INTRODUCTION TO JOHN RAWLS, CONTEMPORARY LIBERALISM, AND NATURAL LAW

In this essay Christopher Wolfe presents the thought of John Rawls, one of the most influential American political philosophers of the twentieth century. Although Rawls himself proposed a philosophy that, as Wolfe argues, is a “minimalist” natural law theory, Rawls rejected the natural law tradition. Rawls alleged that natural law and similar theories proposed a controversial, “comprehensive view” of the human person that would lead political regimes to enforce an inhuman uniformity of behavior on society, or that would give rise to civil conflict in the face of other comprehensive views. However, Rawls’s primary concern was to steer political theory away from the utilitarianism that had predominated before him in favor of an approach similar to that of the philosopher Immanuel Kant.

Rawls first proposed a new theory of “justice as fairness” on which to base democratic society. He claimed that this basic notion of justice was acceptable to all people, preserved the freedom of citizens to pursue the life of their choosing, gave equal rights and opportunities to everyone, promoted social cooperation, and created a society that was most beneficial to the poor and weak compared to all other possible societies. He at first claimed that it was “purely political” and therefore did not entail a comprehensive notion of the good; though in the later part of his career he acknowledged that the theory was comprehensive enough that it could not be applied to a truly pluralistic society in all its aspects. However, Rawls continued to argue that all groups in society must defend their proposals for social order by appealing only to “public reason,” that is, moral claims that are “purely political.” Prof. Wolfe’s essay also presents objections that many have raised against Rawls’s ideas, including his characterization of natural law and similar views that he calls “comprehensive.”

JOHN RAWLS (b. Feb. 21, 1921—d. Nov. 24, 2002)

John Rawls was an American political and moral philosopher, best known for defending egalitarian political liberalism in his book A Theory of Justice. Many consider him to be the most important political philosopher of the twentieth century.

He was born in 1921 into an upper-middle-class Protestant (Episcopalian) family in Baltimore, Maryland. His parents were very civically minded, and from an early age Rawls was taught to be mindful of the difficulties of those less fortunate than himself.

He excelled as a student. For high school he was sent to a boarding school in Connecticut run by a monastic order of the Episcopal Church, and in the fall of 1939 he matriculated as an undergraduate at Princeton University. He majored in philosophy, studying Immanuel Kant and John Stuart Mill especially, and writing his senior thesis on A Brief Inquiry into the Meaning of Sin and Faith. He graduated a semester early in January 1943, summa cum laude. He considered studying for the Episcopal priesthood but instead decided to enlist in the U.S. Army to fight in World War II.

He served in the Pacific Theater where he earned a Bronze Star and eventually went to Japan as part of the post-war occupying forces. He declined an offer to become an officer and left the army in 1946 after he was demoted for refusing an order to punish a soldier of lesser rank (for what he thought was a very minor offense). He had come to dislike the army, and the experience of war had weakened his Christian
beliefs enough that he gave up the idea of entering the ministry.

Instead he pursued a PhD in philosophy at Princeton, graduating in 1950 after writing a dissertation on “A Study in the Grounds of Ethical Knowledge: Considered with Reference to Judgments on the Moral Worth of Character.” He pursued interests in other fields as well, including economics, American political thought, and constitutional law.

Meanwhile, in 1949, he married Margaret Warfield Fox, with whom he had four children. She became a close collaborator of his, reading his manuscripts before publication to suggest changes in style.

After attaining the PhD he taught for two years at Princeton, went to Oxford for a year (where he attended seminars led by Isaiah Berlin and Stuart Hampshire), and then became an assistant professor of philosophy at Cornell University in 1953.

In 1957 he published the article “Justice As Fairness” in the *Journal of Philosophy*. In 1960 he became a tenured professor in the humanities division at the Massachusetts Institute of Technology (MIT), and in 1962 he became a tenured professor of philosophy at Harvard, where he remained for the rest of his career.

In 1971 he published his first, most famous, and most influential book, *A Theory of Justice*. The six-hundred-page book drew the attention not only of academia but also of the educated public, selling over 200,000 copies in over two dozen languages. It generated reviews and responses in every major academic journal and non-academic magazine of philosophy, social science, or religion across the United States, and was discussed in the op-ed pages of America’s leading newspapers. Conservatives (and to a lesser extent liberals) criticized his work in various respects, but commentators of all persuasions applauded the book for reviving the discussion of large moral questions in political theory and for drawing attention to the need to think about providing for the disadvantaged members of society. The book drew attention abroad also, especially from the German intellectual Jürgen Habermas.

