John Rawls: Liberalism between Egalitarianism and Elitism[1]

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1 Introduction

Aristotle was not too clear when it came to defining which of the creative pursuits in life would be most valuable. At times, he seems to have argued in support of a life of reflection and philosophy, but his *Ethics* and *Politics* suggest that the shaping and protection of the community's political structure should be rated higher. Either way, political philosophy rates very high among the activities that distinguish humanity from birds, bees and beasts of burden, and if political philosophy is so crucial in defining humanity or civilization, John Borden Rawls (1921-2002) must surely count as one of the most 'human' human beings of the 20th Century.

In a world where sufficient work and labour, i.e., production and reproduction, or in other words the everyday struggle for survival, are still - as they will always be - the insecure and extremely vulnerable necessary conditions preceding any room for free time, free thinking and creativity, it is not surprising that even Rawls' fame, let alone knowledge of his work, is distributed fairly unequally over society. It is almost certain that the majority of the general public had never heard of him before they picked up the news of his death (if they did in the first place), and it is not unlikely that the same applies to most academics. Had Aristotle defined a successful life as one in which one's creativity actually bears fruit and shapes society, then Rawls' life could easily be called a failure - he left no Sicily behind, shaped in accordance with his teachings, there is no international revolutionary Rawlsian movement, and even social scientists who try to adapt his ideas to more 'practical' issues often fail to understand it. Yet he has had and still has an impact; it all depends on how impact is measured.

Opinions are divided as to what exactly was his *magnum opus* – almost everyone will say that it was *A Theory of Justice*, published in 1971, but his next book, *Political Liberalism*, published in 1993, is now slowly beginning to gain an almost equal standing in political philosophy. His books are

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complicated and easily misinterpreted, and they get more complicated, although better interpretable, each time one reads them. Also, the more one reads, the more one wants to disagree with him, and yet at the same time it becomes more and more difficult to do so. By that I do not mean to say that Rawls is always right – what I mean is that it takes a lot more than a superficial reading of the *Theory of Justice*, *Political Liberalism*, *The Law of Peoples* (1999), *Lectures on the History of Moral Philosophy* (2000) and so on, to disagree with him *on good grounds*.

Rawls' work became a point of reference for Anglo-Saxon political and moral philosophers almost immediately after his first book, *A Theory of Justice*, was published in 1971. From there, his influence can be traced through concepts, terminology and research issues to empirical disciplines like economics, political science, sociology and social psychology, and from there to policy makers; a second line of influence runs from political theory to political think tanks, authors of party manifestos and speech writers, down to politicians and statesmen. In this sense, John Rawls has at least changed the face, and possibly more of the anatomy, of the liberal democratic society - for it is the latter of which he was the greatest champion.

Rawls became famous - if a word like that may be used in this context - as a *liberal egalitarian* (see e.g. Kymlicka 2000), a philosophical liberal who defends a form of social equality. Although he explicitly preferred what he called a 'property-owning democracy' to a welfare state - by which he seems to have meant the ideal-type of the Swedish model - few introductory courses in political philosophy and even politics will fail to begin by introducing him as the ultimate advocate of the welfare state, in opposition to his friend, colleague and one-time neighbour Robert Nozick, who is usually presented (and in fact equally misrepresented) as the archetypical apologist for free trade and neo-liberalism.

My aim in this article is to cast doubt on this idea. I shall argue that Rawls is far less egalitarian than he is usually taken to be, and far more liberal - though like Nozick, he remains anything but a neo-liberal.

Few scholars doubt that Rawls *intended* to defend a combination of liberalism and egalitarianism, few also doubt that Rawls tried to do this in a far more radical way than liberals had done up to then. Ever since the first time the term was used in a political context, probably shortly after the French Revolution, liberalism defined itself as combining liberty with equality. Since these two concepts are at the most fundamental level mutually exclusive - liberty implies room for difference, equality defines the absence of difference - each of the two is applied to distinct spheres, and/or one always takes precedence over the other. Thus, we might call stoicism an intellectual forerunner of liberalism in that it affirmed the fundamental equality of humans in their capacity for intellectual liberty, while

virtually unquestioningly accepting liberty in all non-intellectual spheres of life, from politics and economics to the family and the body. It thereby tolerated forms of inequality up to and including slavery and torture, and thereby also accepted inequality of the actual opportunity to develop these equally distributed intellectual faculties. The direct (16th to 18th Century) forerunners of liberalism already defended social and legal liberty rather than virtual liberty for the intellect only: they argued for tolerance first towards different forms of Christianity, then towards religion in general, then conviction, then ethics, finally, as John Stuart Mill did, even embracing moral diversity as instrumentally *good* in the pursuit of emancipation and autonomy.

