

Introduction

In the Introduction to his *Lectures on the History of Political Philosophy*, Rawls asks: What *is* political philosophy? What, exactly, do we expect to gain from doing it? His answer is worth quoting at length: “Liberal political philosophy [...] is not to be seen as a theory, so to speak. Political philosophy has no special access to fundamental truths about justice and the common good. Its merit is that by study and reflection it may elaborate deeper and more instructive conceptions of basic political ideas that help us to clarify our judgments about the institutions and policies of a democratic regime” (Rawls 2007, p. 1).¹ Rawls regards such a view as anti-Platonic: philosophy ought not judge (or attempt to control) prevailing practice with reference to some distant, unrealizable ideal. Instead, philosophy belongs to the “general background culture” of a democratic society: it is engaged with, and reformulates in illuminating ways, the “basic ideas” embedded in our history and in our practice (ibid., p. 3). Hence one’s surprise at the critique of Rawls running through Amartya Sen’s recent *The Idea of Justice*.

In that work, Sen indicts Rawls for his *exclusive* focus on the perfectly just community. Rawls is a leading voice in a tradition Sen dubs “transcendental institutionalism” – as in, perfect institutions *transcend* any actual arrangements. The task of philosophy, by extension, is to articulate the content of these transcendent institutions (and thus to expose the *insuperable* gap between *those* institutions and *our* institutions). Instead, on Sen’s view, political philosophy ought to focus on organic, piecemeal (i.e. *feasible*) reform. And so, *The Idea of Justice* is characterized by its advocacy of the removal of injustice from prevailing institutional arrangements, and its concomitant rejection of the search for a perfectly just society; after all, deep (impartial philosophical) pluralism negates the possibility of agreement on the content of perfect justice. If we cannot agree on what a perfectly just social world looks like, we rightly shift our attention to the actual world, and to the identification and amelioration of injustice within it.

There is also, on Sen’s view, an unfortunate by-product of Rawls’s focus on perfectly just institutional arrangements: he (Rawls) *overestimates* the efficacy of political socialization. Rawls need not consider people’s *actual* behaviour precisely because it is spontaneously and effectively determined by their having internalized the principles of justice (this is what Rawls means when he speaks of the “political” conception of the person). In its search for just *institutions*, rather than just *societies*, *Theory* is rendered blind to the possible disagreement between principles (institutionalized in the basic structure), actions and outcomes; it is stuck, in other words, in the domain of *ideal* theory (Sen 2009, p. 60). Justice as fairness is a kind of “auto-pilot” view. The general purpose of Section 1 is to evaluate these critical claims.

What we shall ultimately find is this: Sen’s emphasis on ideal theory is an account of only *half* of Rawls’s thought (qualitatively-speaking). On the *historical* view – this is found primarily in *Political Liberalism*, and most obviously in the Introduction to that work – we can institutionalize reasonable principles in the basic structure because (over time) we have *already found ourselves to be* eminently reasonable – capable, that is, of

¹ See also “Justice as Fairness: Political not Metaphysical”: “Justice as fairness deliberately stays of the surface, philosophically speaking [...] Philosophy as the search for truth about an independent metaphysical and moral order cannot, I believe, provide a workable and shared basis for a political conception of justice in a democratic society” (Rawls 1999a, p. 394 – 395).

extending the same liberty of conscience (for example) to our fellows that they have extended to us. In this way, and contra Sen, justice as fairness *is* contingent on *actual* behaviour determined as it is by historical circumstance. In fact, reasonableness emerges as the only practicable response to manifest historical *injustice* (i.e. the Wars of Religion).² Sen therefore seems to fall into a familiar trap in Rawls scholarship: treating the original position as *historical fact*, and not as a (mere) hypothetical thought experiment designed to represent our intuitions about justice as they happen to have evolved over time.³