In 1974, Rawls was given a chaired professorship at Harvard, and in 1979 he was given one of Harvard’s few prestigious University Professorships. Rawls retired in 1991 and in 1993 published his second book, *Political Liberalism*. He wrote or compiled other books or collections of papers and lectures during retirement, some of which were published posthumously.

He continued to teach at Harvard until 1995. In 1999 he received the National Humanities Medal from the U.S government, one of the few awards that he ever accepted. He generally shunned public attention, preferring to lead a very private life. He died at his home in Lexington, Massachusetts in 2002.

**Bibliography:**


antiperfectionism (adjective: antiperfectionist): A political philosophy that claims that civil laws ought not to promote a particular notion of the good life, beyond enforcing basic prohibitions of the most grave crimes, such as theft, murder, perjury, etc. Antiperfectionism sees the duty of law as merely to protect citizens from harming one another and to permit them to pursue whichever notion of the good life they desire. See also PERFECTIONISM.

Aquinas: Full name: Thomas Aquinas. The thirteenth-century Italian from a family of the nobility who joined the Order of Preachers (the Dominicans) in his youth and became one of the foremost philosophers and theologians of his century and of western history. His most famous work is the Summa Theologica in which is found, among many other things, a presentation of his theory of natural law, which has become the standard by which most other theories of natural law are judged. Rawls considered Aquinas’s view of natural law to be an example of a dominant-end theory because it refers all of human existence to God. See also DOMINANT-END THEORY and the subtopic of this website on THOMAS AQUINAS.

comprehensive views (also comprehensive doctrines): The term that John Rawls uses to refer to philosophical understandings of what is good for human beings that go beyond what everyone does or can agree upon. Rawls calls these views “controversial” because people disagree about them. Rawls considered religious beliefs and natural law theory to be comprehensive views. See also PURELY POLITICAL CONCEPTION OF JUSTICE.

dominant-end theories: For Rawls, any kind of political perfectionism that sets a single good as the goal for everyone, such as money, power, or God. He would classify natural law theory, especially that proposed by Thomas Aquinas, as a dominant-end theory. He thought that all such theories were harmful because, he said, they all impose a degree of uniformity on all individuals that denies the legitimate variety of ways people can choose to lead good lives. Defenders of such theories, particularly those theories that place God as their end, would argue that Rawls does not appreciate how such theories provide room for great variety in the kinds of lives people can lead while still all being subordinated to a single end.

egalitarian: (From the French word égalité, meaning “equality”.) Promoting equality; describes especially those political theories that try to make all citizens in society equal, not only before the law, but also in other respects as well, especially in resources of various kinds.

heterogeneous: Varied; having variety; including individuals of many different kinds. Opposite to homogeneous. See also HOMOGENEITY.

homogeneity: Uniformity; the state of being homogeneous, that is, uniform or all of one kind. Usually used in reference to a group of individuals. Opposite to heterogeneous. See also HETEROGENEOUS.

Ignatius of Loyola, St.: A sixteenth-century Spanish nobleman, who, after he was wounded in war, underwent a deep religious conversion during his convalescence and founded the Society of Jesus (the Jesuits), a religious order of priests and non-ordained men within the Catholic Church. It was devoted to missionary work (especially, at first, the reconversion of Protestants to Catholicism), education, and direct service to the pope. Loyola famously wrote The Spiritual Exercises, a series of highly intense spiritual meditations for a thirty-day retreat, which all those who aspired to join his order had to undergo. The Spiritual Exercises are highly demanding and aim to bring the retreatant to repent of his past sins and to devote himself to God alone. It encapsulates much of the spirit of the Catholic response to the Reformation and had a lasting influence on Catholicism as a whole. Rawls points precisely to the spirit reflected in The Spiritual Exercises as an example of a “dominant-end theory” because it orients all aspects of human existence toward God. See also DOMINANT-END THEORY.

intuitionism: any philosophy that derives or claims to derive its principles in whole or in part from “intuition.” Intuition is usually defined as the first judgment that reason makes, almost automatically, upon observing any reality, before reason goes on to dissect and weigh the truth of that judgment again
other considerations. Rawls describes certain forms of natural law theory as varieties of intuitionism.

irrational: In Rawls’s particular view, to be “irrational” is not to have a coherent and plausible plan to achieve an end one may have in mind. This differs from the more general definition of “irrational,” that is, not to be in agreement with correct reasoning.

justice as fairness: The doctrine of liberalism that John Rawls formulated in A Theory of Justice (1971), his first major work. It holds that 1) each person has an equal right to a fully adequate set of equal liberties that is compatible with a similar set of liberties for everyone; and 2) that social or economic inequalities may exist only if everyone has an equal opportunity to obtain them and if these inequalities end up benefitting the weakest members of society compared to what the weakest members would receive in any other possible social arrangement. When he first published A Theory of Justice, Rawls believed that justice as fairness did not entail a comprehensive view of what is good for human beings. However, in his later career he acknowledged that justice as fairness was useful only in specific parts of social life because it contained some principles that not everyone in a truly pluralistic society could accept. See also PURELY POLITICAL CONCEPTION OF JUSTICE and COMPREHENSIVE VIEWS.

