Contemporary political theory: liberalism and its critics

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Undergraduate study in Economics, Management, Finance and the Social Sciences

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Chapter 1: Introduction

Introduction to the subject

105 Contemporary political theory: liberalism and its critics is a 300 course offered on the Economics, Management, Finance and Social Services (EMFSS) suite of programmes. You must have passed either 130 Introduction to modern political thought or 114 Democratic politics and the State before you may attempt this course.

Between the death of the English philosopher, J.S. Mill, in 1873, and the last quarter of the 20th century there was not much political philosophy going on in the Anglo-American world. Course syllabuses at the time focused on the history of political thought, on expounding what, for example, Thomas Hobbes and John Locke, had said: but no one, outside feminist circles (who were challenging what they regarded as the male-dominated organisation of most, if not all, societies and cultures) actually offered an account of what a just society should look like. This changed in the sixties and seventies: Vietnam and abortion were two of the most important issues on the political agenda at the time, and people who so far had been content to teach Plato and Hobbes decided that, as they had views on those issues, they should defend them. It is no accident that some of the most important philosophical writings at the time are about just and unjust wars, and the morality of abortion. Moreover, some academics were getting very concerned about endemic poverty and destitution in the US – a concern which prompted them to articulate normative principles of distributive justice. The most important of those academics, who profoundly changed political philosophy as practiced in academia, is John Rawls (1921–2002). In 1971, Rawls published A Theory of Justice: it is a remarkable book, on a par with Plato's Republic and Hobbes' Leviathan. It seeks to defend two principles:

- we should all have equal freedoms
- material inequalities are justified only if they benefit the worst-off members of society.

That book changed the way in which we now practise and teach philosophy: it showed us that it is possible to construct normative arguments when thinking about contemporary problems; but it also shows how to do so, by analysing concepts, looking at the logical steps in each argument, checking that each step follows from the next, etc. In that sense, it is not new: for this is exactly how Socrates, the central philosopher of Plato’s dialogues, proceeds. But Rawls was one of the first to apply those techniques to twentieth century problems, and therein lies the originality of his work.

In this course, we shall use Rawls' theory of justice as our starting point to address a wide range of issues:

a. Which freedoms should individuals enjoy in a just world? Should they, for example, enjoy the freedom to move freely from one country to the next? Should they enjoy the freedom to acquire and exchange property without any restrictions?

b. Is a just society one which ensures that individuals have equal amounts of resources, or just enough to live decently? In other words, what kind of welfare state, if any, is required?

c. In multicultural societies, made up of extremely varied cultures and groups, should everybody have exactly the same rights, or can some
individuals claim special rights on the grounds that they belong to a minority?

d. Should we think of just societies - territorially bounded - or of a just world? In other words, when we think about a just distribution of resources, should we restrict ourselves to thinking about distribution within states, or should we also consider just distributions between them?

Aims

Political theory deals with arguments about the way in which society and government should be structured, the rights and obligations we have to one another, and the freedoms we enjoy. It is concerned with articulating norms, rather than describing facts, with theoretical texts rather than empirical studies. The aims of the course are:

• to give an account of contemporary liberalism as articulated in John Rawls’ seminal *A Theory of Justice*

• to examine two important critiques of contemporary liberalism, namely communitarianism and libertarianism

• to study some important challenges faced by liberalism, most notably multiculturalism, globalisation, and the importance of thinking about future generations

• in doing all this, to enable students to think critically about standard arguments on issues such as the distribution of resources amongst rich and poor, and the kind of freedoms we, as individuals and groups, should enjoy.

Learning outcomes

At the end of the course, and having completed all of the Essential readings and activities, you should be able to:

• demonstrate knowledge of the key texts for the course

• demonstrate knowledge of a range of concepts to be found in contemporary political theory

• demonstrate knowledge and ability to evaluate different normative arguments about the way in which society (domestic or global) should be run

• demonstrate ability to articulate your own positions, by using the relevant existing literature as a basis for your ideas.

Essential reading

Books to buy


Detailed reading references in this subject guide refer to the editions of the set textbooks listed above. New editions of one or more of these textbooks may have been published by the time you study this course. You can use a more recent edition of any of the books; use the detailed chapter and section headings and the index to identify relevant readings. Also check the virtual learning environment (VLE) regularly for updated guidance on readings.

Books and articles available online


Further reading

Please note that as long as you read the Essential reading you are then free to read around the subject area in any text, paper or online resource. You will need to support your learning by reading as widely as possible and by thinking about how these principles apply in the real world. To help you read extensively, you have free access to the VLE and University of London Online Library (see below).

Other useful texts for this course include:


**Online study resources**

In addition to the subject guide and the Essential reading, it is crucial that you take advantage of the study resources that are available online for this course, including the VLE and the Online Library.

You can access the VLE, the Online Library and your University of London email account via the Student Portal at: http://my.londoninternational.ac.uk

You should have received your login details for the Student Portal with your official offer, which was emailed to the address that you gave
on your application form. You have probably already logged in to the
Student Portal in order to register! As soon as you registered, you will
automatically have been granted access to the VLE, Online Library and
your fully functional University of London email account.

If you forget your login details at any point, please email uolia.support@
london.ac.uk quoting your student number.

The VLE

The VLE, which complements this subject guide, has been designed to
enhance your learning experience, providing additional support and a
sense of community. It forms an important part of your study experience
with the University of London and you should access it regularly.

The VLE provides a range of resources for EMFSS courses:

• Self-testing activities: Doing these allows you to test your own
understanding of subject material.
• Electronic study materials: The printed materials that you receive from
the University of London are available to download, including updated
reading lists and references.
• Past examination papers and Examiners’ commentaries: These provide
advice on how each examination question might best be answered.
• A student discussion forum: This is an open space for you to discuss
interests and experiences, seek support from your peers, work
collaboratively to solve problems and discuss subject material.
• Videos: There are recorded academic introductions to the subject,
interviews and debates and, for some courses, audio-visual tutorials
and conclusions.
• Recorded lectures: For some courses, where appropriate, the sessions
from previous years’ Study Weekends have been recorded and made
available.
• Study skills: Expert advice on preparing for examinations and
developing your digital literacy skills.
• Feedback forms.

Some of these resources are available for certain courses only, but we
are expanding our provision all the time and you should check the VLE
regularly for updates.

Making use of the Online Library

The Online Library contains a huge array of journal articles and other
resources to help you read widely and extensively.

To access the majority of resources via the Online Library you will either
need to use your University of London Student Portal login details, or you
will be required to register and use an Athens login:
http://tinyurl.com/ollathens

The easiest way to locate relevant content and journal articles in the
Online Library is to use the Summon search engine.

If you are having trouble finding an article listed in a reading list, try
removing any punctuation from the title, such as single quotation marks,
question marks and colons.

For further advice, please see the online help pages:
www.external.shl.lon.ac.uk/summon/about.php
Using the guide

You will get the most out of this guide not merely by reading it carefully (to state the obvious) but also by taking seriously the various activities listed in each chapters. Those activities aim at providing you with an opportunity to ensure that you get a good grasp of the material. They do so in two ways: by asking you to outline to yourself the material covered in the relevant section, and by asking you to think critically about that material. You should also bear in mind, as you read the guide, that the philosophical arguments dealt with in Chapters 2, 3 and 4 are important to understanding the subsequent chapters. It is therefore very important that you start with those three chapters. In fact, it is best to go through the chapters in the order in which they are written, as there is a logical coherence to the overall structure of the guide.

Students who would take a similar course at the LSE would have a weekly lecture and a weekly class. They would be expected to work about 10 hours a week to prepare for both (to do the reading, to think critically about it, etc). You can use this as a basis for your own timetable.

The examination

**Important**: the information and advice given here are based on the examination structure used at the time this guide was written. Please note that subject guides may be used for several years. Because of this we strongly advise you to always check both the current Regulations for relevant information about the examination, and the VLE where you should be advised of any forthcoming changes. You should also carefully check the rubric/instructions on the paper you actually sit and follow those instructions.

You will find a sample examination paper, as well as a sample report on the paper (which suggests ways of answering the questions) at the end of this guide.

The exam will last three hours. You will be given a list of nine questions, and asked to answer three of those.

The most important thing to bear in mind, when taking an exam, is the question which you are choosing to answer. This seems obvious, and yet, most students lose points because they do not **focus** on the question, and as a result their answer is off target. It is therefore crucial that you should spend a few minutes, at the beginning of each of the three questions, thinking about what you are asked to do. It is also very important not to start writing right away: take 15 minutes or so to construct your answer, in a structured way, on a separate sheet. Then you can start writing, making sure to stick to your draft structure as much as possible. As you write, always ask yourself whether this particular paragraph is relevant to the question at hand, and directly focuses on it. You should also make sure to re-read each of your answers, in order to clear up stylistic problems, minor mistakes, etc.

Remember, it is important to check the VLE for:

- up-to-date information on examination and assessment arrangements for this course
- where available, past examination papers and Examiners’ commentaries for the course which give advice on how each question might best be answered.
Chapter 2: Rawls’ theory of justice

Learning outcomes

By the end of this chapter, and having completed the Essential readings and Activities, you should be able to:

• describe Rawls’ principles of justice and his arguments in their defence
• outline some important criticisms against both the principles of justice and Rawls’ methodology
• identify reasons why you agree, or disagree, with Rawls or some of the criticisms we will examine here.