In doing so, liberalism split off the sphere of politics from the realm of fate, adding to intellectual liberty the equal liberty to rethink and reshape the structure of the polis, yet leaving the social and economic basis of life untouched. Rawls (1971) referred to this as the Napoleonic interpretation of equal opportunity: careers are open to talents regardless of social background, but nothing is done to abate the unequal influence of social background itself. To do that, to allow each individual to develop his or her talents before entering the social rat race, would be to create fair equality of opportunity - one of Rawls' explicit aims.

Few then question that Rawls *intended* to defend a more radically egalitarian liberalism - those who do, do not really care about intentions but look for discrepancies between expressed goals, preferred means and expected results instead. I hope to show that intentions are nonetheless relevant to a complete understanding of Rawls' work, and thereby to understanding how realistic Rawls' goals are in the first place.

Before I can present my argument, it is necessary to explain in which types of critique I am not interested here - this without denying their relevance. Hence, I shall first briefly present Rawls' core arguments for those unfamiliar with them (Section 2), thereby explaining what exactly is meant when Rawls' theory is characterized as liberal egalitarian. I then move on (in Section 3) to Rawls' attempt to answer those critics who argued that he merely preached to the choir: his theory of justice as fairness would appeal only to those who are already at heart liberals, who cherish liberty, emancipation and autonomy. It is here, I argue, that a previously undetected tension between his liberalism and his egalitarianism comes to light.

On the one hand, Rawls supports not only the ideal of social equality but also that of equal justification: the rules governing the social order in which we live ought to be justifiable, at least in principle, to each and every free and reasonable human being. No one, at least no free and reasonable person, ought to have a cause to think of them as arbitrary or tyrannical. Yet, on the other hand, he advances an ideal of freedom, or more precisely autonomy, that only a very special kind of human

being, an elite among us, can live up to. Since only autonomous individuals can truly and honestly assent to Rawls' rules for social co-operation, he has failed, I conclude (in Section 4), to overcome the oldest problem of liberalism – the problem that only an elite can enjoy the fruits of the liberal good life. Then again, I do believe that he has succeeded in redefining the question in a very fruitful way – so much so, that I think we should accept the elitist consequences.

2 The Original Theory of Justice

Rawls exists almost entirely as a theory and almost not as a human being – even more so, of course, now that he is dead. In theory, a theory exists independent of the person: it is true or false, right or wrong, regardless of any context of discovery. The validity and relevance of its most fundamental premises ought to be universal and eternal.[3] And yet it is always interesting to ask where ideas come from – how eternal truths or would-be eternal truths are discovered. It helps us to learn to understand how reason really works and where its limits might lie.[4]

So Rawls' biography *is* interesting, at least potentially – and, as I will show, also actually. Rawls was born as John Borden Rawls on February 21, 1921, in Baltimore. He was a WASP: a White Anglo-Saxon Protestant, and from a rich family, too: his father was a tax lawyer, his mother (not a WASP by the way; her family's roots lay in Germany) an active feminist. In brief, he had a typically elitist background as a member of the old patrician families of New England.

In most respects (but not all), his life was unremarkable, even boring. He went to good schools, then to a good university (Princeton), became interested in philosophy, in his last year particularly in political philosophy, wrote his Ph.D. and left. He started teaching philosophy at Cornell, later moved on to MIT and then to Harvard, where he would retire 40 years later as the James Bryant Conant University Professor, the highest academic position at Harvard. In 1995, two days after a large conference celebrating the 25th anniversary of *A Theory of Justice*, Rawls had the first of a long series of strokes that would slowly debilitate him, first interrupting his work, then stopping it (Rogers 1999). He died of heart failure on 24 November 2002 at his home in Lexington (Harvard Gazette, 25 November 2003).