Kant: Full name: Immanuel Kant. A late eighteenth- and early nineteenth-century German philosopher, considered by some to be the last of the philosophers of the Enlightenment. In order to solve certain philosophical problems that the Enlightenment raised (especially those raised by the Scottish philosopher David Hume) he tried to reground human knowledge and moral norms in logical necessity, without any reference to observation of the objective world (for example, without reflecting on nature). In doing so he hoped to preserve absolute moral norms and man’s ability to know absolute truths generally. In moral philosophy he famously formulated the “categorical imperative” as a necessary moral norm that all had to follow. This imperative states that one ought to follow those moral principles—and only those moral principles—that could be made a universal law that could bind everyone. Kant also thought that human dignity was grounded in man’s capacity to reason. John Rawls is considered to be a follower of Kant because he tried to formulate absolute norms for society based on logical necessity, without regard to a theory of nature.

Liberalism: A political philosophy that claims that all citizens in a society have an inalienable right to participate directly in their own political governance, in opposition to the claim that a monarch or an aristocracy can rightfully govern a country without the participation of the whole citizenry. In American politics in the twentieth century, the term came to include more specifically claims that the government (and in the thinking of some, primarily the government) ought to take responsibility for caring for the weakest members of society; that individuals have a right to engage in any behavior that does not clearly violate the liberty or well-being of others; and that government generally ought to intervene energetically in the economy, even beyond enforcing basic norms of justice. Many consider John Rawls to be the primary philosopher of contemporary American liberalism in the later, twentieth-century meaning of the word, though he considered himself to be more precisely a member of the older, broader liberal tradition.

maximin rule, the: A central principle of the thought of John Rawls. It claims that a citizen, if given the choice, and if he has no prior knowledge of his social standing or “comprehensive view” of what the good life is, will naturally choose to live in a society in which the worst possible result for himself will be the best of all possible worst results for himself in all possible societies. Rawls presumed the truth of this rule in order to argue that his conception of “justice as fairness” is superior to all other political conceptions of justice. See also COMPREHENSIVE VIEWS.

modus vivendi: (Latin for “a way of living.”) A manner of living and surviving or “getting by” in spite of difficulties. In political philosophy (for example, the thought of Rawls), a way of making society stay together despite deep divisions of opinion between citizens that would naturally tend toward open conflict if left unchecked, a sort of “truce” achieved by practical compromise rather than principled agreement.
original position: Part of John Rawls’s thought experiment by which he derives his concepts of “justice as fairness” and “public reason.” In the experiment the original position refers to the situation of people before they enter into society, stripped of any social advantage or comprehensive views. See also COMPREHENSIVE VIEWS, JUSTICE AS FAIRNESS, PUBLIC REASON.

parochial: restricted to a small area or scope; narrow; limited.

perfectionism (adjective: perfectionist): In political philosophy, any philosophy that proposes a certain notion of the good life as the goal of society that should be promoted in its laws. Perfectionism would claim that laws ought to do more than merely prohibit heinous crimes (such as murder, theft, and perjury): they ought also to promote certain virtues and moral behavior to lead people to become good. Moreover, perfectionists would say that certain immoral acts that two or more individuals engage in can be outlawed even if done privately and even if the individuals all agree to engage in that behavior. Natural law theory is a kind of perfectionism. See also ANTIPERFECTIONISM.

pluralism: A commitment to defend in society the existence of many different kinds of religious belief, philosophy, or other fundamental commitments to transcendent truth, which Rawls calls “comprehensive views.” See also COMPREHENSIVE VIEWS.

public reason: According to John Rawls, those arguments and claims that a reasonable citizen can be presumed to hold or that should be acceptable to him in light of the requirements for a peaceful society. For Rawls, citizens may justify their opinions about the content of laws only on the basis of arguments that qualify as public reason.

purely political conception of justice: the most basic claims about citizens’ rights and liberties that everyone accepts because they are so basic. “Purely political” can also mean “pragmatic.” In Rawls’s language it is a kind of “moral conception of justice” that applies to political, social, and economic institutions only; it addresses the most basic questions necessary for uniting society and does not make what he calls controversial, “comprehensive” claims about what is good for human beings. Rawls thought that social order could be based only on purely political conceptions of justice. See also JUSTICE AS FAIRNESS.
rational: for Rawls, the quality of pursuing one’s personal ends by a coherent and plausible plan. This differs slightly from the more general definition of “rational,” that is, the quality of being in accord with correct reasoning. See also IRRATIONAL, REASON.

reason: Man’s natural capacity to know truth, especially without supernatural help from God. Often distinguished from revelation. See also REVELATION.