Section 1.2.2 picks up this insight. The central claim of this section is that Sen's historical inattentiveness leads him into another problem: there is no entry point into what he takes to be a kind institutional-behavioural circle of necessity. If the institutions chosen in the original position *educate* – Sen *rightly* identifies the educative function of institutions as central to Rawls's work (Section 1.2.3) – how is the choice of those principles possible *before* the establishment of our institutional milieu? Here, Sen violates *the* central principle of Rawls's later work. On that later account, we ought not think of the principles of political liberalism as *immanent in human nature*; otherwise, we slide into the *comprehensive* liberalisms of Hume and Kant. This is clearly the case with Sen's treatment: without paying attention to background historical context, contracting parties are imagined to spontaneously recognize, institutionalize and adhere to the principles of justice. For Rawls, by contrast, the reasonable is *not* an *a priori* moral power, as it was for Kant (at least on Rawls's reading of Kant, as outlined in Section 1.1). Indeed, when Rawls acknowledges the socializing or pedagogical function of group practices, values and (most importantly) institutions he sees this as a *turning away from Kant*. Instead, reasonableness is a way of describing the gradual adoption by citizens of the emergent, evolving principles embedded in *our* institutional milieu.

This leads us to Section 2: just as we have found a different idea of the role or function of political *institutions* – regulative of social cooperation *and* educative – so too will a different idea of the role or function of political *philosophy* emerge. The task of political philosophy, according to Rawls, is (civic) educative: to “originate and fashion starting points for common understanding by *expressing in a new form the convictions found in the historical tradition* by connecting them with a wide range of people's considered convictions” (Rawls 1999a, p. 306 italics added; see also Rawls 1993, §II.4.1 and §II.8.2 and Rawls 1999b, §1.1.1). Of course, this should recall our earlier discussion of the anti-Platonic orientation of Rawls's own approach to the practice of philosophy.

The starting premise of this section, again, is the historical orientation of *Political Liberalism*: there, justice as fairness is treated not as a stand-alone philosophical invention; rather, it is “the theoretical expression of the specificity of modern democratic political culture as shaped by the unfolding of a particular history” (Beiner forthcoming). Rawls's claim, in other words, is that the basis of our understanding of freedom and equality – *justice as fairness* – is to be found in the past and prevailing public culture of

² According to Beiner, the central purpose of Rawls's liberal project is to “domesticate religion” (Beiner forthcoming). More on this important point below.

³ There are scattered references (mostly in footnotes) to reflective equilibrium. However, on Sen's account, reflective equilibrium *happens* to validate the values and priorities of justice as fairness (see e.g. p. 8 and p. 53). On the account presented here, reflective equilibrium *determines* these values and priorities: Rawls (as theorist) cannot articulate “justice as fairness” until such an idea has been made intelligible over the course of *our* history.

our shared democratic society: “We are not trying to find a conception of justice suitable for all societies regardless of their particular or historical circumstances” (Rawls 1999a, p. 305). Instead, Rawls’s philosophy is focussed on the evolution of democratic societies characterized by significant pluralism.⁴

Finally, the conclusion of this section, and of the paper in general, is this: on Rawls’s view, political philosophy is not merely an exercise in civic education, although that is certainly one dimension of its utility; *part* of the task of philosophy is telling the institutional history (in admittedly abstract terms) of this or that political community. Instead, I will try to show that, for Rawls, the practice of political philosophy is *also* an expression of *civic virtue*. This is connected to the Hegelian dimensions of Rawls’s thought. In trying to show the *historical genesis* of the moral sentiments, philosophy has a *reconciliatory* function: we become attached to *our* institutions because we come to recognize their freedom-guaranteeing character.

Section 1.1: On Human Nature

The following quote from the Preface of Kant’s *Groundwork for the Metaphysics of Morals* sets the stage nicely for the present inquiry: “All philosophy so far as it rests on the basis of experience can be called *empirical* philosophy. If it sets forth its doctrine as depending entirely on *a priori* principles, it can be called *pure* philosophy” (*Gr* Preface: 3; see also *MdS* 6:217). In which kind of philosophical inquiry does Kant engage? The conventional wisdom points to the latter: Kant’s ethical thought is characterized by its thoroughly abstract quality. The transcendental status of the moral law, and the *a priori* recognition of the obligations connected to it, affirm the image of Kant the *pure* philosopher, uninterested in the contingency of social or political life. This is very much the view of John Rawls, as outlined in his moral philosophy *Lectures*. In this context, we turn our attention to the following (representative) passage from the *Groundwork*: “When applied to man [moral philosophy] does not borrow in the slightest from acquaintance with him (in anthropology), but gives him law *a priori* as a rational being” (*Gr* Preface: 7). The appeal – the *power* – of Kant’s moral philosophy, for adherents of the *pure* view, is its belief that we are naturally the subjects of moral dilemmas – *that we can do the right thing even if the world disappeared*. The conscience is alive, on this view, even in a vacuum (or a tyranny).

