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RAWLS ON POLITICAL COMMUNITY AND PRINCIPLES OF JUSTICE

John Rawls's attempt to develop a notion of political community compatible with his style of liberalism has not received much attention. In several recent essays, but particularly in 'The Idea of an Overlapping Consensus',¹ Rawls has developed an account of political community – which he calls social unity – that suggests that political community can and should exist in democracies by having general acceptance by the population of a certain conception of justice.² Like strong communitarians, Rawls understands political community in terms of a consensus on certain normative principles. In this paper I explicate and criticize Rawls's theory of political community. I present three criticisms of Rawls's views.

Social unity exists, according to Rawls, when there is an overlapping consensus on a political conception of justice. A "political conception

¹ The following essays by Rawls are relevant: 'Social Unity and Primary Goods', in A. Sen and B. Williams, eds., *Utilitarianism and Beyond* (Cambridge: Cambridge University Press, 1982); 'Justice as Fairness: Political Not Metaphysical', *Philosophy and Public Affairs* 14 (1985), 223–51; 'The Idea of an Overlapping Consensus', *Oxford Journal of Legal Studies* 7 (1981), 1–25; 'The Priority of Right and Ideas of the Good', *Philosophy and Public Affairs* 17 (1988), 251–76. Parenthetical citations in the text are to 'The Idea of an Overlapping Consensus'.

² Because Rawls uses the term "social union" rather than the more standard "political community" one may worry that he is not really offering a theory of community. It is true that Rawls is not trying to define "political community", but he clearly is offering an account of how political community can be achieved in a liberal, pluralistic, and democratic society. Rawls sees his view of "social union" as providing the best alternative to an "Aristotelian" view of political community: "the hope of political community must indeed be abandoned, if by such a community we mean a political society united in affirming a general and comprehensive doctrine. . . . I believe there is no practicable alternative superior to the stable political unity secured by an overlapping consensus on a reasonable political conception of justice" (p. 10).

of justice" (PCJ) is a set of moral beliefs about the nature and principles of justice — the sort of thing that Rawls presented in *A Theory of Justice*. A PCJ serves the following functions:

(1) Articulates "in a principled way the political ideals and values of a democratic regime, thereby specifying the aims that the constitution is to achieve and the limits it must respect" (p. 1);

(2) Provides "a shared public basis for the justification of political and social institutions", particularly the "basic structure" of society (p. 1);

(3) Provides "a public understanding not only about the kinds of claims it is appropriate for citizens to make . . . but also about how such claims are to be supported";³

(4) Helps "ensure stability from one generation to the next" (p. 1).

The second key concept used in explaining social unity is that of an "overlapping consensus". As noted earlier, Rawls accepts the idea that political community must be a matter of shared values or principles. Not surprisingly, he takes this to be a matter of having a consensus about justice. The kind of popular acceptance or consensus required, however, is special. It is an overlapping consensus. This means that people are expected to find full or partial justification for this PCJ in the diverse philosophies or ideologies that they hold, and hence that different people may accept the PCJ for somewhat different reasons. An overlapping consensus exists when a PCJ is "supported by a consensus including the opposing religious, philosophical and moral doctrines likely to thrive over generations in the society effectively regulated by that conception of justice" (p. 9).

Rawls contrasts his view of political community with two alternatives that he believes are, respectively, too weak and too strong. A "Hobbesian" view of political community as a mere *modus vivendi* between individuals and groups who have both common and conflicting interests is criticized as being too weak, as providing an inadequate basis for social stability over time. Without a shared sense of justice a society may be unstable if power or interests shift over

³ 'The Priority of Right and Ideas of the Good', p. 255.

time. One group may withdraw its support of political union “should the relative strength of their view in society increase and become dominant” (p. 11). Perhaps Rawls has in mind a situation like that in Lebanon where demographic and political changes have led to the unraveling of previously stable constitutional arrangements. Rawls distinguishes his conception of community from the *modus vivendi* view by noting, first, that its focus is a conception of justice, not merely a set of constitutional arrangements, and second, that this PCJ is endorsed on moral grounds, not merely reasons of expediency.