Rawls never gave interviews (with only one known exception) and seldom opened up about his private life, even to his closest friends. Virtually all we know about him can be summarized in these words: he

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[3] Even so-called particularistic theories like communitarianism share this appeal to universalism: what counts as right within a social context X defined by morality x, should be acknowledged as right *within* that context from the perspective of any morality y in any other context Y.
[4] There is a second reason why an individual's formative experiences are relevant to this article - but that will become clear later.

led a very quiet, unassuming, modest life away from the maddening crowd, almost that of the classic academic in the ancient ivory tower. Two 'incidents' are know however to have changed his life – and, one may argue, to have inspired the formulation of the most fundamental and radical of all his ideas, that of the moral arbitrariness of what fate does to our lives:

> "Rawls described to (Thomas, MW) Pogge the formative experience of his early life: the death of two of his younger brothers, both through illnesses they contracted from Rawls; the one from diphtheria, the other from pneumonia. These events constitute some of Rawls's closest shaves. Joshua Cohen says that they are reflected in *A Theory of Justice* in discussions of the "arbitrariness of fortune" and the "unmerited contingencies" of life. It was about this time that Rawls developed his stutter; he traces it back to his brothers' deaths." (Rogers 1999)

It is this thought, the idea that natural differences between humans are never *deserved*, on which Rawls built everything else. Note that the assumption of the moral *irrelevance* of natural differences, which plays such a crucial role in Immanuel Kant's contract theory as interpreted and (see below) imported by Rawls (cf. Rawls 1971, 2000), supports only a neutral assessment of the consequences of such differences as 'not logically implied', and not Rawls' far more emotional judgements like 'underserved', 'unfair' and 'unjust'.

The *Theory of Justice* begins with the observation that moral pluralism is irreducible – and since we have no universal standard for justice, one on which we all agree, the question rises whether it is nonetheless possible to find common ground and define principles for the just distribution of the benefits and burdens of social co-operation, principles on which we can all agree despite our different theories of the good and (consequently) our diverging plans of life. The only way towards such a publicly justifiable conception of justice, Rawls believes, lies in impartiality: in taking a point of view on society that respects all these diverging theories of the good. But real-existing humans cannot do that: like it or not, and try as much as we may, we will always, consciously or subconsciously, argue in our own favour,[5] or at least based on our own limited experiences. Hence, Rawls proposes a dialogue between 'our considered judgements' on the one hand, and the so-called 'Original Position' on the other.[6]

We cannot be impartial, but we can imagine what it would be like to be impartial. We can translate these ideas into conditions under which (then hypothetically impartial) people would choose principles of justice, compare their judgements to ours, and draw our conclusions. We will conclude that

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[5] Even the perfect altruist, whose preferences are completely defined by the preferences of one or more others, argues from the point of view of a *specific* theory of the good.
[6] What follows is a simplified representation of Rawls' so-called narrow reflective equilibrium. For a more detailed and balanced analysis of the reflective equilibrium methods, see Daniels (1996).

sometimes these hypothetical people (in the 'original position' of impartiality) are not impartial enough – hence, we amend the conditions – and sometimes that our own intuitive judgements were wrong – hence, we amend them and turn them into 'considered' judgements. Then we start the process all over again. In due course, we will reach a so-called 'reflective equilibrium': our considered judgements conform to the judgement of imaginary people in an original position.

The conditions under which an impartial choice is possible are many – I will highlight only the most important condition in the present context. It is part of a series of conditions ensuring an impartial state of mind: the 'veil of ignorance'. To be impartial, hence, not consciously or subconsciously guided by prejudice and personal advantage, we must assume that the people in the original position have no knowledge of who they actually are. They cannot know their age, their sex, their race, their nationality, their mental and physical abilities and capabilities, their economic and social position – all this is shrouded by the veil of ignorance. Behind this lies Rawls' rejection of the contingencies of fate: the fact that *nature* makes one person smart, strong or male and another dumb, weak or female should in no way result in *society* making the one richer or freer or more powerful than the other – and by implication, no one deserves those fruits of his or her labour that he or she gained solely due to his or her natural advantages over others. That would not be fair – hence Rawls' characterisation of his theory as 'justice as fairness'.

