberal Republican Dwight Eisenhower soundly defeated the more progressive Democratic candidate Adlai Stevenson. Though both parties were oriented by the so-called liberal consensus through the 1950s, for most of the decade center-stage was occupied by the liberal wing of the Republican party, rather than the slightly more progressive Democratic party. Liberal Republicans, often dubbed Rockefeller Republicans in recognition of the leading role played by the Standard Oil scion and New York politician Nelson Rockefeller, supported a well-regulated, corporate-friendly form of welfare state capitalism; Keynesian fiscal pol-

icy oriented toward sustained economic growth and a rising tide lifting all boats; cautious and targeted exercises of federal and state power to eliminate *de jure* segregation; and a muscular but cooperative foreign policy that relied upon development aid and military deterrence and avoided direct military conflict. By the late 1950s, the more progressive wing of the mid-century liberal consensus, led by the Democratic Senator Eugene McCarthy, was reasserting itself, leading to Democrat John F. Kennedy's election as President in 1960. These Democrats, slightly more progressive than the liberal Republicans, supported a well-regulated but more labor-friendly form of welfare state capitalism; the prioritization of poverty relief; and a more pronounced and comprehensive federal role in the elimination of *de jure* racial segregation. They held center-stage within the mid-century liberal consensus until the mid-1960s.

For two decades, from the mid-1940s to the mid-1960s, the mid-century liberal consensus held. Its center of gravity shifted between liberal Republicans and somewhat more progressive Democrats. But the broad political consensus held. Remarkably, it held despite, or perhaps because of, the absence of any underlying public ideological vision or orientation. The shared public self-understanding and sense of national purpose that it expressed seemed to involve little more than the formalities of liberal democracy, a growing capitalist economy, and an anti-communist foreign policy. Commentators described the era as an "end of ideology". But then in 1964 the Republican party nominated Barry Goldwater as its candidate for president. Goldwater supported civil rights. But he was hostile to the welfare state, to organized labor, and to the federal administrative bureaucratic state that had been nurtured since FDR's New Deal to serve as a counterforce capable of maintaining a durable *détente* between organized capital and organized labor. And he favored a more aggressive militantly anti-communist foreign policy. In 1964 Goldwater lost badly to Lyndon Johnson, who as Kennedy's vice-president had, upon Kennedy's 1962 assassination, become President and so ran as an incumbent. But Goldwater's candidacy signaled the beginning of both the end of the mid-century liberal consensus and the return of ideologically driven politics. Ronald Reagan's election as President in 1980 completed the process.

While it held for roughly two decades, the mid-century liberal consensus incorporated a commitment to FDR's so-called "second bill of rights"

(1944): legislatively secured rights to employment opportunity, housing, health care, social security, education, and other necessities, including some amount of leisure. It also incorporated President Truman's "Fair Deal" (1949): the extension of political and civil rights, long secured for Whites and men, to Blacks, women, and other marginalized groups (e.g., Jews). With respect to voting rights, it rejected poll taxes and literacy tests. With respect to education and housing, it rejected *de jure* segregation, then still common in many Southern states. With respect to economic policy, it incorporated a commitment to realizing economic efficiency and mutual advantage through private property (capital, labor, commodity) markets regulated by state action to preserve a competitive price system (e.g., through anti-trust legislation) and macro-economic stability (e.g., through Keynesian fiscal policy). On these fronts – securing for all citizens a decent social minimum and equal political and civil liberties, and maintaining an efficient, competitive, and stable private property market economy; what Arthur Schlesinger dubbed the "vital center", occupied by Rockefeller Republicans and Kennedy Democrats alike – *TJ* and Rawls's work more generally does, in fact, overlap with the so-called mid-century American liberal consensus. (Schlesinger 1949) Relative to this consensus, there was, as Rawls himself often observed over the period, visible progress in America from the mid-1940s through the mid-1960s.

But Rawls never fully embraced the mid-century consensus. He rejected its acquiescence, if not commitment, to an administrative state sufficiently large and powerful to, *inter alia*, constitute a counterforce adequate to maintain a durable *détente* between organized capital and organized labor. He found it impossible to see how a republican liberal democratic people could regulate and so survive an economy that it understood to be appropriately organized around the ostensibly permanent fact of a structural competitive relationship between organized capital and organized labor. Rather than empower the state to match the power of and maintain a *modus vivendi* between organized capital and organized labor, Rawls favored economic reforms that would ensure productive resources, whether physical, financial or human, were widely and continually circulated within and across generations of citizens who in turn understood their economy to be appropriately organized so that as free equals they could all accept as a matter of pure procedural justice



whatever particular allocations of distinct roles, responsibilities, wealth and income their voluntary undertakings within it generated.

And he rejected the welfare state. To be sure, he understood the state to be properly tasked with ensuring for all citizens resources sufficient to their participating on fair terms with others in political and economic life, and so he shared with the welfare state a commitment to eliminating poverty and securing an adequate social minimum. But this he distinguished from tasking the state with securing for citizens any particular level of welfare or happiness or well-being. A state so tasked would find itself inevitably drawn into regulating diverse voluntary associations and without any reliable measure of its success. Rawls was focused not on welfare or happiness or well-being, which was in large part the responsibility of individuals. He was focused on socially produced resources instrumentally valuable for all, for these were the collective responsibility of citizens (Rawls 2001, secs. 41 and 42).

Further, Rawls rejected inequalities allowed by the welfare state. He rejected both non-trivial inequalities in the substantive value of political liberties, and, between sectors within society's division of labor, inequalities not strictly necessary to maximizing the income and wealth of the sector least-advantaged (unskilled labor in the mid-20<sup>th</sup> century) relative to the benchmark of sectors cooperating for equal advantage. To find prominent American thinkers expressing this idea, one does better to look not to the mid-century liberal consensus, but to early-20<sup>th</sup> century progressivism. (e.g., Perry 1918).

It is there that one finds outlined the idea of 'property-owning democracy,' which Rawls was already endorsing as early as 1951, long before he formulated the principles of justice articulated and defended in *TJ*. Preeminent among its merits was that it was well-aligned, at both the macro and micro levels, with what he took to be core republican liberal democratic commitments and an associated *prenez garde* attitude toward the state. Republican liberal democracy was simply not compatible with an economy the viability of which required a large and powerful state to maintain a durable détente between organized capital and organized labor engaged in permanent structural competition. Nor was it compatible with a state tasked with securing for citizens a particular level of welfare or happiness or well-being. Of course, property-owning democracy required state action. But it did not require a massive administrative bureaucratic state able to facilitate industry-wide collective bargaining agreements between organized capital

and organized labor, or to regulate the welfare, happiness or well-being of citizens regardless of their diverse voluntary associations. Property-owning democracy required only sustained redirection of some already existing state policies. It required redirecting anti-trust policy from only maintaining a competitive price system, which the mid-century liberal consensus endorsed, to also facilitating a wide and continual circulation of productive resources within and across generations. It required redirecting estate and inheritance tax policy from raising revenues for an ever-expanding welfare state to facilitating a wide and continual circulation of productive resources. It required redirecting welfare programs toward ensuring that all citizens have continual reliable access to productive resources sufficient to participate and make their own way on fair terms in political and economic life. At both the macro and the micro levels, property-owning democracy is aligned with a conception of republican liberal democratic self-governance. At the macro level, it does not task citizens with controlling and directing a state large and powerful enough to impose a *modus vivendi* on the permanent structural competition between them as organized capital and organized labor. At the micro level, by ensuring an economy dominated by small to moderately sized firms operating in a context within which productive resources widely and continually circulate, it provides fertile soil for voluntary experiments in workplace democracy (Rawls 1971 [1999a], sec. 43).

It is not clear whence Rawls drew the phrase “property-owning democracy” in the early 1950s, though it seems certain he drew it from early 20<sup>th</sup> century American progressives. He would of course later have likely encountered it while on a Fulbright at Oxford. In the United Kingdom, the phrase ran back to the early 20<sup>th</sup> century. There, after World War I, Noel Skelton, a Conservative MP, recognized that in the UK universal suffrage and mass democracy was a *fait accompli* and that neither it nor a vibrant market economy organized around private ownership would long survive if the newly enfranchised working classes were not made into citizens with roughly symmetrical stakes in and vulnerabilities to the unavoidable economic interdependencies of the rapidly advancing industrialized market economy. This meant that workers had to be also private owners of productive property. Toward this end, Skelton proposed combining an agricultural sector returned to small-landholders and an industrial sector reformed so that wage workers enjoyed not only a social minimum but also opportunities to participate in workplace governance

and eventually to share in firm ownership. After World War II, in the early 1950s, while Rawls was on a Fulbright at Oxford, the Conservative Party, having ousted Atlee's post-War Labor Party government, which had nationalized several large industrial sectors, again made Skelton's property-owning democracy part of its political platform, and Rawls would probably have encountered the phrase at that time. In the mid-1960s, James Meade, a British economist difficult to pigeon-hole, argued for a modestly modified version of Skelton's property-owning democracy as an institutional ideal superior to welfare state capitalism, to the trade union state, and to centralized state socialism. On Meade's version, property-owning democracy aims to maintain background conditions such that all citizens are both wage workers and owners of productive private property. It is to Meade that Rawls refers in *TJ* when he endorses property-owning democracy<sup>1</sup> (Jackson 2012; Ron 2008). But he clearly had the idea and phrase before any encounter with Meade's work or with the idea and phrase as part of British politics more generally.

Within the American context, the idea of, if not the phrase, property-owning democracy runs from Thomas Paine and Thomas Jefferson through Abraham Lincoln and Woodrow Wilson. (Tong 2015) In the early 20<sup>th</sup> century it drew the allegiance of a wide range of thinkers, all of whom by mid-century Rawls was familiar with, from both his family and his schooling: not only Wilson, but the liberal Jewish Supreme Court Justice Louis Brandeis, the German historical school economist Richard Ely, the Chicago school classical economist Frank Knight, the 'critical realist' philosopher Ralph Barton Perry, and the journalist and political theorist Herbert Croly, among others. Despite their disciplinary and methodological differences, all these early 20<sup>th</sup> century American thinkers converged generally on the substantive political ideal that mid-century Rawls was characterizing as "property-owning democracy". From the late 1930s, Rawls worried, along with his parents, that

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<sup>1</sup> If one thinks of Atlee's Labor Party government as committed to something like liberal market socialism, then both institutional ideals that Rawls contemplates in *TJ* as potential embodiments of justice as fairness were in the UK on the political table, as it were, in the immediate post-War years. Thus, for those who read *TJ* from a British point of view, there is perhaps more to the claim that it and Rawls's work more generally expresses a mid-century liberal consensus. But for Americans, and for Rawls as an American, matters are, as I argue, otherwise.

under FDR the country was slowly beginning to drift away from rather than continuing to move toward this ideal. Like his parents, he opposed FDR and supported Wendell Willkie in the 1940 presidential election, maintaining that Willkie, a Wilsonian progressive Democrat who switched to the Republican party to run against FDR, better expressed and was a safer steward of the American political tradition with which they identified.

A central part of this tradition, and of Willkie's campaign against FDR in 1940, was a cautious, anti-imperialist foreign policy that focused on international cooperation and resisted the use of military force save as democratically authorized in clear cases of national self-defense. Oriented by the Cold War and eager to contain expanding Soviet and Chinese influence, the foreign policy of the mid-century liberal consensus drifted from this tradition. America mid-century adopted foreign policy aims and developed foreign policy capabilities, including military, the possession and exercise of which would only threaten domestically the American political tradition with which Rawls identified. Truman's launch of the Korean War, Eisenhower's approval of covert American involvement in the 1953 overthrow of the Mossadegh regime in Iran, in the 1954 overthrow of Arbenz in Guatemala, in America's 1954 entry into the conflict in Vietnam, all without Congressional authorization were all at odds with the anti-imperialist, war averse, internationalism of early 20<sup>th</sup> century American progressivism. To be sure, the foreign policy orientation of both early 20<sup>th</sup> century American progressivism and mid-century American liberalism fell somewhere between imperialist and isolationist. But mid-century Cold War liberals were more readily moved to military campaigns, and so placed domestic commitments and achievements at greater risk, than earlier progressives. The unfair selective conscription of citizens into military service only exacerbated the threat to domestic commitments and achievements. As with domestic policy, so too with foreign policy: while mid-century Rawls was a kind of American liberal, he was as much or more an early-20<sup>th</sup> century progressive kind of liberal as he was a mid-century and Cold War liberal.

One final observation about the relationship between Rawls's and *TJ*'s substantive political commitments and those orienting the so-called mid-century American liberal consensus. First, the point and purpose of the state, on Rawls's view, was to secure, as the agent of citizens acting as free equals, just background conditions for their diverse voluntary associ-

ational undertakings, the pursuit of their welfare, happiness or well-being. In addition to national security and peaceful international relations, these conditions included a republican liberal democratic constitution, the rule of law, essential public goods such as sanitation, and an economy organized so that as free equals all citizens could accept the results of their voluntary undertakings within it as a matter of pure procedural justice. It was permissible for citizens to task their state with the pursuit of other ends *only* if there was democratically expressed consensus, or near consensus, on how to fund the undertaking. (Rawls 1971 [1999a], sec. 43) This 'Wicksellian' constraint on the ability of a mere democratic majority to expand the power and capacity of the state expressed Rawls's *prenez garde* stance toward the state. It is a constraint that other prominent dissenters from the mid-century liberal consensus, for example, F.A. Hayek and James Buchanan, also saw increasingly breached as, from FDR on, often bare democratic majorities increasingly tasked the state with satisfying their aggregate preferences or interests. This point of common commitment led these other dissenters to try to draw Rawls into the circles of the Mont Pelerin Society and the emerging public choice school of political economy. But while Rawls shared with these dissenters (and with Barry Goldwater) significant worries about mere democratic majorities increasingly expanding a large and powerful welfare state to satisfy their aggregate interests or preferences, he recognized that the substantive political commitments of these other dissenters were inconsistent with early 20<sup>th</sup> century American progressivism and the American tradition of which it was the flower in bloom. Theirs expressed an anti-progressive reactionary libertarian competitive individualism the ideological legitimacy of which depended on question begging notions of 'desert' and 'meritocracy.' Though Rawls joined them opposing the continual expansion of welfare state capitalism by mere democratic majorities, he did not do so for their reasons, as made clear by his own discussions of 'desert' and 'meritocracy' (Rawls 1971 [1999a], sec. 17).

### III.

To understand the early 20<sup>th</sup> century American progressive commitment to property-owning democracy or something close to it, it helps to begin with America's path to the early 20<sup>th</sup> century. The United States was

founded in 1787 as a constitutional representative federal republic, not a democracy. By constitutional amendment completed in 1791, it was transformed into a constitutional representative federal liberal republic. But democratic aspirations were not foreign to its Founders. Here Jefferson stands out. With Thomas Paine, Jefferson recognized that liberal democracy was the culmination of the republican political tradition and that citizenship in a liberal democratic republic required not only an independence that was incompatible with both chattel and so-called wage slavery, but also kind of approximate equality in economic relations. In a democratic liberal republic, citizens had to be roughly symmetrically vulnerable to the unavoidable interdependencies of their common market economy. Jefferson insisted that democratic liberal republican citizenship required, then, a constant redivision and recirculation over generations of productive property (then mainly land) so that citizens would remain not only adequately independent but also more or less symmetrically situated relative to the background structural interdependencies of the capital, labor, and commodity markets that they shared. In Jefferson's view, the "Western Frontier" fortuitously provided Americans with a way, within their Constitution, to approximate this condition. Thus, the Louisiana Purchase (and the possibility it afforded all citizens to be landholders) was for him necessary to the new country's progressive realization as a constitutional democratic liberal republic. It kindled and spread the "democratic spirit" that Tocqueville observed in the United States only a few years after Jefferson's death. Unfortunately, it also brought the Missouri Compromise of 1820 which allowed slavery to spread into part of the new US territory.

Though many states within the new United States eliminated chattel slavery, an inherited British practice, before or shortly after the Founding, others, with Constitutional permission, retained it. Though Jefferson, a Virginian, owned slaves, he hoped that in due course those states, such as his own, would find a way to abandon the practice without economic collapse or a Constitutional crisis. And, but for the Missouri Compromise, the Louisiana Purchase might have hastened the process. But the Compromise breathed new life into chattel slavery, and it was clear by the mid-19<sup>th</sup> century that it would not disappear from the United States without a Constitutional crisis and/or substantial economic cost to the South, probably both. Initially elected to keep slavery from further ex-

panding into the Western territories, Lincoln eventually led the country through a Civil War and the abolition of slavery first piecemeal by Executive Order and then wholesale by Constitutional Amendment.

Like Jefferson before him, Lincoln understood that republican liberal democratic self-governance – government of, by and for the people – required not only the elimination of both chattel and so-called wage slavery, but also the maintenance of citizens roughly equally vulnerable over time to the unavoidable interdependences of their shared labor, capital, and commodities markets. Even before the Civil War, with the Western Frontier still open, he and Radical Republicans launched several initiatives oriented by this ideal. After the War and during Reconstruction, Radical Republicans continued the effort to build in America what might have been characterized as a property-owning democracy. But with the (in retrospect premature) end of Reconstruction, new patterns of economic vulnerability emerged.

In the South, the quasi-feudal agricultural system of sharecropping took hold. In the Northeast, industrialization intensified and then spread westward with the railroads over the latter decades of the 19<sup>th</sup> century. Outside the South, independent small-scale farming, tradecraft and manufacturing oriented to regional consumption was steadily displaced by large scale agriculture and industrialized factory production oriented to national consumption. Land and capital steadily accumulated in fewer hands. Outside the South, cities grew rapidly, fueled by capital investment in industry and substantial flows of inexpensive immigrant and Southern Black labor. Across the Plains states, large livestock companies, with their own factory scaled meatpacking facilities, grew rapidly. With the new economy, all manner of new social pathologies emerged and spread across America.

The Western Frontier ‘closed’ around the end of the 19<sup>th</sup> century. All the land was effectively parceled to owners. Of the contiguous 48 states, only Oklahoma, Arizona and New Mexico awaited admission to the Union, which occurred early in the new century. Observant Americans had long seen the writing on the wall. Achieving and sustaining a property-owning democracy would require new thinking. The muckraking journalist Henry Demarest Lloyd observed as early as 1879 that “the constitutional era for which Jefferson wrote is nearing its end. New departures need a new political philosophy”.

As the Western frontier closed and new social pathologies emerged and spread, a wide range of reform movements emerged over the latter years of the 19<sup>th</sup> century: Western populist, farm-labor, Social Gospel, anti-corruption, and so on. States and municipalities experimented; state constitutions were amended and new political institutions established, including direct democracy mechanisms such as the referendum, recall and initiative, and anti-elite mechanisms such as the primary voting system for selecting party candidates. At the national level, the 20<sup>th</sup> century began with Theodore Roosevelt's two terms as a reformer turned progressive President.

Roosevelt recognized that many of the country's new social pathologies grew out of a mismatch between a constitutional, institutional and legal order still oriented toward the open frontier and rapidly passing farmer and small manufacturer economy of the 19<sup>th</sup> century, on the one hand, and the now closed frontier and new and large corporations, trusts, banks, and monopolies of the 20<sup>th</sup> century. Though he lacked 'a new political philosophy,' he had a plan. Convinced that the new and large corporations, trusts, banks, and monopolies had emerged because they were economically efficient, he saw no reason to eliminate them. His plan was, instead, to subordinate them to an expanded and more powerful federal government, especially its Executive Branch and a new professionalized civil service, capable of ensuring that they serve the public interest and common good.

As he completed his second term as President, a then largely unknown Herbert Croly published *The Promise of American Life* (Croly 1909). Croly had been raised on Comte's positivism and a heterodox Christianity that rejected Augustinian original sin. He was then educated at Harvard into Josiah Royce's idealism. In a spirit reminiscent of Lloyd, and that Roosevelt found more than congenial, he argued that the time had come for Americans to embrace a new political philosophy. Drawing on Alexander Hamilton's commitment to a strong national executive able to catalyze, express and execute public opinion for the sake of economic growth and prosperity, on Jefferson's commitment to a property-owning republican liberal democracy, and on Andrew Jackson's commitment to including with equal dignity in national life *hoi polloi* in America, Croly set out a new vision of the 'promise' of American life. He dubbed it a "new nationalism". It fused the progressive realization of democratic liberal republican nationalism with the effective regulation of a national



market economy by federally coordinated but locally implemented decentralized state power, regional and associational pluralism and toleration, a political-cultural rather than ethno-religious nationalism, and the rejection of both isolationist and interventionist foreign policies in favor of international peace and cooperation. Croly's "new nationalism" provided, at least in outline, a new political philosophy capable of uniting the early 20<sup>th</sup> century's many diverse and multifaceted progressive reform movements.

In 1910, no longer in office but hoping to influence the direction of progressive reform, Theodore Roosevelt drew from Croly's book to deliver in Kansas a speech calling for, and titled, *A New Nationalism*. Appealing to Lincoln and Jefferson, he identified America with a great democratic experiment aimed at realizing freedom and union at national scale. Affirming his commitment to a private property market economy, he insisted on its subordination to the requirements of republican democratic self-governance. These included securing for all citizens a right to vote the value of which was independent of their wealth and income, immunizing political institutions from domination and capture by economic special interests, and regulating capital markets so that they positively serve the good of the community. Americans, he insisted, did not begrudge one another differential income and wealth. What they rightfully demanded was instead that no one's income and wealth either exceed or fall short of what they earn through their voluntary efforts within an economy organized such that all democratically accept it as advancing their common good. Their common good he identified with the ability of average men and women to develop and exercise their capacities for sound judgment not only in politics, but in their families, churches and diverse associational undertakings in civil society.

In 1912, Theodore Roosevelt sought again the Republican Party's nomination as its candidate for President. When the Party nominated the incumbent, Taft, who thought Roosevelt too close to dangerous populism, Roosevelt ran as the newly created Progressive 'Bull Moose' Party candidate, adopting 'A New Nationalism' as his campaign slogan. Addressing the New York Bar Association that year, Elihu Root, a prominent Republican attorney and past cabinet member in Roosevelt's prior administration, echoed Lloyd and Croly: conditions in the United States had shifted sufficiently such that if American's were to keep faith with

aspirations of Jefferson and Lincoln, they needed 'a new political philosophy,' 'a new nationalism'.