An “Aristotelian” view of political community that prescribes a unity constituted by widespread acceptance of a particular conception of the good life for human beings is criticized as too strong, as leading to oppression in societies with internal diversity:

The social and historical conditions of modern democratic regimes have their origins in the Wars of Religion following the Reformation and the subsequent development of the principle of toleration, and in the growth of constitutional government and of large industrial market economies. These conditions profoundly affect the requirements of a workable conception of justice: among other things, such a conception must allow for a diversity of general and comprehensive doctrines, and for the plurality of conflicting, and indeed incommensurable, conceptions of the meaning, value, and purpose of human life. . . . The diversity of doctrines — the fact of pluralism — is not a mere historical condition that will soon pass away. . . . A public and workable agreement on a single general and comprehensive conception could be maintained only by the oppressive use of state power. (p. 4)

This is a strong charge, and I will criticize its assumptions below.

Rawls believes that strong community, a state-endorsed consensus on a conception of the good life, must be abandoned (p. 10), but that we can do this without being forced to view political union as nothing more than a *modus vivendi*. His intermediate position involves a general consensus on a PCJ. But it is difficult for Rawls to distinguish his own views from those of the strong communitarian, for like the strong communitarian Rawls endorses general agreement on something normative and controversial. In the strong communitarian’s case this is a conception of the good life; in Rawls’s case it is a political conception of justice.

The device Rawls uses to try to distinguish his views from those of the strong communitarian is a distinction between special purpose or political doctrines and “general and comprehensive moral conceptions”. General and comprehensive doctrines apply to many subjects other than political justice. Rawls says that utilitarianism and perfectionism are clear examples of general and comprehensive doctrines, since they “are thought to apply to all kinds of subjects ranging from the conduct of individuals and personal relations to the organization of society as a whole, and even to the law of nations” (p. 4). Other examples of general and comprehensive doctrines include religions (Catholicism and Protestantism) and philosophies or ideologies (Idealism, Marxism).

In recent years Rawls has reinterpreted his earlier work as “political, not metaphysical”.⁴ The underlying idea is that to accommodate diversity one can remove many difficult philosophical issues from the political agenda; democratic governments shouldn’t try to identify the good life for humans in abstract terms. Instead, political philosophy should proceed in democratic societies by trying to explicate “fundamental intuitive ideas viewed as latent in the public political culture of a democratic society” (p. 6). Rawls hopes that by working out such implicit ideas — ideas of tolerance, constitutional rights, fair cooperation between equals — we can arrive at “widely acceptable principles of political justice” (p. 6).

Rawls needs to keep, say, utilitarianism in the “general and comprehensive” compartment while putting his own views in the other. As William Galston has argued, Rawls has his own substantive value commitments embedded in his theory of justice, including “the worth of human existence, the worth of human purposiveness and the worth of rationality as the chief constraint on social principles and social actions”.⁵ Rawls needs to show that these value commitments are not “general and comprehensive” but are rather implicit in democratic political culture.

⁴ See ‘Justice as Fairness: Political Not Metaphysical’, *Philosophy and Public Affairs* 14 (1985), 223–51.

⁵ William Galston, ‘Defending Liberalism’, *American Political Science Review* 76 (1982), 621–29.

A. DOES RAWLS EXAGGERATE THE ROLE OF
POLITICAL PHILOSOPHY?

Rawls conceives political community as a consensus that focuses on a product of political philosophy, namely a PCJ. Since a consensus of this sort needs to involve nearly everyone, and since knowledge of political philosophy is generally restricted to a tiny minority, I worry that Rawls's views are utopian and overestimate the practical importance of philosophical work.