Reformation: The Christian religious movement begun in the early sixteenth century by Martin Luther in Germany, which spread throughout northern Europe and led many people and even whole countries to leave the Catholic Church. This division of European Christianity into two strongly opposed parts became the excuse for over a century of warfare across the continent among the various countries of Europe, as each dedicated itself to defending and enforcing either the Protestant or the Catholic religion (though very often with very secular motives as well). This fighting is sometimes referred to as “the wars of religion.” The acrimony, scale, and length of the fighting was unprecedented in European history since ancient times and left many lasting, painful, and fearful memories in the minds of Europeans. Historians differ as to the main causes of the wars of religion (whether they were caused by religion itself or rather by politics), but John Rawls believed that they arose precisely because societies ordered themselves around “comprehensive views” of the good (in this case religious beliefs) rather than around public reason. See also COMPREHENSIVE VIEWS, PUBLIC REASON.

revelation: truths revealed supernaturally to man by God, that is, by means beyond the natural knowledge that man has through reason alone. See also REASON.
**rule of law:** to order a society by law, that is, by publicly communicated, reasonable ordinances directed at the common good and crafted by those rightfully charged to care for the common good of society. Usually opposed to arbitrary rule or despotism (whether benevolent or tyrannical), in which one or a few individuals who happen to have power arbitrarily direct society, often toward their own interests, regardless of what reason and the common good require. The rule of law generally protects individuals’ rights and the common good by limiting the power of government and subjecting governments’ officials to a higher standard applicable to all citizens, including themselves. An important tenet of the rule of law is that the officers of the law ought never to go beyond what the law permits—even if they act for what they think to be a noble purpose—except temporarily in true emergencies. There are at least two reasons for this restriction: 1) because an officer who habitually abrogates the law acts as though he himself and not transcendent justice were the source of citizens’ rights (that is, he puts himself above the law); and 2) because individual officials in the midst of the tasks of administering the government are often poorly positioned to reason through what the common good requires in the moment, whereas the slower, deliberative processes by which law is produced are more likely to discern correctly the requirements of the common good.

**social calculus:** To determine what is best for society by calculating or weighing the respective benefits of one option over another. In Prof. Wolfe’s essay it refers specifically to what utilitarians would do to determine what action society should take: to choose the action with the best overall balance of outcomes, without considering whether that action is wrong by its nature. See also UTILITARIANISM.

**social contract theory:** A political philosophy that conceives of society as the result of a contract into which the members of society enter by free consent. Society is therefore formed primarily by individual choice, not by natural ties of blood relations, shared culture, shared language, shared religion, obligations, or the choice of anyone other than the individual citizens. Rawls’s theory is considered a form of social contract theory.

**teleological:** (From telos, meaning “end” in Greek.) Related to teleology, an account of “ends” or “purposes,” especially of human beings, and especially as those ends are thought to point to how humans ought to behave. Most varieties of natural law theory, especially that set forth by Thomas Aquinas, are teleological because they derive moral principles based on the purposes or ends that one finds indicated in human nature, especially in nature as exemplified in individuals who reach perfection or happiness. Teleological is sometimes also used to describe the quite different moral philosophy of utilitarianism, which also takes an “end” as its guide (utility or good outcomes), though utilitarianism does not accept the notions of nature or perfection that are central to Aquinas’s natural law theory. See also AQUINAS, UTILITARIANISM.

**tolerance:** putting up with the failings of another person (or the legitimate ways in which they differ from us) for the sake of a greater good, rather than punishing them or refusing to live peacefully with them. Thinkers of both the Enlightenment (such as John Locke in his Letter on Toleration) and the Christian tradition (such as Pope Pius XII in his address Ci Riesce) have discussed the appropriateness of tolerance in civil society in various cases. Rawls thought that his theory of justice fostered tolerance and undermined intolerance.

**utilitarianism:** A moral philosophy that (in its most basic form) claims that when one decides how to act, the only rule one must follow is to achieve the best balance of maximizing good outcomes and minimizing bad outcomes. It claims that there are no actions that are always and everywhere forbidden; certain actions that many would consider always unjustifiable (such as killing the innocent) would to a utilitarian be permissible if it appeared that, on balance, a greater good would come from choosing such actions rather than the possible alternatives. Critics of utilitarianism, such as Rawls, fault it for justifying moral anarchy and for creating a society where the strong may take advantage of the weak.