The Achilles' heel of Theodore Roosevelt's 'new nationalism' was its emphasis on expanding the power and scope of the federal executive office. Croly's supported so doing, but as a temporary measure necessary to cultivate a national self-understanding and more robust federal state capacity adequate to the new problems of the new century. Eventually, Croly recognized, the progressive realization of democracy would require at the newly invigorated national level the supremacy of a deliberative legislative body. But others worried that temporary measures tend inevitably to become permanent, and that following Roosevelt would in the longer run compromise rather than advance republican liberal democratic self-governance.

This was the position taken by Woodrow Wilson, an academic political economist and a past President of Princeton University. Seeking to be the Democratic Party's candidate for President in 1912, Wilson, then Governor of New Jersey, presented himself as a different sort of progressive. To highlight what distinguished his platform from Theodore Roosevelt's, he adopted the campaign slogan of *A New Freedom*.

Wilson maintained that the new large national corporations, banks, trusts and monopolies that Roosevelt proposed to check and regulate by a larger and more powerful federal executive office were not in fact the inevitable result of timeless laws of economic efficiency but rather the result of contingent and recent laws of finance, liability and labor that favored them over smaller regional firms. Rather than grow the federal executive to match the power of the large national corporations, banks, trusts and monopolies, Wilson proposed using federal legislative power to break them up and to reform the laws of finance, liability and labor that had facilitated their growth. This, Wilson argued, was the more reliable path forward. It expressed an appropriate and American *prenez garde* attitude toward the size and power of the state and toward populism conjoined with executive branch supremacy over the more deliberative legislative branch.

Unhappily, Wilson also supported White supremacy and racial segregation, which he thought supported by evolutionary Darwinian theory. Throughout the South, this made his progressivism more attractive than Theodore Roosevelt's. Wilson was elected President in 1912. But he won only about 40% of the vote. Roosevelt won almost 30%. And the

Socialist Party candidate, Eugene Debs, won about 6%. The incumbent Republican, and the least progressive candidate, Taft, won little more than 20%. Americans were clearly divided over how best to understand progressivism. But they were united in a super-majority in favor of a progressive rather than more conservative national agenda. And they were clearly rejecting both the *laissez-faire* economic policy of previous decades and the Lockean natural law or, then more recently, classical aggregative utilitarian justifications offered for it.

Rawls's father worked vigorously supporting Wilson's candidacy. He did so with his senior law partner, who chaired Wilson's campaign in Maryland. Rawls's mother also supported Wilson. Rawls's father would remain a visible and prominent Wilson supporter throughout Wilson's two terms, and would thereafter continue to play an important role in Maryland politics as a Wilson progressive Democrat. John Rawls was born just as Wilson's second term ended. The family into which he was born had by then been for a decade a prominent politically active Wilson-supporting Democratic family.

Croly supported Roosevelt's 1912 candidacy. He thought Wilson's 'new freedom' campaign an invitation to take the country a step back toward 19<sup>th</sup> century Jeffersonian ideals that the country had clearly outgrown. But his enthusiasm for Roosevelt faded as he began to suspect that Roosevelt was committed as a permanent measure to a strong national executive cultivating and channeling a popular will. This Croly recognized as incompatible with the eventual supremacy of a national deliberative legislative office and so with the progressive realization of republican liberal democratic nationalism. As Croly's enthusiasm for Roosevelt faded, his enthusiasm for Wilson grew. In 1913, with Wilson's support, Americans ratified two progressive Constitutional amendments, permitting a national income tax, and requiring the direct election of Senators (who had previously been elected by state legislatures). Wilson took important steps early in his presidency to increase federal national regulatory capacity, but he seemed disinclined to any permanent institutional marriage between populism and executive authority. Croly conjectured that with some nudging Wilson might be led more fully to embrace the sort of new political philosophy that he had begun to outline in *Promise*.

And so, he began to work on a second book, fleshing out and refining the ideal that he outlined in *Promise* and outlining a political process, incorpo-

rating social education, economic reform, and constitutional amendment, oriented to its progressive realization in America. When War broke out in Europe, Croly recognized that it presented Wilson and Americans with an opportunity to further clarify and more fully embrace a 'new political philosophy' more adequate to the new century. He raced to complete *Progressive Democracy*, which was published late in 1914 (Croly 1914). Wilson read it with sympathy and understanding. So, very likely, did Rawls's parents.

Over the remainder of Wilson's presidency, Croly worked tirelessly with other public intellectuals to guide and to crystalize political and public support for his agenda. Shortly after publishing *Progressive Democracy*, he joined with Walter Lippmann and Walter Weyl to launch the influential magazine, *The New Republic* Wilson ally and prominent attorney Louis Brandeis, who Wilson would soon appoint to the Supreme Court, regularly contributed articles. The magazine was regularly read in the Rawls household and by Rawls's senior law partner. It served as a kind of gestational public forum for, and a midwife of, 'the new political philosophy' that Lloyd and Root had called for and that Croly thought Americans had been searching for since the premature end of Reconstruction. The 'new republic' would be, of course, a constitutional federated 'democratic' liberal republic. It would be oriented by both Roosevelt's substantive political commitments and Wilson's *prenez garde* attitude toward state power and capacity, especially in the form of populism channeled through executive office supremacy.

Three themes of *Progressive Democracy* bear mention. The first is that Croly takes the fundamental democratic idea to be that politically speaking there is no public authority superior to the convergent judgment of citizens as independent free equals. As Rawls would later put it in the early pages of his Ph.D. dissertation: When it comes to politics there can be between citizens no 'exalted authorities' to which publicly any or all must bow. Not any religion. Not natural law. Not the positively enacted Constitution or the law made pursuant to and in accord with it. Not the fact of tradition. Croly thought that Americans had finally evidenced this self-understanding with their 1913 Amendments. The post-Civil War Reconstruction Amendments were ambiguous. Abolitionists had drawn publicly on Christian natural law and natural rights (e.g., Lockean self-ownership) as an exalted authority to which politically citizens must publicly bow. By so doing they were able to defeat Southerners who drew publicly on the positively adopted Constitution

as an exalted political authority. But a political battle waged between publicly exalted authorities failed to express, Croly observed, the fundamental democratic idea. But by 1914, Americans seemed to Croly to be getting the idea that the only public political authority to which they and so their Constitution must bow was that of their convergent reflective judgment as independent free equals. This was not because they were infallible. It was rather because for them acting together as a body politic there was no further court of appeal beyond that of their convergent reflective judgment as independent free equals. It expressed their conscience as a democratic people. And just an individual person cannot rule herself save by accepting the authority of her own best conscientious judgment, so too for a democratic people. Neither a person nor a people is free if it subordinates its own conscientious judgment to an 'exalted authority'. Of course, this is the idea of wide and general reflective equilibrium, a central animating idea of *TJ* and Rawls's work more generally and one to which he was committed long before he developed his original position argument or appealed to the social contract tradition of Rousseau and Kant.

The second theme from *Progressive Democracy* that bears mention is the idea that without the radical transformation of the wage labor/capitalist system, the progressive realization of democracy in America would remain incomplete. Looking ahead, it was not enough, Croly insisted, that wage earners eventually enjoy a social safety net, collective bargaining, arbitration, workplace safety, rising wages, job security and equal chances to win the lottery and become employers or capitalists. Democracy required more than a generous welfare state. It required citizens reliably able in politics – as independent free equals and so as roughly symmetrically vulnerable to the unavoidable interdependencies of labor, capital, and commodities markets – to offer, deliberate others over, and vote for their own best judgments regarding collective action aimed at just relations between them and at their common good. It was compatible with private ownership of, and efficient markets for, labor, capital, and commodities. But it was incompatible with markets, irrespective of their efficiency, that over time predictably and avoidably permanently locked a large segment, perhaps even the bulk, of citizens into a lifetime of wage labor on terms and under conditions over which they had little, if any, power. A democracy with private property markets for labor, capital, and

commodities must maintain over successive generations citizens standing in a rough equality of lifetime vulnerability to unavoidable market interdependencies. To do so it must have some permanent mechanism(s) capable of widely circulating productive resources within and between generations, and of securing for wage workers opportunities for both meaningful shared governance within their specific workplaces and an ownership stake in their firms. Because temporary inequalities unavoidably arise in any market economy, it (or they) had to be immunized, ideally by both constitutional amendment and the convergence of free and equal citizens on a publicly shared 'higher law' orienting their politics, constitutional and otherwise, from ordinary democratic majorities.

While he continued to identify an important temporary role for the national executive in the progressive realization of democracy, Croly made explicit his worries about a state dominated by an executive office cultivating and channeling popular sentiment and matching the power of and subordinating the conflict between organized capital and organized labor. Aligning himself with Jefferson, Lincoln, and what he then hoped Wilson would prove to be, he argued for a form of property-owning democracy with deliberative legislative supremacy and within which workers might have not only fair value for their political liberties but ample opportunities for workplace self-governance and a share in firm ownership. He emphasized that the role of the state was to maintain a wide and continual circulation of productive property, whether physical, financial, or human. Though he withdrew from the executive-dominated-large-and-powerful-state component of Roosevelt's "new nationalism", he affirmed another of its components, one which he thought Wilson shared. And that was that given background conditions all citizens could as free equals affirm as fairly and reliably oriented toward their common good, Americans would not complain about transient inequalities in the allocation to particular individuals of income and wealth arising from their voluntary undertakings. Anticipating Rawls's idea of pure procedural justice, Croly held that, within the sort of property-owning democracy he thought required by the progressive realization of republican liberal democratic nationalism, citizens would accept without complaint or envy whatever allocation of income and wealth followed from their voluntary undertakings. Assuming voluntary undertakings in accord with the rules of the game, and the game itself one that all could affirm as

fairly and reliably oriented to their common good as free equals, there would be no reason, at least no reason of general justice, to interfere with or correct particular allocations ex-post. Their fundamental political interests satisfied by playing the game, citizens would not begrudge one another transient outcome inequalities of income and wealth.

The third theme from *Progressive Democracy* I want to highlight here is Croly's explicit recognition that to transform the wage labor/capital system (and perhaps also the role of money in the political process) as needed for the progressive realization of democracy in America, the Constitution most likely had to be amended. As a practical matter, he observed, this almost certainly meant first amending its Article V, which governs the very onerous amendment process. Acknowledging that the circumstance of the Founders' generation warranted Article V's very demanding procedure, and that it had not stopped Americans from amending their Constitution many times, including the still fresh 13<sup>th</sup> and 17<sup>th</sup> Amendments, he emphasized that Americans had reached a point both in their social and political education and their constitutional ambitions warranting a more permissive amendment procedure. This was reflected in the supermajority consensus expressed in the 1912 presidential election, in which even the most conservative candidate, Taft, still claimed (and not without some justification) to be a progressive. (Among Taft's primary complaints about other progressives was that the populist and direct democracy reforms that they advanced often imposed a cost on the rule of law and political stability greater than any benefit conferred on the progressive realization of constitutional republican liberal democracy. Such considerations led him to reject the initial state constitution proposed by Arizona when it sought admission as a state into the federal union). *Progressive Democracy* was a call for Americans to take up constitutional politics, ideally to clear a path to amending formally their Constitution, alternatively to impose on the three branches of government sustained pressure sufficient informally to amend it.

Like Rawls, Croly recognized that in a constitutional democratic liberal republic, the Constitution is not and does not mean what the Supreme Court (or the President or Congress) says. It is and means what free and equal citizens over time exercising their political office as such allow the Court (and the President and Congress) to say that it is and means (Rawls 1993 [1996, 2001], 237). Their convergent reflective judg-

ment as free and equal citizens is the 'higher law' with which their positive constitution, whether formal and written or informal and unwritten, must eventually align. Croly believed that with respect to this "higher law" Americans were properly converging on a clearer conception of republican liberal democratic nationalism, leaving behind earlier forms of Lockean natural law and nondemocratic forms of republicanism as well as more recent forms of classical aggregative utilitarianism. He hoped to play a role in the associated constitutional reforms.

#### IV.

Rawls was born just as Wilson's second term ended. By that time early 20<sup>th</sup> century American progressivism was in retreat. Croly blamed Wilson, though not only Wilson. Wilson invoked World War I as sufficient justification to violate citizens' political liberties. He tolerated, even encouraged, anti-German ethno-nationalist sentiment. He promised Americans that they were joining the fight in Europe to make the world safe for democracy. But then at Versailles he traded away that prospect to advance the League of Nations, an undertaking for which he was unable, and should have known he would be unable, to secure Senate ratification. He struggled to shift the country from a wartime to a peace-time economy. The economic downturn, combined with the return of Black soldiers increasingly and justifiably impatient with racial segregation in the United States, led to some of the worst racial conflict in US history. Wilson, a White supremacist, failed to intervene. By the end of Wilson's second term, Croly had lost faith in him.

More importantly, he had begun to lose faith in his fellow Americans, and not only because they failed to prevent Wilson from or politically to punish him in timely fashion for making the foregoing mistakes. But because they seemed increasingly prepared to trade the progressive realization of themselves as a distinct nonfungible republican liberal democratic nation or people for the apparent safety of a homogenous and basely materialist national consumer culture. To be sure, they ventured democratic progress by adopting the 19<sup>th</sup> Amendment granting women the vote, and the 18<sup>th</sup> Amendment prohibiting the sale and consumption of alcohol and thus, ostensibly, purifying the electorate and destroying



the corrupt ‘tavern system’ of politics. But the former was low-hanging fruit that should have been picked decades earlier when Theodore Roosevelt was arguing for women’s suffrage. And the latter suggested a dangerous illiberalism. From Warren Harding’s election as President at the time Rawls was born through the rest of the 1920s, Americans seemed steadily to abandon progressivism, at least within national politics. Taxes became more regressive. Capital became more concentrated. The economy became more dependent on financial speculation. Croly despaired that Americans were losing grip of their national purpose.

At the same time, academics and intellectuals working in the social sciences, philosophy, law, and related fields were drawn increasingly to reductively naturalistic, often physicalist or behaviorist, methods; to forms of positivism that entailed non-cognitivist, relativist or historicist positions on value; to a variety of new formalisms; and to a ‘realist’ skepticism about central democratic ideas such as the ‘common good’, ‘will of the people’, even ‘the rule of law’. Economics, which had long identified value with the satisfaction of objective human needs and progress in terms of human development, began to identify value with the satisfaction of expressed preferences and progress with wealth production. The Millian utilitarianism with which Croly was sympathetic, always ill-suited to formalization, gave way to cruder utilitarianisms. Narrow technical expertise steadily replaced wider human wisdom. With respect to democratic self-understandings, a kind of crisis unfolding in America. (Purcell 1973) The early apparent success of the Soviet Union and then democratic struggles in Europe and elsewhere only added fuel to the fire. Then came the Great Depression.

Throughout the 1920s, Croly struggled to sustain and defend his commitment to progressive democracy. But like so many others at the time, he found himself increasingly susceptible to the emerging trends. He began to worry that ordinary citizens may forever be more irrational than he had thought, and that they might be reliably moved *en masse* only by a powerful executive responsibly wielding myth, metaphor, and religion to cultivate and then enact popular sentiment. He died shortly after the Depression began and before FDR was first elected president. In his final years, he found renewed his faith in ordinary American citizens and his hope for progressive democracy. But he confessed that he found himself unable philosophically to articulate and defend either. A large part of the

problem, by his own account, was that he lacked a moral psychology and political sociology capable of supporting an account of social learning adequate to the progressive realization and enduring stability of republican liberal democratic nationalism. Another part of the problem was that beyond general descriptions of the republican liberal democratic nationalist ideal that property-owning democracy expressed, he had no systematic public justification for either. He knew that Lockean natural law and classical aggregative utilitarianism were non-starters. But he made little further progress.

When he died, democracy was in full retreat, and not only in Europe. Wielding executive power, FDR seemed to lurch from plan to plan, hoping to find some way to save not so much progressive democracy in America as American capitalism. Expressing a sentiment widely shared in the social sciences at the time, the President of the American Political Science Association called on its members, at their 1934 annual meeting, to “rethink the dogma of universal suffrage” as well as liberal deliberative democracy more generally. Governance by executive power informed by popular sentiment and technical expertise looked more promising.

Of course, Americans were still broadly committed to democracy. But among *hoi polloi*, the commitment was, as noted, each in his own way, by Louis Hartz and Daniel Boorstin, tied to the Founders’ largely Lockean political self-understandings (Hartz 1955; Boorstin 1958). To be sure, it sought to transcend the struggle between 19<sup>th</sup> century interpretations of Lockean self-ownership as a natural right within natural law, laissez-faire liberal, on the one hand, and Marxist, on the other. But it did so not by rejecting the fundamental idea of Lockean natural rights and natural law but rather by endeavoring, *ad hoc*, to render their consequences politically tolerable. That *hoi polloi* failed to get out from under Lockean natural rights and natural law, and from self-ownership as fundamental, was evidenced by FDR’s public defense of his Social Security initiative as a kind of self-insurance scheme whereby workers would exchange some of the current market value of their labor for the sake of post-retirement income, a pattern of reasoning that was mirrored after World War II during the so-called mid-century liberal consensus when industry-wide pension plans were negotiated, with state oversight, between organized capital and organized labor.

Intellectuals ready to abandon Lockean natural law and natural rights seemed to turn either to Catholic Thomistic rationalism or to empirically

oriented pragmatism, often relativist and historicist. In 1940, a major interdisciplinary conference in New York addressing the future of American democracy degenerated into a shouting match between competing camps none of which could embrace Croly's progressive democracy or the fundamental democratic idea that as between independent free and equal citizens there is no public political authority higher than their convergent reflective judgment. The progressivism for which Croly had been a national voice seemed all but forgotten.

It found something of a champion in Wendell Willkie, the Wilson progressive Democrat who switched parties in order to oppose FDR in the 1940 presidential election. As noted, Rawls's parents, and Rawls himself, supported Willkie. But FDR won. And then Pearl Harbor drew the United States fully into World War II. John Rawls was drafted into the Army, serving in the Pacific and participating in some of the most difficult campaigns and worst fighting of the War.

When the war ended, Rawls faced hard questions. Some were theological. Others were political and moral. For what had he fought and killed? If it was to express his faith in human nature freely expressed and his commitment to what Lincoln had called humanity's "last best hope", and to what Croly had thought, with J.S. Mill, the permanent interest of humankind as a progressive species, then should he not be able to articulate and defend this faith and hope as rational, reasonable, and not wildly unrealistic. From his post-war graduate studies to his death, this is precisely what he tried to do. Of course, in so doing there would be some overlap between what he aimed to articulate and defend and the so-called mid-century American liberal consensus. But to focus on that overlap is to miss the more compelling arc of Rawls's efforts.

In the late 1950s, at what might be thought of as the high-water mark of the so-called mid-century American liberal consensus, and year before he hired Rawls at Harvard, Morton White observed that the American progressive tradition from the early 20<sup>th</sup> century had fallen into full eclipse. Looking for publicly articulated alternatives to the still loosely Lockean mid-century liberal consensus, he was able to identify only a resuscitation of the Catholic metaphysical Thomism (which he associated with Mortimer Adler) and of Protestant Augustinian realism (which he associated with Reinhold Niebuhr). (White 1957, xxx-xxxi) White was drawn to recruit Rawls to Harvard in part because he saw already in his

mid-century work more than a decade before *TJ* the possibility of politically resuscitating and breathing new philosophical life into the then all-but-forgotten American progressive tradition of the earlier 20<sup>th</sup> century, reinvigorating an American sense of national purpose capable of orienting Americans for the foreseeable future. By the time Rawls published *TJ*, however, events had conspired to obscure its and Rawls's aims. As the so-called mid-century liberal consensus gave way to the dissensus politics of the New Right and the New Left, readers read Rawls and *TJ* through that contest, feeling it necessary to assign him and it to one side or the other, or to the preservation of the mid-century consensus status quo ante. But to so read is to misunderstand Rawls, *TJ* and his work more generally. He spent his professional life trying to do what Croly was unable to do: articulate and defend, as rational, reasonable and realistic, an early 20<sup>th</sup> century progressive account of America's national purpose, a purpose that has roots that run back to the Founding but that demands a new articulation and defense for a national mass pluralist industrialized democracy. In 21<sup>st</sup> century America, so-called progressives would do well, at least insofar as they have any interest in renewing America's sense of national purpose, to return to Rawls as an essential contributor to the tradition that they claim as their own.

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Anna Elisabetta Galeotti

**Is the Demand for  
Reasonableness  
Unreasonable?**

*Abstract*

The paper starts with a consideration of Rawls' ideal theory in the background of the criticisms that has received. Both the realist and the critical theory objections to ideal are analyzed, but the latter is the focus of the argument. While the author rescues ideal theory from the accusation of ideology, she remarks that a well-developed analysis of non-ideal theory is needed to account the persistent inequalities and injustices of present democracy. Then she tests her argument on the issue of reasonableness that is so important in Rawls' *Political Liberalism*. Reconstructing reasonableness in the context of ideal theory and then moving to the non-ideal conditions, enables one to perceive a specific kind of injustice, namely epistemic injustice linked to the diminished epistemic authority attributed to citizens from oppressed groups. Once detected, we can turn back to ideal theory and see which resources can be made use of for uprooting this kind of injustice: fair equality of opportunity, and a focus on the primary good of the social basis of self-respect to remedy unequal epistemic standing – whatever the social basis of self-respect implies in terms of political action. Overcoming epistemic injustice would make the civic virtue of reasonableness attainable.

*Keywords:* ideal/non-ideal theory, realism, critical theory, societal culture, reasonableness, epistemic injustice.

*1. Introduction*

In the wide discussion of Rawls's work, a prominent issue is the distinction between ideal and non-ideal theory. Ideal theory provides the picture of a perfectly just society, constructed not just on abstraction but on idealizations and on the assumption of perfect compliance with

the principles of justice. By contrast non-ideal theory considers actual non-compliance and the unfavorable social circumstances of real societies and develops arguments meant to overcome the actual obstacles to justice in social reality. With the exception of the second parts of *The Law of Peoples* (LOP), Rawls's work almost exclusively focused on ideal theory regarding distributive and political justice, meant to provide an ideal to which actual societies should aim.

This way of doing political theory has been at the center of a heated debate among scholars both in the Rawlsian tradition and belonging to different traditions. Among the latter, two main lines of criticism can be pointed out: the realist critique, and the critical theory critique. Both realists and critical theorists find fault with the abstract normative level of the analysis; but while the realist critique is basically methodological and in favor of a direct examination of the empirical reality, doing away with any idealization, the critical theory literature contends that Rawls's ideal theory is indeed a form of ideology. According to this view, the idealization makes it impossible to perceive and deal with actual social injustice. Whether this is a crucial defect of ideal theory or a disguise for social injustice induced by the interests of a specific section of the population, namely the white-man section, it does not change the fact that ideal theory is unfit to promote effective justice in real society.