To make this criticism of Rawls, one needs to make a distinction between the popular political culture, which is less a matter of explicit beliefs than of behavioral dispositions and implicit know-how, and political philosophy, which attempts to give linguistic formulation to, and to tidy up or reconstruct, the popular political culture. This distinction is one that Rawls himself makes and uses. The following sequence of developments is sketched by Rawls.

First, we have institutions and compliance with them. Here Rawls speaks of "three centuries of . . . developing institutional practice" (p. 2), and "a consensus on complying with certain institutional arrangements" (p. 11). He clearly has in mind institutions such as constitutionalism, the rule of law, and representative democracy.

Second, growing out of the first, is the emergence of a public political culture. This is a matter of "a fund of implicitly shared fundamental ideals and principles" (p. 6); "allegiance to democratic ideals and values" (p. 2); and "virtues of political cooperation that make a constitutional regime possible". As examples of these virtues, Rawls mentions tolerance, being ready to meet others halfway, reasonableness, and fairness (p. 17); and "a tradition of democratic thought, the content of which is at least intuitively familiar to citizens generally" (p. 6).

Third, we have political philosophy, which takes material from the public political culture and reworks it into a PCJ. In doing so it "completes and extends" popular thought (p. 15).

Fourth, we have a gradual process over generations through which consensus emerges on some product of political philosophy (a PCJ) and it becomes part of the public political culture.

There seem to be causal relations in both directions between the

items on this list. Successful implementation of new political institutions will change subsequent political philosophy. Successful philosophical work may influence practice and popular formulations (e.g., Locke's influence on the U.S. *Declaration of Independence*). Influence from political philosophy to institutions or political culture may be greater in revolutionary periods than in periods of normal politics. Philosophers like Jefferson and Lenin have had great power or influence in revolutionary situations, and hence have been able to convert their ideas into institutions and practices in a very direct way. If these institutions and practices succeed, then concepts of political philosophy will become part of the popular political culture.

But more ordinary processes of development of political cultures do not require or give a very large role to political philosophy. When a stable consensus about justice evolves within the political culture, politicians and the institutions they create are likely to be the most important contributors to this consensus. The contribution of philosophy is likely to be small because most of the people involved in shaping the culture don't read or know much political philosophy. This doesn't keep them from doing things such as demanding rights and attempting to get remedies for wrongs.

A political culture cannot, in a democracy, be confined to an educated elite. It must be found in ordinary voters and politicians, many of whom will have little or no education in history and political theory. For Rawls's vision of justice to be realized in a democracy, it is ordinary people who need to be tolerant, support constitutional rights, fund and run the public school system, and support institutions that provide an economic minimum. Luckily, the existence and transmission of a democratic political culture does not require study of political philosophy — although such study certainly may serve to enrich that culture. People do need to know something about laws, elections, and constitutional rights. They can learn these things by keeping their eyes and ears open, by having their lives shaped by these institutions, by following the news media, by studying civics in elementary and secondary school, and by participating in elections and political campaigns.

A Rawlsian account of how political philosophy could play a larger role in shaping consensus might run as follows. Political philosophers recognize a nascent consensus that is present in the population and its institutions, and invent or shape concepts for describing key parts of this consensus. These concepts are transmitted to the educated classes through the teaching and writing of philosophers and are then diffused by the media. The concepts are then enshrined in legislation or constitutional norms, and over time become part of the popular political culture.

Rawls may hope that by helping to identify the nascent consensus about justice that has emerged in Western European and North American democracies, or at least that which has emerged in part of the political spectrum in these countries, philosophers can contribute to the institutionalization and shaping of this consensus. But two points should be made about this. One is that the likelihood that philosophers will shape an emerging consensus is small, since their influence in contemporary democracies is small. Philosophers who write for a small, elite community such as physicians may be able to be heard by enough members of this community to have an impact on prevailing opinions, but political philosophers, who in a democracy need to influence all citizens, are sure to find it difficult to find ways of being heard by many. Even a television program on one's ideas by Bill Moyers would be insufficient to allow one to make a dent in the prevailing political culture.