**veil of ignorance, the:** Part of John Rawls’s thought experiment by which he derives his concepts of “justice as fairness” and “public reason.” In this hypothetical scenario, the veil of ignorance is that which blinds people to the social position or the comprehensive view of the good that they will hold.
before they choose which kind of society to form with each other. Rawls thought that people in such a position would choose a society in which the worst outcome possible for them would be the best among the worst outcomes of all possible societies. This conclusion proved for him that all societies should therefore seek to maximize the position of the weakest members while still maintaining an overall framework that provided equal liberties and opportunities for all. See also COMPREHENSIVE VIEWS, JUSTICE AS FAIRNESS, PUBLIC REASON.

OUTLINE OF ESSAY ON JOHN RAWLS

I. A Theory of Justice (1971)

a. An egalitarian social contract theory, founded on Kant rather than utilitarianism (the dominant foundation of liberal thought at the time of Rawls’s writing).

b. Identifies two conceptions implicit in modern political culture:

1. Citizens:
   i. Are free.
   ii. Are equal to each other.
   iii. They can understand and follow principles for social cooperation.
   iv. They can think through and follow rationally a conception of what is “good.”

2. Society:
   i. Is a system of cooperation among citizens...
   ii. ...that is “fair.”

c. “fairness” (that is, “justice as fairness”):
   1. A purely “political” conception of justice ...
   2. That applies only to the broadest social basis of the nation ...
   3. And only to how persons relate to one another politically. ...
4. Its aim is strictly practical: to insure fair social cooperation.

5. It is a standard that people with different comprehensive philosophical, religious, and moral views can agree upon.

d. The two principles of justice as fairness:

1. Each person has an equal right to a fully adequate scheme of equal liberties that is compatible with a similar scheme of liberties for all.

2. Social and economic inequalities may exist only if:
   i. They are attached to offices or positions that everyone has an equal opportunity to obtain.
   ii. They result in the greatest benefit to the weakest members of society compared to the outcomes in all other possible social arrangements.

e. How the principles of fairness are derived: The Veil of Ignorance thought experiment:

1. If before society were formed (in the “original position”) ...

2. all future citizens were to be unaware of their future social status or of what their “metaphysical” conceptions of the good would be (behind the “veil of ignorance”) ...

3. (though they would have a certain “basic” or “primary” conception of the good that includes:)
   i. basic rights and liberties,
   ii. freedom of movement and occupation,
   iii. power and prerogatives of office,
   iv. income and wealth,
   v. social bases of self-respect.

4. citizens would choose “justice as fairness” rather than utilitarianism or any other foundational political theory...

5. because one will naturally choose the society in which the worst possible result for oneself will be the best of all possible worst results for oneself in all possible societies (the “maximin rule”) ...

6. and in a utilitarian society, individual liberties get sacrificed to the good of society.

f. Justice is strictly political and pragmatic. It applies to the broadest social framework of the nation.

II. Political Liberalism (1993)

a. Clarifies that “justice as fairness” is a strictly “political,” not a “moral” conception of justice, even though it does promote certain ways of life (tolerance, civility, compromise) and undermines others (intolerance).
b. Fundamental claim: When citizens are debating how to direct society they may only argue on the basis of what all reasonable citizens may be expected to accept as good (a.k.a. “public reason”) and not only their own “comprehensive views” of what is good.

c. Purpose of the argument: To avoid internal warfare and foster social cooperation among free and equal citizens; because when citizens use their reason they inevitably come to deep disagreements about the nature of the good, such as the disagreements that arose during the Reformation.

III. Rawls and Perfectionism (including Natural Law Theory): Why he rejects it.

a. He says that it cannot protect liberty across society because its claims are too “strong” and therefore are not widely accepted.

1. Objection: Rawls’s own “weak” claims have not been accepted throughout American society or academia.

b. He says that it is not a logical choice for someone in the “original position” (behind the “veil of ignorance”) because it might lead society to restrict the freedom of the person who chooses a higher end.

1. Objection: Perhaps it is worthwhile to sacrifice one’s freedom for the sake of leading society to a higher end.

2. Objection: Rawls gives no reason why one should shed one’s knowledge of the fundamental nature of reality (in the original position) before constructing a social order.

c. He says that it often fosters views of an “extreme nature,” that focus on a single, “dominant end” that creates harmful social homogeneity that denies the legitimate wide variety of ends one can pursue.