Once a reflective equilibrium has been reached – Rawls does not describe in detail how this happens, but even the fiercest critics nowadays agree that his conclusion follows more or less[7] logically from the premises – the people in the original position will choose two principles:

1. Each person is to have an equal right to the most extensive scheme of basic liberties compatible with a similar scheme of liberties for others.
2. Social and economic inequalities are to be arranged so that they are both
   a. Reasonably expected to be to everyone's advantage, and
   b. Attached to positions and offices open to all (Rawls 1971/1999, p. 53)

Note that this quote is from page 53. The text is over 500 pages long – in the rest of the book, Rawls gives more and more detail and subtlety to his so-called 'Two Principles', until, in their final formulation, they take up a complete page (Rawls 1971/1999, p. 266). He also specifies how the original position can be adapted to translate the Two Principles into ideal constitutions against which

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[7] This is not to say that the premises on which Rawls' probably valid argument are based are themselves beyond debate. One of Rawls' most controversial premises illustrates this: the maximin principle demands that individuals choosing between constitutions under conditions of uncertainty even with regard to chances will choose that constitution under which they would, being worst off (=min) in that society, still be best off (=maxi) as compared to other constitutions. Maximin betrays an undefended, even debatable, moral attitude towards risks (cf. Wissenburg 1999).

real societies can be assessed, then into ideal laws and finally into ideal judges – to name only one of dozens of extensions and modifications he makes.[8] All this does not need to concern us here, since what I am interested in here is not the conclusions, but the premises of Rawls' theory, and one in particular: that moral pluralism is a good thing.

The Two Principles neatly summarize what makes Rawls both a liberal and an egalitarian. He is liberal in his toleration, even promotion of a diversity of theories of the good and a diversity of life-styles; he is an egalitarian in wishing the right thereto to be distributed equally, and in wishing that the material conditions for the exercise of that right be distributed equally - at least in principle. lt is the latter clause, referring to Principle 2a (the so-called Difference Principle), that has made some of his critics argue that Rawls fails, in the final instance, to unite liberalism and egalitarianism. As Gerald Cohen observed (e.g. Cohen 1995), the Difference Principle may be invoked by a society wishing to enslave a socially 'useful' doctor who would rather explore his far more limited but personally much more enjoyed talents as a tennis player; it may also be invoked by that same doctor to extract an unnecessarily huge salary from society in return for services he could also perform for less. The Difference Principle, a principle of social efficiency rather than social justice, would sacrifice either individual liberty to social uniformity, or sacrifice the widest possible access to a life worth living to greed.[9]

Cohen's critique is exemplary of the mainstream of Rawls critique: it focuses on the potential inadequacy of either the arguments in support of the Two Principles themselves or of the possible operationalization thereof. It is obviously a valid and valuable form of critique, but the course 1 wish to pursue here is a different one: in which sense was it really Rawls' *intention* to be an egalitarian?

3 A problem, the fix and further problems

Rawls' *A Theory of Justice* took off slowly – the first serious book reviews that I have discovered date from 1973, two years after the initial publication – but it gained ground quickly. Just four years later, Robert Nozick, who also died in 2002, wrote:

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[8] lt is here that social scientists often miss the point of Rawls' theory by assessing practices by their direct fit with the Two Principles, rather than by first contextualizing the latter using what Rawls calls the Four-Stage Sequence. Practices may satisfy the Two Principles in general (say, welfare benefits for victims of work-related stress) yet fail to take into account contextual factors that would make an alternative practice (the reduction of stress at work) a preferable course of action; research affirming a fit between the Two Principles and the first practice would generate a false positive. Likewise, false negatives are possible when a practice that does not confirm straightforwardly to the Two Principles is, under those specific circumstances, the best one can do to create an environment in which the Two Principles can be satisfied.

[9] For further discussion of and more recent material on the practical implications the Difference Principle, see Chambers 2006.