I will especially focus on this second line of critique. While I share the view that certain forms of injustice are not grasped from the ideal theory perspective, I shall instead attempt to rescue the latter from the accusation of ideology. I hold that the ideal level of the normative theory is important and provides us with an ideal model of a just and well-ordered society toward which we should tend. The ideal theory, however, is not enough, and the non-ideal theory cannot simply consist in adding empirical complications to which normative principles should contextually apply. I shall argue for a non-ideal theory that can make sense of why the basic principles and values of political liberalism, though *prima facie* widely shared in liberal society, nevertheless come to be twisted in the life of actual democracies, allowing unjustified inequalities and constant instances of misrecognition.

In order to illustrate how ideal theorizing can be rescued from these criticisms, I shall test my proposal focusing on another fundamental Rawlsian concept, namely reasonableness. The notion of reasonable-

ness, the attitude of reciprocity among citizens, represents one of the grounding tenets of the political version of liberalism, crucial both in the justification of *Political Liberalism* (PL) and in the civic relationships between citizens of a well-ordered society. I shall ask whether reasonableness as a civic virtue turns out to be an unreasonable request in the actual circumstances of our society, being on the one hand too unrealistic, and on the other possibly too demanding. In societies riven by deep asymmetries of status, race, gender and so on, reciprocity and mutual trust seem to be scarce commodities and not simply because of bad will.

My paper will thus proceed as follows: section 1 will take up the ideal/non-ideal theory debate, considering especially the realist critique. section 3 will focus on the criticism of the ideal theory as an ideology and will argue against it, notwithstanding the acknowledgement of useful remarks from critical theory. In section 4, I shall propose the non-ideal level of analysis of the societal culture as the actual context where certain injustices are produced and maintained and where the principles and values of the ideal theory are twisted by contextual understandings and distortions. In this way I should be able to rescue ideal theory from the charge of ideology, while suggesting an independent line of non-ideal inquiry into actual societies. In section 5, I shall exemplify my argument focusing on reasonableness, which plays such a crucial role in the complex architecture of PL, as a moral and epistemic ability of the idealized agent. After a brief rehearsal of the multilayered meanings of reasonableness, in section 6, I would ask how the civic virtue of reasonableness might fare in the circumstances of actual societies, where epistemic injustice is present and the ability to advance one's reasons so unequally distributed. In the final section 7, I conclude arguing that reasonableness can help to address and overcome epistemic injustice, which, in turn, will make the pursuit of the civic virtue of reasonableness a possible and desirable aim.

## 2. *Ideal/Non-ideal theory and the realist critique*

As is well known, ideal theory not only employs ideals, as all normative theories do, and not only makes use of abstraction, as all theorizing does, but also considers components of the theory, viz. persons, under an idealized description, thus doing away with all the complications of empirical



variations and contextual characteristics. Yet, the idealized description must not be arbitrary, for it should take stock of known facts about individuals, so as to propose the well-known realistic utopia (*LoP*). Dispensing with the actual circumstances is precisely required by idealization. Beside idealization, ideal theory imagines full compliance with justice requirements: in other words, ideal theory depicts a just and well-ordered society the fulfillment of which depends on citizens fully complying with justice. Non-ideal theory, instead, concerns conditions of non-compliance in actual society, which not only makes society less just, but also may require different duties of citizens.<sup>1</sup> More generally, non-ideal theory deals with the actual circumstances of the empirical reality of ongoing liberal democratic society, and tries to propose guidelines to rectify injustice and moving society towards the ideal. According to Rawls, ideal theory is required to provide non-ideal theory with an aim, the aim of moving towards a perfectly just and well-ordered society, which would be lacking if the model of a perfectly just structure was not available (*PL*, 285). Yet, how ideal theory fares in the actual circumstances of real democracies is an open question. The assumption of citizens as rational and reasonable, for example, seems contradicted by the findings in cognitive science, showing that human reasoning is prone to all kinds of biases and prejudices. A normative conception of agency ignoring such findings has been argued to undermine Rawls's very project of the realistic utopia (Ancell 2019).

The concern for the lack of realism is in fact widespread both among critics of Rawls (for example: Farrelly 2007; Horton 2010; Bellamy 2018) and among Rawlsian scholars and those who are sympathetic to the Rawlsian approach (among others: Robeyns 2008, Stemplowska 2008, Valentini 2009; Hamlin and Stemplowska 2012). This concern can be further specified as the *feasibility question*, namely the risk of proposing unattainable ideals (Valentini 2012, 659). In turn, the feasibility question may refer either to Rawls's exclusive focus on justice, at the expense of other political components, or to the ideal-theorizing approach to justice which may produce inapplicable principles. In the former case,

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<sup>1</sup> This non-compliance aspect of non-ideal theory admittedly has not been dealt with by Rawls, but rather it has emerged in later discussions especially in R. Jubb (2012, 234 ff).

important political ideals such as peace and security are disregarded, actually missing out the *raison-d'être* of politics as the management of conflict (Galston 2010; Horton 2010). In the latter case, the ideal theory would turn out to be practically useless, given that the point of political theory is to inform political reality with its principles (Valentini 2012).<sup>2</sup>

Following the thread of the feasibility criticism of ideal theory, it would seem that the realist approach would basically consist in pursuing a non-ideal level of theorizing, responding to political reality as it is, doing away with idealizations and impossible objectives. However, that is not exactly the case. The realist criticism of the ideal/non-ideal theory divide regards a methodological disagreement about how political theory should be developed. *First of all*, realists such as Robert Jubb (2012), Enzo Rossi (2019) and Matt Sleat (2016) stress that the realist approach cannot be equated to non-ideal theory; the realist approach is a different way of conducting the political theory enterprise, based on the autonomy of politics, that is, on a clear separation between politics and morality, and advocating a non-moralized approach to politics. While a moralized approach translates moral ideals, such as respect, reciprocity, fairness into political theorizing, a non-moralized approach makes use of distinctively political ideals, such as peace, war, conflict, disagreement, and tries to solve the issue of a peaceful coexistence in given circumstances. In that respect, realist theory is also normative, but employs a specific type of normativity different from moral normativity. According to the realist, the problem with ideal theory does not lie in its abstractness from political reality, but in the moral ideals it embodies. By contrast, realistic theories assume the reality of pervasive conflict and not of a moralized view of human beings as its starting point.<sup>3</sup> *Secondly*, ideal theory is interpreted as full compliance with the principles of justice, while non-ideal theory must unravel the duties people have in a

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<sup>2</sup> Among Rawlsian scholars, the concern for the feasibility question is intertwined with the concern that the introduction of too many real-life considerations in the circumstances of justice may produce principles which lean too much to the status quo (Robeyns 2008; Stemplowska 2008; Valentini 2009).

<sup>3</sup> The distinction between abstractness and moralized idealization is exemplified by considering the theories of Hobbes and Locke: the first abstract but realistic, the second idealized and moralized.

society characterized, at best, by partial compliance with justice (Jubb 2012). In this respect, non-ideal theory turns out to be undetermined, for it does not allow singling out well-defined duties to individuals in the circumstances of non-compliance, nor how to transition from an unjust society to a just and well-ordered society. In other words, if subscribed to, the critique by realists should lead a student out of the ideal/non-ideal theory view towards an altogether different perspective to look at political reality where the concern for justice is far from been predominant and where political ideals concern the solution of conflict and of coordination problems. Since I do not share this altogether different perspective of doing political theory, as I hold that political theorizing should deal with ideals such as freedom and equality which are moral as well as political, I leave the realist critique of ideal/non-ideal theory and turn to the critical theory critique.

### *3. Ideal theory as an ideology?*

If the realist criticism of the ideal/non-ideal theory is methodological, the critique of critical theorists points to more substantive defects in ideal theory, above all that of obscuring many forms of social inequalities and corresponding injustices. This criticism develops from an earlier position by Onora O'Neill on abstractions and idealizations that, though not referring to Rawls's ideal theory, has later become used in its discussion (O'Neill 1987). In O'Neill's argument, normative theory cannot avoid the recourse to abstractions, but must do away with idealizations. While abstraction means bracketing a certain empirical messiness in order to construct the theory, by idealization O'Neill means picking certain traits and characters of an object, at the expense of others, thus idealizing the object represented. For example, the representation of the human agent as fully rational, making choice after reflection and deliberation, is an idealization which stresses some aspects of agency that a) do not correspond to how individual agents actually behave in daily life, hence it is false as general model of agency, and b) imposes an ideal model unattainable by people who have suffered oppression and domination, hence contributing to the persistence of that oppression. This remark is precisely what made O'Neill's view of idealization so interesting for criticizing Rawls's ideal theory by crit-

ical theorists, feminists and race-theory scholars (among others: McCarthy 2004; Mills 2005 and 2017; Schwartzmann 2006). In general, critical theory is concerned that ideal theory does not seem to properly contemplate forms of injustice different from economic inequalities, and pluralism different from religious pluralism and philosophical disagreements. Consequently, ideal theory does not address, and actually disguises, the issues of gender, race, ethnicities, sexual orientation, that is, all those inequalities derived from ascriptive social differences, and causing an impairment of the equal status of citizenship, generally linked to groups with a history of oppression and discrimination.<sup>4</sup>

The sharpest example of this criticism is the argument developed by Charles Mills (2005) who maintains that ideal theory is indeed an ideology. Mills, referring back to O'Neill's distinction between abstraction and idealization, starts with disambiguating two possible meanings of ideal theory: in the first 'ideal' is used as an exemplary descriptive model of an object, roughly corresponding to the Weberian ideal-type; in the second case instead 'ideal' means 'idealized model'. "Ideal theory either tacitly represents the actual as simple deviation from the ideal, not worth theorizing in its own right, or claims that starting from the ideal is the best way of realizing it" (*ibidem*, 168). Consequently, the ideal approach leads to an idealized social ontology and to idealized human capacities concurring to silencing social oppression and instead projects ideal social institutions that would work only under strict compliance. More specifically, the idealized agent is tailored on a special type of citizen, namely the white and well-educated male, while it excludes other types of human beings such as non-white and women, for example, and such specific idealization, while making these different groups invisible to the ideal theory analysis, also prevents people from seeing certain types of injustice. In other words, Mills sees ideal theory as germane to *German Ideology* (Marx and Engels 1967), and, like Hegel's idealism, it needs to be turned upside down in order to provide

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<sup>4</sup> That distributive justice is insufficient to repair the inequality of status has been the focus of many works starting with Iris Marion Young (1990; 2000) and going on with Nancy Fraser (1995; 2000; Fraser and Honneth 2003) up to Charles Mills (1997; 2005; 2017) and race theory (for example: Boxhill 2003; Darby-Rury 2018; Zach 2003).

guidelines to bring about justice. Thus, far from being the best way of conducting normative thinking, as Rawls contends, ideal theory is a form of ideology in the pejorative sense of false consciousness, that is, a complex of distorted ideals, beliefs and values corresponding to the interests of a small section of the population, namely the well-to-do white males who are overrepresented in the academic world. Such distortion need not be an intentional manipulative product, but simply reflects the social position of privilege resulting in a specific experience of the social world confused as the social world tout court. In sum, ideal theory not only is useless for the pursuit of social justice across race, gender, ethnicities etc., but, moreover, is complicit in perpetuating social inequalities and injustices. In the alternative, normative theory should be non-ideal and take off from actual oppression and from the perspectives of those who experience oppression.

Mills's extreme criticism is however not shared by all thinkers sympathetic to critical theory. For example, James Boettcher (2009), referring to the more detailed analysis of ideology by Shelby (2003), contends that the idealizations of citizens as free and equal endowed with the two moral powers is not an ideological representation since it does not follow from it that ideal theory reinforces existing structures of racial power. Take the example of color-blind/color-sensitive policies. Certainly, in Rawls's ideal theory racial discriminations are barred, hence there is no need of color sensitive policies such as affirmative action at that ideal level of theorizing; but this does not imply that non-ideal theory, considering racial discrimination in actual society, is prevented from recurring to color-sensitive policies. In this respect, ideal theory provides the theoretical tool for dealing with such injustice, in Boettcher's view: the principle of fair equality of opportunity, for example, provides the theoretical resources for justifying color-sensitive policies. Boettcher acknowledges that ideal theory does not provide an account for persistent racial (and gender) injustices; yet he holds that this lacuna cannot be imputed to an ideological evasion but rather to the division of labor between the ideal theorizing which is a normative construction of how a just society would work in ideal circumstances, and non-ideal theory which has the task of considering persisting injustice in real society. Nevertheless, he agrees with Mills and other critical theorists that ideal theory is objection-

able with reference to the assumption of 'basic' facts, taken for granted by any normative theory, but which are never innocent. As McCarthy extensively argues (2004), facts are always seen through the lenses of preexistent views, conventional wisdom, tradition. Hence, when citizens are discussing political matters in the light of the public conception of justice, unexamined facts, say about gender or race differences, may surreptitiously distort judgment of race and gender. As a result, though political justifications may satisfy the requirement of public reason, they may nevertheless embody unwarranted judgments about race or other forms of oppression (Boettcher 2009, 255). In sum, critical theory holds ideal theory defective and inherently obscuring actual conditions of injustice, and for some scholars the defect amounts to ideological distortion properly.

I think it is uncontroversial that ideal theory does not directly address many kinds of social injustice, mostly linked with ascriptive differences of groups with a history of subordination, yet I do not agree that this amounts to ideological evasion. Rather, the open question is whether ideal theory can provide some useful normative grip to face injustice in the non-ideal theory. I shall criticize the ideology view of ideal theory and then take up the open question.

My interpretation of the gap that critical theorists have detected between ideal theorizing and non-ideal social circumstances is not due to the distortion of the facts, concepts and values constituting the basic bricks of theory construction caused by the objective social interests of a privileged class and consequent perspectival perceptions of society. Viewing ideal theory as an ideology in this sense implies that ideal theory is not only useless (not addressing urgent matters and not action-guiding), but in fact misleading and false, hence a theoretical enterprise to be disposed of, if we want to gain a normative grip on social injustice in the appropriate and accurate way. Instead I claim that that there is nothing wrong with ideal theory, as well as with the ideals and principles on which it is grounded. What is problematic is rather the way in which normative ideals, grounding the political conception of liberalism, actually become embodied and twisted in the societal culture of ongoing societies, that is the network of social norms, conventions, social standards and practices sustaining social coordination in a specific

historical moment of a society.<sup>5</sup> While the supporters of ideal theory as ideology see the values and idealizations as distortions embedded in the situated privileged perspective of the philosopher, representing the objective interests of a privileged section of the population, I argue that the principles and values of the ideal theory are not distorted, yet come to be twisted in their encoding in the prevalent system of norms, conventions and meanings of the societal culture and to that twisting the persistent social inequalities and injustices are to be imputed. In brief, I think that ideal theory is alright, but that it should be supplemented by work from below, so to speak, that is, by a non-ideal theory providing an interpretive-normative analysis of the gray area of the societal culture.

As to the question whether ideal theory comprises normative clues to be used in non-ideal theory, some scholars believe that, if properly stretched, Rawls's ideal theory can provide the lever to uproot actual social injustice, as Boettcher has proposed with reference to the notion of fair equality of opportunity. Others have pointed out that the social basis of self-respect, enlisted among the primary goods to be distributed, would imply a fight against discrimination, marginalization and exclusion which prevent people from being granted the proper basis for developing a sense of their own worth (Liveriero 2019; Schemmel 2019). I hold that the stretching can be done, at least up to a point, but that in order to do the stretching actual forms of oppression in real society must previously be detected and analyzed, and this is precisely the task of non-ideal theory. In other words, it is only by comparing non-ideal theorizing with the ideal theory toolkit that certain resources of ideal theory can be activated in the justifications of remedial policies for actual injustice. In this respect, the problem is the proper development of the non-ideal theory.

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<sup>5</sup> The term 'societal culture' comes from Will Kymlicka (1995), but in the Marxist tradition Gramsci's 'cultural hegemony' and Althusser 'State's ideological apparatus' point to the same social network where power relations are maintained by a block of norms and conventions (Gramsci 1971; Althusser 2006).

#### *4. Non-ideal theorizing and the societal culture*

I shall now explain 1) how the principles and ideals of the ideal theory come to be twisted in the societal culture, 2) how the analysis of the societal culture represents a fundamental dimension of the non-ideal theory which can supplement ideal theory; 3) how the non-ideal theory may activate theoretical resources from ideal theory to uproot actual social injustices.

As said, Rawls's ideal theory provides the normative reasoning grounding a well ordered and just society, developed under idealized conditions on the basis of two model-conceptions: a) the idea of citizens as free and equal and b) the notion of a well-ordered society as a fair system of cooperation. However, the consideration of citizens as free and equal and of society as a fair system of cooperation though entrenched in constitutional charts and in the political ideas of the vast majority of the population, do not deliver their promise in actual societies. The reason for the gap between ideal theory and actual society is not simply due to the complications and intricacies of empirical reality. As is well known, within ideal theory, such principles and values are considered as strictly political in order to avoid epistemic and metaphysical controversies and to provide a freestanding justification of political liberalism, that is, one that is independent from the many comprehensive doctrines present in contemporary pluralism. Keeping the focus of the ideal theory to a strictly political domain allows Rawls to address the problem of reasonable pluralism, by bracketing all the contentious comprehensive views in the justification of the liberal political order. In actual societies, however, the political values and principles on which the justification of the well-ordered society is constructed are not preserved from contamination by the wide area of social norms, cultural practices, customs, social standards, shared meanings and understandings that contextually regulate the interpretation and application of the political principles in a given society at a given time. I argue that it is precisely in this area where the gap between ideal and non-ideal is placed, and which critical analysis should bring to light. Only the interpretive-normative analysis of that wide area that I shall call the societal culture, after Kymlicka (1995), can explain how the principles of liberty and equality – embodied in constitutional norms and widely acknowledged by citizens as values – happen



to be twisted in the actual life of liberal democracy so that not all persons enjoy the equal status of citizenship and the equal respect which follows from it. In my reading, the twisting takes place not because universal ideals and principles are actually only a disguise for particular interests of a special class of people. Rather, in non-conspiratorial fashion, I think that the abstract concept of a person and of a citizen has been automatically filled with the familiar representative of the ruling class in the understanding of the people controlling the social norms and conventions of that moment. Think, for example, of the universal declarations of rights of the late eighteenth century: though framed in universalistic language, encompassing all humankind, they were actually understood as concerning not all human beings, but 'men' or better a special type of man, namely the gentleman, the white, Christian, well-educated representative of the ruling class. It is not universalism that is false and ideological, rather it is the twisting of universalism into a specific model of 'man', taken as the obvious and proper representative of humankind. As a result of the twisting, the persons to consider free and equal, entitled to citizenship rights, deserving equal consideration and respect had been originally a quite exclusive club, excluding ample sections of the population. In other words, the embodiment of the abstract idea of person in the 'gentleman' had reduced the scope of equal citizenry and explains why all groups whose appearance and outward behavior did not square with the model of the person, ideally embodied by the male member of the ruling class, had been excluded from equal rights as well as from full citizen-status: women, the poor, Jews, non-whites, homosexuals just to name a few. In other words, the universality is not a disguise for the particularity: rather, a specific particularity has infiltrated the universality; thus, the universal value of human rights has to be recovered from its twisted particular embodiment where it has been confined in actual society.

The societal culture is then the proper object of the non-ideal theory, for it is there that asymmetries of power, beyond economic inequalities, can properly be seen and grasped. From the perspective of the ideal theory that starts from the consideration of persons as free and equal members in the moral and political community, instead, only economic inequalities come to the fore when constructing the theory of justice, whereas other forms of inequalities linked to status, race, gender, ethnicities and sexual

orientation are dissolved in the very premises of the theory. It is clear to me that neither *Theory of Justice (TJ)* nor *PL* admit such inequalities; but, given that they are excluded from the very premises of the ideal theory, the latter is not equipped to perceive them. While the theory of justice is focused to deal with economic inequalities, it is silent when it comes to the injustices produced by racism, sexism, homophobia, xenophobia and the like. It is silent pour cause, for those inequalities are ex ante done away with in the very normative premises of the theory. I would add that the premise of persons as free and equal is not arbitrary, nor unrealistic, for it is actually entrenched in liberal democratic constitutions, and I would say also widely shared as an abstract principle by the people, though not necessarily acted upon and translated into practices of reciprocity. Yet, such a shared and cherished political ideal comes to be polluted by the prevalent social norms, practices and standards, which are controlled by the ruling class and which simply discount some groups as full-blown citizens or as first-class citizens.

So far, I have argued that ideal theory is not an ideology, but that it needs to be supplemented by a critical analysis of the societal culture where ideals and values are distorted by prevalent norms, conventions and standards and where inequalities of various kinds, not just economic, but especially of status and social considerations are produced, thus impairing equal citizenship. I have also explained why ideal theory is silent on these kinds of injustice, given its premises. Certainly, ideal theory is not equipped to *perceive* certain inequalities, and, in a sense, this is not necessarily a fault for we must admit that it is not the task of a normative ideal theory to provide a detailed positive analysis of current injustices. My question is rather whether such a blind spot in arguing for principles of justice also implies that ideal theory *cannot provide normative resources* to fight actual injustice. As said before, I think that within Rawls's ideal theory there are actually tools that can help to construct arguments to fight actual injustice, yet such tools must be normatively activated thanks to the analysis provided by the critical non-ideal theory. I have already mentioned that the principle of fair equality of opportunity may be a building block in an argument in favour of color- and gender-sensitive policies; similarly, the social basis of self-respect as a primary good may be the grounding value for arguments about social recognition of equal status. The normative resources are present, at least up to a point, and

yet they require a sort of switching on via the critical (interpretive-normative) analysis of actual injustices. In this way the non-ideal and the ideal theory enter into a sort of reflective equilibrium where, on the one hand, the unfulfilled principles of the ideal theory guide the analysis of actual societies to detect injustices; on the other hand, the resulting critical analysis makes it possible to search for ideal normative resources to be activated; thus normative arguments based on the tools of ideal theory and on the critical analysis of non-ideal theory can be developed aiming at remedying injustices and approximating the ideal.