1. Objection: Rawls does not distinguish between different kinds of dominant end theories; perhaps religion, for instance, permits a wide variety of subordinate ends (subordinated to God) in a way that views centered on political power or material wealth do not.

IV. Rawls and Natural Law

a. In some sense, Rawls is a “minimalist” natural law thinker.

1. He asserts that there are “primary social goods” that every “rational man wants” always (rights, liberties, powers, wealth, a sense of self-worth, etc.). This view implies a theory of human nature.

2. His claim about the value of social peace and order based on some conception of the truth also implies a theory of human nature.

b. But Rawls does not ask what human nature is; he merely discerns what everyone agrees on and presumes certain things to be true without examining them.

1. To examine human nature would require him to think through and adopt a “comprehensive” theory outside the scope of public reason.
QUESTIONS FOR STUDY ON JOHN RAWLS

Basic Understanding

1. What previously dominant form of political theory did Rawls aim to replace by the theory laid out in *A Theory of Justice*? Why did he think that older theory had problems?

2. What are the two principles of “justice as fairness”?

3. Why did Rawls think that the thought experiment of the Veil of Ignorance and the Original Position justified his principle of “justice as fairness”?

4. Why did Rawls consider “justice as fairness” a “purely political” conception of justice? How is this different from a “moral” conception of justice? How and why did Rawls later change his opinion on this point?

5. Why does Rawls not defend the truth of claims he makes about things that are good for society (such as peace, order, individual rights and liberties, etc.)?

6. What does Rawls think should be the basis of all arguments that citizens make to each other about how to order their society? Why does he think that this must be the case?

7. What kinds of arguments does Rawls emphatically exclude from public discussions and why?

8. What three reasons does Rawls give for rejecting natural law theory and any other “perfectionist” theory?

9. Why does Rawls think “dominant-end” theories harm society? What objection can be made to his claim?

10. Why might one call Rawls a sort of natural law thinker? In what important respect is he not a natural law thinker?

11. What is the goal of Rawls’s thought? How does this goal differ from that of most people who are considered to be important political philosophers in history? What questions do they ask that Rawls does not ask?

Thinking Critically about Rawls

1. Do you think that the “maximin rule” is correct? Why or why not? What views of human nature, if any, underlie it?

2. Some have criticized Rawls’s appeals to an “original position,” the “veil of ignorance,” and “public reason” because they seem to presume that people can and should be entirely “neutral” toward fundamental questions about truth and reality in order to participate in society. These critics say that in this respect Rawls does not represent human experience correctly. Is this a fair reading of Rawls? Is there any truth to it? How would Rawls respond?

3. What does the concept of the “veil of ignorance” presume about how people come to assent to the comprehensive views that they hold? Is this a fair presumption?

4. In *A Theory of Justice* Rawls claimed that people of all kinds of “comprehensive views” could accept the principle of justice as fairness and could find arguments from those same comprehensive views to
defend it (the idea of “overlapping consensus”). Later in his book *Political Liberalism* Rawls said that he was incorrect to have made this claim. Can you think of comprehensive viewpoints that could or could not accept the principles of justice as fairness?

5. Rawls seems to suggest that it is unreasonable for citizens not to accept the presumptions of “public reason” and that citizens ought to be reasonable for the sake of peace and stability in society. What does it mean to be “reasonable” for Rawls? Does Rawls give an answer for how society ought to deal with people who are not “reasonable”? How do you think society should deal with people who are not “reasonable”? Is the concept of public reason helpful or not as a means of determining how people ought to behave in society?

Comparisons to Others

1. Rawls characterizes the natural law thought of Thomas Aquinas as an example of the “dominant-end” theories that he thinks are harmful to society because they enforce a degree of homogeneity that is not in keeping with the legitimate variety of goods available to human beings. Is this an accurate reading of Aquinas’s view? Why or why not? What about the other natural law thinkers presented on this site? Do any of their particular theories impose an unnatural homogeneity on society, and how?

2. One contemporary French scholar (whom Prof. Wolfe cites) identifies Rawls as characteristically American in his thinking, because he presumes that democracy is the best form of government, never going deeper than to make relatively small adjustments to the basic philosophical presumptions on which the United States, or western democracies in general, are founded. Is this a fair judgment of Rawls’s thought? Can you discuss any American thinkers presented on this site that do indeed ask deeper questions about the philosophical roots of the government of the United States? Or is the French scholar’s observation about Rawls and American political thinkers true, and if so why?

3. Rawls labels the natural law theories of Aquinas and Aristotle as forms of intuitionism. Is he correct, or do Aristotle and Aquinas base their theories on more than intuition?