But Kant continues (immediately after the previous passage): “These laws admittedly require in addition a power of judgment sharpened by experience [...] for man, affected as he is by so many inclinations, is capable of the idea of pure practical reason, but he has not so easily the power to realize the Idea *in concreto* in his conduct of life” (*Gr* Preface: 3). This is the entry point for the recent turn in Kant scholarship towards an “impure” or anthropological account of Kant’s ethics. Rather than emphasize the transcendental, *a priori* orientation of the *Groundwork*, this school of thought looks for Kant *in the world* (Herman 1985, p. 415; Marwah forthcoming). How, for instance, do the norms, rules and practices of particular groups – *my community* – conduce to (or prevent) the recognition of the dictates of the moral law? Is there a place in Kant’s ethics

⁴ Cohen recognizes this clearly: “What contributes to the greatness of the entire Rawlsian achievement is that, to the put the matter as Hegel would have done had he agreed with me, John Rawls grasped his age in thought. In his work the politics of liberal democracy rises to consciousness of itself” (Cohen 2008, p. 11).

for mediate ideas and institutions that *educate* agents to an awareness of what is required by the moral law? Or, returning to the *pure* view, does this constitute a form of heteronomy (as Kant understand the term)? We may *happen* to act in morally permissible ways – having been properly educated to an understanding of right and wrong – but genuinely moral action, for Kant, is motivated *solely* by respect for the moral law and *not* its arbitrary confluence with certain canons of moral meaning and judgment. If freedom is acting *from* the law – not merely in accordance with it – it follows, on this *pure* account, that an essential precondition of autonomy is our natural and immediate consciousness of the moral law as supremely authoritative for us (as moral agents) (*KP* 5:4n and *Gr* Preface: 3).

Rawls's interpretation falls firmly into the *pure* camp: the strong interpretive emphasis of his *Lectures* is on the *a priori* status of the moral law. Indeed, throughout the *Lectures*, Rawls constantly emphasizes the natural immediacy of conscience in Kant's ethics: "The power of choice is *directed immediately* by pure reason's idea of the moral law" (Rawls 2000, p. 263 italics added). The decisive moment in the pure-anthropological debate, for Rawls⁵, is Kant's emphasis on the non-deducible character of the moral law: "The moral law is given, as an apodictically certain fact, as it were, of pure reason, a fact of which we are a priori conscious, *even if it be granted that no example could be given in which it had been followed exactly*" (*KP* 5:46ff italics added).⁶ Again from the second *Critique*: "The a priori thought of a possible universal law-giving [...] *without borrowing anything from experience* or any external will, is given as an unconditioned law" (*KP* 5:31 italics added; see also Reiss 1971, p. 70 – 71 and 80 – 86).

Our consciousness of the moral law, in other words, is not the outcome of moral experience or of our exposure to shared justice principles: "We cannot possibly conceive of reason as being consciously directed from the outside in regards to its judgments" (*Gr* III:4). Instead, the moral law – its existence and authority – is "authenticated" by the "fact of reason" (Rawls 2000, p. 267; see also *KP* 5:16, 5:27 and 5:30). Practical reason, on this account, is fully suited to the task of assessing the moral worth of actions. Says Kant, in this vein, in the Preface to the *Groundwork*: matters of morality are "easily brought to a high degree of accuracy and precision even in the most ordinary intelligence" (*Gr* Pref: 11). "Practical reason," echoes Rawls's *Lectures*, "is manifest in our everyday moral thought, feeling and conduct," regardless of the contingencies of socio-political circumstance (Rawls 2000, p. 162). Indeed, there is no indication in Rawls's lectures of the capacity of institutions – and the duties of justice instantiated by them – to affect our knowledge of (or the desire to abide by) the duties of virtue.⁷

This is the guiding insight of Rawls's "Kantian Constructivism in Moral Theory." According to that work, the fundamental flaw of Kant's moral philosophy is its relative insensitivity to the political sphere: the just community is not conceived as the product of

⁵ Actually, it is not entirely clear from the *Lectures* that Rawls recognizes that such a debate exists; for him the *a priori* view appears to be the *only available view*.