### 5. *Reasonableness*

As an example of the complex relation between ideal and non-ideal theory, I shall now take up reasonableness that is a crucial component of ideal theory, and see how it is affected by the actual circumstances of real society. I wonder whether this ideal should be dismissed when confronted with unjust circumstances or whether, after a critical analysis of the obstacles to its application, it may instead be useful both to address those injustices and to inform social reform uprooting inequalities. As is widely known, Rawls defines the reasonable as one of the two moral powers of persons, the other being the rational (*PL*, 48 ff). While the rational is the ability to find adequate means for a consistent set of ends, allowing individuals to pursue their own conceptions of the good, the reasonable is the attitude for proposing fair terms of cooperation to others and the willingness to abide by them, provided that others will do the same. The moral component of the reasonable is thus the attitude of reciprocity, grounded on the consideration of all people as free and equal; yet reasonableness includes also an epistemic component derived from the acknowledgment of the burdens of judgement – that is, all the hazards and obstacles affecting the free exercise of human reason (*PL*, 56-57). Once reasonable agents acknowledge the burdens of judgment, they understand the fact of reasonable pluralism and are willing to adopt a tolerant attitude towards different views and opinions and, at the same time, they acquire the motivation “to support the idea of public reason”. Reasonable citizens, respecting others’ divergent views, are prepared to provide other citizens with reasons they can share, hence within the bound of public reason.

So far, Rawls's presentation of the reasonable is as an attribute of agents and as a component of practical reason (*PL*, 48-59). Moreover, 'reasonable' is also an attribute of doctrines, in so far as doctrines are the result of the exercise of theoretical as well as practical reason. Hence, we have reasonable comprehensive doctrines, making up reasonable pluralism, and unreasonable doctrines, which are instead outside reasonable pluralism. Reasonableness is what makes the political freestanding justification of *PL* possible, recommending the exclusion of comprehensive doctrines from the political justification, since they cannot be shared by all. Then, in the second stage of the justificatory strategy of *PL*, reasonableness plays a further role both as an agent's attribute and as an attribute of doctrines, for the overlapping consensus can be produced only by reasonable agents working out the justification, linking their own reasonable comprehensive doctrines with the conception of justice. In this way, Rawls shows that from a reasonable pluralism of potentially conflicting comprehensive doctrines it is nevertheless possible to find a political agreement on constitutional essentials and on a shared conception of justice or, at least, on a family of reasonable conceptions of political justice (Gaus and Van Schoelandt 2017).

It is precisely at this point that a first concern about reasonableness has been raised by Rawls's commentators. If the full political justification of *PL* is limited to reasonable people holding reasonable doctrines, it seems that the boundaries of the political justification are too restricted: what is the fate of people holding unreasonable doctrines? Are they excluded from liberal society? This problem has been extensively dealt with in the literature (Kelly and McPherson 2001; Quong 2004; Sala 2013; Colborne 2015; Liveriero 2020). Without getting here into the intricacies of this debate, I share Kelly-McPherson's view that a distinction must be drawn between philosophical reasonableness and political reasonableness. Doctrines or points of views may be unreasonable according to the standard rules of reasoning, but only political reasonableness, namely the attitude of those who are prepared to respect the greatest range of equal basic rights for all, should count for public justification and for a wider conception of toleration. If Kelly and McPherson's more inclusive justification still limits toleration to the politically reasonable, I would push toleration beyond the politically reasonable. Even though the full justification of political liberalism cannot appeal to political-

ly unreasonable agents, those who do not feel bound by fair terms of cooperation, nevertheless toleration should apply to them as well, as long as they refrain from acting violently. Toleration can be grounded not only for the right reasons, backed by respect and reciprocity, but also on prudential arguments which make toleration precisely a form of *modus vivendi*, as Rawls would put it, and yet worth pursuing for the sake of peaceful coexistence with unreasonable people (Galeotti and Liveriero 2021). On the same line, Giovanola and Sala (2021) have proposed to consider unreasonable people as representing a continuum going from the partially reasonable to the non-reasonable to the unreasonable and have proposed more inclusive terms of justification, addressed also to the partially reasonable and to the non-reasonable. In sum, with reference to the public justification of *PL*, sympathetic interpreters of Rawls have proposed to widen the boundaries of the constituency addressed by *PL* justification.

Another response to the concern about the exclusion of unreasonable people and of unreasonable doctrines from full political justification consists in pointing out that Rawls's argument is located in the ideal theory: reasonableness applies primarily there and the assumption of reasonable pluralism and reasonable citizens represents the idealized description of society and persons. This line of response, however, is exposed to the question of how reasonableness, of people and of doctrines, fares in non-ideal circumstances. And, at this point, the problem of what can be done with unreasonable citizens resurfaces. In other words, we cannot simply confine reasonableness inside ideal theory, bracketing non-ideal circumstances out of our concern.

Besides grounding the justification of *PL*, reasonableness is crucial for the legitimacy of liberal democratic society, for reasonableness is the grounds for public reason. In other words, political discussions and political decisions in the appropriate political fora should refer exclusively to public reason for justifying political decisions in terms that can be understandable by all. If public reason pertains to the appropriate political fora, the attitude of reasonableness should inform the relations among citizens as well, when exchanging opinions and dealing with their different viewpoints. If citizens consider each other as free and equal and in a fair scheme of reciprocity, reasonableness, in the form of the exchange of reasons, is then required as a civic virtue for treating each other as equals.

Thus, so far, reasonableness's role is crucial at different junctures of the justification of *PL*, as well as crucial in granting the legitimacy of political decisions in the background of public reason. Finally, it plays a role in making civic relations respectful and in providing tools for dealing with disagreement. In sum reasonableness not only allows that persons with different comprehensive views can reach an agreement on the political basic principles regulating liberal democracy, but also provides the theoretical tools and the appropriate attitude to deal with disagreement among citizens, keeping their divergent perspectives in a framework of mutual respect and civic friendship.

At this point, another concern about reasonableness is raised, namely the dismissal of conflict as a crucial component of a healthy democracy. This criticism, derived from the perspective of agonistic democracy (Connolly 1995; Tully 1995; Mouffe 1999), is taken on board by realists who take issue with Rawls's idealization and considers *PL*'s approach to differences and disagreements as too conciliatory and consent-oriented.

I shall not discuss this criticism here, important as it is, for I intend to concentrate on a different line of concerns related to the fact that reasonableness would represent an ideal which is not neutral among the many social differences present in our society and which does not allow one to see and consider certain kinds of injustice.

## 6. *Is reasonableness fair?*

The point I want to raise refers specifically to the discussion on ideal/non-ideal theory considered in the previous sections. Given the shift that I have stressed in the passage from ideal to non-ideal theory, how would reasonableness fare in a non-ideal world where society embodies relevant inequalities of status? Would the ideal of reasonableness be applicable to citizens in the real world or would the actual inequalities make reasonableness unattainable or even futile? Is reasonableness a human power equally available to all, or, in the actual unjust circumstances, is hardly accessible to all? And in case it was not accessible to people situated in a disadvantaged position, is it then fair to posit reasonableness as the civic virtue that should inform citizens' relation?

As said above, Rawls speaks of reasonableness as one of the moral powers, as one component of practical reason, and as such as a human ability. We know, however, that not all humans can develop their potential in unfavorable circumstances: reasonableness implies reciprocity, which in turn refers to equality of respect among persons. In actual social contexts, where inequalities are abundant and often entrenched in ascriptive differences, the attitude of listening to and considering each other's argument seriously and of imputing putative epistemic authority to other citizens cannot be taken for granted as the ideal to which actual circumstances could tend and adhere.<sup>6</sup> For in actual circumstances there are effective obstacles to even an approximate fulfillment of this ideal. Such obstacles have been the subject of a recently developed area of study, that of epistemic injustice (Fricker 2007; Hookway 2010; Dotson 2011; Anderson 2012; Goetze 2018). Briefly, epistemic injustice is the case when someone is considered a less than reliable source of information and belief for the processes of the formation of knowledge and, moreover, she is lacking in the resources to account for her own experience and to claim justice in the face of her own misrecognition. Epistemic injustice induces asymmetrical relations in epistemic standing between citizens, and those who find themselves in a subordinate position suffer the following kinds of harms: a) the harm of feeling powerless and lacking a voice; b) the related damage to one's personal identity and self-respect, and c), the harm induced by being considered not worth being heard and believed. Since in order to raise a claim of justice, a voice is required, people suffering from epistemic injustice lack the very premise to advance such a claim, let alone to be listened and attended to, making such injustice invisible. In sum, epistemic injustice makes people feel themselves, as well as perceived by others, as epistemically unequal or, to put it bluntly, inferior, and this circumstance deeply affects the political equality of all citizens. We can in fact support a defi-

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<sup>6</sup> The concept of 'putative epistemic authority', spelled out by Liveriero's reading of a Rawlsian account of liberal legitimacy (2020), rests on the acknowledgment that reasonable disagreement is a likely outcome of collective-decision settings and that, therefore, reasonable citizens, in accepting the limits of their epistemic abilities, should be ready to share political and epistemic authority with their fellow citizens in decision-making processes.

nition of equal respect that demands individuals to reciprocally ascribe to each other the status of both practical and epistemic authorities, and that would not admit these asymmetries in epistemic standing.

Specifically, I want to stress that the misrecognition of people as putative epistemic authorities is not only due to the lack of educational opportunities of certain people, with the subsequent lack of self-reliance and self-confidence, derived from being undereducated. In fact, it is especially membership in certain groups with a history of oppression and subordination, and still targeted with prejudice and bias and implicit forms of discrimination, that is the main cause of, respectively, feeling and being treated as epistemically inferior. If members of certain groups, on the one hand, encounter serious obstacles to develop their own voice, and, on the other, their testimony is not taken seriously by other citizens and by representatives of political institutions (police, courts, politicians), then it seems that reasonableness is too remote an ideal in the actual circumstances of contemporary democracy. Moreover, it seems that the request for reciprocity, implied by reasonableness, may turn into condescension by those endowed with epistemic power, and, at the same time, is unavailable to those who are systematically discounted as reliable sources of information and knowledge. How can it be asked of those who are systematically disrespected to meet others half-way, when their reasons are not even attended to? Should we conclude that reasonableness, as the whole of ideal theory, is just an ideology in the pejorative sense, as has been argued by Charles Mills (2005)?

A Rawls' defender may respond that, in fact, the issues raised by the study of epistemic justice are actually taken care of in *PL*. Firstly, the consideration of the citizen as free and equal excludes the asymmetrical consideration of others as epistemically inferior, and secondly, fair equality of opportunity should provide each citizen with fair educational resources, so as to realize the ideal of political equality, allowing each person to be ascribed the status of putative epistemic authority along with the recognition of their autonomy and equal dignity. Hence, even if normative ideal theory does not specifically cover this injustice, on the one side, it prevents considering citizens on an unequal footing, and, on the other, it points out an ideal path to remedy unequal epistemic standing. This response is, however, unsatisfactory in two different senses: first, in order to make use of the ideal path to remedy epistemic



injustice, the latter must first be detected, acknowledged and properly analyzed. And this requires the development of a critical analysis of non-ideal conditions, lacking which the ideal remedy cannot be put to use. Second, as mentioned before, the lack of educational opportunity is not all there is to epistemic injustice. The issue of being acknowledged as a reliable source of valid claims cannot be solved by a fairer distribution of educational opportunities alone, given that it is linked with membership in certain historically oppressed groups. In order to address this problem, the burden carried by members of those groups must be lifted, and that, to my mind, has to do with providing the social basis of self-respect. Ideal theory mentions this as a primary good, however it does not elaborate the practical implications of the distribution of such a good, which should rather be dealt with in non-ideal theory. Translating the social basis of equal respect into political action would imply, among other things, reference to the symbolic politics of recognition, which admittedly, take us pretty far from ideal theory and from an index of goods to be distributed.

But let's go back to epistemic injustice. I am not saying that epistemic injustice obstructs the ability to be reasonable; I am rather saying that the pre-conditions to practice the virtue of reasonableness are lacking in circumstances characterized by epistemic asymmetries. The victims of epistemic injustice are in fact not treated as reasonable persons, with the likely effect of having their rights curtailed. Their testimony is discounted and their voice is not listened to with the attention it deserves. I am thinking, for example, of the attitude of suspicion with which women's reports of sexual assaults are received, especially if the reports come from vulnerable and powerless victims. This attitude of mistrust is perfectly depicted in the series *Unbelievable* (Netflix) for example. Here, the rape of a young woman is not believed by the police, given that she is 'white trash' hence unstable. From her discounted testimony, a number of bad consequences befall her, from the loss of her place in the community to the loss of her job, until a few years later when, just by chance, the truth surfaces with the apprehension of the serial rapist who did it. A similar story is the swift attribution of crimes to African-American or Latinos, after inaccurate investigation. Given these circumstances, I wonder how it is plausible to expect from such misrecognized citizens an attitude of reciprocity, and of reasonable management of disagree-

ments with others. In a way, being denied epistemic authority, the victims of epistemic injustice lack the very ground for being reasonable, for the relation of reciprocity among citizens is in such a case broken and while they are not considered reliable sources of valid information and knowledge, they are conversely pushed towards unreasonableness. I am thinking here of the rioting and looting following the murder by the police of George Floyd. Such enraged response may have being perceived by the black community as the only way to make their outrage seen and their sorrow considered, while by the white population it was perceived as an example of unreasonableness and unreliability. In fact, I tend to think that the unreasonableness of the privileged, while it pushes the oppressed towards symmetrical unreasonableness, makes the demand on them to be reasonable as utterly unreasonable and unfair.

In conclusion: 1) epistemic justice concerns the basic structure of society insofar as it affects the fundamental rights of citizens and their political and legal equality. 2) The unreasonableness displayed by parties in a position of power, who are guided by their prejudices, bias and stereotypes, instead of the fair and cooperative approach required by reasonableness, is likely to be reciprocated by a symmetrical unreasonableness of the powerless. It would actually be supererogatory for the powerless to practice the civic virtue of reasonableness from such a disadvantaged position of mistrust. At the same time, the expectation that victims of epistemic injustice should recount and denounce their story, becoming identified with their suffering, represents another unacceptable demand on them, close to a form of exploitation (Berenstein 2016).

### *7. Reasonableness re-established*

What shall we do about this kind of injustice? The answer is not easy and simple, and, though it may be strong, the temptation to do away with reasonableness altogether, is misguided. The fact that power asymmetries nurture mistrust and suspicion toward powerless individuals, and, symmetrically, induces mistrust in them toward police, politicians, and powerful citizens, is not a reason to conclude that reasonableness is an impossible demand. On the contrary, it is a reason to question and to fight the actual circumstances of injustice that constitute the ob-

stacle to being reasonable citizens toward each other. The first step in that direction is to acknowledge that reasonableness, both in the sense of reciprocity and in the sense of epistemic modesty (Liveriero 2020), is a human disposition that requires nurturing for full-blown development. We know from cognitive science that human reasoning is affected by all kinds of distortive mechanisms, not only 'cold' such as biases and heuristics, but also motivational and emotional, such as motivated reasoning and in-group/out-group attitudes. Such inbuilt obstacles do not mean that we cannot be rational and reasonable, but rather that we must be trained to overcome these obstacles in due course. I will not get here into the political strategies aimed at fighting prejudices and biases, even implicit biases that will take us further away from what we have started with, that is reasonableness as a civic virtue. I shall rather ask a normative question: in such circumstances, is it reasonable to pursue reasonableness? From a non-ideal theory perspective, is it reasonable the attempt to establish fair terms of cooperation among citizens who have been divided by inequalities of standing and of consideration and respect? Is it not the case that a reciprocal attitude of cooperation first requires historical redress and compensation?

Let me first clarify that here I am using reasonableness in two different senses and at two different levels. On the one hand, I am referring to reasonableness as a goal and, in that case, the latter means precisely the civic virtue allowing citizens a) to offer each other fair terms of cooperation, provided that others will do the same, and b) to face their disagreements, recurring to toleration for the right reasons. On the other hand, when asking whether the pursuit of such a civic virtue is reasonable, I use the term as a regulative ideal of normative analysis, which stands for 'appropriate' both in the epistemic and in the moral sense, and besides, in the pragmatist sense of assuming an accommodating attitude under the circumstances – what MacMahon (2014) has fancifully called the 'blueberry pie' sense of reasonableness.

Deeply entrenched inequalities such as racial inequalities have produced deep and persistent social scars, not easily mended. Thus, we have to ask what reasonable strategies are available to overcome such injustice, given the social divisions, the resentment and the scars. Charles Mills has invoked an inclusionary liberalism where the rectificatory ideal, based on an argument of historical justice, takes care of past racial and other op-

pressions. Rectificatory justice may seem in order for mending historical injustice, yet it is not easy to see how it can take place, and, moreover, there are different understandings of what it implies – whether material wealth transfer (Boxill 2003) or rather rectification of the present harms done by persisting prejudices and biases (Zach 2003). Bracketing the issue of which form reparation should take, I take that rectificatory justice represents a form of ideal theory, constructed on sound arguments for reparation of historical injustice. Yet, moving to the non-ideal theory, I think that we must be concerned with feasibility constraints, hence to act reasonably, in the second sense of reasonably, given the actual circumstance of social injustice. If the goal is to attain a just society where racial oppression and other forms of social inequalities are overcome, then the rectificatory ideal may represent an obstacle to attain the goal as argued by Darby (2019). Darby holds that justice as fairness is instead a more reasonable pursuit for reaching racial justice. His reasoning is focused on political strategy: in order to pursue the ideal of racial justice, the political fight cannot be left to oppressed groups only, but must take on board a vast majority of citizenry. Citizens from oppressed groups are understandably frustrated and angered at their persistent unequal citizenship, at their racial discrimination and disrespect. Among privileged sectors of society, many people are indeed sensitive to the injustice suffered by racial and oppressed groups, and are willing to undergo change and reform to undo the injustice at the expense of their present advantages and privileges. Yet, their willingness to give up their privileges for their sense of justice may lessen or dissolve if they are held responsible for the past oppression. As is well known, the issue of the collective responsibility for historic injustice is very complex, both theoretically and pragmatically, but while people may feel ashamed of their country's history of injustice, it is less likely that they feel individually responsible for the actions and practices of past generations with which they do not identify. Since the control of social norms, conventions, practices and standards is basically in the hands of the privileged sectors of the population, representing the society's cultural dominant groups, social reform cannot take place without the participation of at least a good portion of the majority's members. Unless we envision social change for a just society as brought about by a revolution led by a minority, it is necessary to involve as many people as possible in the reform process. Hence, not just the oppressed, but also those who derive advantages from the

oppression. If the goal is to remedy the persistent injustices of the present society, and to move towards a more just and well-ordered society, a vast majority of citizens from privileged as well as from oppressed groups has to join forces and meet half-way, as reasonableness predicates. The potential oppressors should give up their privileges, which implies giving up the control of social standards and of the related interpretation of equality as equal treatment. As has been argued over and over, equality of treatment may conflict with treating everyone as equals. In certain contexts, treating people as equals requires differential treatment, which can take different forms, from affirmative action to legal exemption for religious and cultural reasons. On the other side, the oppressed should focus on the goal of devising strategies to fight structural injustice here and now and advancing claims to that end, giving up the claim for historical redress. Taking that stance on either side means to adopt reasonableness as the pragmatic guide for a reform towards a just society, where reasonableness as the civic virtue regulating political and social relations among citizens can actually flourish.

In conclusion, I have argued that ideal theory is not implying distorted ideals, but rather that distorted ideals are the outcome of their interpretations within the dominant societal culture. Hence, even though non-ideological, ideal theory must be supplemented with a non-ideal critical analysis of societal culture detecting actual injustices. The understanding of how actual inequalities are reproduced over time, despite the universal ideal of liberty and equality embodied in liberal democratic constitutions, will help to activate the normative resources that ideal theory may yet offer for fighting actual injustice. The complex relation between ideal and non-ideal theory has then been exemplified by focusing on the ideal of reasonableness. Reconstructing reasonableness in the context of ideal theory and then moving to the non-ideal conditions, enables one to perceive a specific kind of injustice, namely epistemic injustice linked to the diminished epistemic authority attributed to citizens from oppressed groups. Once detected, we can turn back to ideal theory and see which resources can be made use of for uprooting this kind of injustice: fair equality of opportunity, and a focus on the primary good of the social basis of self-respect to remedy unequal epistemic standing – whatever the social basis of self-respect implies in terms of

political action. Overcoming epistemic injustice would make the civic virtue of reasonableness attainable. But what is the reasonable strategy to move towards a just society?

Non-ideal theory should take into account feasibility constraints. Hence, though reparatory justice is ideally a sound argument, it cannot constitute a reasonable goal for overcoming structural injustice here and now. If promoting justice here and now is the crucial goal, a reasonable attitude both from the privileged groups and from the oppressed groups is required to move towards the goal.

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Alessandro Ferrara

**The “Most Reasonable”, or  
Rawls’s Post-foundationalist  
Normativity**

*Abstract*

In this paper, two valuable aspects of Rawls’s legacy in the 21<sup>st</sup> century are argued to consist of a) his view of liberal-democratic legitimacy as centered around consent on the constitutional essentials (“legitimation by constitution”) and b) his post-1980 new normative standard captured by the phrase “the most reasonable for us”. The normative models and assumptions undergirding *A Theory of Justice* and *Political Liberalism* are contrasted, the rationale for rethinking liberal legitimacy is reconstructed, and the originality of Rawls’s new normative standard is highlighted with reference both to classical political philosophy and the post-Wittgensteinian philosophical horizon.

*Keywords:* Justice as fairness, reasonability, political liberalism, exemplarity, Rawls, foundationalism, normativity

It is always difficult to spell out what the legacy of a great author exactly consists of, and John Rawls constitutes no exception. The received and established story revolves around the innovativeness of *A Theory of Justice*, credits Rawls for having reawakened normative political philosophy from a century-long lethargy, for having challenged a

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1 A previous version of this article has appeared as “The Revolution of ‘The Most Reasonable’: Rawls’s Legacy in the 21st Century”, in K. Mahadevan (ed.), *Sambashan*, special issue on John Rawls (1921-2021), 2021, pp. 21-39.

long-standing predominance of utilitarianism in the English-speaking world, for having also resuscitated contract theory and offered an account of a just society along deontological, Kantian lines. This paper aims to supplement that story with a different perspective that brings out two other philosophical achievements, less in focus in the mainstream literature, but potentially of even greater philosophical magnitude. In *Political Liberalism*, Rawls on one hand reformulated the classical liberal doctrine of legitimate government, as grounded on the consent of the governed, along the lines of a ground-breaking theory of “legitimation by constitution”. On the other hand, through his notions of “the reasonable” and the “most reasonable” Rawls articulated the first philosophical account of a post-foundationalist normativity that truly lives up to the post-Wittgensteinian philosophical horizon, premised on the rejection of vantage points located beyond, above or antecedently to situated forms of life. I will briefly recall the gist of *A Theory of Justice* as a foil against which these two major breakthroughs of *Political Liberalism* can be measured.