4. Some have pointed out that, despite Rawls’s rejection of natural law theory, he is himself a kind of “minimalist” natural law theorist. Compare his theories with those of the thinkers presented on this site who clearly espoused some kind of natural law theory, particularly those thinkers of the early modern period. Contrast Rawl’s ideas with those of the critics of natural law theory, especially the legal positivists. Or is Rawls most like one of the schools of thought of the Critics of natural law listed on this site?

5. Rawls’s belief that many human goods cannot be compared to each other agrees at least superficially with the view of the good that is characteristic of the new natural law theorists. In what ways, however, do Rawls and those theorists differ, both in their understanding of human goods and in other respects?

6. Rawls at first claimed that “justice as fairness” is a purely political conception of justice, that is, it puts forth only a partial vision of what is good for human beings, a vision that applies only to political life. Compare whatever notions of the good are in “justice as fairness” to notions of the good implied in the various natural law thinkers presented on this site. Does the vision of the good implied in “justice as fairness” truly have no ramifications for people’s private lives?

7. In “The Idea of Public Reason Revisited” (Section 6.1), Rawls writes, “[W]hen hotly disputed questions . . . arise which may lead to a stand-off between different political conceptions, citizens must vote on the question according to their complete ordering of political values. Indeed, this is a normal case: unanimity of views is not to be expected. Reasonable political conceptions of justice do not always lead to the same conclusion; nor do citizens holding the same conception always agree on particular issues. Yet the outcome of the vote . . . is to be seen as legitimate provided all government officials, supported
by other reasonable citizens, of a reasonably just constitutional regime sincerely vote in accordance with the idea of public reason. This doesn’t mean the outcome is true or correct, but that it is reasonable and legitimate law, binding on citizens by the majority principle.” Rawls seems to say that any law is legitimate if it is formulated in accord with public reason. Compare and contrast this position with that of Dr. Martin Luther King, Jr.’s “Letter from Birmingham Jail,” where King says, quoting Augustine, “An unjust law is no law at all,” and to clarify he cites Thomas Aquinas to assert that “an unjust law is a human law that is not rooted in eternal and natural law.” Is Rawls’s conception of public reason equivalent to King’s conception of justice? Would King’s argument satisfy the requirements of public reason?

8. In his article “Justice as Fairness: Political, Not Metaphysical,” in Section VII, where he contrasts the natural law tradition with liberalism, Rawls writes, “Plato and Aristotle, and the Christian tradition as represented by Augustine and Aquinas . . . tend to be teleological and to hold that institutions are just to the extent that they effectively promote this good. . . . Classical utilitarianism belongs to this dominant tradition.” Utilitarianism is the philosophy that the goal of all human action is to promote the greatest good for the greatest number; one of its most famous proponents is the nineteenth-century English thinker John Stuart Mill. Explain why Rawls might group utilitarians with natural law theorists, but also explain how natural law theory is in fact very different from utilitarianism.

9. In “The Idea of Public Reason Revisited” (Section 6.3), Rawls writes, “A further misunderstanding alleges that an argument in public reason could not side with Lincoln against Douglas in their debates of 1858. But why not? Certainly they were debating fundamental political principles about the rights and wrongs of slavery. Since the rejection of slavery is a clear case of securing the constitutional essential of the equal basic liberties, surely Lincoln’s view was reasonable (even if not the most reasonable), while Douglas’s was not. Therefore, Lincoln’s view is supported by any reasonable comprehensive doctrine. It is no surprise, then, that his view is in line with the religious doctrines of the Abolitionists and the Civil Rights Movement. What could be a better example to illustrate the force of public reason in political life?”

With this quote in mind, consider this quote from the last of Abraham Lincoln’s debates with Stephen Douglas: “The real issue in this controversy—the one pressing upon every mind—is the sentiment on the part of one class that looks upon the institution of slavery as a wrong, and of another class that does not look upon it as a wrong. . . . That is the real issue. That is the issue that will continue in this country when these poor tongues of Judge Douglas and myself shall be silent. It is the eternal struggle between these two principles—right and wrong—throughout the world. They are the two principles that have stood face to face from the beginning of time, and will ever continue to struggle. The one is the common right of humanity and the other the divine right of kings. It is the same principle in whatever shape it develops itself. It is the same spirit that says, ‘You work and toil and earn bread, and I’ll eat it.’ No matter in what shape it comes, whether from the mouth of a king who seeks to bestride the people of his own nation and live by the fruit of their labor, or from one race of men as an apology for enslaving another race, it is the same tyrannical principal” (Abraham Lincoln, Seventh Debate [Alton, Illinois, October 15, 1858], Lincoln-Douglas Debates, emphasis in the original).