Essential reading


Recommended reading


Introductory remarks

Content and aims

In 1971, the American philosopher John Rawls published a book, A Theory of Justice, which was to change the way political philosophy was conducted in the Anglo-American world. In this book, Rawls argues that a just society is one which is governed according to two principles. According to the first principle, also known as the liberty principle, all individuals ought to enjoy basic liberties such as freedom of association and freedom of speech. According to the second principle, inequalities in income and wealth are legitimate if, and only if, they benefit the worst off members of society. In addition, such inequalities should attach to jobs and positions open to all members of society.

The novelty of Rawls’ theory lies, first, in its commitment to normative arguments: Rawls’ project is not to describe how existing societies are organised. Rather, it is to argue how a just society should be organised. As we saw in the introduction to this guide, until Rawls published his book, political philosophy was taught mostly as history of ideas. Nowadays, it is taught both as history of ideas and as normative theory. Second, Rawls argued that his two principles of justice should apply to all societies: in that sense, his theory, as developed in A Theory of Justice, is universal in its aspirations. Between 1971 and his death in 2002, Rawls
published a number of articles and books, and considerably refined, some would say changed, *A Theory of Justice*, so much so that specialists talk of an early and late Rawls. In this chapter, I will concentrate on the early Rawls, on *A Theory of Justice*. The aim of the chapter is to introduce you to Rawls’ keys ideas, and enable you to assess their validity.

**Against utilitarianism**

As we saw, Rawls aims to defend principles for a just society; but he does so against the background of another, important, intellectual tradition, namely utilitarianism (of which J.S. Mill is one of the main proponents). There are many different interpretations of utilitarianism, but roughly speaking, according to utilitarianism, individuals ought to act in such a way as to maximise their individual welfare, and society ought to maximise social utility (where social utility is understood as the aggregation of individual welfare). Now, according to Rawls (as per section 5 of *A Theory of Justice*), utilitarianism dictates that, in some cases, the interests of some can be violated for the sake of greater advantages for others, and more specifically, some people will be denied freedom for the sake of social utility. Suppose, for example, that a serial killer is on the loose. People are getting extremely worried, are scared of leaving their homes, become distrustful of their neighbours, and so on. It would be in the interest of society as a whole to think that the killer has been caught. Knowing this, the police decide to capture an innocent person and to announce that they have caught the killer, for the sake of reassuring everybody: the freedom of that particular person, who is innocent, is sacrificed for the sake of social utility.

According to Rawls, however, this is not what a just society should be like. For a just society is one which protects and promotes individual rights, even at the expense of social utility (so that no innocent person should be thrown into jail for the sake of alleviating the fear of the population). Rawls’ theory of justice rests on the view that each individual is self-interested, has projects to pursue and goals to implement, and cannot be asked to sacrifice themselves for the sake of the greatest number (p.24).

In contrasting his position with utilitarianism, Rawls says the following (pp.27–28): utilitarians have an understanding of the *good*, that is, of what it is good to achieve, and that is the maximisation of individual and collective welfare. The *right* action – that is, the action which we must perform - is the action which promotes the good: so for utilitarians, what is right is defined in relation to what is good, and what is right is instrumental to the good. In other words, once we have defined the good – maximising individual and collective welfare – we know what the right thing to do is. By contrast, in Rawls’ theory, the right is prior to the good. That is, we each understand that we have different conceptions of what is good: some of us might want to maximise our welfare, others might not. The right action – the action which we must do – is that which lets people pursue their conception of the good, provided that they act in similar ways towards others. A just social system provides a framework of rights and opportunities within which individuals can pursue their conception of the good life. The question is how to define and articulate those principles of justice (those principles which distribute rights, as it were, amongst individuals).
Chapter 2: Rawls' theory of justice

Activities

1. Try to imagine cases where sacrificing the rights of one individual would maximise social utility. What does your intuition tell you about those cases? That sacrificing that individual’s rights is morally acceptable? That it isn’t?

2. Do you think that there can be ways of reconstructing utilitarianism which rescues it from Rawls’ criticism?

The original position

What is the original position?

For Rawls, then, the task is to defend acceptable principles of justice. And this task is itself divided into several components.

1. First, it is necessary to delineate the scope of those principles, that is, to what exactly they are meant to apply. As Rawls argues, they apply to society, understood as a scheme of social cooperation where we can each advance our good. We live together, impose burdens on each other and create benefits: we need principles to allocate those burdens and benefits, and those principles are principles of justice (p.4). More specifically, principles of justice apply to the basic structure of society, namely to its main political, economic and social institutions (p.6).

   In addition, the goods and benefits they are distributing are primary goods, namely goods that we all need, whatever our conception of the good life is: ‘rights, liberties, opportunities, income and wealth’ (p.79). To give an example, we need freedom of religion in general whatever religion we believe in, indeed, even if we are atheists (for freedom of religion means not merely the freedom to practice one’s religion, but also the freedom not to have any religion). Similarly, we need job opportunities irrespective of the kind of job we want to have. And we need money, irrespective of our specific conception of the good life. It is in that sense that those goods are called primary goods.

2. Second, it is necessary to identify who chooses the principles of justice. According to Rawls, we do, together, as rational beings concerned to promote our own interests (10), aware that others have similar concerns, and not taking an interest in other people's interests (that is, we mind our own business). Note, though, that although we are self-interested, this self-interest motivates us to accept as just the principles that emerge from the original position.

3. Why do we choose those principles? Rawls endorses what one may call the ideal of fundamental equality, whereby all human beings are worthy of equal concern and respect, and are autonomous moral agents. That is, they know right from wrong, and they have the capacity to frame, revise and pursue a conception of the good. Accordingly, the coercive power of the law can be used against such individuals only if they consent to it (otherwise, they would be treated like children, rather than like individuals with the capacity for rational and moral agency). In that respect, Rawls is heir to the social contract tradition as expounded by Thomas Hobbes and John Locke.

4. How do we choose principles of justice? It is on this particular point that Rawls' theory is most original. As he puts it, we are very different from one another, we have different ideas as to how to lead our lives, have different talents and skills, and come from different background. Moreover, we are self-interested, that is, concerned with maximising our own good. If we were to choose principles of justice in full knowledge
of these facts, we would in fact choose principles which would systematically advantage us, at the expense of others. There are two reasons as to why that would be wrong. First, we would obtain those advantages on the basis of social and natural contingencies (p.17). For example, if we know that we are talented (that is, we have a high earning power), we will choose a tax system solely on the basis that it advantages us. But (according to Rawls) there is something deeply wrong about this: why should I gain from something as arbitrary as the fact that I am lucky enough to be talented? After all, we are all moral equals, and such contingencies, such factors which are traceable to bad brute luck, should not affect how we lead our lives. This is why we do not know anything about our talents and skills in the original position.

Second, the most important thing about us is that we are autonomous agents, that is, we have the capacity to frame, revise, and pursue a conception of the good life. And what matters to us is that we should be able to implement whatever conception of the good we happen to have. If we were to know what our conception of the good is, when choosing principles of justice, we would focus on those rights and freedoms which are necessary to us, to the cost of rights and freedoms which are necessary to others. For example, if we know that we are, say, Catholic, we might be tempted to protect freedom of religion for Catholics only. But what about other religious groups? Don't they deserve protection too?

In order to ensure that primary goods are distributed in such a way as to nullify the impact of bad brute luck in our lives, and enable us to implement whatever conception of the good we have, we must put ourselves in a hypothetical situation and imagine how we would allocate primary goods if we did not know who we are, where we come from, in short, if we were behind a veil of ignorance. This contractual situation is called the original position: it is a position of equality, since natural and social inequalities between us do not factor into the determination of the principles of justice. In that sense, the principles we choose are the product of a fair agreement. That is why Rawls' theory is called justice as fairness.

5. Now, which principles do we choose in the original position, according to Rawls?

We choose two principles:

1. The liberty principle: each individual has a right to enjoy basic liberties, consistent with a similar and equal right for others (53).

2. The second principle: social and economic inequalities are permitted provided they benefit the worst off members of society, and that they attach to positions and offices open to all (72).

The original position as a social contract: Dworkin's criticism

Now, as we saw, the original position is a hypothetical social contract whereby we assess how we would allocate the burdens and benefits of cooperation if we did not know anything about ourselves (p. 104). Some commentators, most notably Ronald Dworkin, have objected to the original position as follows. According to Dworkin, a hypothetical contract cannot generate an obligation to obey. Suppose I have a painting you want to buy: if you had offered 100 dollars yesterday, I would have accepted. But this morning I discovered that it is worth 1,000 dollars, and I sold it to you for 1,000 dollars; the fact that I would have agreed to 100 dollars yesterday does not mean that I can be forced (for example, by courts) to sell it to you for 100 rather than 1000 dollars.
Dworkin’s criticism fails, but its failure is interesting because it teaches us something about the original position. Dworkin assumes that we are bound to accept the principles of justice because we chose them in the social contract. But in fact, in Rawls’ view, the social contract is a device which enables us to discover what justice requires: it does not in itself justify our duty to obey the principles of justice. In that sense, Rawls’ social contract is different from traditional accounts of the contract. In Hobbes and Locke, the contract itself creates an obligation to obey: if I undertake to relinquish the exercise of my natural rights, you must do the same, and we must each respect our promise. For Hobbes and Locke, the point of the contract is not to establish principles of justice, it is to create conditions for peace by binding people in an agreement. For Rawls, the point of the contract is to decide what justice requires: the obligation to obey the principles of justice does not stem from the fact that we would have contracted to choose those principles behind a veil of ignorance; it is grounded in the fact that these principles are just. So, Rawls is not vulnerable to Dworkin’s criticism here.

More serious problems about the original position

1. Individuals in the original position are described as individuals who want to avoid taking risks. Rawls’ reasoning goes like this: if individuals do not know whether, for example, they are Catholic or atheists, they will choose to respect freedom of religion. This is because if they decide, for example, that only Catholicism should be protected, they would risk being oppressed if they turn out to be atheists. As they do not like taking risks, they will go for freedom of religion.