⁶ See also *KR* B576 (italics added): "[R]eason does not [...] follow the order of things as they present themselves in appearance, but *frames for itself with perfect spontaneity* an order of its own according to ideas [of pure reason], to which it adapts empirical conditions."

⁷ The anthropological reply is obvious and justified: Rawls takes the *Groundwork* to be the *whole* of Kant's moral philosophy. Says Kant in this vein: "Since moral laws have to hold for every rational being as such, we ought to [...] expound the whole of ethics – which requires anthropology for its *application* to man – at first independently as pure philosophy, that is, entirely as metaphysics" (*Gr* II: 35).

publicly shared political principles (*over time*), but as the outcome of individual agents' conscious adherence to *a priori* laws. Says Rawls: "We act as individuals, and not as one corporate body, all of us acting collectively" (Rawls 2000, p. 205). Kant's ethics is therefore geared towards the individual actor, in isolation from his or her political relations with others. On this account, a moral world is possible if individuals fulfil their moral duties (Moore 1992, p. 55; see also Reiss 1971, p. 41; see also Beiner 1983, p. 66 and Benhabib 1988, p. 47).⁸ Whereas Kant is primarily concerned with moral *individuals*, Rawls is concerned with moral *institutions*: "Kant proceeds from the particular, even personal case of everyday life; he assumed that this process carried out correctly would eventually yield a coherent and sufficiently complete system of principles, including principles of social justice. *Justice as fairness moves in quite the reverse fashion*" (Rawls 1999a, p. 339). Ultimately, in Rawls's account, public justice comes first⁹ – justice is the first virtue of institutions; and Rawls will justify the primacy of the political with reference to the educative function fulfilled by principle-guided institutions (Rawls 2001, §16).

Section 1.2: Institutions and Education

1.2.1

Here is a typical statement of Sen's view: "The choice of basic principles is the *first act* in Rawls's multi-staged unfolding of social justice. This first stage leads to the next, 'constitutional', stage in which actual institutions are selected in line with the chosen principle of justice [...] *The imagined sequence moves forward step by step* on firmly specified lines, with an elaborately characterized unfolding of completely just societal arrangements" (Sen 2009, p. 56 italics added). Indeed, the conclusion of the previous section *seems* to validate such a view: the original position as founding moment. But, on the view presented in this paper, the original position looks *backwards*, not forward. Justice as fairness is best understood (i.e. understood by Rawls himself) as the most complete theoretical statement – and, in this sense, the *culmination* – of a long (arbitrary¹⁰) historical tradition (i.e. the gradual institutionalization of toleration).¹¹

Consider again Rawls's "Kantian constructivism in Moral Theory." How, he asks, can citizens settle on a public conception of justice – one that is acceptable to all in

⁸ We need not be educated, on Kant's account, to an idea of human dignity (as represented in the institutions, aims and purposes of our community), for such a notion is immediately clear via intuition. In this way, "a politics of dignity opposes itself to a politics of purpose" (Beiner 1983, p. 71). Another important implication of Kant's view is this: that no one is prevented from attaining moral worth because of the contingencies of political circumstance or deficiencies of character (Schneewind 1992, p. 327; see also *Gr* II: 65). Moral feeling transcends circumstance, "for conscience speaks involuntarily and unavoidably" – *this* is the central theme of Rawls's lectures on Kant's ethics (*MdS* 6:401).

⁹ At this stage, the original position is still conceived as a kind of founding moment; and as we shall see, Sen builds his critique on such a view. Indeed, at the time of "Kantian Constructivism" there is still a conspicuous tension between the transcendental and historical approaches. In this light, Rawls's later work is perhaps best characterized by the abandonment of the transcendental view, and the robust incorporation of the historical view.

¹⁰ Of course, toleration and equal liberty (as institutional principles) *are* historically arbitrary; but they also happen to be sound principles of political organization.