a. Explain why Rawls would think that his notion of public reason would support Lincoln’s argument. Do you agree with Rawls? Why or why not? Would Lincoln himself think that an argument based on Rawls’s conception of public reason would be sufficient to justify ending slavery? Would it justify Lincoln’s position that the country should have ended slavery immediately, even if it caused a great conflict like the Civil War? In his time Lincoln’s position was considered by many to be controversial—would it therefore be inadmissible as publicly reasonable by Rawls’s definition? Refer to the portion of this site dedicated to the thought of Abraham Lincoln for help.

b. If arguments by Lincoln and others that slavery was fundamentally wrong were consistent with public reason—despite being very controversial at the time—what implications might this have for the highly controversial issue of abortion in contemporary America? In Political Liberalism, Rawls initially suggested that any reasonable balance of three values (the due respect for human life, the ordered
reproduction of political society over time, including the family in some form, and the equality of women as equal citizens) will give a woman a duly qualified right to decide whether or not to end her pregnancy during the first trimester. He later seemed to back off this statement in a footnote to the paperback edition of the book, denying that it was an argument for a right to abortion in the first trimester. Are arguments against a right to abortion—though controversial—consistent with public reason, in the same way that arguments against slavery were?

Connections to Contemporary Issues

1. Although Rawls’s theory of public reason aims to provide a foundation that all of society can agree upon, his views have not found universal acceptance in society or academia, as Prof. Wolfe notes. Why might this be the case?

2. Rawls's theory is in a certain sense very “conventional” in Prof. Wolfe’s words, because it begins from what everyone agrees to be true, not what actually is true. Is there anything in Rawls's thinking that you find dated, that is, no longer relevant or acceptable to today’s society? If anything in his thought is dated, can his ideas still be useful? Which elements of his thought do you think will never become obsolete?

3. Rawls is considered by many today to be the philosopher of modern political liberalism, that is, of those who identify themselves in politics as “liberal.” Do the positions of today’s political liberals disagree with those of Rawls in any way? Do the positions of contemporary political conservatives agree with those of Rawls in any way? Why might this be the case? Consider especially the case of debates about religious liberty and same-sex marriage.

4. A central concern of Rawls seems to be to avoid “controversy” in society, for fear that it will lead to war; indeed many people today lament the apparent growth of controversy in American political life. But others argue that controversy is actually a sign of a healthy society, one in which people actually care deeply about the same things and want to arrive at the truth. Furthermore, societies in which there is no controversy often become dictatorships because the public is not trained to think through what form its laws should take: they become willing to let others decide for them, and are easily swayed by poor arguments made by people with superior public speaking ability. Give examples from history (perhaps from other sections of this website) of societies or periods in history that had peace and stability even in the midst of heated public debates. Try in turn to give examples of societies that had apparently uniform agreement but committed atrocious violations of human rights. Try to explain how the presence or lack of controversy affected those periods in history. Was there ever a time when controversy was a catalyst for or a result of necessary and positive social change?

5. In section VII of his article “Justice as Fairness: Political, Not Metaphysical,” Rawls suggests that there is a deep, almost irreconcilable divide between the classical tradition of natural law theory (represented by Plato, Aristotle, and Aquinas) and the tradition of classical liberalism (represented by John Locke and others). Do you agree? The American founders thought that the United States as they established it was precisely a blend of the natural law tradition and liberalism. Thomas Jefferson toward the end of his life famously said of the Declaration of Independence that “All its authority rests . . . on the harmonizing sentiments of the day [when it was written], whether expressed in conversation, in letters, printed essays, or in the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, &c.” (“Letter of Thomas Jefferson to Henry Lee,” May 8, 1825). Cicero and Aristotle are key figures of the classical natural law tradition, and John Locke and Algernon Sidney represent the liberal tradition with which Rawls would more readily identify (though as this site notes, they are also considered to be natural law thinkers). Today, however, a growing number of Americans—both political liberals and political conservatives—seem to agree with Rawls. They think that these two strands of thought are irreconcilable and that the American project itself must be radically redone. Some liberals want to jettison the concept of law bound by nature—or even to deny that human nature really exists—while
some conservatives think that Lockean liberalism is hopelessly inimical to the natural law tradition, and that the American founders either were naïve to think otherwise or were not truly natural law thinkers. Do you agree with either of these interpretations of the American project? Or is there some way of harmonizing the natural law tradition and modern liberalism today, as Jefferson and the founders believed there was? Is it even worth trying to find such a harmony or not? Why?

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