   But it is arbitrary to describe individuals in such a way. They could decide to gamble. After all, some individuals do gamble, on a regular basis, or at least take risks on a regular basis. So there is no reason to suppose that individuals in the original position would not take risks.

2. Individuals are said to be members of a scheme of social cooperation (for that is how society is described by Rawls, as we saw above). The central idea here is that of reciprocity: if I contribute and if you benefit, and have agreed to receive those benefits, then you should contribute too (p.96). However, there are two difficulties with this: first, in so far as individuals to whom the principles of justice apply are contributors; non-contributors are excluded from the scope of justice (severely mentally ill people, severally physically disabled people, etc.)

   Second, the idea of reciprocity supposes that we all benefit from the arrangements. But do we? Suppose I get out of the original position: I realise that I am a religious fundamentalist; what do I gain from living in a tolerant society? Suppose that I am a very talented person, or someone from a very rich background, and that I would gain more if I lived under a regime where natural and social advantages command greater material gains than what I would get in Rawls’ society: why should I abide by the principles? More dramatically still: why should I stay in that society? Why should we not - we the advantaged people - expel those who drag us down, indeed, why should we not secede? If self-interest and the expectation of gain is what drives people to respect the terms of cooperation, then, in so far as Rawls’ principles of justice do not yield the highest benefits for some people, they have no reason to accept them once they know what their situation is like.

   Rawls might say, at this stage, that we have to abide by those principles, because they are just; and we know that they are just because we chose them under the veil of ignorance. But that would miss the point of the objection: for the objection says, precisely, that
if self-interest is what guides us behind the veil of ignorance, then it should also be able to guide us once the veil is lifted. And once the veil is lifted, if our self-interest dictates against the principles, then we are allowed not to obey them.

Activities

1. Imagine yourself in the original position: you know nothing about yourself, neither your gender, nor your race, nor your religion, nor your family and social background. Is Rawls right to think that you would choose his two principles of justice?

2. Ask yourself whether it even make sense to suppose that individuals could think of themselves in that way, with no knowledge of their particular circumstances.

The two principles of justice

So far we have critically discussed how, for Rawls, the choice of the two principles of justice is made, and by whom. In this section, we examine those two principles in greater detail.

The first principle of justice

According to the first principle of justice, also known as the liberty principle, each individual has a right to enjoy basic liberties, consistent with a similar and equal right for others. Rawls does not say much more than that, but we can surmise that he has in mind, apart from liberty of conscience (§33), freedoms such as the freedom of moving around freely, private property, etc.

Thus, the liberty principle captures the essential rights and freedoms of a liberal society. According to Rawls, it also leads to the idea of state neutrality between different conceptions of the good. That is, the state must let people pursue their ends, and not discriminate against some of these ends, or actively encourage them, on the grounds that some ends are more worthy than others. For example, the state must not have an established church, since it would, in effect, privilege one particular religion over another. Now, the idea of state neutrality sounds appealing, but it does raise the following issues. First, if it is pursued fully, it is in fact quite radical. Take contemporary legal systems, most of which only allow for marriage between a man and a woman. That is discriminatory to homosexuals, and deliberately so: the idea is that a sexual partnership between a man and a woman is more worthy, more deserving of legal protection, than a partnership between two men, or two women. A just society organised along Rawlsian lines could not condone that.

More problematically, the idea of state neutrality raises the question of distribution. It is one thing to say that all members of society should be allowed to live by their religious beliefs (freedom of conscience as guaranteed by the liberty principle), and that the state should not privilege one religion over another. But suppose that one religious group needs extra funding (because, for example, it is a minority religion which cannot generate the resources it needs to maintain its churches or temples). Does state neutrality require that it give no special funding to that group? Does even-handedness in the distribution of liberties imply even-handedness in the distribution of resources required to exercise those liberties? We shall address this issue in greater detail when dealing with multiculturalism in Chapter Seven. Meanwhile, the second principle of justice (the difference principle) gives us some elements to begin to answer that question.
Activity
Ask yourself whether you agree with Rawls that the state should be neutral towards different conceptions of the good. If so, why, and if not, why not?

The second principle of justice
The second principle of justice comprises two parts: equal opportunities, and allocation of material resources. That is, social and economic inequalities are permitted provided that
a. they benefit the worst off members of society, and
b. they attach to positions and offices open to all (p.72).
The first part of the second principle is also known as the difference principle, and the second part is known as the equal opportunity principle.

The relationship between the two principles of justice
It is important to grasp the relationship between the two principles of justice. According to Rawls, the liberty principle has priority: first, we ensure that liberties are secured, and then we implement the difference principle. In other words, liberty can be restricted only for the sake of liberty itself (p.214), it cannot be restricted for the sake of material equality.

But there is a problem with this claim: why would individuals do that, in the original position? Rawls seems to describe what he assumes people do choose in stable liberal democracies: perhaps it is true that in the UK, for example, individuals would rather have freedom of speech than a good national healthcare system. But it may not even be true: in fact, there are reasons to think that people care less about the erosion of civil liberties in countries such as the UK than they care about their standard of living. Moreover, empirical evidence suggests that in many countries outside the 'West', many individuals would prioritise something like the difference principle over the liberty principle.

Equal opportunities
As mentioned, the second principle of justice has two parts. The second part is about equality of opportunity on the job market: it says, in effect, that people should not be discriminated against, when they apply for jobs, on arbitrary grounds such as race and gender. Notice that this seems to rule out affirmative action programmes whereby other things being equal, a firm would hire a woman over a man, or a black applicant over a white applicant, on the grounds that women and blacks have suffered from discrimination in the past and should be given greater opportunities now.

The difference principle: distributing to the worst-off
The first part of the second principle of justice, also known as the difference principle, and which has attracted a lot of attention, says that income and wealth ought to be distributed equally, unless inequalities would benefit the worst off members of society. This is quite a radical view, since it says, in effect, that equality is the default position, in other words, that inequality, and not equality, stands in need of justification. Still, Rawls believes that, as a matter of fact, resources will be distributed unequally. This is because (according to Rawls), talented people will not work to the full of their capacities if resources are distributed equally, with the effect that fewer resources will be available, through tax returns, for the worst off; but if the talented are rewarded more than the untalented
whilst working at full capacities, then they will have an incentive to work to the full, and that will yield extra resources for the worst off. In so far as the latter would have more under an unequal distribution than under an equal distribution, it would be rational for them to accept inequalities.

The difference principle and the issue of responsibility for choices

However, the content of the principle is problematic in two ways. First, it does not distinguish between income inequalities that are due to bad brute luck, and income inequalities that are due to choices. Suppose that we both, you and I, own a patch of land. I am an aspiring tennis player, so I decide to have my land transformed into a grass tennis court, even though I have no other source of income and I know that it is very unlikely that I will be able to earn a living playing tennis. You, on the other hand, are very good at gardening, and you know that if you grow fruits and vegetables on your land, you will earn a lot of money. A few years later, I end up with much less income than you do. According to the difference principle, I should have as much as you do, thanks to a strong redistributive policy, unless a material inequality between us would benefit me. But why should you agree? After all, I knew that, by choosing to have a tennis court, I was taking a big risk. So why should you subsidise me? The central point, to which we shall return in Chapter Five, is that I am responsible for the fact that I end up with less than you, and that you should not be made to compensate me for it.

Sen’s criticism of the difference principle

Another problem with the content of the difference principle has been highlighted by the economist Amartya Sen. The difference principle says: ‘distribute equally unless the worst-off would benefit from an unequal distribution’. More concretely: give individuals equal amounts of wealth and income, unless the worst off would benefit from inequalities. The problem, according to Sen, is that an equal distribution of income will not bring about the kind of equality that really matters (i.e. equality of functionings). Functionings are states of being such as being well fed, being warm, relating to people, etc. People differ in their functionings; they also differ in what it takes for them to reach the same level of functionings as others. Take, as an example, food distribution. If you give all individuals the same amounts of food each, some will end up better fed than others, since they will need less food than others to reach the same level of ‘being fed’. Given that what matters is whether they have equal levels of functionings, we must accept that an unequal distribution of food is necessary. A similar point can be made about income: people achieve different things and reach different levels of functionings with similar incomes, so if we want equality of functionings, we have to accept an unequal income distribution.

It might seem as if Rawls would agree with this: for after all, is he not saying that income and wealth should be distributed equally unless an unequal distribution would benefit the worst off? He is indeed saying this, but the difference with Sen is that for Sen, equality of income is not the default position.

Rawls’ argument for the difference principle

So far we have focused on the content of the difference principle; we haven’t said anything about Rawls’ argument for it. According to Rawls, individuals in the original position choose the difference principle out of a combination of self-interest and Pareto optimality (see below). Parties in
the original position are self-interested: that means they want more, rather than fewer, resources. So, in the original position, it makes sense to choose an unequal distribution which would get you more resources than an equal distribution which would give you less. Consider the following table, describing two possible distributions, D1 and D2. At D1, individuals A and B have the same amount of income. At D2, B has more than A:

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>Total wealth</th>
</tr>
</thead>
<tbody>
<tr>
<td>D1</td>
<td>5</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>D2</td>
<td>6</td>
<td>8</td>
<td>14</td>
</tr>
</tbody>
</table>

The move from D1 to D2 is justified by Rawls as follows: if you give the more talented incentives to work harder, (i.e. higher rewards,) they will contribute to a greater extent to the total wealth to be distributed, and a greater share of that wealth will revert to the worst-off. (This is known, in policy-making and non philosophical terms, as the trickle down effect). The parties in the original position do not know whether they are potential high-earners (talented) or not, and so it is rational for them, interested as they are, to go for D2, rather than D1.