¹¹ Political liberalism *is* an "Owl of Minerva" doctrine. Below, we will discuss Hegelian themes in Rawls.

light of shared ideas about personhood, agency, citizenship and social cooperation? From *Theory*, we know that the two principles of justice receive universal assent from contracting parties. This is the result of the mediating role of the original position – mediate, that is, between the ideal conceptions of moral agents and of the well-ordered society – and the veil of ignorance that characterizes that thought experiment (Rawls 1971, §4). The starting premise of this paper, however, is Rawls’s departure from the abstractions characteristic of *Theory*: if justice as fairness is dependent on *ideal* conceptions of the person and of the well-ordered society, then those conceptions must be understood as the outcome of *non-ideal* historical processes. Says Rawls in this vein: “Conditions for justifying a conception of justice hold *only when a basis is established* for political reasoning and understanding *within a public culture*” (Rawls 1999a, p. 305 italics added; see also Rawls 2001, §2.1, §6.4, §7.2, §8.3, §13.4). In this way, and contra Sen, the possibility of justice as fairness does *not* depend on a “total redesign of everyone’s actual behaviour” (Sen 2009, p. 69). Again, Rawls: “The original position is a selection device: it operates on a familiar family of conceptions of justice found in, or shaped from, our tradition of political philosophy” (Rawls 2001, §23.4).

The important point is this: in the attempt to find a suitable rendering of freedom and equality, we must remain sensitive to the ideas and principles embedded in our *prevailing* institutional milieu. Any proposed theory of justice must therefore fall within a “general and wide reflective equilibrium” (Rawls 1999a, p. 321; see also Rawls 2001, §10 and §11.4). The here and now – not the *a priori* sentiments of individual agents or some transcendent institutional ideal – is the starting point for this practical social task: “There is no other way to proceed since we must start from where we are” (Rawls 1999a, p. 322). Consider, in this light, the fundamental misunderstanding at the heart of Sen’s analysis: “Rawls is primarily concerned with a perfectly just *imagined world* [...] rather than the world in which we live” (Sen 2009, p. 79).¹²

This brings us back to Sen’s first line of critique (mentioned in my Introduction): if the principles of justice as fairness are not *necessarily* chosen in the original position, then whole theoretical project has to be “abandoned” (Sen 2009, p. 58). After all, “there are genuinely plural, and sometimes conflicting, general concerns that bear on our understanding of justice [...] Many of them share features of being unbiased and dispassionate” (ibid., p. 57). In fact, there is no such sense of necessity: Rawls is precisely willing to grant the essential arbitrariness that goes into the choice of principles. Again, this is the product of those principles being the reflection (and systemization) of historical processes. Justice as fairness (and later, political liberalism) *happens to be* the best (philosophical) articulation of the liberal historical tradition. This is importantly connected to the following passage in *A Restatement*: “There are indefinitely many considerations that may be appealed to in the original position and each alternative conception of justice is favored [sic] by some considerations and disfavoured [sic] by others [...] the balance of reasons itself rests on judgment, though judgment informed and guided by reasoning” (Rawls 2001, §40.2; see also ibid., §23.4 and §27).

¹² It is interesting to note that in his *Rescuing Justice and Equality*, G.A. Cohen attacks Rawls from the *opposite* flank: Cohen claims that Rawls’s theory of justice is *not transcendental enough* (Cohen 2008, Pt. II). Rawls makes unnecessary concessions to practicality and feasibility, particularly in the domain of distributive justice. This paper, however, will not focus on the distributive question.

1.2.2

By conceptualizing the original position as the “first act” in the unfolding of social justice, Sen ignores the fundamental importance of the genealogy of liberal toleration described in *Political Liberalism*. We cannot ignore the genealogy precisely because it is so central to the ambition of Rawls’s later work: the cultivation of *reasonable* comprehensive doctrines (Rawls 1993, p. xviii). This gives a more concrete expression to the notion of the educative function of institutions: properly designed institutions (i.e. the institutions of political liberalism) show the theologically inclined that a shared religious worldview is *not* a necessary pre-requisite of civic co-existence (and perhaps even civic *vitality*). Institutions *make* potentially unreasonable doctrine-holders reasonable by showing (over time) that equal rights and toleration are the only stable bases of civic association in a religiously plural community.