Second, the precision and determinacy that philosophers strive to give to concepts is apt to be lost as these concepts enter the popular political culture. If the conception of justice in the political culture is vague, as it is sure to be, then it will not contain determinate ideas such as "primary goods" or the "difference principle", and therefore will be less capable of performing the functions of a PCJ, particularly functions such as providing a shared basis for justification and evaluation of institutions, articulating in a principled way the ideals of a democratic society, and separating legitimate from illegitimate claims by citizens. Rawls says, for example, that agreement on a conception of justice is "worthless" without agreement on "publicly recognized rules

of assessing evidence to govern its application” (p. 8). But the likelihood of having general agreement on anything precise enough to be called a “rule of assessing evidence” is extremely low.

One might try to salvage Rawls’s theory of community by saying that the political conception of justice on which an overlapping consensus focuses need not be philosophically formulated; it can be something mostly intuitive existing within the political culture. On this theory, community or social union exists when there is a general consensus, even if a culturally implicit one, on principles of justice. This is a more plausible theory of community than the one offered by Rawls, but because it focuses exclusively on a conception of justice it is vulnerable to the objection given below in section C.

B. CAN STRONG COMMUNITY BE ACHIEVED WITHOUT OPPRESSION?

We saw earlier that Rawls opposes views that equate community with having a consensus on a conception of the good life. His main reasons for this opposition is that “a public and workable agreement on a single general and comprehensive conception could be maintained only by the oppressive use of state power” (p. 4). At another point, Rawls says that “the hope of political community must indeed be abandoned, if by such a community we mean a political society united in affirming a general and comprehensive doctrine. This possibility is excluded by the fact of pluralism together with the rejection of the oppressive use of state power to overcome it” (p. 10). Rawls’s argument here — let us call it the Oppression Argument — can be reconstructed as follows.

Premise 1. Ideological pluralism is permanent.

Premise 2. If a society is pluralistic, then general agreement on a comprehensive doctrine, or a conception of the good life, cannot be created or maintained without using state power in an oppressive way (p. 4).

Premise 3. Using state power in an oppressive way is morally intolerable.

Conclusion. If we wish to avoid doing what is morally intolerable

then we cannot create or maintain general agreement on a comprehensive doctrine or a conception of the good life (COGL).

Although this argument is logically valid, one or more of its premises may be false. The second premise is worrisome for several reasons. One is that it is not obvious that education of a non-oppressive sort cannot be used to create or maintain a general consensus on a COGL. Another worry is that this premise, if true, will imply that it is impossible for Rawls to explain how a consensus on a PCJ can be created or maintained. After all, a PCJ is normative, controversial, and not accepted by everyone. Thus, if premise 2 is correct, the creation or maintenance of a consensus on a PCJ may require oppressive measures.

What I wish to argue here is that the same factors that allegedly allow a consensus on a PCJ to be created and maintained without oppression will allow consensus on some comprehensive doctrines to be created and maintained. We can begin by sketching the processes by which Rawls believes a consensus on a PCJ has been created and can be maintained without oppression. First, considerable agreement on some elements of the PCJ already exists as a historical legacy, as the product of “three centuries of democratic thought and constitutional practice” (p. 2). Second, accepting the PCJ is not very demanding in what it requires one to reject; it does not require a person to abandon other important commitments (e.g., to being a Christian or Buddhist, or to being a Freudian or a Marxist). Rawls calls this “slippage” or “loose coherence” between a PCJ and comprehensive doctrines (p. 19). Third, the PCJ is plausible in the sense that it does not fly in the face of common sense or well-accepted propositions of science. Fourth, the attractions of the PCJ and its associated institutions are apparent and hard to deny. “[C]itizens come to appreciate” the “public good” that the PCJ accomplishes in a democratic society, and thus the PCJ generates its own support and encourages the cooperative virtues (pp. 19, 21). Finally, in light of the previous items, it is possible within the bounds of a liberal educational process to get young people to see the advantages of the PCJ and thus accept it.