There is a related reason in support of D2: Pareto optimality. Rawls is clear that a theory of justice must be compatible with Pareto optimality. A state of affairs is Pareto-optimal when it is impossible to change it so as to improve the lot of at least one person without worsening the situation of at least another person.

Now, if a state of affairs is such that at least one person in it is better off than in another state of affairs, and no one is worse off in the former than in the latter, then we can say that the former is Pareto superior to the latter: it is rational for each and every individual to choose it, and Pareto-efficiency thus requires that society choose it. Go back to D1 and D2 above: D2 is clearly Pareto superior to D1, since at least one person is better off (in fact, it is strongly superior to D1, since everybody is better off in D2 than they are in D1). And so each and every individual rationally ought to choose D2, and society as a whole ought to choose D2.

Cohen's objection to Rawls' argument for the difference principle

Now, there is a fundamental problem with this argument, as discussed by G.A. Cohen. The difference principle states that inequalities are permitted only if they benefit the worst off; this supposes that inequalities must be necessary to benefit the worst off. Inequalities that are not necessary in order to benefit the worst off are unjust. But why are inequalities necessary? As we saw, this is because (according to Rawls), talented people will not work to the full extent of their capacities if resources are distributed equally, with the effect that fewer resources will be available, through tax returns, for the worst off; but if the talented are rewarded more than the untalented whilst working at full capacities, then they will have an incentive to work to the full, and that will yield extra resources for the worst off.

But Rawls’ response will not work. For as Cohen points out, he himself says that for society to be just, everybody has to recognise principles of justice, and has to uphold them in their daily life. So the talented themselves must hold that unnecessary inequalities are unjust. Yet, they themselves render those inequalities necessary, by choosing to work less hard under equality. And yet, they could make other choices: so it would be wrong for them to say that those inequalities are strictly necessary, and therefore just. So equality is mandated.
To see this, go back to the distributions we looked at earlier:

<table>
<thead>
<tr>
<th></th>
<th>Worst off</th>
<th>Talented</th>
<th>Total Wealth</th>
</tr>
</thead>
<tbody>
<tr>
<td>D1</td>
<td>5</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>D2</td>
<td>6</td>
<td>8</td>
<td>14</td>
</tr>
</tbody>
</table>

The move from D1 to D2 is justified by Rawls as follows: if you give the more talented incentives to work harder (i.e. higher rewards) they will contribute to a greater extent to the total wealth to be distributed, and a greater share of that wealth will revert to the worst-off. Cohen's point is that if the talented really believe in equality, as Rawls says they do, then they have to endorse the following distribution:

<table>
<thead>
<tr>
<th></th>
<th>Worst off</th>
<th>Talented</th>
<th>Total Wealth</th>
</tr>
</thead>
<tbody>
<tr>
<td>D3</td>
<td>7</td>
<td>7</td>
<td>14</td>
</tr>
</tbody>
</table>

Moreover, a further argument in support of D2 is that it is Pareto superior to D1: both the worst off and the talented fare better under D2 than under D1. So the move from D1 to D2 is consistent with Pareto-optimality. Note, however, that Pareto-optimality cannot dictate in favour of D2, and against D3: for although the worst off are better off in D3 than they are in D2, the talented are better off in D2 than they are in D3. D2 and D3 are Pareto-incomparable.

Of course, Rawls has a reply to all this: he claims the principles of justice and the requirement to obey them only apply to the choices we make with respect to the organisation of the basic structure, when those choices can be legally enforced. They do not apply to the uncoerced choices we make on the market, for example. But here too Rawls' reply is problematic. If the principles of justice apply to choices we make within the basic structure, given that the basic structure is defined as major institutions which have a huge influence on our life, they should apply to choices we make in the market, which is included in the basic structure (p. 6). The crucial point to remember is this: to be just is not simply to obey the law when the law implements the principles of justice. It is to live up to the principles of justice in one's private conduct.

A feminist challenge to Rawls

From what we have just seen, Rawls' conception of justice, as articulated in the book *A Theory of Justice*, purports to be both egalitarian and universalistic in scope. It is egalitarian, in that it assumes that all human beings have equal moral worth, and that we should distribute freedoms and resources equally amongst all (unless an unequal distribution of resources would benefit the worst-off.) It is universalistic, in that all rational and moral agents, irrespective of their specific characteristics and attributes, are meant to choose the two principles of justice. Moreover, those principles of justice apply to society's major social institutions.

Now, in an important book entitled *Justice, Gender and the Family*, the American feminist philosopher Susan Moller Okin argues that Rawls' theory of justice as he himself describes it is not sufficiently sensitive to two important, and related, issues, namely gender, and the family. She also argues that his theory, once it is read through the lenses of those two issues, is far more radical, in fact, than one may think at first sight.
Gender

Let us start with gender. It is interesting that, in *A Theory of Justice*, Rawls always uses the words ‘he’, ‘him’, ‘his’, when referring to individuals. In one sense, it is a mark of the time at which he was writing, and one easily substitute ‘she’ for ‘he’ without loss or change of meaning. More deeply, however, in describing the parties, in the original position, as imagining themselves to be fathers and to have concerns for their sons, Rawls (according to Okin) makes himself hostage to the criticism that, on his views, politics – the business of deciding how society should be ran – is primarily seen as the business of men, whereas the family (to which we will return below) is primarily the business of women.

To be sure, Rawls makes it clear, at one point, that parties in the original position do not know their gender. And one might think, then, that his theory in fact dictates strict equality between men and women. For if parties do not know their sex, then in so far as they are risk adverse, they will not vote for principles of justice which systematically disadvantage one gender rather than the other. And this, strictly speaking, is true. However, it raises a number of issues which (again, according to Okin) needs addressing. For a start, if Rawls is correct, then he is, in fact, calling into question the entire gender system upon which most cultures and societies are organised. This is because that system is characterised, at worst, by serious and systemic political, social, and economic inequalities between men and women (to the advantage of the former and the detriment of the latter), and, at best, by fairly traditional understandings of the roles - social and familial – which men, and women, can, and ought to perform. However, if parties in the original position do not know their gender, if, in other words, gender ought to be irrelevant to the distribution of burdens and benefits, then such system is profoundly unjust, and needs (more or less) radical reforming – ranging from granting equal political rights to both men and women to radically reforming – through the law – practices in the workplace.

One might think that this is not a problematic implication of Rawls' theory – that any theory which does, explicitly or implicitly, call for equality between men and women is the more convincing for it. As Okin notes, though, one needs to ask whether gender can, indeed ought to be, irrelevant in the way just suggested. It is an open question, for a start, whether parties in the original position can think of themselves as un-gendered - or, as either a man, or a woman. For gender, or some people would argue, is too much a part of who we are for us to be able to think it away (we shall return to this kind of criticism of the original position in Chapter Three.) Moreover, it pays to bear in mind that gender-neutral laws may in fact end up discriminating against women, in so far as the latter, as women, have certain needs which men do not (relating to pregnancy and childbirth, for example), and in so far as the social pressures which lead women, and men, to avail themselves, or not, of the opportunities provided by the law, are more likely to operate to their detriment. Let me give you an example. Suppose that the law stipulates that anyone, man or woman, who wishes to stay at home to look after young children will be paid a pensionable salary – as high as, but not higher than, the minimum wage – by the state. Now, this is a gender-neutral law: men, as well as women, can take up the opportunity it gives for looking after one's children and earn some income at the same time. However, under current, societal conditions, women are much more likely than men to take it up, and thereby to forego the possibility of (at least for some of them) earning a higher salary on the labour market, and to worsen their already unequal (at least for some of them) economic situation in relation to that of their husbands.
My point, note, is not that such a law would be unjust – let alone that women ought not to opt for staying at home and looking after their children. Rather, my point is that, from a social and economic point of view, the law will not remedy gender discrimination. Gender neutrality, which seems built into Rawls’ theory of justice, may not, in fact, achieve its aims.

At this point, Rawls might be tempted to reply that the distribution of income between husbands and wives does not fall within the remit of justice – that it is not the business of the state to inquire into the choices made by individuals in the face of such social expectations. The problem, however, is that for Rawls, as we saw when discussing Cohen’s objection to the difference principle, principles of justice apply to the basic structure, namely, to society’s main institutions, because the effects of those institutions are pervasive from the start. In so far as marriage between individuals of different genders with its provisions and expectations is a social institution the effect of which on individuals are present and profound, it seems that principles of justice should apply to it.

The family

So should they apply to the family in general, in fact – which leads us to the other strand of Okin’s critique of Rawls. When he describes the original position, Rawls characterises the parties as heads of households: one representative per household. In so doing, and given the family structure at the time he wrote, he is assuming that the representative – typically, as we saw, the husband and father - will adequately represent the interests of all the members of the household. But why should all adult members of the household not be present? Moreover, and this is a more serious criticism, Rawls is not considering the possibility that principles of justice could regulate the distribution of burdens and benefits within the family: he assumes that they regulate the distribution of burdens and benefits between people who are, mostly, economic and political agents. This, according to Okin, overlooks the situation of those individuals, mostly women, whose labour (for their husbands, children, dependent elderly, etc.) remains unpaid. In addition, what goes on within the family crucially affect children’s opportunities, and in turn, the opportunities of the adults which they will become. It is all well and good to say that people should have equal opportunities, but if someone is brought up in a family where there is a strict understanding of what constitutes a proper job for a man and for a woman, and a proper education for a boy and for a girl, that individual will not be able to take up the opportunities on offer. In fact, the pressures she (or, indeed, he) would endure where she (or he) to choose against the parents’ wishes could be such as to amount almost to coercion. We shall return to this point in Chapter Seven, when we deal with the issue of multiculturalism.