But certainly this is not a necessary, causal relationship (as Sen indicates): the institutionalized practice of toleration is not logically possible in the absence of a worldview that acknowledges the (political) manageability of religious diversity. Says Rawls: “Intolerance was accepted as a condition of social order and stability. The weakening of that belief helps to clear the way for liberal institutions” (Rawls 1993, p. xxv). Unreasonable religions must go through a process of “liberalization” before political liberalism is possible (Beiner forthcoming); hence, the existence, and operation, of a kind of institutional-behavioural dialectic in Rawls’s work: institutions educate, but citizens must be open to such processes of socialization. And in the case of the Reformation, the precondition of such openness was forty years of war. This speaks to the ultimate inextricability of ideal and non-ideal theory. Sen’s treatment ignores the influence of the latter on the possibility of the former.

1.2.3

For Rawls, as for Hegel (discussed below), the “basic structure” is the first subject of justice because of “the profound effects of these institutions on the kinds of persons we are” (Freeman 2003, p. 4). Indeed, Rawls’s most explicit statement of the pedagogical function of principle-guided institutions is *Political Liberalism*: citizens, he says, must somehow know, through reflection, that their social order is an association of free and equal citizens, based on egalitarian political principles (ibid., §I.3.1). Citizens must be educated to see the world in a *political liberal* way: “Think of the principles of justice [and the political institutions established in light of them] as *designed to form the social world* in which our character and our conception of ourselves as persons are *first acquired*. These principles must give priority to those basic freedoms and opportunities in background institutions of civil society that enable us to *become* free and equal citizens in the first place, *and to understand our role as persons with that status* [...] We have no prior identity before being in society” (Rawls 1993, §I.7.1 italics added; see also Rawls 1999c, p. 173, Rawls 2000, p. 333 and Rawls 2001, §55.2).

According to Rawls, the moral ideal of citizenship – the genuine desire to abide by the principle of justice, and to contribute to the society based on them – is merely one of many possible manifestations of our nature. Human nature is indeed “permissive”: it can develop in a vast multiplicity of forms (Rawls 1993, §II.8.1; see also ibid., §VII.5).

The ideal of citizenship must therefore be understood as one possible expression of that nature *in light of certain institutional circumstances* (Rawls 2000, p. 218 and p. 299). Without recourse to some publicly recognized (institutionalized) standard of equality it is unlikely that this political conception of the person – of the *citizen* – will develop (Rawls 1993, IV.7.3). Says Rawls in this vein: “Given certain assumptions specifying a reasonable human psychology and the normal conditions of human life, those who grow up under just basic institutions acquire a sense of justice and a reasoned allegiance to those institutions sufficient to render them stable [...] Citizens’ sense of justice, given their traits of character and interests as formed by living under a just basic structure, is strong enough to resist the normal tendencies to injustice.” (Rawls 1993, §IV.2.2). This is another way of describing a uniquely *political* form of socialization: “Education should prepare [citizens] to be fully cooperating members of society [...] so that they want to honour the fair terms of social cooperation” (ibid., §V.6.3).¹³

This is what Rawls mean when he describes the sense of justice as an “outgrowth” of institutional arrangements. The sense of justice leads to the acceptance of – and *allegiance to* – our particular institutions, as well as the principles responsible for guiding them. We are also committed to the maintenance and reform of said institutions – to the “natural duty” to advance similarly just institutional arrangements (Rawls 1971, §72 and Rawls 1993, §IV.1.3; cf. Hegel 1991, §75).¹⁴ The sense of justice, in other words, is both the capacity and the desire to act from a moral point of view, as defined by our shared principles of justice. It thus renders our community *stable* despite its (potentially destabilizing) pluralism (ibid., §76; see also Rawls 1993, §II.1.1).¹⁵ Indeed, it is the central claim of *Political Liberalism* that the sense of justice is compatible with a multiplicity of religious and philosophical worldviews: “History tells us of a plurality of not unreasonable comprehensive doctrines” (Rawls 1993, §IV.1.6).