> '*A Theory of Justice* is a powerful, deep, subtle, wide-ranging, systematic work in political and moral philosophy which has not seen its like since the writings of John Stuart Mill, if then. It is a fountain of illuminating ideas, integrated together into a lovely whole. Political philosophers now must either work within Rawls' theory or explain why not. (…) And it is impossible to finish his book without a new and inspiring vision of what a moral theory may attempt to do and unite; of how *beautiful* a whole theory can be.' (Nozick 1974, p. 183)

Unlike Nozick and scarcely more than a dozen others, virtually all of Rawls' commentators stopped short of developing a truly alternative theory, instead limiting themselves to critiques of major and minor aspects of *A Theory of Justice*. The number of articles and books on Rawls' theory grew explosively, as did, by implication, the number of areas of debate in which Rawls began to dominate (from law and war to feminism and environment – see e.g. Barry and Wissenburg, 2001), and the same is true of the number of real and imagined problems perceived in the theory. One of these became the *Leitmotiv* of Rawls' next book, *Political Liberalism*.

The theory of justice as fairness is supposed to be justifiable in the eyes of all free and reasonable human beings. It offers a home in which, a common ground on which, they can live together, peacefully tolerating each other's diverging theories of the good, peacefully living their separate lives according to the prescripts of those theories. All it requires is that we unanimously accept the conditions of the original position and the reasoning leading from the original position to the principles of justice. But among these conditions is a theory of the good – a 'thin' theory, i.e., a very limited and very superficial theory of the good, but a theory of the good nevertheless. Worse, it is a liberal theory of the good: it assumes that life is about emancipation, about recognizing and embracing freedom of choice, freedom of opinion, and most importantly, it

> '…rested on a Kantian version of a secular liberal outlook, according to which each of us has a right and a duty to actively search out our own good from the alternatives available to us.' (Rogers 1999).

A theory like that can be at odds – and in fact often is – with almost every other theory of the good, and one cannot serve two masters: one's own 'thick' theory of the good and Rawls' 'thin' theory. As Rawls himself later observed (Rawls 1993), orthodox interpretations of many religions demand an act of faith or an experience of grace, i.e. submission to precepts rather than argumentative persuasion of their sensibility. To name examples was less risky in 1993 than it is today: Rawls uses orthodox Catholicism and Judaism as illustrations, not afraid of accusations of antipapism or anti-Semitism;

whether he would today also mention Islam (one translation of the word being 'submission') can only be guessed.

Rawls took up the problem of 'preaching to the choir' in *Political Liberalism*, admitting that his original theory could never be as universal as he initially claimed: one of the basic arguments, the thin theory of the good, could only convince the already converted, i.e., liberals. Rather than giving up altogether and throwing away the baby with the bath water, he started to look for a new justification, one that *would* appeal to reasonable non-liberals as well. He found this in the notion of an *overlapping consensus*. Reasonable doctrines of the good life, he argued, may not agree on deep moral questions, on whether or not the gods exist and what they want from us, or on whether freedom of choice is good or a curse – but they can have overlapping values in the realm of politics, values like respect for life and for others, and reciprocity. From there on, Rawls argues that this overlapping consensus implies almost everything he said the original position implied – with a few absolutely minor changes to satisfy other critics.

At this point, the critic has two options. One is to point out that the overlapping consensus Rawls talks about *still* excludes some parties. One cannot 'join' the overlapping consensus if one is not reasonable, that is, if one does not first accept what Rawls calls 'the burdens of judgement' or burdens of reason (Rawls 1993: 56 ff.), criteria for what propositions can and cannot be defended in a public debate. To be convinced by Rawls thus still presumes that one shares certain deeper moral ideas or is at least the tiniest whiff *sceptical* about one's own theory of the good. That (i.e., scepticism) may be a justifiable position (or not) but it is certainly one that some groups in our world reject – with the fundamentalist faithful at the forefront.

One possible critique then argues that Rawls does not solve all the problems of the world, or at least not all the important ones. This is probably true, but insufficient grounds to refute the theory. A more realistic and promising line of critique would argue that once more, Rawls fails and must fail to convince all those he claims he can convince. More people are excluded than fundamentalists, terrorists, racial bigots, and others who – but that is a different subject – are not worthy of inclusion in the first place.

To develop this line of critique, we must first look in more detail at what the idea of an overlapping consensus entails. First of all, it implies that there must be moral pluralism:

> (1) The existence of a plurality of religious and other doctrines giving 'meaning', 'purpose', 'goals' or 'criteria' for the good life: a superset A of sets of ideas A_n: $\{A_1, A_2, \dots A_n\}$.