Activities

1. Outline for yourself the content and justification for the difference principle.

2. Think about the importance of responsibility. In the tennis player/gardener example, is Rawls right to imply that the tennis player should be helped by the gardener, even though he is responsible for his situation?

3. Are you persuaded by the feminist challenge to Rawls which we examined in section 2.5?
Concluding remarks

Rawls shaped the agenda in contemporary political theory – an agenda which many call egalitarian liberalism. It is liberal, because it defends fundamental individual freedoms; and it is egalitarian, because its fundamental assumption is the principle of fundamental equality, whereby all individuals are morally equal, and because it mandates an extensive distribution of material resources (income and wealth) towards those who have fewer such resources.

Now, A Theory of Justice raises the following, important, issues:

- The conception of the person, which underpins Rawlsian justice, is of an autonomous individual, who chooses and reformulates her own ends, and who can stand aside, and evaluate, the community to which she belongs, with a view to reforming it. And it is that kind of person which chooses principles of justice. Is that plausible?

- The principles of justice, in A Theory of Justice, are meant to be universal, to apply at all times and in all places. Is a universalistic theory of justice plausible?

- A just society, according to Rawls, is one where individuals do not suffer misfortune as a result of unchosen factors such as natural endowments, and social origin. On that view, justice mandates transfers of resources from the better off to the worse off, with a view to bring about equality in the distribution of primary goods, unless an unequal distribution would benefit the worse off. We have seen that the difference principle is incoherent within the terms of Rawls' theory itself. But several questions arise: is coercive taxation compatible with the view that all individuals are autonomous moral agents, who must relate to one another as equals? Assuming that it is, is a just society one where material equality obtains, and if so material equality of what kind? Or is a just society one where individuals' needs are met? Does the family itself need to be subject to the principles of justice?

In the next chapter, we shall scrutinise the communitarian critique of egalitarian justice, which casts doubts both on its conception of the person and its aspirations to be universal. Having done so, we shall examine, in Chapter Four, the libertarian critique of egalitarian justice, which calls into question the legitimacy of coercive taxation. Then, in Chapters Five and Six, we shall explore in greater details the egalitarian project itself. The last four chapters will apply the arguments thus considered to four issues: multiculturalism, immigration, global justice, and justice towards future generations.

A reminder of your learning outcomes

Having completed this chapter, and the Essential readings and Activities, you should be able to:

- describe Rawls' principles of justice and his arguments in their defence
- outline some important criticisms against both the principles of justice and Rawls' methodology
- identify reasons why you agree, or disagree, with Rawls or some of the criticisms we will examine here.
Sample examination questions

1. Does it make sense to choose principles of justice behind a veil of ignorance?

2. Is it a) possible and b) desirable for the state to display neutrality with respect to competing conceptions of the good?
Chapter 3: The communitarian critique of Rawls

Learning outcomes
By the end of this chapter, and having completed the Essential readings and Activities, you should be able to:

• describe Sandel’s and Walzer’s criticisms of Rawls’ theory of justice, as well as with Rawls’ possible replies
• discuss the main issues in the debate opposing liberals and communitarians
• explain why you agree, or disagree, with either school of thought.

Essential reading

Recommended reading

Introductory remarks
Content and aims
As we saw in Chapter 2, Rawls’ theory of justice has three central features:

1. An account of how to think about justice: in the original position, behind the veil of ignorance.
2. An account of the relationship between the individual and the community: the individual is prior to the community.
3. An account of the principles of justice which individuals choose in the original position: the liberty principle, the equal opportunity principle, and the difference principle. The latter distributes resources for the benefit of the worst off.

Now, in the 1970s and 1980s, a number of philosophers criticised Rawls’ theory. Communitarians, two of whom we shall look at in this chapter, took issue mainly with 1. and 2. Libertarians, whom we shall study in the next chapter, took issue with 3.

There are four important communitarian thinkers:
We shall focus on Sandel and Walzer because their arguments against Rawlsian liberalism are most relevant to the remainder of the course.

### Sandel's criticism of Rawls

Sandel's important book *Liberalism and the Limits of Justice* was published in 1982 and revised in 1998, and launched the communitarian school. It is a reaction to Rawls' theory specifically. According to Sandel, Rawls' theory is flawed in its understanding of the individual self, of the relationship between individual and community, and thereby of the role and function of justice and rights in the community. We shall examine all three aspects of Sandel's critique in turn.

#### Sandel's critique of the contemporary liberal view of the self

**Sandel's critique**

Sandel makes two interrelated critical points on the Rawlsian liberal view of the self.

1. First, as Sandel sees it, Rawls' theory rests on an implausible understanding of the self, whereby the self is entirely prior to its ends, which suggests that when we analyse our ends, we must be able to see a self which is separate from them. According to Sandel, this is problematic for several reasons. For a start, that is not how we perceive ourselves. When I talk about me, I do not see myself as a disembodied self. I see myself as someone who is located in time and space, as well as in a network of deep relationships which are important to me. In addition, and contrary to what Rawls suggests, I *identify* with my ends: they are part of who I am (and they would not be part of who I am if I were entirely prior to them).

2. Second, Sandel argues that not only is the self constituted by its ends; in fact, it does not *choose* its ends. In that respect, Rawls' voluntaristic conception of the self is flawed. Rather than asking, as Rawls and, indeed, liberals in general, do, the question 'Whom do I wish to be, or become?', we should be asking the question 'Who am I?'

In a nutshell, Sandel believes that Rawls' conception of the self cannot make sense of many familiar phenomena of moral life. For example, it cannot make sense of the fact that we can deeply identify with a political cause, for example, or a particular relationship, and that we can feel shaken *to the core* when that political cause or relationship fails. What we feel, in those cases, is not simply that our ends have not been achieved, that our goals have not been met. Rather, we feel that we have failed. Similarly, according to Sandel, the liberal conception of the self does not make sense of what happens when we feel torn apart by different commitments to our family, to our friends, and to our country. For if we could simply choose from among those commitments, we would be able to choose, relatively painlessly, which are the most important: we would not feel *torn apart*. And yet we do feel that way.
Sandel’s point is not merely that, as a matter of fact, Rawls’ conception of the person is implausible; it is also that such conception is highly non-neutral, which in turns casts doubt on the plausibility of the claim that liberalism of the kind proposed by Rawls is neutral between conceptions of the good. This is because, if the self presupposed by Rawls’ liberal polity is one which will privilege conceptions of the good so chosen, rather than those which are adhered to unreflectively by individuals.

The liberal reply to Sandel

1. On Sandel’s first point. Rawls does not deny that we are constituted by our ends, that we see ourselves as individuals with conceptions of the good which are an important part of our identity. His claim is that we have the capacity to revise our ends: for sure, it may be that we are not capable of thinking of ourselves without ends at all (and indeed, that is plausible), but we are certainly capable of thinking of ourselves as having different ends in five years, that is, of thinking of ourselves as evolving persons over time. Of course, some individuals do not think of themselves in such a way: they do not envisage having a different conception of the good from the one they have now. But it is nevertheless true that under appropriate circumstances, they should be able to do so. To give a concrete example: an ultra orthodox Jewish woman may not be able to imagine that her life could have taken, or could now take, a different path. But that is likely to be because of her social conditioning, the education, or lack thereof, she has received, etc. The gist of Rawls’ view, in fact, is this: what matters about people is that they are able so to revise their ends. This need not presuppose a metaphysical conception of the person as detached from her ends at all times, and able to revise them at all times.

2. On Sandel’s second point: Sandel claims that we do not choose our ends. Now, Rawls and his followers do not deny that when we choose a conception of the good, our choice is very much influenced by social and familial factors. It would be absurd to deny that. But all they say is that we can reflectively approach such decisions and stand back from the conditions under which we make them. For example, someone may be aware that she chose to be a medical doctor in part because she comes from a medical family; but she may also be aware that she could have gone down another route. She can have reasons for thinking that her choice to be a doctor is a good and worthy one, independently of the fact that she was born in a medical family.

To conclude, for liberals in general and Rawls in particular, human beings are capable of thinking of themselves as distinct from their current ends, and of revising their ends. In fact, that position makes more sense of the importance of being committed to certain ideals: for commitment is not the same thing as blind allegiance. So Sandel either has to revise his claim that human beings do not have that capacity, or to argue that even though they are capable of revising their ends, they should not be encouraged to do so. And sometimes, this is what he seems to say, that individuals should not be so encouraged.

Activities

1. Outline for yourself Sandel’s account of the self.

2. Think about the way you lead your life, and ask yourself whether your goals and beliefs are constitutive of who you are, or whether you stand apart from them.

3. Do you think that the liberal reply to Sandel is satisfactory?
Sandel’s claims about the relationship between the individual and the community

Sandel’s position
According to Sandel, liberalism goes wrong in its understanding of the relationship between the individual and the community. On his view, liberals underplay, and undermine, the importance of the community. In fact, he makes several different claims along those lines.

1. First, according to Sandel, the liberal individual is self-interested and self-seeking, and regards communal attachment in a purely instrumental way, as what furthers his own interests. Sandel here invokes in support of his criticism Rawls’ view that society is a scheme of social cooperation whose members produce benefits for, and impose burdens on, one another – the aim of justice being to decide how to allocate those burdens and benefits. As Sandel argues, society so understood is very different from many other, richer, fuller conceptions of the communal life.