Of course, Sen recognizes the educative dimension of institutional arrangements (as an essential aspect of Rawls’s thought). The main issue with his analysis, though, is the direct causal relationship he regards as central to *Theory*: that is, principle-guided institutions *necessarily* determine the kind of persons we are. The reality, recall, is that there is in operation a kind of *dialectic* between institutions and persons (or behaviour):

¹³ See also Rawls 2001 §16.3: “When properly regulated, [the basic structure] encourages in [citizens] an attitude of optimism and confidence in their future, and a sense of being treated fairly in view of the public principles which are seen as effectively regulating economic and social inequalities.”

¹⁴ This is Rawls’s rendering of the second formulation of the categorical imperative: treating humanity as an end-in-itself means the genuine pursuit of the realm of ends (Rawls 2000, p. 208). Indeed, Rawls’s interpretation and appropriation of Kant goes beyond the vision of a political realm of perfect negative freedom: on this account, we genuinely come to care about the well-being of our fellows and act in order to institutionalize these sentiments (ibid., p. 311; see also Moore 1992, p. 60). There is, however, a fundamental difference between Kant and Rawls: while the former regards these duties as *a priori* knowable, the latter sees the behaviour of citizens as *learned* behaviour.

¹⁵ Much of this section *seems* to revert to Sen’s critique (i.e. that there is a kind of institutional-educational determinism at work in Rawls’s political philosophy); after all, we are now discussing the emergence of the sense of justice as a *direct result* of institutional arrangements. In fact, the possibility of stability *for the right reasons* (i.e. the widespread commitment to justice principles) is a deep question for Rawls. In *A Restatement*, for example, stability is considered in light of the “special psychologies,” or the human tendency to envy and spite (Rawls 2001, §55). In other words, compliance with shared justice principles is potentially experienced as a burden (at least at first); justice as fairness (as a political conception of justice) gains adherents *over generations* (ibid., §55.2). This is connected, of course, to the role (and virtue) of philosophy (as reconciliation). See below.

certainly, institutions determine the kinds of persons we are, *but* so too do the moral sentiments – as they have evolved over the course of *our* history in *this* community – contribute to the composition and realization of institutional arrangements.¹⁶ Indeed, a characteristic aspect of the Reformation story Rawls tells in his Introduction to *PL* is the process of mutual enlargement that characterized that historical episode. We can, in other words, explain institutional outcomes with reference to the prevailing public culture, just as our institutional milieu determines (in part) that culture. Says Rawls in this vein: “The limits of the possible are not given by the actual, for we can change political and social institutions” (Rawls 2001, p. 5). Conversely, in the toleration case, we expect that liberal institutional reform will be constrained by the potential narrowness of the prevailing theological culture.

Section 2: Philosophy and Education

Whereas Kant’s idea of freedom is (on Rawls’s view) transcendental, *a priori* and non-deducible – and therefore inappropriately reduced to one’s prevailing (political) milieu – Hegel’s view of freedom is “distinctively *institutional*” (Rawls 2000, p. 330). This connects, says Rawls, “with [Hegel’s] view of persons as *rooted in and fashioned by the system of political and social institutions under which they live*” (*ibid.* italics added). Of course, this should remind us – at least as an instructive contrast – of the central theme of the previous section: Kant’s belief (as thoroughly emphasized by Rawls, despite the objections of the “anthropological” Kantians) that one is capable of genuine moral freedom by virtue of one’s humanity and the concomitant possession of conscience, and *not* by virtue of one’s (arbitrary) political citizenship. Hegel, by contrast, holds the latter view, and does so directly in response to – *as a critique of* – Kant’s transcendentalism: freedom is realized not in the pangs of (the abstract and isolated) conscience but *in* the world, through political and social institutions at a particular historical moment (Avineri 1972, p. 65 and Taylor 1979, p. 51).¹⁷