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It also implies that:

> (2) Within each of these sets, a set of ideas B is shared or supported by all doctrines: within every A_n, there is a subset B_n that is identical to the subset B_m of any other doctrine A_m.

> (3) The limits of public reason are recognized: the doctrines A are 'reasonable doctrines', elements of the doctrines that do not meet these limits cannot and will not be defended in a public debate as 'reasonable ideas' (cf. Rawls 1993).

The implication of these three ideas is that we have to distinguish, at least theoretically, between several elements of these doctrines A:

> (4) Set A $\{A_1, A_2....A_n\}$ is split between
> (4.1) The set A' $\{A'_1, A'_2, ... A'_n\}$ that falls within the limits of public reason; and
> (4.2) The set A'' $\{A''_1, A''_2,...A''_n\}$ of ideas that are not covered by those same limits; hence:

> (5) The set B is also split between set B', containing 'reasonable' ideas shared by all, and set B'', containing 'unreasonable' ideas shared by all (though either set may be empty, of course).

Hence,

> (6) Set A'' and ideas in set B'' are thereby limited to the private sphere, and

> (7) Set A', through public debate, is limited to the set B' that can shape the public sphere: B' is the 'real' overlapping consensus.

So far, so good – this is all pure logic, there is no problem here except when, in practice, the set B' turns out to be an empty set. Let us trust Rawls on this and assume that reasonable people do indeed share at least, say, the idea of mutual respect for other reasonable people.

Limiting set A to A', the set of reasonable (parts of) doctrines, is a defensible move: there can, by definition, be no rational debate with those who reject reason. Defining the exact limits of public reason itself is a tricky business, but it is not crucial to the argument: however defined, it always implies the existence of sets A' and A'', B' and B''. Of course there can still be practical conflicts

between the (consequences of) actions prescribed by any theory A (particularly A") and B (B'), but that does not undermine the case for the existence of an overlapping consensus B'. The cause of the incompatibility of the prescripts of an overlapping consensus and one's private doctrine of the good must, logically, be consequences of contradictions *within* one's particular faith: it is A_x, then, that suffers from an internal contradiction. Finally, it is difficult to reject the first assumption of the theory, the existence of a plurality of moral and other doctrines. Not only does the real world contradict this (an argument based on contingent facts that is, rightly, seldom relevant in philosophy) – but if no doctrines A existed, or if only one doctrine A existed shared in every detail by every human being, then no one would lead a meaningful life, or have any reason for acting in any specific way. Humans would be degraded to, in the first case, unguided missiles or animals, and in the second to machines.

Yet there is trouble in paradise. To *have* a doctrine or theory of the good life, more is required than simply a human body. It requires that the body be imprinted with self-consciousness and the (perhaps misguided) idea of freedom of choice. In other words, one has to lead a *consciously* lived life, not run on instinct or on autopilot. It also requires that one takes up one's responsibility, i.e. that one attempts to *order* one's life (or let it be ordered). A consciously lived and guided life requires a process of *reflection*, both public and private, on one's actions and ideas. It requires the kind of physical and mental *constitution* that allows (or even incites) reflection, and it requires a *reason* for reflection: formative experiences. And here's the rub.

4 Failure and success

A just social order (at least, a Rawlsian one) is possible only where an overlapping consensus exists between the doctrines of people who actively reflect on their lives and doctrines. Under all other constellations, whatever overlapping consensus exists is based on the accidental coincidence of not truly 'believed' doctrines[10] – i.e., there are no reasons to believe what one believes, nor to believe in the public good as defined by the overlapping consensus. But to have a *conviction* and not just an opinion, more is needed than the sheer presence of a random set of normative ideas in the mind: something that *forms* one's conviction, that *trans*forms given data into a doctrine – in other words, a real formative experience - and what is more, one that one has successfully borne. By 'formative experience' I do not necessarily mean that one's brothers have to die before one can become a moral person – but I do mean something quite like that: an experience so profound that it forces one to define who one is, what goals one has, what one can hope for, by what standards one would judge one's life to have been successful on one's deathbed. Such a formative experience can be the death of a loved one or a near-death experience (like an academic text) – but it can just as well be a poem that shakes

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[10] I do realize that this implies an unconventional definition of 'true belief'.

one's world, a lecturer or a love, or a random road sign (further on this, see Wissenburg 1999). The point is: for Rawls, an unexamined life is not only a lost opportunity (Nozick 1989); it is a life lost, a life that makes one morally 'undead'. Grounding or formative experiences are a prerequisite for such an examined life, although not a guarantee. For one, too many such experiences - the classics war, pestilence, famine and death spring to mind - will unsettle even the strongest mind; for another, it takes a minimal degree of intelligence, sensitivity and mental stability to recognize a formative experience when it presents itself, not to mention deal with it accordingly and appropriately.