2. Second, the liberal individual does not accept obligations which he has not voluntarily placed on himself. Such is the gist of the social contract tradition, in which we are bound to obey a rule to the extent that we consent to it. That view, according to Sandel, extends to the private sphere, particularly to the realm of familial relationships, and does not make sense in that context. For example, we do not choose whether or not we have obligations to our parents: we simply have them, period. Likewise, we cannot legitimately walk out of our relationship with, and commitment to, our children.

3. Third, the liberal individual retreats into the private sphere, and is not thought to attach importance to communal, and political, ways of life. Thus, the liberal individual is not in any way obliged to take interest in the political and social matters of the community. Again, according to Sandel, this is a very impoverished conception of the relationship that ties the individual to his or her community.

The liberal reply to Sandel
Before outlining the liberal reply to Sandel’s criticisms, it is important to see that those criticisms tie in with his criticism of the Rawlsian self. According to Sandel, it is precisely because the Rawlsian self is detached from its ends, which it regards as something we choose, that it treats communal attachments in instrumental ways, that it regards its obligations to others as commitments which it can choose to walk away from, and that it need not pay interest to the communal life. Is Sandel right, though? The following three points are worth noting.

1. For a start, at first sight, the device of the social contract seems to support Sandel’s first and second points. For in social contract theory, individuals come together and agree to subject themselves to a political authority; in so far as they contract with one another, they voluntarily undertake to comply with the laws. Moreover, in the social contract tradition, individuals form a community because it is in their interest to do so. In Hobbes’ and Locke’s theory of political authority: it is precisely because we cannot survive in the state of nature, where there is no state to rule over us, that we contract to obey a sovereign.

However, Sandel’s point is overstated. As we saw in the previous chapter, Rawls’ social contract is very different from Hobbes’ and Locke’s. In the latter’s theories, one’s obligations to fellow ‘contractors’ derive from the contract. In Rawls’ case we must comply with the principles of justice
because they are just. To reiterate, the point of the contract is to get at just principles. Generally, it is simply not true that Rawls and his followers rule out non-voluntary obligations such as those one has to one’s elderly parents. Liberals accept that we may have such obligations, but they would deny that those obligations are such as to lead us to sacrifice even our most important ends. There is a limit, in short, to what we are under a duty to do for others. To be sure, Sandel might press his case and insist that we are under a duty to sacrifice ourselves for our children, or our country. But the question is how far he – and, indeed, other communitarians – would be willing to go. Would he be willing to say, for example, that a parent is under a moral obligation to risk certain death for the sake of rescuing his child? Perhaps he would. Be that as it may, the disagreement between Sandel and Rawls, then, pertains not to the existence of non-voluntary obligations but, rather, to their content.

2. Second, it is not true that communal attachments are only instrumentally important for liberals. In A Theory of Justice, Rawls explicitly says that individuals do form associations (religious, cultural, etc.) as part of their conception of the good. Society, in that sense, is a ‘union of social unions.’ Regarding political and communal participation more specifically, liberals in general and Rawls in particular accept that these are crucial: hence the importance attached to the rights to vote and run for office.

Still, Rawls’ point is that although one must participate politically as a citizen, and although one can, in one's private life, pursue one's understanding of the good, that understanding should not be promoted by the state as the only one that is valuable. To reiterate, the state, for Rawls, should be neutral between conceptions of the good. As we shall see soon, Sandel does not think that the state should be neutral: instead, it should promote the community’s way of life. And that is a major difference between those two thinkers.

3. Third, although the social contract figures prominently in Rawls’ thinking, it would be a mistake to infer that this device is necessarily individualistic. Rawls assumes that the parties in the original position are individuals who represent families. But as Allen Buchanan argues in his ‘Assessing the Communitarian Critique of Liberalism’, there is nothing which precludes him from thinking that the parties can also represent communities. In fact, Rawls does take that view in his later works, particularly The Law of Peoples.

**Activities**

1. Outline for yourself Sandel's account of the relationship between the individual and the community.

2. Do you agree with the liberal reply that the social contract can make sense of the importance of communal attachments?

**Sandel's criticism of liberalism's emphasis on rights and justice**

As we have just seen, Sandel does not think that the state should be neutral between conceptions of the good: instead, it should promote the community's way of life. This point stems from Sandel's accounts of the self, and of the relationship between individuals and their communities. But it is also part of a larger claim about rights and justice. In a nutshell, according to Sandel, liberalism attaches far too much importance to individual rights.
Sandel's critique of rights discourse

Sandel’s criticism at this point takes the following form:

1. First, rights fail to promote community values. Consider the right to freedom of speech. If it is given the kind of protection which it enjoys in, say, the United States, it violates important community values such as repugnance about pornography. For anyone involved in the pornography industry can then oppose any attempt to curb pornography, on the grounds that such attempts constitutes violations of the right to freedom of speech. But what if we, as a community, wish to protect our children from pornographic material? What if we, as a community, believe that pornography degrades women and should be censored? Why should we not do so? Why does the individual right to publish and express whatever one wants should be given such priority?

2. Second, rights promote an individualistic, in fact a selfish and egotistic ethos. This is because rights-discourse focuses on who has rights, individually, without considering individuals in a wider social context. In particular, rights discourse allows those who have rights to impose demands on others at the expense of richer, less confrontational relationships. If I see myself as a rights-bearer, I am more likely to want to assert my rights at the first opportunity, instead of adopting a more conciliatory approach. If I see that others primarily perceive themselves as rights-bearers, I am more likely to take a defensive stand, and to assert my rights, in response to the demands they might make on me.

3. Third, rights, and justice in general, can only be seen as a remedy to social conflicts. But if we were united as a community, and if we had a shared understanding of the values we want to pursue and the ways we want to treat each other, rights and justice would not be necessary. The core question, then, is how to develop those understandings, not how to deal with the fact that we do not have them. We should aim at bringing about a world in which we will not need to invoke our rights against others, rather than concentrate, as liberals do, on deploying rights whenever we are dissatisfied with the world.

The liberal reply to Sandel

Liberals, who are indeed committed to rights, have replied to Sandel as follows.

1. For a start, it is not true that rights fail to promote community values. In fact, political rights enable individuals to set up communities, and to work out community values. After all, it is through the affirmation of the right to political participation that national communities have been able to claim statehood, and that citizens, once constituted in a state, can shape the affairs of their political communities.

2. Second, to be committed to rights discourse is compatible with acknowledging the importance of having caring relationships with other people. In fact, it is entirely compatible with the claim that people are cared for and receive help within these relationships, of which familial relationships are a paradigmatic example, without rights even being invoked. Being committed to rights means being committed to the claim that in cases where these relationships do not obtain in the first instance, or break down, people are treated in decent ways, and can demand to be so treated. Take the case of children’s rights. To say that children have rights to be fed, clothed, and well cared for, as well as rights not to be abused and exploited, does not mean that the main model of relationships between parents and children is conflictual.
What it means is that, in cases where parents fail their children, as they sometimes do, the latter should be able to get redress. Similarly, to say that husbands and wives have rights against one another is not to deny that marriage should be characterised by love, affection, and mutual support. Rather, it is to say that when the marriage breaks down, spouses have means of redress. According to the liberal reply, the communitarian critique loses its bite once it is recognised that it has very little to say on these cases where relationships do break down.

3. Third, to complain that justice and rights are only remedial implies that a community where people disagree with one another is defective. But why should that be the case? The claim makes sense only if one has in mind an idealised community where conflicts simply would not arise. Here it pays to note that even in a community marked by friendship-type, fraternal relationships between individuals, disagreements will arise, and principles for the resolution of those disagreements will be needed. Citizens will still disagree about, for example, the best way to allocate resources amongst themselves. They will also disagree on very complex issues such as cloning, abortion, immigration, and so on. That there are such disagreements need not suggest that the community in question is flawed. Unless one thinks that diversity no matter how minimal is always bad and to be regretted, it is hard to see why the fact that justice is remedial is problematic.

Activities

1. Outline for yourself Sandel's criticisms of liberal rights discourse.
2. Assess the liberal reply.
3. Think about the following question. Sandel supposes that a Rawlsian liberal could not advocate restrictions on individual rights such as, for example, the censorship of pornographic material. Is that right? What would an individual say on this issue in the original position?

Walzer's critique of Rawlsian liberalism

Michael Walzer's Spheres of Justice (published in 1983) is another important communitarian text. Whereas Sandel focuses on the individualistic strand in contemporary liberalism, Walzer is more interested in;

a. how to think about justice and
b. how to distribute goods.

In A Theory of Justice, Rawls claims that the principles of justice apply universally, to all individuals irrespective of their culture. For in so far as the parties in the original position do not know important facts about themselves, they do not know which culture them come from. As a result, the principles they choose are not influenced by this particular fact.

Rawls is not alone, among liberals, in thinking that principles of justice - principles which allocate freedoms, rights and resources amongst individuals - apply to all individuals and all states, no matter their specific culture. (At least this is what he thinks in A Theory of Justice; as we shall see in section 3.4, in his later work, he seems to move closer to Walzer's position.) Walzer denies that this is the case. Moreover, Rawls and contemporary liberals assume that resources, or primary goods, should be distributed according to one principle, irrespective of the kind of goods they are. Again, Walzer disagrees: according to him, we should distribute goods according to their social meaning. This leads to what he calls a theory of complex, as opposed to simple, equality. Let us examine each claim in turn.
Walzer's particularistic conception of justice

Walzer's view
According to Walzer, a just society is not one which treats its members according to some universal principles: 'a given society is just if its substantive life is lived in a certain way - that is, in a way faithful to the shared understanding of its members'. (p.313). As he also puts it, 'justice is rooted in the distinct understandings of places, honors, jobs, things of all sorts, that constitute a shared way of life. To override those understandings is (always) to act unjustly.' (p.314).