Attempts to defend liberal institutions on substantive philosophical grounds, such as those offered by Kant and Mill, are able to meet these conditions as well as the PCJ proposed by Rawls. Take, for example, a modest version of perfectionism, which holds that human beings have a capacity for some degree of autonomy, that the realization of such autonomy is of very great value, that it is possible in modern societies for most people to develop their capacity for autonomy, and that modern societies ought to create institutions — particularly institutions ensuring liberty and tolerance — so that the value of autonomy can be widely realized. Rawls explicitly classifies this sort of perfectionist view as a comprehensive doctrine, but I believe that it meets the five criteria listed in the previous paragraph and hence that a consensus on it can be created and maintained without the use of oppressive measures. First, considerable agreement on the value of autonomy already exists. Second, this view, although “comprehensive” in Rawls’s terms, is compatible with a great many other religions and doctrines. Third, belief in the value of autonomy and the possibility of realizing it to some degree does not contradict either common sense or the well-accepted propositions of science. Fourth, the attractions of autonomy and the institutions and practices that support it are apparent. And finally, it is possible to get young people to see the attractions of autonomy and liberal institutions without using harsh indoctrination.

If I am right about this, then the same factors that allow Rawls’s PCJ to avoid the Oppression Argument also allow some comprehensive doctrines to do so. It all depends on the substance of the doctrine, not on whether it is “political” or “comprehensive”.

C. IS CONSENSUS ABOUT JUSTICE SUFFICIENT FOR COMMUNITY?

Rawls takes beliefs and attitudes about justice to be the centerpiece of his explanation of how political community can and should exist in a liberal, pluralistic, and democratic society. Clearly, Rawls is not saying that having an overlapping consensus on a PCJ is the only way of having political community. His claim is not to have identified a

necessary condition of political community. He clearly allows that political communities can exist by having a consensus on a conception of the good life.⁶

Rawls's claim is rather that having an overlapping consensus on a PCJ is a possible and desirable way to have political community in contemporary societies. Rawls does not explicitly address the question of whether having an overlapping consensus on a PCJ is sufficient for social union or political community, or whether this is merely a central element in a group of things that are jointly sufficient. This is an issue worth considering, because having an overlapping consensus on a PCJ is not by itself sufficient for political community. To see this, imagine a country that has major ethnic groups that coexist uneasily. Each group dislikes the other group's culture, language, and religion, has certain historic grievances against the other group, and has a majority of its members in favor of secession. A key barrier to peaceful separation, however, is territorial claims. Each group lays claim to a fertile coastal region containing the country's largest city. In spite of these problems, we can imagine that the two groups have similar beliefs about justice. Each group thinks that a just society protects a full set of constitutional rights, uses democratic institutions, promotes basic opportunities for all, and guarantees an economic minimum. Both groups are in favor of a society with these features; they just don't want to have such a society jointly. In a case like this, a consensus exists about justice, but political community or social union does not exist. Hence a consensus about justice alone cannot be sufficient for political community.

For another example directed to the same point, imagine that two groups already have separate countries in neighboring territories. Due to shared historical and cultural roots and extensive interaction, there is a consensus in both countries on the conception of justice described above (I have in mind countries like Sweden and Norway, or the United States and Canada). Neither country, however, desires political union with the other, and there are important differences in culture, economic systems, national aspirations, and approaches to foreign

⁶ I am indebted to Michael Otsuka for clarification on these points.

policy. It would not be plausible to say that these two countries are a single political community or enjoy social union, even though there exists among their populations a shared consensus about justice.

What these examples show is that having an overlapping consensus on a PCJ is not by itself a way of having political community. Other elements have to be added that pertain to things like political boundaries, a single government, the absence of widely-supported demands for secession, and a shared culture. Rawls's preoccupation with justice leads to a one-sided account of political community.

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