Rawls' theory is egalitarian in virtually all its consequences: he argues for taxes and redistribution to correct the injustices of social mechanisms that create undeserved material inequality, both within societies and globally; he argues for the strongest possible form of political equality for all and for the strongest possible form of equal opportunity in life (short of genetic modification) - and he argues that a *good* theory of the just society ought to be, at least in principle, equally convincing and equally comprehensible for all. All these constitute necessary conditions for an 'even fairer' equality of opportunity - not just a fair opportunity to develop one's talents to participate in society, but even one to experience, work through and survive enough yet not too many formative experiences. They are necessary conditions; they are not sufficient.

Rawls may be egalitarian, but on the other hand he is also a liberal - not only in the sense in which the term is understood in the USA, as a left-wing Democrat, but also in the classical philosophical sense: an emancipator and a champion of tolerance and diversity. Rawls believes that there is no one final convincing truth in ethics, at least not one that justifies oppression of or discrimination against dissenting opinions. In fact, he believes, for much the same reasons as John Stuart Mill, that the reality of moral pluralism is a good thing. To have a *choice* between different systems of belief, different ethics, different 'theories of the good', as Rawls calls them, is a necessary condition for human autonomy. Autonomy is more and even something else than freedom from fate or natural law. For one, it refers to intellectual liberty, specifically to the intellectual and moral ability to individually create, assess and revise the rules according to which and/or goals for which one lives. More importantly for us, autonomy also brings with it responsibility: the individual's very own, very personal responsibility to reflect on what he or she wants and rejects and dreams - and does. Autonomy makes one responsible for the formation of one's personality and for one's actions. Without autonomy no human can act ethically, no one can be *good* - or evil, for that matter.

The price of autonomy is high, nevertheless: the demand that we lead an examined life, that we have real convictions, is an emancipating as much as an exclusionary notion. There seems to be no room in the overlapping consensus for the superficial, floating and ever-changing will-o'-the-wisp beliefs of - let us be blunt here - the unreflective masses, the easily exited and the nervously inclined. If this

conclusion is correct, if indeed it is implied by Rawls' theory of an overlapping consensus, we must also accept the corollary that being born and raised in a community or obtaining a membership card in any other way is not enough to be able to fully function as a *citizen*, nor sufficient grounds for a polity to count one's views as equally reasonable as those of people who do qualify.

Fair equality of opportunity, broadly construed to mean equal chances to develop the talents required not only to participate in society but also to survive and incorporate formative experiences, is a necessary condition for developing a personality and a grounded plan of life. Social justice as embodied in the two principles is, moreover, a necessary condition for not experiencing too many grounding experiences. Neither guarantees the presence of the required talents in the first place; Rawls seems to simply assume that they will be present at birth.

Rawls failed to overcome the oldest problem of liberalism - the problem that only an elite can enjoy the fruits of the liberal good life. This damages the degree of universalizability of his theory in two senses: it excludes those whose plans of life are not yet matured, and it may still exclude those who set less value on an examined life. Yet it is important to note that his elite is not an economic elite, as it used to be for classical liberals, i.e., an elite of financially independent burghers of mature age and of the male sexual persuasion. Nor is it an ennobled elite of the blood - it is, instead, an elite we can all hope to join in the course of our lives: an 'aristocracy of all' (Rawls 2000:211, literally quoting his favourite philosopher Kant). Here again, Rawls consistently believes that the contingencies of fate should play no role. His, in this sense still *egalitarian,* elitism demands from us that we become *human* beings, truly moral beings facing the challenge of autonomy. It does not demand the impossible, i.e. that we become moral heroes - only, and this should appeal to every disciple of Aristotle, that we become whom we truly are. Unfortunately, that may not always be whom we want to be.

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