This conception of justice is particularistic because it is tied to the particular understandings of jobs, goods, etc, of the individual members of a given society. And the reason, in turn, why Walzer thinks that justice is particularistic is this: we are one another's equal, and in particular are producers of social meanings. To respect one another as equal producers of such meanings is to show respect for other people's opinions, and not to impose on them a conception of how they should live with which they do not identify. For example, Walzer notes that Athenians in the fifth and fourth centuries BC used public funds to subsidise gymnasiums and public baths, not to help the very needy (p.67). Likewise, a caste-society, with an extremely inequalitarian distribution of resources, power, etc., is just, according to that society's own conception, if members of that society subscribe to it. Who are we to say that the Athenians were wrong, that the members of the caste-society are misguided? On what grounds do we deem ourselves justified in imposing on them values which they reject? After all, we ourselves, as members of liberal societies (which Walzer targets) believe that all human beings are worthy of equal respect. Should we not, therefore, live by that principle when approaching different cultures? Incidentally, and importantly for arguments about global distributive justice which we shall examine later on, if Walzer is right, then it is hard to see how one can conceive of justice as applying across borders, since different national communities have different conceptions of how they want to allocate their resources.

Walzer, in effect, is making both a conceptual and a moral point against the kind of universalism displayed by Rawls and other egalitarian liberals. Conceptually, the goods which are distributed have a meaning which is not universal, but which is shaped by the social and cultural milieu within which they are distributed. Morally, those meanings are produced by persons, who are deserving of respect. These two points support the view that goods should be distributed on the basis of such meanings.

The universalistic liberal response to Walzer's view
According to universalistic liberals, there are a number of problems with Walzer's account of justice.

1. First, the claim that we ought to show respect for other people's opinions does not entail that their opinions shape principles of justice; or to put it the other way, that a society where those opinions prevail is a just society. One may think, on the one hand, that justice dictates certain social, economic and political arrangements, and, on the other hand, that if there is a conflict between justice and individuals' opinions, the latter should prevail. That is to say, in case of a conflict between justice and societal values, one may think that the latter should prevail. Take the example of capital punishment. Many universalistic liberals argue that it is deeply wrong to put
criminals (even the worst of them) to death – that a society which condones capital punishment is guilty of an injustice. However, some of them would argue that if a particular society decides to have capital punishment, then we should respect its decision, even if we think that it is an unjust one.

2. The claim that we are one another’s equals is much more controversial than Walzer acknowledges. Many cultures would disagree that all human beings have equal moral status. There are countless examples, throughout history, of societies which believe that blacks, Jews, Arabs, women, gays, are inferior beings. But if the claim that they are not inferior beings is true, as Walzer believes that it is, even though it is not universally held, why rule out the possibility that other principles can be deemed normatively correct, even though they are not universally held? Why deny the possibility that all human beings ought to have their basic needs met, as a matter of justice (and thus why not say that Athenians were acting unjustly when refusing to alleviate severe poverty)? Why not say that the caste system is unjust?

3. Third, and relatedly, the claim that we cannot deem a practice unjust if it is true to a given society’s social meanings is controversial: how far would Walzer push it? That is not made clear in Spheres of Justice. For example, in Chapter 3, he asks whether it is permissible for a government to let people starve, and argues that it is not, on the grounds that a community by definition does not let its people starve. The British let the Irish starve in the 19th century, during the infamous potato famine, and that was a clear sign that the British did not consider the Irish to be part of their community: if they had, Walzer claims, they would not have let the Irish starve. Now, Walzer may be right about that particular example. However, there are many counter-examples of communities which have let their people starve, or suffer terribly. Walzer would claim that they are not proper communities. But what if they say that they are? On what grounds can he take issue with their understanding of themselves as a community? After all, he himself insists that we should treat individuals’ values, and the societal values which they underpin, with respect.

Moreover, it is not entirely clear whether Walzer really believes that policies of that kind, where a community inflicts suffering, or lets die, some of its members, are actually permissible. In Spheres, Walzer invokes universal principles when discussing some state practices. For example, he claims that guest workers who have stayed in a foreign country for a while should be granted citizenship rights (pp. 59–60). Yet, he does not refer to those countries’ cultural practices and shared understandings to support his argument. That does not seem consistent with his overall theory.

4. Walzer’s understanding of how we must think about justice is relativistic. Like all relativistic theories, it is vulnerable to the objection that unless it is completely relativistic, it must be able to explain why some practices are acceptable whilst others are not. To go back to a point made earlier, Walzer needs to explain why the principle that we should treat one another as equal has universal value, whereas other principles which seem to derive from it lack universal values.

Moreover, there are two further problems with relativism. For a start, relativistic meta-theories of justice violate many of our deeply shared understandings. Thus, universalistic liberals – in their societies – think that slavery is egregiously wrong. Why should they accept as just societies which deem it acceptable? Moreover, how are shared understandings of justice to be identified? Communities are not
homogeneous, and their members will disagree amongst themselves. In some communities, some people believe that women are second-class citizens, whereas other people believe that women should have the same rights and freedoms as men. How are we to deal with those cases? Walzer faces the following dilemma. Either conceptions of justice are so particularistic (so tied to the particular social milieu in which they are developed) that it is impossible to adjudicate between them, in which case it is hard to see how those disagreements can be resolved, and what role there is for the critic and political theorist. Or it is possible to adjudicate between conflicting theories, in which case we have to broaden the horizon of justice, so to speak, and refer to less particularistic understandings of justice. In the latter case, the political theorist can criticise, and try and persuade some of the members of that society that their interpretation of justice is wrong.

5. In order to say that a given society has a given set of shared understandings, we must be able to identify whose understandings those are, and, in turn, to identify the processes by which they are articulated. As Okin argues in her book Justice, Gender and the Family, once we do that, however, we come to realise that, in most societies, those supposedly shared understandings are, in fact, those of the powerful classes. Far from being shared, those understandings are shaped and articulated by privileged groups – the dominant race or ethnic group in societies organised along racial lines, the dominant gender in most societies.

6. This leads us to a final, sixth, point. Walzer assumes that the site of justice, where justice takes place, is a political community in which individuals can be producers of social meanings. He thus rules out local communities, as well as supra-national, and trans-national, communities. But he does not really explain why. That is a weakness which we will encounter again when looking at global principles of justice and multiculturalism.

Activities
1. Outline for yourself Walzer’s particularistic theory of justice
2. Assess the universalistic reply. Do so by focusing on concrete examples: do you think, for example, that it was wrong of Athenians not to relieve poverty so as to fund public gymnasiums? Do you think that a community which lets its people starve really is a community? Do you think that a society which condones capital punishment is an unjust society?

Complex versus simple equality

Walzer’s theory of complex equality
As we have just seen, Walzer believes that justice is culture-specific. He also argues – and this is his theory of complex equality – that a just society is one where different goods are distributed according to different procedures (p.6). Note that those two claims are different: you can agree with complex equality (we should use a different metric for different goods) and disagree that the distributive principles are culture-relative. Or you can agree that justice is culture-relative, and deny that goods should be distributed according to different principles (the caste society example shows that, for in such a society, goods are distributed according to one principle, i.e. caste membership.) It is the combination of those two claims which gives Walzer’s theory of justice its specificity.
What is complex equality, exactly? According to Walzer, different goods (membership, money, jobs, prizes, etc.) operate in different spheres of distribution. According to complex equality, the fact that I am poor, that is, worse off than someone else in the sphere of money, should not make me worse off than they are in the sphere of power, or, say, of medical care. To put the point differently, access to medical care should not be dependent on one's income. Under complex equality, no good is dominant, that is, no good can be used in ways which violate its social meaning and which give access to other goods in other spheres. In other words, exchanges between spheres must be blocked. To give a simple example, if, in our society, we believe that health care should be distributed on the basis of need, then we are justified in not allowing people to buy and sell organs. Likewise, if we believe that political power should be distributed on the basis of birth, we are justified in not allowing people to buy their way into public office.

Walzer contrasts complex equality with simple equality. According to him, contemporary liberals in general, and Rawls in particular, endorse simple equality, whereby one good—typically money—is dominant. The question, then, is whether Walzer succeeds at defending complex equality as a genuinely egalitarian theory of justice—one which makes sense of, does justice to, the claim that we are one another's equals as producers of social meanings.

To reiterate Walzer's point: no good can be used in ways which violate its social meaning and which give access to other goods in other spheres. Under complex equality, some people will outrank others in some spheres, but others will do better in other spheres; we will have, roughly, equality of social status.

**Assessing complex equality**

The ideal of complex equality appeals to an intuition which many would share, namely that possession of one characteristic, or one attribute, should not affect all dimensions of our lives. It pays to note that, from a feminist point of view, this ideal calls for a radical reshaping of nearly all existing societies and cultures, since gender, in those societies and cultures, is precisely an attribute of individuals which does determine how they will fare in the spheres of money, political power, access to jobs, and so on. As Okin notes in her *Justice, Gender and the Family*, however, it also pays to note that the ideal of complex equality is in tension, in that regard, with Walzer's insistence that we respect the shared understandings of communities of people, since, more often than not, those shared understandings are, in fact, those articulated by the largely male dominant classes, and work to the detriment of women. Setting that issue aside, however, the ideal of complex equality calls for the following, critical remarks.

1. It is true that the idea that different goods ought to be distributed differently has some appeal: we **do** tend to think that political offices are not for sale, although we may disagree as to whether they should be distributed on the basis of birth or elections. Likewise, many people find it plausible that access to health care should not depend on one's purchasing power.