### 1. *Justice as fairness as unanimous outcome of the original position*

As we all know, John Rawls is a man of countless publications but essentially of two great books: *A Theory of Justice* (1971) and *Political Liberalism* (1993). These two books differ considerably, as we will see, in the responses they offer to the following common predicament: since modern times, we happen to live in societies in which whatever conflicts may arise between competing interests or rival values are not likely to be solved by appealing to a shared conception of the human good. We therefore need a method or a procedure for adjudicating these conflicts in a way acceptable to parties that adopt diverse and often conflicting evaluative standpoints. Furthermore, in both books Rawls wishes that such method or procedure for resolving conflicts be acceptable to all the parties involved as a matter of principle or for its reflecting justice, not out of reasons of prudence or because it is convenient, as in a Hobbesian contract. “Justice as fairness” is the proper name by which Rawls designates the conception of justice that in his opinion can best perform this function.

A *Theory of Justice* offered an account of a just society along deontological, as opposed to consequentialist, lines: a just society is one whose basic structure operates on the basis of just principles. And what principles are just? Reviving and renewing the tradition of the social contract, just principles are, for Rawls, those which rational actors, deliberating behind a veil of ignorance in the course of a thought experiment – called “the original position” and meant to replace the “state of nature” of older contract theory – would select for the purpose of grounding the basic structure of society. I’ll leave aside important aspects of Rawls’ defense of justice as fairness – namely, the circumstances of justice, reflective equilibrium, the fact of pluralism and the veil of ignorance, the method of comparing candidate conceptions of justice in pairs – just to emphasize that at this stage, deliberation was understood by Rawls to take place primarily within the framework of *rational choice*. It is on that basis that, according to Rawls, after comparatively assessing competing principles that might serve as grounds for the basic structure, the parties would unanimously agree that the basic structure of a just society is best conceived as responsive to the two principles of “justice as fairness”. The first principle states that

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.<sup>2</sup>

The second principle states that

Social and economic inequalities are to be arranged so that they are both:

- a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and
- b) attached to offices and positions open to all under conditions of fair equality and opportunity.<sup>3</sup>

A so-called lexical priority regulates the relation of these two principles: namely, in a just society, freedom can never be balanced against goods that are not freedom itself.

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2 Rawls 1999, 266, hereafter cited as *TJ*.

<sup>3</sup> *Ibidem*.

## 2. *The transition from A Theory of Justice to Political Liberalism*

Undeniably and breath-takingly innovative though it was, *A Theory of Justice* pushed to its extreme limit, thanks to the incorporation of the then-called “fact of pluralism”, what nonetheless, in spite of all, still remained a traditional scheme of foundational normative philosophy. If I may take the liberty of using the style of movie reviews, we are offered a pretty traditional plot: philosopher sets a normative standard for judging the world, justifies it against competing standards, and expects the rest of us to unanimously agree.

In the following pages, I will argue that the core of John Rawls’s revolutionary contribution to normative political philosophy consists of his moving *beyond* the model reconstructed above, and of doing so in a way unequalled by any fellow liberal normative philosophers, including Habermas and Dworkin. If *A Theory of Justice* is innovative within a long-established paradigm, *Political Liberalism* revolutionizes the paradigm altogether. It offers a view of normativity in line with a new philosophical horizon, opened up in the first half of the 20<sup>th</sup> century by Wittgenstein, that considers futile the exercise of bridging the plurality of locally shared frames of meaning (language games, forms of life, comprehensive doctrines) through appealing to some trans-local foundation.<sup>4</sup>

The Wittgenstein-initiated sea-change has resulted by and large in a stalemated philosophical scene, populated either by foundationalists (realists, phenomenologists, rational choice theorists, philosophers of mind, etc.) who simply sideline the problem without solving it, or by contextual-

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<sup>4</sup> Rawls rarely cites Wittgenstein. With regard to *Philosophical Investigations*, Rawls simply recalls Wittgenstein’s argument against postulating “certain special experiences to explain how we distinguish memories from imaginings, beliefs from suppositions, and so on for other mental acts” (*TJ*, 489) – a point clearly echoed in Rawls’s rejection of the idea that “antecedent” normative criteria may ground the validity of a theory of justice. However, Rawls can be assumed to have constantly been aware of, and confronted with, Wittgensteinian themes and theses both through direct acquaintance and through his ongoing association with his mentor Norman Malcolm and later with his colleague and friend Burton Dreben. On the presence of Wittgensteinian themes in the later Rawls, see O’Neill 2015, 878–881 and Ferrara 2021b.

ists who give up on context-transcending normativity and limit their inquiries to reconstructions of locally prevailing codes. *Political Liberalism* breaks that standstill and offers a model of normativity that, like a philosophical beacon, extends its light well beyond political philosophy.

In order to clarify why that is so, first of all we need to answer the question: What was wrong with *A Theory of Justice*? At the end of a long transitional period, which lasted through the 1980’s and cannot be addressed here,<sup>5</sup> two aspects of the account offered in that book were found misguided. We are informed about these two wanting aspects by Rawls himself.

The first flaw is mentioned in the original “Introduction” to *Political Liberalism*. After distinguishing the fact of pluralism from the newly introduced “fact of *reasonable* pluralism”, he observes that “the fact of a plurality of reasonable but incompatible comprehensive doctrines [...] shows that, as used in *Theory*, the idea of a well-ordered society of justice as fairness is *unrealistic*”.<sup>6</sup> A deep change has occurred in Rawls’s argument. The test-case for making sense of such change is utilitarianism. The expectation built in *A Theory of Justice* – before Rawls would introduce the “burdens of judgment” in his framework – was that the parties in the original position unanimously would discard utilitarian principles of justice in favor of the two principles of justice as fairness. The *new* idea is that, insofar as a utilitarian doctrine meets the standard of being reasonable, namely being acceptable to loyal cooperators respectful of the burdens of judgment, it cannot be discarded at all but must be figured in, as one of the several comprehensive views that an inclusive “political conception of justice”, to be articulated “freestandingly” but also capable of attracting an overlapping consensus, must be compatible with.

The second flaw is mentioned in footnote 7 of Lecture 2 of *Political Liberalism*, where Rawls describes the idea that “the theory of justice is a part of the theory of rational decision” as “simply incorrect”.<sup>7</sup> The normative notion of “the rational” certainly deserves a role of its own within a *political* conception of justice, but justice as fairness (now reconceived as a *political* conception of

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<sup>5</sup> On some turning points of this transitional period, see Ferrara 1999, 17-19. For more detailed accounts, see Freeman 2007, 285-323 and Maffettone 2010, 189-209.

<sup>6</sup> Rawls 2005, xvii, hereafter cited as *PL* (emphasis added).

<sup>7</sup> *PL*, 53, fn 7.

justice) “tries to give an account of *reasonable* principles of justice”. Differently from what many theorists from Hobbes to David Gauthier have tried to do, justice as fairness includes “no thought of deriving those principles from the concept of rationality as the sole normative concept”.<sup>8</sup>

Too much would be missed, however, by reducing the game-changing quality of *Political Liberalism* to the exposure of these flaws in the previous version of the paradigm and to the thesis that “justice as fairness” is responsive not just to the rational but also to “the reasonable”. Two additional innovations justify the use of the adjective “revolutionary” for qualifying the two breakthroughs found in *Political Liberalism*. The first can be captured by the phrase “legitimation by constitution”. The second consists of the introduction of the normative standard of the “most reasonable”.

### 3. On the idea of “legitimation by constitution”

Let me start with the transformation of liberalism set in motion by “legitimation by constitution”. *Political Liberalism* is a complex answer to one question, slightly different from “What is a just society?” and raised at the beginning of the text: “How is it possible for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical, and moral doctrines?”.<sup>9</sup> The answer, in a nutshell, is that stability can be combined with just institutions if, first of all, in such a well-ordered society “everyone accepts, and knows that everyone else accepts, the very same principles of justice” or a publicly recognized *political*, not comprehensive, conception of justice; secondly, if the basic structure of such society “is publicly known, or with good reasons believed, to satisfy those principles”; and, thirdly, if the citizens “generally comply with society’s basic institutions, which they regard as just”.<sup>10</sup>

Those three conditions can be met insofar as an overlapping consensus coalesces, and lasts over time, around the core principles of a politi-

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<sup>8</sup> *PL*, 53, fn 7.

<sup>9</sup> *PL*, 4.

<sup>10</sup> *PL*, 35.

cal conception of justice, endorsed by the citizens for principled reasons rooted in their diverse comprehensive conceptions of the good. Finally, an overlapping consensus must not be confused, Rawls hastens to clarify, with “the idea of consensus used in everyday politics”.<sup>11</sup> Differently than the standard practice of seeking political compromise by identifying a common denominator that strikes a balance between rival political views and allows them to meet halfway, justice as fairness seeks validation in a freestanding way, by philosophical argument first. The original position finds a new role in this context, as a “device of representation”<sup>12</sup> that enables us to outline such a political conception of justice. If we do a good “constructivist” job, we can *hope* – and no more than hope – that an overlapping consensus will eventually converge on it and allow just institutions to achieve not any kind of stability, but “stability for the right reasons”.<sup>13</sup>

Even within a well-ordered society, however, the operation of institutions and authorities will need to be assessed: legitimate exercises of coercive power will have to be separated from arbitrary ones. Political liberalism enriches the tradition that since John Locke identifies the hallmark of legitimate government with the consent of the governed.

In fact, in *any* society, including a well-ordered one, “political power is always coercive power backed by the government’s use of sanctions”.<sup>14</sup> What distinguishes this legitimate use of force from arbitrary oppression is the perception, shared by the citizens, “that political power is ultimately the power of the public, that is, the power of free and equal citizens as a collective body”.<sup>15</sup>

That may sound as a fine proposition, but it doesn’t mean that individually one can never find oneself in the position of having to suffer under the coercion of a power that operates contrary to one’s will. We are equal to all other citizens as co-participants in the public formation of a political will through elections but, on the other hand, we are also so-called “private citizens” who may suffer the effects of a political power that operates in what are for us unjust terms: we may find questionable or unjust some “of the

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<sup>11</sup> *PL*, 39.

<sup>12</sup> *PL*, 27.

<sup>13</sup> Rawls, “The Idea of Public Reason Revisited”, in *PL*, 459.

<sup>14</sup> *PL*, 136.

<sup>15</sup> *PL*, 53.



statutes enacted by the legislature” to which we are subject,<sup>16</sup> some of the executive orders or decrees issued by an administration, or the sentences pronounced by courts. This predicament poses the problem of specifying the criterion according to which specific exercises of coercive power by state authorities can be considered legitimate and not arbitrary.

For that purpose, Rawls formulates the “liberal principle of legitimacy”, which occurs in several slightly different versions.<sup>17</sup> In one of the most widely cited versions,

our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the

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<sup>16</sup> *PL*, 136.

<sup>17</sup> The *first* formulation runs: “our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason”, *PL*, 137. The *second* version runs: “our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational”, *ibidem*, 217. Both date back to 1993, the year of publication of the first edition of *Political Liberalism*, and were actually preceded a version of the principle published only in 2001 (Rawls 2001, 41), but actually written 10 years earlier: “political power is legitimate only when it is exercised in accordance with a constitution (written or unwritten) the essentials of which all citizens, as reasonable and rational, can endorse in the light of their common human reason”. On these vicissitudes of the liberal principle of legitimacy, see Kelly 2001, in Rawls 2001, xii; and Michelman 2022, 21–22. A *fourth* formulation, found in the “Introduction to the Paperback Edition” (1996) introduces the theme of reciprocity and a somewhat problematic reference to (subjective) “belief”: “our exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as a justification of those actions” (*PL*, xlv). A year later, in “The Idea of Public Reason Revisited”, a *fifth*, almost identical formulation runs: “our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions – were we to state them as government officials – are sufficient, and we also reasonably think that other citizens might also reasonably accept those reasons”, *PL*, 447.

light of principles and ideals acceptable to them as reasonable and rational.<sup>18</sup>

This account of legitimate authority prompts some comments. Rawls’s formulation speaks to us through what it does *not* say. The phrase “in accordance with a constitution” stands over against alternative formulations used in the past and still on offer: for example, against the idea, endorsed by majoritarian, populist views and by “political constitutionalism”,<sup>19</sup> that political authority acts legitimately when it acts “in accordance with the will of the majority as expressed in the latest elections”. Furthermore, Rawls’s formula requires that the constitution be endorsed, at least in its essential elements, by *all* the citizens *as free and equal* and on the basis of *principles and ideals acceptable to them as reasonable and rational*. Consent must be based on considerations of justice as opposed to considerations of *prudence*.

However, Rawls’s liberal principle of legitimacy responds not only to rival theories of legitimacy but also to adverse conditions for democracy typical of the 20<sup>th</sup> and 21<sup>st</sup> centuries: the immense extension of the electorates, which encourages “rational ignorance”; the institutional complexity of contemporary societies, which negatively affects the accountability of authority; the increasing pluralism of contemporary publics; the anonymous quality of the communication processes whereby public opinion is formed.<sup>20</sup> Starting from the end of the 20<sup>th</sup> century, new inhospitable conditions, even less propitious for the operation of a democratic regime, have been accruing to those mentioned above: the “nativist” and populist reaction to new incoming migratory tides, the financialization of the economy, social (and political) acceleration, the new structural transformation of the public sphere prompted by the social media, the rise and spreading of forms of supranational governance not always connected with democratic accountability, and the impact of the ever more widespread use of opinion polls upon the perceived legitimacy of the exercise of authority.<sup>21</sup>

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<sup>18</sup> *PL*, 217.

<sup>19</sup> See Bellamy 2007; Waldron 1999a and 1999b; Tushnet 1999.

<sup>20</sup> See Michelman 1997, 154.

<sup>21</sup> See Ferrara 2014, 8-12.

Considered as a whole, these conditions – so unpropitious for the exercise of the citizens’ democratic authorship – put on the philosophical agenda a reconsideration of the classic notion of democratic legitimacy, centered on the “consent of the governed”.

Citizens should no longer be expected, as in mainstream liberalism, to endorse *all* the details of the legislative, executive and judicial activity of democratic institutions. We must settle today for a less demanding criterion that exempts single outcomes of such activity from *direct* justification: there will always be groups of citizens for whom some verdict, statute, or executive order is unjust and coercive. And yet the consent of the governed can remain the yardstick for assessing the legitimate exercise of democratic authority if properly reformulated as a judgment now passed on the “constitutional essentials” with which all the ordinary legislative, judicial and executive acts must simply *be consistent*. Frank Michelman’s phrase “legitimation by constitution” captures concisely the gist of Rawls’s theoretical innovation: given the prohibitive conditions of hyperpluralism, institutional complexity, anonymity of the communicative processes in the public sphere, it makes sense to deflect “divisive questions of legislative policy and value (does this law or policy merit the respect or rather the contempt of a right-thinking person?), to a different question (is this law or policy constitutional?), for which the answer is to be publicly apparent, or at any rate ascertainable by means that are [...] less open to divisive dispute than the deflected substantive disagreements”.<sup>22</sup>

#### 4. *The revolution of the “most reasonable”*

The second innovation present in *Political Liberalism* concerns the normative standard of the “most reasonable”. The “most reasonable” may become relevant at any time: when we assess a legislative proposal, a pronouncement of a supreme court, a constitutional amendment, an outline for the basic structure, a “bill of rights” and, of course, when we debate political conceptions of justice in search of a suitable grounding

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<sup>22</sup> Michelman 2019, 1, 65. See also Ferrara and Michelman 2021, and Michelman 2022.

for the basic structure. Perhaps the best way to clarify the “most reasonable” is to go back to the question of what validates “justice as fairness” as an appropriate normative basis for a just and stable society and to reconstruct the inner evolution of Rawls’s thinking on this matter.

In *A Theory of Justice* what makes “justice as fairness” preferable over utilitarianism and other competing views is the fact that, in the original position, rational actors who deliberate behind a veil of ignorance would unanimously find it more *rational* to ground the basic structure of the future society on its principles.

Already in 1980, in “Kantian Constructivism in Moral Theory”, an important article temporally much closer to *A Theory of Justice* than to *Political Liberalism*, Rawls jettisons this traditional normative model and thoroughly rethinks the normative credentials of justice as fairness, when he writes that

what justifies a conception of justice is not its being true to an order antecedent to and given to us, but its congruence with our deeper understanding of ourselves and our aspirations, and our realization that, given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us.<sup>23</sup>

Then in 1993, in *Political Liberalism*, once again justice as fairness is vindicated not as the view that rational actors would select from within a basket of competing views, but on the basis of its being, among all the “at least reasonable” political conceptions of justice, the one “most reasonable for us”.<sup>24</sup>

Finally, in the new “Introduction”, written for the expanded edition of *Political Liberalism* and first published in 1996, Rawls takes a further step toward reconciling normativity and reasonable pluralism, by imagining that a liberal-democratic society may be home to a “family of reasonable liberal political conceptions of justice”, some of which may be mutually “incompatible”.<sup>25</sup> However, in the context of a plurality now no longer solely of reasonable comprehensive conceptions of the good but also

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<sup>23</sup> Rawls 1980, 512-572.

<sup>24</sup> *PL*, 28.

<sup>25</sup> *PL*, xlvī-xlvīi.

of political conceptions of justice, all by definition reasonable, justice as fairness is still considered “most reasonable” on account of its best satisfying, relative to its competitors (for example, “political” versions of utilitarianism, discursive deliberative democracy, republicanism, etc.) three conditions: a) its allowing for the specification of certain rights, liberties, and opportunities; b) its entailing a special priority for these freedoms; c) its including measures assuring all citizens, whatever their social position, adequate all-purpose means to make effective use of their liberties and opportunities.<sup>26</sup>

Why is this normative benchmark, “the most reasonable”, so important? Because it breaks the philosophical spell that has entrapped normative political philosophy in the West for over 24 centuries, since the time when Plato formulated his allegory of the cave in *The Republic*, and it inaugurates a new perspective still awaiting full elaboration. The allegory narrates of an underground cave where prisoners chained to their benches face a wall onto which shadows are projected by objects lit by a fire positioned behind them. Shadows are all that the prisoners see and are misperceived as the whole of reality, a form of belief that symbolizes shifting and ungrounded opinion. One of the prisoners frees himself, succeeds in reaching the outside world, and painfully slowly acquires true knowledge of the objects and the sun, the source of all light. He decides to return inside and inform his fellow cave-dwellers, only to be derided for failing to discern the contours of the shadows, because his sight is temporarily impaired by the sudden transition from full day-light to the penumbra of the cave. He even risks being killed when he tries to unbind his comrades in order to enable them to take the same journey.<sup>27</sup>

Many metaphysical, moral, and philosophical-anthropological meanings have been read into Plato’s allegory of the cave, but its *political philosophical* significance is that truly entitled to legitimately rule over others is only the one individual, taken as representative of the class of the philosophers, who has had the courage to leave opinion or *doxa*, which prevails inside the cave, and to endure the suffering that accompanies the quest for true ideas and, later, the pains of violent rejection, when he

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<sup>26</sup> *PL*, xlvii.

<sup>27</sup> Plato 1991, 193-195, 514a-517b.

tries to offer to his fellows an account of how things truly are and what the Good is. Legitimate rule is ultimately rooted in the supremacy of knowledge or *episteme* over mere opinion or *doxa*.

As Hannah Arendt first noted, the grounding of legitimate rule on the possession of true knowledge – the enduring legacy of Plato’s allegory of the cave – contains a dangerous ambiguity. On the one hand, the allegory embeds a critical, anti-traditionalist, anti-conventional teaching. On the other hand, it contains a seed of authoritarianism, lodged in the primacy of solitary seeing over action in concert or joint self-definition, and anchored in the subordination of politics to ethics (the Idea of the Good)<sup>28</sup> or, in the modern secularist versions (e.g., Marxism and the social darwinism inaugurated by Herbert Spencer), the subordination of politics to some law-like, non-political sort of truth.

The over 24 centuries elapsed since Plato’s time have added variations on this theme, but have left the deep-seated overall teaching basically unchallenged. The idea of the Good, symbolized by the sun, has over time been replaced by the revealed will of a monotheistic God, by insights into the desiring nature of man, by the laws of evolution, by reason in history, by the dynamics of class struggle and revolutionary emancipation. The constant element underlying all these variations is the idea that true knowledge, which precedes intersubjective deliberation and sets the standard for sorting out good and bad deliberation, provides the foundations for the legitimate use of coercive power, for political obligation, and for all the normative concepts found in politics.

The latest reincarnation of such an epistemic approach to normative political philosophy is “justice as fairness” as understood in *A Theory of Justice*. It is the weakest possible version of Plato’s allegory, topographically located at the extreme edge, beyond which the model undergoes radical transformation. In fact, within *A Theory of Justice* the fact of pluralism is already part of the “circumstances of justice”: the point of “justice as fairness” is to enable us to build a just polity amidst conflicting conceptions of the good, and ultimately it is the consensus of us inside the cave that validates the philosopher’s argument – a premise that Plato

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<sup>28</sup> See Arendt 1961, 114-115.

would have never endorsed.<sup>29</sup> However, *A Theory of Justice* still lies *within* the bounds of Plato’s line of thinking because it incorporates the expectation, later denounced as “unrealistic” in *Political Liberalism*,<sup>30</sup> that *everybody* in the cave will eventually recognize the superiority of “justice as fairness” over all the rival accounts of what is outside the cave, and notably over utilitarianism, as though the “burdens of judgment”<sup>31</sup> were inoperative or could be fully neutralized by some philosophical argument.

It is against the foil of this epistemic understanding of normative validity and legitimacy – right things are right ultimately because they reflect truth – that we can assess the magnitude of the revolutionary innovation introduced by Rawls when he qualifies justice as fairness as binding for us not because “it is true to an order of things antecedent to and given to us” – as the world of objects outside Plato’s cave – but because it is congruent “with our deeper understanding of ourselves and our aspirations” and, in light of our history and traditions, it is the “most reasonable for us”. It remains to be clarified in what sense this expression can be taken to count not as a negation of the allegory of the cave – along the skeptical lines intimated, among others, by Machiavelli and Hobbes – but as an enriching supplement to it.

In order to clarify that sense, all we have to do is to imagine that not just one, but a group of philosophers, destined to rule the cave, is heading back from the outside world.<sup>32</sup> As in the original version, they want to report what they have seen and to reform life in the cave. Wouldn’t they perhaps want to stop, on their way back, *at the entrance of the cave* and consult in order to exchange impressions and check if they can come up with a common story that one of them, as their spokesperson, would relate? And if during that conversation, neither fully inside or outside the cave, the debate dragged on without coming to a close, wouldn’t our philoso-

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<sup>29</sup> See *TJ*, 111–112.

<sup>30</sup> See fn 5, above.

<sup>31</sup> *PL*, 54–58.

<sup>32</sup> This extensive interpretation finds an anchoring in some passages (198–199, 519d–520a of Book VII of *The Republic*), where Plato has Socrates and Glaucon debate implications of the allegory based on the assumption that several captives, a group more or less coextensive with the future ruling philosophers, leave the cave and then return. For a more detailed analysis, see Ferrara 2020, 81–98.

phers most likely agree to limit their report to the observations blessed by full overlap and to take the convergent parts of their accounts as the only basis for exercising legitimate authority? As to the contentious conclusions and observations, wouldn’t they agree to ban their enforcement through the authority each of them might happen to wield in the cave, and leave them for further discussion in proper venues, for the purpose of possibly extending the area of agreement?

Let us now step back and reflect on what these philosophers are doing. Should we describe their endorsing the prohibition to legally enforce controversial parts of the accounts, so that none of the accounts may triumph or succumb in the cave due to the contingent distribution of power, as just another “opinion” like the ones about the passing shadows? Certainly not, we would have to admit.

Should we alternatively describe the philosophers as endorsing the prohibition “never to back up controversial principles through coercive power” as a principle that they *discovered* in the outside world, as objectively as they found the light of the sun? Hardly so, we would have to admit again.

We would have to concede that the philosophers, during their conversation *sideways at the entrance of the cave*, associate their pro-pluralism stance neither with *doxa* nor with *episteme*, but simply with *the most reasonable thing* for them to do – what Rawls would call *the most reasonable principle for ruling the cave* available to them through their common public reason. In the course of their consultation, the philosophers can be said to have given rise to *public reason* and its twin standard, *the reasonable* and *the most reasonable*.

If so, then, the normativity of what is “most reasonable for us”, be it a political conception of justice or a legislative proposal, or whatever, rests not on epistemic grounds, as though its merits were “discovered” outside the cave, but on the judgment that the deliberating subjects form, upon reflection. The location, sideways at the entrance of the cave, symbolizes that “the most reasonable” somehow partakes of two worlds – the imperfect nature of the subject of justice and the ideal quality of justice – and combines them in the best mix “for one singular case”.

One predecessor of this exemplary, uniqueness-affirming normativity is Rousseau’s account of the legislator’s function in *The Social Contract*. In Chapter 8 of Book II of *The Social Contract*, the legislator who advises the



deliberating citizens should not aim at having them adopt “laws good in themselves”,<sup>33</sup> but rather at laws fit for the people eventually subject to them. Rousseau’s intimation for the constitution-making power of the citizens is unequivocal: *Do not author (constitutional) laws that you’re not fit to be respectful of*. This intimation does not imply that the selection of the basic structure is unprincipled, prudential or a projection of the constitution-maker’s preferences. Rather, it means that the citizens should balance principle-optimality – i.e., being guided, for Rousseau, by the point of the social contract, to protect the person and property of each associate while leaving her as free as before;<sup>34</sup> for Rawls, being guided by justice as fairness – with their historical experiences and political culture(s). Rawls, furthermore, offers “reflective equilibrium” as a methodological resource for making sense of *when* that balance is achieved.

## 5. Conclusion

The normativity of justice as fairness, in conclusion, now derives not from its being the outcome of a decontextualized thought-experiment, as in *Theory*, but from its being *the most reasonable political conception of justice for us*, where “most reasonable” means that, among all the “merely reasonable” conceptions, it is the one that realizes *the best fit* – tested through reflective equilibrium – between its two freestandingly valid principles (introduced at the beginning, which have simply changed status, not substance) and the historical, political, cultural features salient for the people who intend to constitute a political community.

The normative standard of “the most reasonable”, which undergirds the use of public reason, can serve many more purposes than just grounding justice as fairness as the political conception of justice to which a consensus-worthy constitution must be responsive. For example, in the light of Rawls’s propensity (rare among liberal political philosophers) to use the concept of constituent power, it can be said to bind the constituent power of a people in enacting “higher law” and using it for articulating its “politi-

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<sup>33</sup> Rousseau 1999, Book II, Ch. 8, 80.

<sup>34</sup> *Ibidem*, Book I, Ch. 6, 54-55.

cal ideal [...] to govern itself in a certain way”.<sup>35</sup> The standard of the “most reasonable” can also be argued to guide exercises of adjudication on the part of a supreme or constitutional court that for Rawls ideally must function as an “exemplar of public reason” when it assesses the consistency of ordinary law with the people’s mandated higher law.<sup>36</sup>

In sum, the gist of Rawls’s legacy in the 21<sup>st</sup> century consists of a novel approach to justice and legitimacy that lives up to the 20<sup>th</sup> century intuition, embedded in the linguistic turn inaugurated among others by Wittgenstein, about the untenability of Archimedean points supposedly over-ranking the local normativity of plural life-forms and language games or, in Rawls’ own vocabulary, that acknowledges “the fact of *reasonable* pluralism” and yet remains as fully normative as the standards of the past.

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<sup>35</sup> PL, 232.

<sup>36</sup> See PL, 235. For a reconstruction of Rawls’s conception of constituent power as not unbound, but responsive to the normativity of the most reasonable, see Ferrara 2023, Ch. 3. On the standard of the “most reasonable” as applicable to adjudication, see *ibidem*, 237–244.

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**Rawls, the Age of Justice  
and the Future of Normativity**

*Abstract*

The paper is devoted to a reconstruction of the anti-utopian realist criticism to Rawls. Rawls' paradigm is coherent with a particular historical period, the one after the second world war, and a significant philosophical legacy. Both these conditions are no longer present, given the crisis of democracy and a philosophical climate characterized by postmodernism and what I call new metaphysics. The main consequence of this absence is the crisis of that normativity which is so central in the Rawlsian model. In conclusion some provisional remarks are provided about the future of political theory à la Rawls.

*Keywords:* normativity, moralism, realism, J. Rawls

*1. Rawls and the crisis of normativity*

The publication of *A Theory of Justice* in 1971 (hereafter *TJ*), written by the American philosopher John Rawls, produced a revolution in political philosophy (and not only). At the heart of this radical change is the centrality of normativity in political theory. By normativity, I mean a logical and ethical connection between reality and reason capable of orienting action and thought. In political theory, normativity corresponds to an ideal viewpoint from which it is possible to evaluate – this being an observer point of view – the nonideal forms of human behavior and speculate about what justice requires. Normativity has also a more general epistemic role and, for example, being unable to satisfy basic logical criteria is believed to be also rationally defective. An account of normativity represents a key aspect of Rawls' legacy that I aim to discuss in this paper.

I defend normativity in these general terms. However, even if we need normativity, we must nonetheless recognize that it is increasingly difficult to give it faith. Take political theory in the Rawlsian horizon: the hope, perhaps utopian, that thinking about politics is equivalent to planning a normatively plausible design of institutional arrangements capable, in turn, of improving everyone's quality of life, is gradually fading away. Something like this is quite evident to the observer used to following cultural and political events. This fact generates a generally skeptical response. The philosophical background of this widespread skepticism is constituted by what I call the postmodern climate and by a new metaphysics in which "cynical reason" (e.g. Morton 2014) affirms a *sui generis* realism. In both cases, the normativity that would be needed is prevented. In this way, the theory takes up and reformulates the de facto skepticism in which many are immersed. If one asks about the deep structure of anti-normative arguments, one finds that they depend in considerable way on the top-down nature that is usually attributed to them. The idea of regulating a riotous world from above finds increasing resistance. In other words, there is a hiatus between how things should go and how instead they go. This creates an evident problem in taking seriously any normative approach -and most notably Rawls' one - to the logic of politics. The complexity of human interaction makes it difficult to believe in norms that regulate both the use of thought and political behavior. The response of postmodernists and new metaphysicians to this difficulty is to deny the possibility of normative space. In this way, cynical reason throws us into the arms of a hopeless logical nihilism. To which a crude realism, in the manner of Carl Schmitt, may correspond in politics.

The paper is structured as follows. Section 2 presents a reconstruction of the origins of the anti-utopian realist criticism to Rawls. section 3 and 4 show how this model is coherent with a particular historical period, the one after the second world war, and a significant philosophical legacy. There is no doubt that both these conditions are no longer present. The main consequence of this absence is the crisis of that normativity which is so central within the Rawlsian model. Section 5 briefly presents a complex trend in contemporary philosophy constituted by the postmodern climate and by what I call the new metaphysics. This rather anomalous detour -at least in political theory literature - aims to say that such philosophical trend tends, together with the political

crisis of liberal-democracy, to make the traditional conception of normativity very hard if not impossible to adopt. Section 6 goes back to political theory and more specifically to the moralism-realism opposition, a theme on which there is today an endless literature. Here, my intention is not so much to consider the efficacy of the realist criticism of Rawls, but rather to note how this criticism is coherent with the attack on normativity which was previously discussed. Section 7 suggests that both approaches, namely moralism and realism, ultimately need some conception of normativity. This is true, I believe, even if, in light of the contemporary situation, such a conception has to be different from the top-down conception of the past. The last section is devoted to some provisional conclusions about the future of political theory à la Rawls preceded by two warnings: first, Rawls was not so utopian; second, his version of liberty and democracy should not be lost. The last point, but only in order of list, concerns the question mark in the title of this paper: it has been inserted to emphasize the speculative and hypothetical nature of the interpretative hypothesis presented here.

## *2. Rawls' criticisms: from the doubts about pluralism to anti-utopianism*

The publication of *TJ* opened what has rightly been called “The Rawls’ Era” and in this period, no one in political philosophy –as a critic of Rawls of the caliber of Robert Nozick famously put it– could proceed without taking seriously the new paradigm proposed by Rawls in *TJ*. Thus, a result of what in the introduction I called ‘the revolution’, political theory, which seemed to have been in its death throes, has become central in both academic and public discourses. The years spent on this horizon have been years of fertile discussion. Not surprisingly, many critics targeted the normative basis of the Rawlsian approach. It seemed to many that the Third Part of *TJ* – dealing with the issue of stability by presenting an idea of congruence between the right and the good – was both utopian in a bad sense (i.e., not reflected in reality) and dangerously contrary to pluralism, which was in fact so central to Rawls’ original idea of contrasting a monistic form of utilitarianism.

In fact, at least in the late Seventies and early Eighties, critics of *TJ* were generally more concerned about the problem of pluralism than

about the supposed utopianism or deficit of realism of the theory itself. From this point of view, the thesis that ‘A’ (note, not ‘The’) theory of justice could have the effect of making everyone’s worldviews coincide with the theory’s principles of justice in question seemed at least far-fetched. The widespread influence of the communitarian critique in the 1980s exemplifies this concern. As we know, Rawls went to great lengths to respond to criticisms hinging on the issue of pluralism. The publication of *Political Liberalism* (Rawls 1993) made us realize that there was at least one possibility to read ‘Justice as Fairness’ in a way compatible with the fact of reasonable pluralism. The fact that this option was the one preferred by Rawls himself had of course a certain importance. As well as the conditions and axioms that had to be adopted to accept the thesis – central to *Political Liberalism* – based on the idea of overlapping consensus. The interlocking of everyone’s worldviews (the ‘good’) with some shared fixed points on essential issues of justice (the ‘right’) could take place if and only if the idea of a relative neutrality of justice was accepted. In other words, to allow for the model proposed in *Political Liberalism*, it had to be assumed that conflicts over the good were insurmountable, while those over the just could be suitably reconciled within a liberal-democratic regime. The latter was taken as default and as the ultimate foundation of the system’s legitimacy. For many of us, perhaps with some hesitation and some differences, such a solution was congenial. This allowed us to continue to think in a Rawlsian horizon.

Throughout this process, the other dilemma posed in the post-Rawls period was at first partially removed. I refer here to the problem of utopianism or, as it would be better to say, of the supposed lack of realism implicit in the Rawlsian paradigm. This criticism, at first quite latent, has, however, spread and strengthened (if one can say so) in recent years. The reasons for this are various, both of historical-factual origin and of a theoretical nature. On the one hand, the liberal-democratic system – which constituted for Rawls the default and the central pivot around which one could build the supposed consensus on the right – was clearly in crisis. Brexit, Trump, jilets jaunes, populism, and regimes from Eastern Europe to China and Turkey seriously questioning the primacy of liberal democracy, also forced doubts about the central axis of the Rawlsian consensus. On the other side, that of theory, in the wake of a paper by Williams (2005),

talk began of an excessive 'moralism' in the Rawlsian approach. The criticism in question was then moved in terms of a contrast with a rather generic 'realism'. Discussion concerning the deficit of realism in the Rawlsian approach has thus become standard in the recent period, as we shall see below, and has usually hinged on a critique of normativity.

In my view, however, more than the argument itself, what matters is the spirit behind it. At least that's what I will argue in what follows. A new spirit, inaugurated in philosophy within what can be called the 'postmodern climate' and present in what I call the 'new metaphysics', seems to be highly skeptical about the idea of normativity itself. Even more, this spirit, that impregnates the postmodern climate and the still vague metaphysical nebula that succeeds it, proves hostile to any rational mediation between reality and knowledge. This last point is relevant not only for the general critique of the Enlightenment and rationalism that is presupposed, but also for the mentality and personal ethics of those who propose this version of political theory. Anyone who has known Rawls is aware of his belief that there is a specific mission of the scholar. A mission that would then consist roughly in a personal commitment to a theory that contributes to improving people's lives beginning with the worst off. The 'cynical reason' that pervades both postmodernism and this new metaphysics insists on the practical impossibility of a civic faith so conceived. It is also of considerable interest that such theoretical skepticism finds a strong match in political reality. Few now trust in the possibility that progressive engagement, whether individual or collective, can generate meaningful results within a liberal-democratic regime. The Rawlsian type of awareness, and the moral commitment that corresponds to it, then becomes for many a merely utopian and fundamentally sterile exercise.

### *3. Genealogy of mistrust and anti-utopianism*

In recent years, the hope that normative political philosophy can guide the structure of the major institutions of society to prepare the ground for institutional arrangements capable of improving the quality of collective life, appears to have waned. This normative skepticism invites, in my opinion, to conjugate the *esprit philosophique* of the mo-



ment – which includes the postmodern climate and what I have called new metaphysics- with the accusation of lack of realism to the Rawlsian paradigm.

In general terms, my analysis has a genealogical flavor. The Rawlsian paradigm owes its birth and formidable impact to the conjunction of a political-cultural climate and a general philosophical approach. The political-cultural climate is that of the United States after Vietnam and the civil rights marches. A climate in which widespread protest in the name of social justice needed reconciliation with the basic structure of a liberal democratic society. Which is then the one provided by *TJ*. Behind this book, however, there is also the development that American philosophy had made, all in all making a connection between the liberal-democratic pragmatism of Dewey and the analytical approach in the manner of Carnap. This connection finds perhaps its highest moment in the Harvard School, with the work of Quine, Goodman, and Putnam. This is where Rawls' got his start as well.

Now, fifty years after the release of Rawls' masterpiece, the historical situation has profoundly changed. There is no longer the same echo of a social protest in the name of justice and there is no longer the hope that liberal-democracy can be 'the' way to best address the main political and social problems. Further, there is not even the option of taking the model of the United States as a virtuous example to follow. This widespread distrust has found a philosophical counterpart according to my interpretation – in the post-modern climate and in the spread of a new metaphysics in which a hidden eschatology tends to replace the rationality of tradition. The outcome that most concerns us of the conjunction between widespread distrust in contemporary political culture and a philosophy such as this consists in the possible loss of the normative dimension. By this, generically I mean the crisis of the modern project, a project that – from Kant to Rawls – trusts to be able to find a shared moral and substantial interest from which to derive a vision of a well-ordered society. If this kind of analysis is not fallacious, then the future of political theory after Rawls is at least problematic, and it should pass through a reformulation of the normative dimension.

Before going to the philosophical side of the problem, the next section will return to the genealogical side of it, albeit as merely a sketch. It's not causal – I say – if the normative dimension of ethics and politics expanded in a fortuitous period which I call 'the age of justice'.

#### 4. *The sunset of the age of justice*

We should consider that the period we start from was not only Rawls' Era, but also a particular period in which the discourse on justice was to great extent in harmony with reality. We can call this period the Age of justice.

The idea of justice I am talking about is not legal but rather social, political and economic one. It is first and foremost about how mainstream institutions distribute burdens and benefits of cooperation. By the 'age of justice', I mean a period after World War II in which history, at least in the corner of the world near us, has been benign, countered by political thinking rich in ideals. Historically, this was a period characterized by economic growth, better income distribution, population growth, hopes for a better future, the sharing of multiculturalism, the end of colonialism, the waning of racism, the affirmation of human rights, the realization of a new globalization, the narrowing of the gender gap, and the gradual decline of authoritarianism. In this period, liberal-democracy and prosperity seemed an indissoluble union, so that the end of Italian and German fascisms in 1945 corresponded to a widespread preference for the union in question, and as the years passed the inevitable collapse of communism as well. To this historical period, philosophy and political theory responded with the formulation of the paradigm based on the idea of justice. In this case, the symbolic year is undoubtedly 1971, the year in which *TJ* was published, a book whose theoretical origin is the latter part of the 1950s. In this work, as indeed is the case within the entire paradigm centered on the idea of justice, liberal-democracy is the default under which a combination of freedom and equality is articulated that (in our vocabulary) we would delineate as social-democratic. Freedom and equality were, moreover, the ideal terms in which the intellectual confrontation between US (freedom) and USSR (equality) took place. The paradigm of justice somehow overcame this confrontation and envisaged its resolution within a liberal democratic and progressive vision.

From a philosophical point of view, the 'age of justice' was experienced under the banner of the possibility of rational discussion about values, which is a presupposition for normativity. One could argue, addressing the universal audience, about social justice with the belief that at the end of the discussion one could distinguish right and wrong with

relative objectivity. To many of us, something like that appeared to be the other side of the hope that characterized the historical period as a whole. And, somehow, it seemed to us that we had achieved a definitive breakthrough for political theory. A kind of point of no return, in essence, where the spirit of the age was making sense of itself.

The philosophical background of the 'age of justice' can be better understood comparing it with the past. The preceding years -largely the first half of the 20th century- had seen not only painful mourning but also the philosophical prevalence of the thesis that on matters of value *non est disputandum*. If there is a common aspect of historicism, existentialism and logical positivism -the most relevant philosophical schools of the period- this consists precisely in the impossibility of discussing values rationally and objectively. Hence, in our memory, the idea that the European tragedy of the first part of the 20th century was closely related to this impossibility was gaining ground. In short, after 1945 liberal democracy and prosperity inspired the rationalist substratum of theories of justice, in much the same way as the tragedies of the two world wars inspired the irrationalism about values implicit in the main philosophies of the time. For this very reason, we deluded ourselves that this form of reciprocal action between facts and ideas that had led to the age of justice was a permanent part of some kind of evolution of the human spirit.

That this metahistorical feeling was fallacious – more a fortunate parenthesis than a definitive achievement – has been clear to us in recent years. A period – which began with the financial and economic crisis of 2007/2008 – in which the prevailing *Zeitgeist* seems to have changed. We came out of it with new nationalisms, crises of democracy, the return of authoritarianism, difficulties of globalization, disastrous wars, and mournful pandemics which make the future today as uncertain as ever. How does political theory react to all this? In my opinion, with a progressive realization of the difficulty of discussing values rationally. Which also implies a waning of the 'age of justice'. This, again, is made evident by the most well-known philosophies of our years, beginning with the postmodern temperament, and going to what I call the new metaphysics. These are all philosophies that challenge humanism and the Enlightenment, and ultimately make rational discussion of values impossible. As is also seen in political theory, where skeptical critiques of the paradigm based on the idea of justice are increasingly taking hold.

Thus, once again, the correspondence between the social, political and economic conjuncture on the one hand and the paths of thought on the other can be felt.

### 5. *The crisis of normativity in contemporary philosophy*

The 'age of justice' -we have said- has been characterized by the prevalence of rational discourse in ethical and political theory. And there is correspondence between this discourse and a historical period of relative collective well-being. The last years saw the sunset of this lucky period. And, coherently, it became difficult to believe in any rational approach to ethical and political theory. This fact has two main philosophical consequences: (i) the general crisis of normativity in contemporary philosophy, which is indirectly connected with Rawls; (ii) the return of skepticism in ethical and political theory revealed by the philosophical attack, in name of realism, to liberalism, which is instead directly connected with Rawls. I discuss the first issue in this section, and the second in next section.

The crisis of normativity has been made evident by what can be called the 'postmodern climate', as I believe that postmodernism is more something like a cultural climate than a proper philosophical direction. The heart of post-modern philosophy – which has planetary influence in post-colonialism and cultural studies – is French. It comes from the joint critique of the grand narratives beginning with Hegel-Marxism, psychoanalysis and structuralism in politics, ethnography, and linguistics. The best-known representatives of that what can be called post-modern philosophy are in fact French, such as Foucault, Derrida, Deleuze, Bataille, Lyotard, even if behind them stand out the figures of great Germans (Nietzsche for Foucault and Deleuze, Heidegger for Derrida, and so on).

It might be hypothesized that postmodern ideas converge to determine a critical and profound revision of the idea of normativity. By normativity, I mean the categorical logic that holds together both a discourse and a practice, if you will the ultimate foundations of truth and justice. This founding normativity is, by post-moderns, deconstructed in the name of the impossibility of any starting point – conceptual as well as practical – that is reasonably shareable. In essence, what emerges is an extreme fragmentariness of every discourse so that any general theory becomes impossible.