   But that does not necessarily point towards an alternative to simple equality. Walzer's theory of complex equality works as an alternative to simple equality only if it says not merely that different goods should be distributed differently, but also that they should be distributed according to their different **social** meanings (that is, as we saw in section 3.3.1, according to the meaning conferred on them by members of society). But if everybody had equal amounts of money, we would
not worry so much about, say, money-based inequalities of access to health care: for such inequalities would be more likely to result from people’s choice as to whether to purchase health care or not. To put the point differently: it is not that we think that there is something inherent about health care that precludes its distribution on the basis of money; rather, we think that individuals should have equal access to health care, whether or not they choose to avail themselves of it.

2. Walzer assumes that a good has one social meaning in a given society. But in fact, it may have several, not in the sense that different people attach a different meaning to it, but in the sense that everybody, or most people, attach different meanings to it. For example, in capitalist-liberal democracies, jobs have different meanings. One of their meanings is that they are positions which should go to the most qualified individuals. Their other meaning is as a good which confers status on those who have it, in so far as we need to have a job in order to be fully respected. So we could potentially have two, and conflicting, distributive principles at play for jobs, namely merit and need. The theory of complex equality does not tell us which one we are to choose; nor does the view that we should respect people’s social meanings, since for the meaning of that particular good, jobs, is in fact dual.

3. There are moral considerations which cut across spheres, and which are important in our moral thinking. Take the notion of individual responsibility. For many, it applies to goods which we need, such as health care. On that view, the fact that I need health care may not be enough for me to get it: it has to be the case that I am not responsible for getting ill in the first instance. But responsibility is also thought to apply to goods which we deserve, such as punishment, so that I will be punished only if I am morally responsible for my actions. But the idea that spheres should remain independent of each other does not account for that phenomenon.

4. When do we know when equality obtains? Suppose that some people outrank others in all, or most spheres. To what extent do we really have a society where complex equality is achieved? Suppose further that one’s high ranking in one sphere can be converted in high ranking in other spheres. Then we will not have equality of social status. Walzer would reply that this is the very reason why exchanges between spheres must be blocked. But it is unclear that blocking exchanges is feasible: in fact, there is evidence to suggest that people want to see some correlation between, say, high academic achievement and earning power. More fundamentally, to return to the point made earlier, such blocks contravene individual freedom.

Activities

1. Outline for yourself Walzer’s theory of complex equality.

2. Assess it by reflecting on the following: can you think of examples of goods which, in your society or culture, have several meanings? Do you agree that some exchanges between spheres should be blocked? That blocking them is possible?

Rawls’ response: political liberalism

In 1993, Rawls published his second major book, Political Liberalism, in which he clarifies a number of the claims he made in A Theory of Justice, partly in response to the communitarian critique. In this section, we shall focus on some strands of the communitarian critique, and on Rawls’ response in Political Liberalism.
Chapter 3: The communitarian critique of Rawls

The communitarian critique which we examined in this chapter makes – amongst others – the following two claims:

1. Rawls' metaphysical conception of the person – of what the person is, as detached from her ends – is implausible, and very controversial. Unsurprisingly, Rawls' claim that his conception of justice is universal in scope – applies regardless of time and space – is implausible. In fact, his conception of justice is value-laden.

2. Rawls' theory of justice neglects the importance of communal goods and attachments in individuals' lives.

In Political Liberalism, Rawls makes the following points in response to those claims:

1. His conception of justice is political, and not comprehensive. That is, it rests on a political conception of the person; it applies to the basic political and social institutions of society, and not to all its institutions.

   In saying that his conception of the person is political, Rawls is affirming, explicitly, that persons, on his view, are capable, and ought to, detach themselves from their ends and attachments when thinking about principles of justice. He is not supposing that they are capable, and ought to, detach themselves from their ends, in their everyday lives, as parents, churchgoers, workers, members of associations, etc. Which is why he also believes that his conception of the person, political as it is, is compatible with a variety of comprehensive, metaphysical doctrines about what persons actually are.

   Relatedly, in saying that his principles of justice apply to the basic structure, that is, to society's major political and social institutions, Rawls is quite clear that the scope of justice is limited, and thus that individuals, in their private lives, again, as parents, church-goers, association members, etc., can deploy, and pursue, a variety of comprehensive, moral conceptions of what the good life is.

2. Far from being actually universal, his theory, Rawls claims, makes sense of the fundamental and shared ideals constitutive of a democratic society. In here, then, he echoes Walzer's claim that a theory justice should be sensitive to the social and shared understandings of a given community at a given time. Whether, on Rawls' view, it is desirable that all societies should become democratic is another question.

3. Far from being insensitive to the importance of communal goods, his theory of justice, he claims, is clearly one in which citizens attach importance to the value of political participation, and unite, as citizens, around the shared communal goals of realising justice.

   Thus, Rawls, in Political Liberalism, seems to qualify A Theory of Justice in some important ways. And the reason, in turn, why that is so, is what he calls the fact of reasonable pluralism. In democratic and diverse societies, he notes, individuals will hold different comprehensive moral and metaphysical doctrines. Respect for individuals requires, therefore, that we come up with a theory of justice which does not presuppose the truth of any such doctrine – which is political in that individuals, as rational and moral citizens, can all endorse it, regardless of their own comprehensive moral doctrines. This, in turn, requires that, when we try to justify to one another why we should adopt a given principle of justice rather than another, we must deploy in support of our conclusion reasons which all can endorse. Those reasons, which Rawls calls public reasons, must thus be unhinged from comprehensive moral, metaphysical and religious doctrines.
What can Sandel and Walzer make of this response? They will find Rawls's departure from his initial universalistic aspirations congenial to their own theories. However, they are likely to remain unconvinced by Rawls' insistence that his theory of justice is truly political, rather than comprehensive. For a start, they (and some other liberals) might want to say that, in fields such as abortion and bioethics in general, we must know what a person is before we can decide, for example, whether the foetus qualifies as a person, and thus whether abortion is morally permissible and should remain legal. In so far as such decisions pertain to what the law should say, they apply to the basic structure, and are within the scope of a theory of justice. Theories of justice, thus, cannot hope to avoid making metaphysical assumptions about what persons are.

Relatedly, Rawls' account of justice as deployed in Political Liberalism draws a sharp distinction between the personal and the political domains. In the political domain, he argues, we ought to detach ourselves from our ends; but we need not do so in the personal domain. Is it likely, communitarians might want to ask, that we can behave so differently depending on which domain we operate in?

Finally, although Rawls does acknowledge that communal goods, most notably political goods, are important to individuals, he is clear that the good life ought not to be defined as the political life. He is, in short, opposed to the ideals articulated by so called civic humanism. Those communitarians who endorse civic humanism will not be satisfied by Rawls' Political Liberalism.

**Conclusion**

To recapitulate, according to liberals, Sandel charges liberals with advocating a unencumbered self; he also criticises their understanding of the relationship between individual and their communities, as well as the overriding importance they attach to rights. According to liberals sympathetic to Rawls, Sandel is wrong on all counts. Having said that, liberals have been led by his criticisms to be much clearer about the role of communities in their thought. In particular, they have been led to develop understandings of rights which make sense of the importance of political participation.

Walzer, on the other hand, pays particular attention to the universalistic tendencies of Rawls' theory, and of the liberalism which it underpins. On his view, principles of justice are not universal in scope: rather, they are dependent on the social milieu within which they are articulated. More specifically, they distribute goods and burdens on the basis of the social meanings which individuals, socially situated as they are, attach to them. In so far as we must respect individuals as equal producers of social meanings, we must respect the principles of justice which they choose, even if we think that they are wrong. In fact, at times he goes as far as to say that we cannot even say that they are wrong. Moreover, we must distribute goods on the basis of their social meanings, and not according to one single principle. As we saw, however, universalistic liberals will remain unconvinced. In particular, given his overall theory, it is unclear whether he can invoke some universal principles to condemn, for example, a decision by a community to let some of its people starve. To put the point differently, a particularistic theory of justice such as his must account for cases where particularism is not acceptable. Note,
though, that liberals such as Rawls in his later works, who concede that some of the disagreements that arise between individuals are reasonable face a similar problem: they too must be able to account for cases where disagreements are not reasonable. And so it seems, then, that the difference between communitarians and non-absolutist liberals such as Rawls pertains, not so much as to whether there are universal principles of justice, but, rather, as to which such principles are universal, and which are not.

One final point. Not all liberals sympathetic with Rawls’ A Theory of Justice have accepted his qualifications as made in Political Liberalism. Quite a few of them would insist that principles of justice must be conceived of as universally valid, that they cannot but rest on a comprehensive moral and metaphysical doctrine, and that liberals ought to be quite clear that this is the case. Rawls, they would argue, has in fact become, and regrettably so, a communitarian. Far from being a convincing re-interpretation of, and elaboration upon, A Theory of Justice (as Rawls claims it is), Political Liberalism is a betrayal of its true spirit. Assessing this particular criticism of Rawls is beyond the scope of this guide. Suffice it to say that, from now onwards, when we talk of Rawlsian justice, we shall mean the theory of justice to be found in A Theory of Justice.

A reminder of your learning outcomes

Having completed this chapter, and the Essential readings and Activities, you should be able to:

• describe Sandel’s and Walzer’s criticisms of Rawls’ theory of justice, as well as with Rawls’ possible replies
• discuss the main issues in the debate opposing liberals and communitarians
• explain why you agree, or disagree, with either school of thought.

Sample examination questions

1. ‘There are far fewer differences than similarities between liberals and communitarians.’ Discuss.
2. ‘Rawls fails to pay proper attention to the importance of community attachments.’ Discuss.