The very possibility of a universalist conception of knowledge and practice is declared impracticable here in the name of the impossibility of a collective subject – a ‘we’ constructor of the theoretical and practical world – capable of such an undertaking. In the place of this ‘we’, a human subject concerned with his destiny and his specific being in the world as an individual takes over.

The postmodern climate highlights the impossibility of normative thinking and, by implication, Rawls’ approach. There are neither epistemic nor ethical-political models capable of providing recommendations with universalistic claims. Yet, this situation leaves us without references. We are as if suspended in a vast horizon without guidance. It is not difficult, therefore, to hypothesize that it is precisely from this impossibility of preserving a sharable idea of normativity that arise both the strong return of the sacred that we have witnessed in recent decades and the need to appeal to a new metaphysics. Within this new metaphysics, being often emerges ‘rhizomatically’, to quote Deleuze, as an emanation of essences, and only violence, the magical and the sacred can impose decisions in an a-normative world.

Parallel to the impossibility of normativity, linked to such a postmodern climate, one can hypothesize the advent of a ‘new metaphysics’. This new metaphysics is inspired by realism. In this case, it is not directly a matter of political realism – which I will consider in section 6 – but of an ontological realism. However, there seems to be a coincidence, not only terminological, between these two forms of realism. If only because the ontological realism in question has a clearly anti-idealist and anti-Kantian figure. In this way, it enters fully into that reconstruction of the crisis of idealism and the critique of normativity that we have presented *ab initio* as the philosophical problem that today faces today anyone who wants to take seriously – as Rawls does – a normative approach.

The new metaphysics is also presented as a reaction to the bewilderment that follows the loss of reality that seems to result from dematerialization and deterritorialization. Not for nothing, the new metaphysics is often and willingly somewhat pre-Kantian in presenting an ontology in which objects emerge as such without the mediation of the subject. At the same time, such an approach appears essentially non-anthropocentric, in this respect consistent with the dictates of the transhuman. The latter and the digital revolution, in conclusion, influence the ontological

nature of the new metaphysics. Which, from this point of view, can also appear as the metaphysical basis of new eschatologies often mysterious and inspired by the magical and mystical. So far, we are on the threshold of what I call the new metaphysics. On the whole, this is a non-academic and widespread philosophy, and here again we can speak of a cultural climate. What postmodernism and new metaphysics have in common is the disappearance of the subject that was instead central in the Kantian idealistic tradition. This disappearance implies the impossibility of conceiving of a collective subject, a 'we' from which one can derive general prescriptions and recommendations.

In this view, the normative space of human thought is questioned. In fact, politics is not a form of knowledge that can be approached from a rational or scientific point of view. With Latour, it is necessary to recognize the space of non-human objects and their way of thinking independently from humans. As in Foucault, what we can do does not depend on choices guided by an ethical-political vision, but on a set of external conditioning within which we are thrown and find ourselves operating. In this sense, we can also find in Harman (2018) a background of evolutionary theory, since our actions are conceived as challenges to the environment that constrains us. The maturity of a politically relevant object-event -whether it is the American Civil War analyzed in Harman (2018) or the Indies Company analyzed in Harman (2017) – then consists in its ability to reach a state of maximum realization of its potential. This is achieved through a series of symbiosis between objects. The outcome of all this consists in the predilection for an object-oriented politics – shared with Bruno Latour- within which there is no reliable knowledge of politics and even less a normative vision that Latour himself branded as 'moralism'. In conclusion, the modern idealism that created the space of the normative is, for Harman, in its twilight years.

## 6. *Realism/moralism*

The sunset of the 'age of justice' together with a correspondent philosophical turn – which we have connected with postmodernism and the new metaphysics – made, as we have seen, normativity very difficult to be accepted. The most typical way in which the anti-normative trend in-

fluenced the paradigm of Rawls is framed by the political realist attack on the supposed utopianism implicit in his view. It must be noted that this kind of political realism is not directly influenced by postmodernism and new metaphysics. What political realism has in common with these views is only the idea that it is wrong to have a normative approach to politics. One can only consider, from this point of view, that the philosophical climate of the time favored the skepticism that is basic for the anti-normative position of political realists.

The realist critique of the Rawlsian received view is usually proposed in the wake of a well-known distinction made by Williams (2005). This distinction sees on one side the (political) moralism of the received view and on the other side (political) realism. Terms like moralism and realism are necessarily vague and moreover they are very general, so that within them one can distinguish different versions of both moralism and realism, even if – as we will see – while moralism corresponds to a rather precise identity, realism is more a collection of different objections to moralism than an independent paradigm.

Anyway, it is not impossible to draw a basic distinction between these terms. The approach -what Williams calls moralistic- is that of Rawls and the paradigm of theories of justice. It can include, in addition to Rawls, the work of distinguished contemporary scholars such as Dworkin, Nagel, Scanlon, Joshua Cohen, and so on. In principle, moralist authors might be liberal like Rawls. or libertarians, e.g. Nozick, and Marxists, e.g. G.A. Cohen. It can be said that moralism so understood draws its origins from an unbroken tradition that goes back to Aristotle. The approach of the s.c. moralists -as seen by its critics- is straightforwardly normative, if only in the sense that it insists on the prescriptive aspects of a theory, partly neglecting the descriptive ones. In other words, it insists more on what should be done than on the historical and factual situation in which political issues arise and become relevant. It thus presupposes a certain natural harmony between reason and reality, between subject and history. Ethics usually provides the basis on which normative judgments are made. And politics is like a river flowing in the bed of ethics (the metaphor is Nozick's). Although there are various ways in which the derivation of the normativity of the political from ethics can occur, there is no doubt that the political philosophy of the received moralistic view starts from the concepts of good and right more or less in the way Rawls formulated and distinguished them.

In recent years, the critique of normativity so interpreted has become the common basis of realist approaches. In contrast to the ethical normativity of moralists, realists insist on the fact that politics has its own indispensable autonomy. In the realist horizon, politics cannot and must not derive from supposed ethical truths – realists reject what Geuss (2008) called ‘ethics first view’ – but rather from some events that permanently characterize the reality of politics, among which the most typical is power. Therefore, by realist we usually mean those authors who share a view that the main purpose of politics is (or should be) the attainment and maintenance of power. One cannot think – according to the realist critique – that political theory is simply a tool to provide political prescriptions derived from pre-political ideals of a moral nature (the so-called ‘enactment model’). Or, that moral ideals constitute a priori constraints on what politics can do (Rossi and Sleat 2014; Rossi 2012, 2016). Something like this is, for realists, impossible if only because as a rule conflict prevails over consensus and even on concepts such as good and right disagreement reigns supreme. Also in this case, the tradition behind the realists is strong and, from Machiavelli and Hobbes -not to mention Thucydides – to contemporary political realists in the area of International Relations.

In essence, realists criticize that very desire to ‘escape from politics’ (Galston 2010, 386) which would constitute in their eyes the most obvious characteristic of moralism. Moralists, in this view, would systematically confuse politics with applied ethics. Among other things, in this way they would end up betraying the very liberalism that Rawls and many of his moralist followers hold so dear. In fact, applying ethics with the instruments of politics implies coercion on issues that are basically as controversial as moral issues usually are. And any good liberal should know that where there is disagreement – and in ethics there often is – imposing morality in a coercive manner runs counter to that autonomy of individuals that constitutes an undisputed foundation of liberalism itself.

As noted above, realists are roughly in agreement in their critique of moralism, along the (different) lines proposed by Williams (2005), Geuss (2010, 2017), Galston (2010), and others. However, they do not constitute a unitary paradigm, since -although they agree on the autonomy of politics from ethics and often on the centrality of conflict in the political- they start from different theoretical points of view. There is, for



example, a moderate realism (inspired to Williams) and a radical realism (inspired by Guess 2010 and Mouffe 2011). Thus, different political theoretical paths move in the direction of realism. There is the thread-to which we will return – based on the centrality of legitimacy, dear to Williams, the Nietzschean one, strongly distant from Rawls, of agonism (see Honig and Stears 2011 and Mouffe 2011), the vaguely historicist one of J. Dunn and Q. Skinner (see also in Galston 2010), the critical activist one (e.g. Mills 2005), the liberal institutionalist one (e.g. Waldron 1999) and the republican institutionalist view (e.g. Bellamy 2010). To these are added – especially in recent years- several political scientists of different orientation, sometimes in the US of Madisonian matrix. All have in common their dissatisfaction with the ideal guidance à la Rawls, according to which the ideal theory decides the standards through which any reliable attempt at reform should be practiced. This would distort political theory, make it lose sight of its main object, which is related to the autonomy of politics. As Gray has argued, the real target of Rawls' moralism would not be politics, at most constitutional law (quoted in Elkin 2006, 358-359, n. 2). In essence, all realists are united by the criticism that the sin of moralists is to exclude the specifics of politics from the heart of political theory.

Many realist authors criticize moralism not directly discussing its moral normativity but rather the primacy of ideal theory within the moralist model as formulated by Rawls. Rawls famously distinguished – in *TJ* (1971, 8-9) – between an ideal theory and a non-ideal theory. In his words, “the ideal part assumes strict compliance and works out the principles that characterize a well-ordered society under favorable circumstances” (*ibidem*, 245). His thesis implies the primacy of ideal theory over non-ideal theory. It can be argued that there is a fairly close relationship between the critique of the primacy of ideal theory and a position inspired by realism in politics. Realists reject the ‘ideal guidance’ of ideal theory, and the normative level in general, in the name of greater attention to historical facts.

Ideal theory, so conceived, assumes ‘strict compliance’, that is, not only the development of principles of justice under particularly favorable circumstances but also the full adherence of citizens to these principles once they are aware of them and (hopefully) convinced of them. Only in the ambit of an ideal theory thus conceived, “Existing institutions are

to be judged in the light of this conception" (Rawls 1971, 246). To the ideal theory, then corresponds a non-ideal theory that performs a complementary task, so that "Nonideal theory asks how this long-term goal might be achieved, or worked toward, usually in gradual steps. It looks for courses of action that are morally permissible and politically possible as well as likely to be effective" (Rawls 1999, 89). It is not difficult to believe that the ideal theory, with the assumption of strict compliance that characterizes it, is unrealistic (see Simmons 2010). The non-ideal theory has a more general task, divided as it is into two parts of which "One consists of the principles for governing adjustments to natural limitations and historical contingencies, and the other of principles for meeting injustice" (Rawls 1971, 246). In non-ideal theory there are various cases of non-compliance, ranging from non-compliance within the state which in turn might be voluntary (such as civil disobedience) and non-voluntary (due to causes such as poverty and culture), and to those cases where it is individuals who violate compliance, for example by committing crimes.

It is sometimes argued that Rawls' non-ideal theory does not take sufficient account of specific but systematic injustices such as those involving race and gender. This is true to some extent. But it must be understood that non-ideal theory à la Rawls has a limited purpose and only makes sense within the normative perspective proposed by ideal theory. It serves, in other words, to fill in the gaps between factual reality and the basic just structure that would result from applying the principles of justice of the ideal theory under strict compliance. To this we must add that – in the context of the Rawlsian approach – the very idea of a non-ideal theory would make little sense if there were no ideal theory to precede it. In other words, if non-ideal theory serves to govern situations of relative injustice in the name of principles of justice, then it would be conceptually impossible to determine the extent and nature of these injustices if there were no ideal normative point of reference to inspire. In this way, the realist criticism of the priority of ideal theory within the Rawlsian paradigm reveals itself to be another version of the standard realist criticism of the normativity of moralism.

Therefore, according to the realists, the moralist position is always characterized by a philosophical primacy of the normative: philosophers must deal with the normative aspects of a policy, leaving the implemen-

tation of projects to experts in the various fields. From this point of view, the concept of justice is a normative concept. We link a normative statement to the recognition of an obligation or the making of a publicly comprehensible commitment. As we say, normative statements are usually linked to an 'ought' rather than an 'is'. The reasons why there is an obligation or commitment – reasons that depend on one view of justice or another – are usually derived in political philosophy from justification, that is to say from the "force of the best argument" (Habermas 1991). Where, of course, the problem lies precisely in understanding what kind of reasons these reasons are, and why they are normatively important. It can be said, in very general terms, that we give normative weight to reasons that invoke particularly significant ethical-political values. In other words, the thesis is that the reasons that incorporate values are those on which the assumption of the obligation or commitment mentioned above depends. This is the substance of political moralism, which thereby makes morality as the pivot of normativity prioritized over politics. In contrast, realism intends to give greater autonomy to purely political thought. As Williams argues, political philosophy cannot be a kind of applied moral philosophy.

This kind of objection is reflected in the realist critique of the consensualism implicit in political moralism. For Rawls, the conflict is surmountable in liberal democracy if one shifts the focus from good to right, as is explicitly stated in the doctrine of overlapping consensus in *Political Liberalism*. But this solution does not always work, as Galston (2010, 391 and ff) argues, following Waldron (1999). There are certainly radical disagreements involving conceptions of the good of persons, but it is by no means certain that unanimity can be found in the domain of the right. The unanimous consensus on the right, desired by moralists, depends – according to these critics – on the fact that, for moralists, politics does not have its own autonomy and specificity, and the same institutions are conceived as instruments at the service of the realization of a previous ethical ideal that is supposed to be shared. But this is precisely the point on which realists disagree. In addition to the fact that, in the vision of moralism thus conceived, little importance is given to institutional procedures and processes.

The opposition is ultimately about the philosophical primacy of the normative, which is judged by many critics to be too abstract and uto-

pian. The principles of justice, in the realist view, cannot be conceived as a priori standards without worrying about the possibility of realizing them. Among other things, there are cases in which the overall scenario does not allow one to believe in the possibility of realizing the principles. Conflict in politics can be irredeemable to the extent that it applies not only to values but also extends to situational analysis. Moreover, again for realists, political disagreement is not only intellectual and can be pervasive and ineradicable: so that in some cases even democracy cannot solve the problems. The same applies to the requirement of full compliance (Galston 2010, 395), seen by many as a mere ideal that is essentially unattainable in any human society.

However, as anticipated in the previous section, the core of this paper is not so much about the relationship between moralism and realism as such. Rather, the attempt is to understand why the realist hypothesis, the critique of ideal theory, the very desire to resize the space of the normative in political philosophy have become -after a long period of silence on the matter- so popular today. As I said above, there is a connection between the current realist trend not only with the political history that sees an undoubted decline of the democratic ideal but also with the crisis of normativity given the general trend of contemporary philosophy. All in all, I am convinced that -as Leo Strauss argued, speaking of modernity- the attack on moralism in the name of realism depends on a progressive crisis of values in today's society.

### *7. A rejoinder on normativity for realists and moralists*

So far, I have worked from a complex hermeneutic hypothesis that seems to admit no way out. I argued that Rawls' Era depended – besides the extraordinary quality of Rawlsian work – on a political climate and a philosophical culture. Later both the climate and the culture in question were deconstructed. In the eyes of many, liberal democracy as a basic structure no longer seems to constitute the default from which protest in the name of social justice can find a solution. At the same time, contemporary philosophical culture questions the possibility of a collective subject able to provide a universalistically significant view and option. This makes it implausible to base one's own theoretical hypothesis on

traditional normativity, as has been the case in a centuries-long trend that goes (at least) from Kant to Rawls. On this impossibility basis, the realist critique of the supposed moralism of the Rawlsian received view takes hold and is reinforced. But, in these terms, we seem to find ourselves in a dead end: there are no solutions to the dilemma arising from the crisis of normativity. The received view cannot continue its course without profound changes, some of which are related to the content of the realist critique. But at the same time, realism remains a purely critical view, capable of making serious objections to the Rawlsian view but in turn in need of a normative space in which to affirm its anti-moralistic conception of the political.

In essence, both realists and moralists must find a model of normativity, a model that has to be different from the previous ones. For moralists, accepting by degrees the analysis proposed here, something like this seems obvious. After all, in this field it is only from the perspective of ideal theory that one can understand where injustice reigns. And ideal theory obviously has presuppositions of a normative nature. However, the criticism of the realists leaves its mark. And to a greater or lesser extent, the emphasis on the excess of utopianism that emerges from the realist critique is taken up by various thinkers in the wake of *Political Liberalism*. A liberal thinker and overall adherent to the social justice paradigm like Miller (2008, 44) has insisted that we would need politics for earthlings. Waldron (1999), also undoubtedly liberal, explained that the received view of political theory failed because it did not adequately consider the descriptive aspects of the enterprise. In essence, this is the position on the subject of thinkers close to the Rawlsian orientation). Sangiovanni(2008, 158-159), for example, emphasizes concrete institutional conditions as the frame of reference for an interpretation of normative principles as well as their specific functions within concrete political contexts, it can be said that the search for a more equitable relationship between normative and descriptive is on the agenda of contemporary political theory as seen by moralists.

A similar move appears more difficult from the perspective of realists. However, if – as noted above – moralists need a more grounded approach, realists cannot give up a normative platform (obviously different from the traditional platform of moralists). Political Realists' normativity is often implicit and hidden, for example within their

premises and in the way they set the problem. As I said earlier, realists desire a political theory that can deal not with a normative dream but with the specific problems of the political dimension. Problems such as the question of power, the fact of disagreement, the necessity of order given conflict, the very nature of political authority. In substance, realists suggest that the essential and primary purpose of politics is to secure a social order based on authority. But, if this is the point, one cannot avoid asking what makes such an order endowed with authority. The answer can only be normative: the order must appear to citizens as adequately justified and thus endowed with legitimacy. Williams (2005, 1-2), from whom much of the realist critique has taken its cue, has no doubt about this. If, in fact, he argues that the first political problem arises “in Hobbesian terms ... /consist in/ the securing of order, protection, safety, trust, and the conditions of cooperation”, with equal conviction he asserts that each state has the task of “satisfying the basic legitimation demand” (BLD), which in turn requires to “offer a justification of its power”. The justification in question need not be the liberal egalitarian justification of Rawlsian moralists, which in turn responds to the demands of Western modernity. Instead, it can be consistent with the historical period and culture of reference. The main difference with respect to moralists would consist – if we follow Williams – in the fact that it would not be a question of appealing to a moral normativity that takes priority over politics, but rather to a morality within politics. This latter hypothesis is not too different from that of Rawls in *Political Liberalism* and from theorists such as Miller (2008; 2016), Waldron (1999) and Sangiovanni (2008) who are inclined to take institutional realism seriously.

Obviously, realists are not satisfied with the liberal vision, which justifies legitimacy in terms of ideal consensus. Nor, however, can they accept the reduction of politics to power and the adherence to the maxim ‘might makes right’. Instead, the BLD for Williams assumes that there are normative conditions that justify legitimacy so that political power in the proper sense can be distinguished from pure and simple domination. This proviso requires a normative basis, though it is a normativity that is less general than that of the moralists and more related to history and context. As Larmore (1999, 607) argues, “The moral ideals to which the latter view [moralism] appeals are bound

to prove controversial, forming part of the problems of political life, rather than providing the basis of their solution". In essence, realist legitimacy must distinguish the realist paradigm from mere effectiveness in command, but at the same time it must not collapse into political moralism. It cannot thus derive from moral conditions external to politics. From this perspective, Williams (2005, 5) – discussing the moral nature of BLD, says: "If it is, it does not represent a morality that is prior to politics. It is a claim that is inherent in there being such a thing as politics". In this way, even the realist approach accepts the space of the normative, within which there are also moral values. The condition for this to happen is that the legitimacy of a political power depends on the convictions of those who are subject to it. Therefore, normative judgments on legitimacy that judge the past from today or that are intercultural and made from the outside are not consistent.

The thesis that can be derived from these observations is that – considering the reasons and limits of the two main visions (moralism and realism) – today it is necessary to think of a vision of normativity that goes beyond these limits. This vision should keep in mind two theoretical requirements that are indispensable for any good political theory. I call these needs descriptive plausibility and normative adequacy, respectively. A good political theory must be descriptively plausible, in the sense of being not only capable of providing an adequate description of the facts but also of showing how these same facts are best explained if the theory in question is relied upon. However, a good political theory must also be adequate from a normative point of view, that is, capable of indicating a direction of development that is inspired by ideals of justice and stability compatible with the theory itself.

Both realism and moralism in their original formulation are unable to maintain the mentioned standards of normative adequacy. Realism in fact lacks an explicit normative dimension that often remains implicit in the folds of the explanatory and descriptive account of the theory. At the same time, moralism while providing a normative version, ends up – as we have seen – often confusing social justice with applied ethics or worldly religion. From the analysis of these theoretical deficits of realism and moralism comes the need for a theoretical turn in social justice and political theory in general.

## 8. *To conclude somewhere*

I said *ab initio* that the main purpose of this paper is to suggest a philosophical hypothesis concerning the post-Rawls period, trying to see critically if and how its cultural, philosophical and political foundations can persist after Rawls' Era. Something like this presupposes a willingness to analyze some philosophical consequences of the contemporary cultural and political climate. From this point of view, it was sufficient for us to say that the classical view of normativity no longer holds in the wake of the shocks of postmodernism and the new metaphysics on the one hand, and the crisis of liberal-democracy on the other. At the same time, we argued that a conception of the normative nonetheless serves both Rawlsian liberals and their realist critics.

This last section is devoted instead to two collateral aspects of the question. First, are we – I wonder – so sure that it is correct to criticize Rawls as the standard bearer of a traditional normativism? Is it right, in other words, to crush him on a quasi-platonic interpretation of normativity, or rather is Rawls not able to offer us a more nuanced position? Second, could it not be an error to abandon the liberal egalitarian normativity à la Rawls with its democratic background? Don't we risk, exposed to this temptation, to throw away the baby with the bath water?

In fact, I think we can argue – with the support of the texts – that Rawls is not only a moral philosopher who ventures into politics, but also – as we mentioned at the beginning – a social critic in his own right. His pages against inequality and against meritocracy to affirm universal self-respect speak clearly from this point of view. And the same can be said for the sections of *Theory* devoted to the circumstances of justice and civil disobedience. In all these sections, Rawls does not merely offer an abstract set of reflections but anchors his vision in a precise social and political context to which an unwavering commitment to the worst-off corresponds. In these terms, Rawls' theory is an undoubtedly political, able to respect that autonomy of politics whose lack constitutes – as we have seen – one of the main points of criticism of the realists to the moralists (Rawls included, according to them). If what I have just said were true or even only plausible (as I believe), then one could say that the realist criticism of moralism is – at least in the case of Rawls – a misunderstanding of the Rawlsian message. Above all, the idea of the



realists that s.c. moralists (including Rawls) have a vision of motivation and human action that is far removed from reality would be misleading.

Moreover, the thesis, typical of realists, that liberal moralists like Rawls no account of the nature and effects of power could be false. I do not pretend to say, with these words, that realists' criticisms of liberal moralists are entirely wrong, but only the more modest claim that their criticisms are often directed at a version of liberal theory that does not exist or only partially does. Rawls' liberalism rests not only on moral considerations but on the deep conviction that profound social change is indispensable if we are to live in a decently just society.

In the second place, and beyond questionable interpretations of Rawls, the danger of a too-radical critique of his paradigm consists in the risk of losing the ethical and political advantages of an egalitarian liberal democracy together with the fear of marrying the ineffable, the magical, the mystical or even violence. The Rawlsian paradigm, from this point of view, constitutes a political ideology in the good sense. The attack on this ideology is increasingly carried out in the name of the futility if not harmfulness of ideologies as such.

Instead, in my view, we should return to a climate in which a political theory properly justified, still constitutes the normative horizon within which the political flourishes. We started from the difficulty of applying models to the real world with which we are confronted. This is a *prima facie* epistemological question, no doubt, but its political-ideological significance should not be underestimated: normative approaches to politics vanish as part of a more general skepticism (which characterizes contemporary philosophical thought).

It comes as a natural output of such consideration to try to understand how this can be remedied. There are two options: either the nihilistic, magical and authoritarian consolation as it happens within the anti-normative climate of postmodernism the new metaphysics, or the attempt to give new logical and practical space to normative models. I opt for the second. But what does it mean to hypothesize a kind of alternative model with respect to tradition? It means transforming the vision of what is normative. The sphere of the normative concerns what ought to be, from both the logical and the ethical-political points of view. The normativity of tradition descends on reality from above, like the principle of the excluded third or the categorical imperative. The transforma-

tion of models that I have in mind implies new options in which models, instead of descending from above, partially ascend from below. It is an evolutionary vision of normative models, of making the mindset compatible with the reality of the facts. The future of normativity, and consequently of the Rawlsian model, seems to depend on the capacity to find plausible models of normativity from below.

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## **FRONTIERE LIBERALI**



In *Just, Reasonable Multiculturalism*<sup>1</sup>, Raphael Cohen-Almagor manages to deliver a new take on a widely debated topic, such as multiculturalism, while remaining within the framework of political liberalism (Cohen-Almagor 2021). The book examines whether multiculturalism and liberalism are ultimately reconcilable and what are the limits of state intervention in the affairs of illiberal minorities within democratic societies (4). Therefore, it combines an analytical theoretical approach with a vast array of examples and case studies. Genital cutting, forced marriages, discriminatory norms of divorce and property rights, cultural specific paths of education and veiling bans are only some of the practices discussed by the author.

Cohen-Almagor's core argument recites that nothing is inherently wrong with multiculturalism. Multiculturalism is not necessarily bad for feminism, liberal democracy and national security, as contended by its detractors. (12) On the contrary, multicultural policies, in the shape of group rights, can be used to enhance human flourishing, on the proviso of being balanced with individual rights. This can be achieved by mechanisms of deliberative democracy, reasonable compromise and justified state coercion. Justification for state interference is provided only when cultural norms cause harm to others – especially the most vulnerable members of a minority, the so-called ‘minorities within minorities’ - or do not accord to people equal respect as human beings (13).

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<sup>1</sup> *Just, Reasonable Multiculturalism Liberalism, Culture and Coercion*, Cambridge, Cambridge University Press, 2021.

The argument *per se* appears as a traditional liberal response to the problem of accommodating cultural differences in liberal democracies. Immanuel Kant, John Stuart Mill, John Rawls, Jürgen Habermas, and Will Kymlicka lay in the background as fundamental references. Cohen-Almagor succeeds in reinvigorating the liberal perspective, presenting a normative framework to deal with diversity that holds together the various contributions of these thinkers. However, as I shall argue, this systematizing zeal towards liberal theory sometimes risks missing a challenge that liberalism itself is called to address, *vis-à-vis* cultural norms, namely the problem of the internalization of oppressive cultural norms.

The book is structured into four sections (13). The first one (chapters 1-4) lays out the tenets of what Cohen-Almagor defines as just, reasonable multiculturalism. Each chapter corresponds to a layer of his analytical and comprehensive theory: 1) liberal justice, 2) reasonableness, 3) compromise and deliberative democracy, 4) justified coercion (13-14). In the following three sections, he shows how the theoretical principles articulated in the first part of the book can be applied to contemporary contentious cases (14).

At first, I shall illustrate in more detail the content of the first four chapters, which constitute the theoretical bedrock of the book. The cases to which Cohen-Almagor applies his theory will be more extensively examined when taking into consideration the issues that *Just, Reasonable Multiculturalism* leaves unsettled.

The first chapter deals with the concept of justice, mostly relying on John Rawls' political liberalism, thus presenting the theoretical device of the veil of ignorance and the argument of overlapping consensus as essential to overcoming the difficulties of deep disagreement among different conceptions of the good (28-34). These two fundamental features of Rawls' political theory are coupled with the Kantian tenet of respecting other people and Mill's harm principle. Cohen-Almagor contends that Kantian mutual respect supplemented by the requirement of not harming others means that persons should be always respected *qua* persons and someone's freedom should be restricted only in case it prejudices someone else's liberty (34-39). Therefore, democratic governments are called to provide opportunities for their citizens to flourish as persons and cultivate their freedom while ensuring, at the same time, law and order. Unrestricted freedom might in fact destroy

the whole political system. This is what the author calls ‘the democratic catch’, namely the fact that liberal values need to be carefully balanced, otherwise they risk endangering the very functioning of the democracy (39-44).

The second chapter develops the concept of reasonableness, which is said to bridge the notions of liberal justice, outlined in the previous chapter, and multiculturalism (4). It is argued that reasonableness sets the boundaries of cultural accommodation within just liberal institutions (46). The extent of reasonableness varies according to the degree of acceptance of the liberal values underpinning democratic institutions (49). Consequently, the claims of cultural minorities are deemed more or less reasonable based on their adherence to the harm principle and mutual respect (49). Moreover, relying on Will Kymlicka taxonomy of ethnocultural diversity and group rights, Cohen-Almagor discusses the distinction between multination and polyethnic states, as well as the distinction between internal restrictions and external protections, agreeing with Kymlicka on ruling out internal restrictions as being incompatible with liberal values (54-65).

The notions of compromise and deliberative democracy are addressed in the third chapter. Compromise is seen as inherently linked to the notion of reasonableness since it is argued that a fair compromise can be reached only when the involved parties are prone to make mutual reasonable concessions (72). This is what distinguishes a tactical compromise from a principled one. While a tactical compromise is temporary and lacks in mutuality because there is no genuine desire to make some concessions to the other but only to postpone confrontation, principled compromise entails that the two parties meet halfway and reach a shared agreement that leaves both satisfied to some extent (79-82). A principled compromise between groups can be obtained through the process of authentic democratic deliberation (72-76). Cohen-Almagor builds on discourse ethics to defend this idea of deliberative democracy as the best approach to resolve and mediate conflicts between minorities and institutions (82-85). He argues that deliberative democracy entails the right to be different and, at the same time, demands to solve the conflicts that these differences might generate by way of public discussion (83). To enter the public discussion, citizens from different cultural communities have to accept that, despite their differences, they share common interests as members of the same polity (83). These shared



interests provide the necessary basis for principled compromise. Moreover, public engagement ensures the legitimacy of the outcomes of deliberation (85).

When compromise seems hard to reach or it is broken down, one of the parties involved might decide to resort to coercion (87). Consequently, the fourth chapter distinguishes between coercion and brute forms of oppression and illustrates the various shapes that coercion can take: circumstantial or person-based; benevolent or malevolent; paternalistic, self or other-regarding; internalised or designated; enacted by a minority or a majority (88-108). Coercion represents an infringement of someone's freedom, therefore it should be the last resort in the context of liberal democracy (90). It needs to be justified by verifying that the motives behind it are just and reasonable (89-90). The terms of justice and reasonableness are once again those defined in the previous chapters, exemplified by the principles of not harming others and mutual respect (46-50).

Once outlined the theoretical framework of his just reasonable multiculturalism, in the second and third sections of the book, Cohen-Almagor proceeds in applying his theory to controversial cases of state interference in cultural minorities' affairs. Section two (chapters 5-6) examines the cases in which minority groups inflict physical harm on their members, focusing in particular on the practices of scarring, cultural defence for honour killings, suttee, female and male circumcision and female genital mutilation (FGM) (112-175). Except for circumcision and self-inflicted scars, it is argued that these practices are beyond state tolerance because they are incompatible with basic liberal principles. They involve brute forms of discrimination towards women and torture (144-145). Especially, FGM is deemed unacceptable even when the women involved endorse the practice. However, it is also suggested that an alternative symbolic rite that does not involve permanent damage could be accepted as a form of just reasonable compromise (145).

In section three (chapters 7-8), Cohen-Almagor analyses the cases in which the harm inflicted is non-physical, yet constitutes a denial of basic human rights, especially to women and children. Here he reflects on sexist cultural norms, considering the discriminatory membership assignment system of the Pueblo Indian Communities, arranged and forced marriages for girls, sexism in Judaism, the infringement of the freedom of

exit from one's community, especially examining the case of the Hutterite Church, and the denial of appropriate education to children in Amish communities (179-233). He contends that liberal values require the state to equally respect its citizens as ends in themselves, regardless of their gender. Therefore, women have the right to develop themselves as they wish, exactly as men do. The state must ensure this right, intervening when communities blatantly prevent them to realize themselves as they seek (203-204). The same argument is applied to children's education. Education is seen as a fundamental tool for self-development, hence its impairment amounts to hindering the children's future flourishing and their ability to leave their community if so they wish (228-233).

Finally, the last section (chapters 9-10) discusses the policies adopted in France and Israel to deal with Muslim and Arab minorities, which are perceived as threats to national identity and security. The ninth chapter harshly criticizes the French ban on veiling. It is argued that such a ban reflects a perfectionist conception of secularism, typical of French republicanism, which conflicts with a version of liberalism that appreciates diversity and pluralism (274-276). The last chapter analyses the Jewish-Arab relationship in Israel, described as solely dominated by security considerations, which ends up systematically disadvantaging the Arab minority (284). As in the case of France, Cohen-Almagor argues that a perfectionist conception of the state, which in this case elevates Jewishness above the correct functioning of liberal institutions, impairs the equal enjoyment of rights and liberties of the Muslim and Arab minorities (304).

While I find most of Cohen-Almagor's theory effective and very well-argued – thanks to a remarkably clear and didactic writing style –, I would like to focus on one element of his theory that may deserve further discussion: internalized coercion.

The concept of internalized coercion is introduced in the fourth chapter and re-examined in the fifth when the practices of FGM and genital circumcision are examined. Sometimes Cohen-Almagor seems to overlook the extent to which this subtle form of coercion can be detrimental to the members of certain minorities – especially to women, when the norms of their community legitimize sexist discrimination. The acknowledgement of the effects of internalized coercion also calls into question the notion of state neutrality towards self-regarding choices, a staple of

liberal theory. Cohen-Almagor recommends great caution, but overall he does not take a resolute stand on the matter. This is surprising considering that much of the contemporary debate on multiculturalism is crippled by the dilemma of either justifying state intervention, against the will of the people that this intervention is supposed to safeguard, or tolerating discriminatory cultural norms for the sake of state neutrality towards people's choices (Chambers 2007; Phillips 2010; Khader 2011).

Despite a few hints towards the discussion on state neutrality and 'women's liberation' in his critique of French republicanism, his takes on the veil ban or voluntary FGM are not linked to a broader perspective on the subject of gender injustice. (274) On the contrary, in his case by case analysis, it is hard to envision a coherent approach. Sometimes he seems ready to defend interventionism to safeguard gender equality, as in the case of FGM (127-139) or basic human rights violations (184-190), some others, he defends the legitimacy of cultural manipulation over women (102-104) or scarring for beauty (117-119), without even considering the connections between the examined phenomena.

Consequently, in the following paragraphs, I shall discuss the shortcomings of a theory of just, reasonable multiculturalism that does not face up to the problem of the internalization of gender unjust cultural norms. I shall first outline the distinction between internalized, designated and self-coercion, showing some inconsistencies in its formulation. Afterwards, I shall demonstrate how Cohen-Almagor's arguments against FGM and suttee do not hold the ground without a proper account of internalized coercion. In the end, I shall briefly discuss the challenge that these considerations pose to the notion of liberal neutrality.

Cohen-Almagor describes internalized coercion as the following: when a subject internalizes certain self-limiting beliefs related to their culture, they may abide by them, without even realizing that they are forgoing something to tradition or the community they belong to (102 -103). This form of coercion is internalized because there are no explicit external constraints to comply with cultural norms. Therefore, the subject willingly accepts the oppressive conditions to which they are subjected, without perceiving them as coercive.

He also distinguishes between internalized coercion, designated coercion and self-coercion. Internalized coercion may imply some forms of manipulation, but, as already said, it does not involve external con-

straints and is directed toward an entire cultural group, e.g. women. On the contrary, designated coercion implies personally exerting pressure on non-complaint individuals, even by threats, to bring them back into the community (103-104). Self-coercion constitutes, instead, a broader concept, as it refers to the general possibility for the individual to dispose of their freedom as they wish, even as a commodity (99-102).

On the one hand, Cohen-Almagor argues that designated coercion is clearly unjustified because it consists in denying people their freedom of exit from their community, thus, state interference against it is warranted (104). On the other, it appears that a case for or against self-coercion and internalized coercion is harder to make because it is difficult to assess the scope of one's autonomy, even in absence of formal external constraints.

As concerns self-coercion, once again he grounds his response on Mill and Kant. Building on Kantian ethics, he argues that the boundaries for one's freedom are set by the respect for people as ends (99-100). This seems to entail not only the principle of mutual respect, already outlined in the first chapter, but also a form of self-respect. People cannot dispose of themselves as mere objects, entirely waving out their freedom, because this is so degrading that they would stop being moral agents (99). Consequently, contracts of voluntary servitude are unacceptable. In addition, referring to Mill, Cohen-Almagor seems to suggest that those who wish to become slaves should be deemed irrational because they do not realize the absolute implications of a similar choice (100). Therefore, state intervention may not only be legitimate but actually required to protect these people from their poor capacities of judgment (101-102).

However, there are different degrees of self-coercion. Voluntary servitude is arguably the most extreme. Cohen-Almagor also mentions fasting as a bland and admissible form of self-restraint (104) and suicide as a more contentious one, which is nonetheless permissible in a liberal state (101-102). These practices – suicide and self-harm in general – should be tolerated because they are self-regarding. They do not cause harm to others, thus falling outside the scope of state intervention. Unlike the case of the voluntary slave, the suicidal or the individual with self-harming behaviour are not necessarily deemed irrational. On the contrary, assuming that people are capable of reason and act in their best interest, they are considered the best judges for their own affairs, even if their choices

may look bizarre or incomprehensible to someone else (101). Therefore, Cohen-Almagor contends that “people who are *prima facie* reasonable may commit suicide if they so wish...” and adds that “autonomy and liberty are that important in the liberal thinking that they enable people to put an end to their autonomy and liberty” (102)<sup>2</sup>. Only when people are clearly incapable of reasoning – because they are delirious or have not developed yet this capacity, as in the case of children – the state is legitimate to intervene to safeguard them (101).

Self-coercion is directly linked to internalized coercion. They both involve self-restraint but the difference between them seems to reside in the fact that the former is autonomously enacted by the subject, while the second is the result of influence and manipulation from the subject’s group.<sup>3</sup> As long as this manipulation does not involve physical harm or does not resort to personal threats, thus shifting to designated coercion, Cohen-Almagor is wary of state interference (103). For instance, he argues that those subjected to internalized coercion may either accept the justification provided by their community for this treatment – such as the fact that it is necessary to preserve traditions or for the community’s survival – or wholeheartedly endorse the values that ground these restrictions, without even perceiving them as oppressive (102). If this is the case, then attempts to interfere may actually result in illegitimate acts of cultural imperialism (103).

I believe that this distinction is built on conceptual premises that prevent from criticizing adequately the dynamics that it is supposed to categorize. First, it is not clear what is the point of differentiating between ‘internalized coercion’ and ‘self-coercion’ when the victim of internalized coercion allegedly endorses the values underpinning the restrictions and this is held as a sufficient justification for tolerating systematic in-

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<sup>2</sup> Cohen-Almagor argues that people are free to put an end to their liberty, but not to use it as a commodity, otherwise this would fall in the case of voluntary servitude. The difference between the two cases is subtle and the aspect of commodification seems to play an important role, however, it is not further specified.

<sup>3</sup> It could also be argued that self-coercion is always ultimately linked to a form of internalized coercion, resulting from manipulation or a distorted perspective on reality, but this goes beyond the scope of the review.

equalities. Manipulation and group pressure, which are the most salient aspects of internalized coercion, do not seem to play a sufficient role in further investigating the motives behind this endorsement. Why does Cohen-Almagor introduce a third type of coercion if it is not intended to solicit a reaction from the state, not even in the shape of a plea for deeper scrutiny?

Moreover, in the case of self-coercion, he argues that state interference is legitimate if the subject's judgement is evidently impaired. A whole body of feminist literature has questioned the legitimacy of choices resulting from internalized coercion on the exact same ground, contending that internalized coercion can lead to an impairment of the deliberative capacities of the coerced people. One of the most debated questions in feminist literature is exactly why women are often complicit with their subordination (Jaggar 1983). So far the primary explanation for this phenomenon has been articulated in terms of adaptive preferences. (Khader 2012).

Since the 1990's many formulations of adaptive preferences have been proposed. Some scholars conceive of them as unconscious adaptations (Elster 1983), or a form of life-long habituation to oppression (Bartky 1990, Meyers 2002; Nussbaum 2001), some others focus on the fact that they may even be rational adaptation yet distorted by the oppressive context in which they take place (Cudd 2014; Khader 2011). However, all these different accounts agree on the fact that the subject's endorsement of sexist and discriminatory norms does not necessarily legitimate these norms.

The notion of internalized coercion reappears in chapter five. Here Cohen-Almagor condemns FGM arguing that it is a discriminatory practice amounting to torture, even when women accept it as a part of their culture (145). In this case, he shows that internalized coercion is combined with a serious and irreversible form of physical harm, thus going beyond the scope of tolerance in a liberal democracy.

Nonetheless, if such a serious and irreversible form of physical harm is considered 'voluntarily self-inflicted' because internalized coercion alone is not sufficient to delegitimize women's complacency with it, why should it be outlawed by the liberal state? If voluntary, FGM do not violate the two terms of reasonableness, the principle of not harming others and that of mutual respect. Besides, as concerns the more undetermined principle of self-respect, only briefly mentioned in chapter

four, this does not seem to apply to self-harm, but only to servitude. It seems hard to make a case against FGM, solely based on the core tenets of just reasonable multiculturalism. What is missing in the justification for state intervention against FGM is exactly a more extensive analysis of the mechanisms behind internalized coercion.<sup>4</sup>

The same argument applies to the case that Cohen-Almagor builds against *suttee*, namely the immolation of a wife following her husband's death.<sup>5</sup> When examining the legitimacy of the practice, he is the first to acknowledge that if the woman gave her consent to death, it is obviously because her free will has been compromised by the community coercive expectations according to which the fate of women's is inherently linked to that of their husbands. Once again, what seems to be crucial in justifying a prohibition of this practice is the fact that a self-regarding harmful choice has a socially constructed nature. Harm alone, as severe as it can be, does not constitute a sufficient warranty for liberal state intervention, not if at the same time suicide or scarring are deemed acceptable. The difference between *suttee* and suicide stands in the patriarchal meaning encoded in the former, but this cannot be adequately thematised without a proper account of internalized coercion.

Such account is ever more needed to wholly redefine the notion of liberal neutrality in current multicultural liberal democracy, which is presented as one of the main objectives of *Just, Reasonable, Multiculturalism*. (4) It is argued that the liberal state refrains from promoting a single conception of the good and lets its citizens cultivate their own, as they see appropriate. (6) However, the internalization of gender unjust social norms may call into question the legitimacy of certain practices, even if

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<sup>4</sup> For a more extensive discussion of the limits of liberalism in dealing with internalized oppressive norms and physical harm see Chambers 2007.

<sup>5</sup> *Suttee* is different from dowry murders, a phenomenon extensively analysed by Uma Narayan (1997) and wrongly associated with the idea of 'Indiannes'. In her paper Narayan warns against a typical ethnocentric point of view which essentializes non-western cultures, presenting them as the main culprit of the cross-cultural problem of gender injustice. I believe that taking into account the pervasiveness of internalized coercion goes into the direction of de-essentializing cultures, as it focuses on manipulation and the asymmetries of powers within all groups, as they are, instead of exoticizing their nature.

self-regarding and endorsed by those who engage in them. Cohen-Almagor seems to partially acknowledge this in certain cases, the banning of FGM and suttee are some examples, but overall it is not clear what role internalized coercion plays in his theory. If it has one – and I argue that it should, because otherwise certain policies defended in the book could not be justified – then it must be also put into dialogue with the problem, only rapidly touched in chapter nine, of not escalating into perfectionism. Taking seriously the effects of internalized coercion should not end up “forcing people to be free”, as in the French headscarf affair (275). On the one hand, the liberal state risks acquiescing gender injustice, on the other, enforcing cultural imperialism. The role of just, reasonable multiculturalism is to find a balance between the two.

Finally, I would like to highlight a major strength of Cohen-Almagor's book. A critique often moved to liberal multiculturalism is that it remains primarily a theoretical project that leaves poor guidance on the concrete allocation of culturally differentiated rights. For instance, Annamari Vitikainen argues that there is often a gap between the ideal territory, where liberals discuss the rationale of state cultural accommodation or the compatibility of these measures with liberalism, and the more concrete political arena that demands practical and effective state policies (Vitikainen 2015, 5-6). Even though liberal multiculturalists have provided persuasive responses to the first two challenges, the scope of their arguments rarely extends to the questions of state policies. On the contrary, in *Just, Reasonable Multiculturalism* both territories – the ideal and non-ideal – are widely explored. Justification of group rights is always combined with the problem of identifying the proper modes of allocation of these rights in concrete and often controversial situations. For sure, this is one of the main reasons to appreciate this book.

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