¹⁶ In the Introduction to the political *Lectures*, Rawls tells another historical story, this one about Wilhelmine Germany in the 19th and 20th centuries. He emphasizes three features of its prevailing (monarchic) political culture: (1) political parties were first and foremost economic pressure groups, and because of this (2) they never aspired to govern, and (3) thus held divisive, class-based ideologies. The combination of these tendencies made compromise difficult, and often impossible. Indeed, it was the antagonism between the liberal and social democratic parties – the latter insisted on the immediate nationalization of industry and the dismantling of the capitalist system, which naturally frightened off their potential liberal allies – that ultimately proved fatal for 20th century German democracy (Evans 2003, Ch.1 and 2 and Shirer 1969, Book I). In other words, the institutional landscape of society is a fundamental indicator of a given community’s political cultural worldview – of what it regards as politically possible. “The nature of the political system,” says Rawls, “teaches forms of political conduct and political principles” (Rawls 2007, p. 7). But it is equally important to note, again, that institutions and culture are inextricably bound to one another, and we expect that a shift (or stasis) in one will produce a concomitant shift (or stasis or decay, even) in the other. In this vein, the Nazi dictatorship (as an institutional outcome) is traceable to Wilhelmine public culture, characterized as it was by strong anti-democratic sentiment. Indeed, the situation of German political institutions and parties in Bismarck’s time was conducive to pervasive political dysfunction.

¹⁷ As we have already seen in our discussion of Rawls’s *Lectures on the History of Moral Philosophy*, Rawls’s treatment of Kant is best characterized by the latter’s disregard – rather, transcendence – of the social and political world: Rawls doesn’t see Kant *in the world*. Political philosophy (on Rawls’s view of

Says Hegel in the *Preface to Philosophy of Right*: “The truth about Right, Ethics, and the state is as old as its public recognition and formulation in the law of the land, in the morality of everyday life, and in religion [...] What it needs is to be comprehended so that the content which is already rational may also gain a rational form and thereby appear justified to free thinking” (Hegel 1991, Preface p. 3). Here, we have an early articulation of the dual role of (Hegelian) political philosophy: first, to recognize that a rational, freedom-realizing set of institutions *already exists in the world* – what *is* is rational – and, second, to articulate this fact in a way that is accessible to ordinary common sense; that is, to give philosophical knowledge a “rational form [...] justified to free thinking.”¹⁸ Says Rawls in a similar vein: “If a conception [of justice] seems, on due reflection (always the last appeal at any given moment), to have cleared our understanding and made our considered convictions more coherent [...] its practical aim is achieved” (Rawls 2001, §40.3). Hegelian philosophy, like Rawlsian philosophy, is anti-Platonic: it refuses to *judge* the state against some distant ideal; instead, it is committed to telling us what the state *is* (Hegel 1991, Preface; see also Hegel 1964, p. 145, Avineri 1972, Preface, p. 4 and ch. 3). “Philosophy as reconciliation” is thus the central theme of Rawls’s *Lectures on Hegel*.

But what, exactly, does “philosophy as reconciliation” mean? Here, Rawls draws an important contrast between *reconciliation* and *resignation*. The latter regards the prevailing institutional milieu as the *least bad* alternative: the existing social world may have a number of undesirable features, but is ultimately preferable to (more “unhappy”) alternative arrangements (Rawls 2000, p. 331). Reconciliation, by contrast, expresses a deeper commitment to *our* social world, which upon reflection is seen to express and protect our freedom – our status as *ends* (Hardimon 1994, p. 95). Consider, again, the instructive contrast to Kant, for whom adherence to the moral law requires that we raise ourselves above the contingencies of human nature (i.e. our particular desires and inclinations). Hegel, by contrast, argues that the essential precondition for freedom is membership in a rational social world; hence, genuine autonomy is dependent on (wholly arbitrary) historical considerations. We have freedom, in other words, *because* political institutions recognize (and institutionalize) “our dignity as persons who are free” (Rawls 2000, p. 331; see also Avineri 1971, p. 132).

Why must philosophy popularize this (unconscious) fact? According to Hegel, the ethical life of the state is not real or actual until it is made self-conscious (Hegel 1991, Preface, p. 12 and §265A; see also Hegel 1977, §592, Taylor 1979, p. 25 and Rawls 2000, p. 332). The prevailing state of affairs, however, finds citizens alienated from this essential truth: “They tend not to understand that the social world before their eyes is a home” (Rawls 2000, p. 336; see also Hegel 1977, §582). *This* is the practical role of political philosophy (as reconciliation) – to make the ethical life of the state *fully actual* through reflection, judgment and, most importantly, through the proliferation of philosophical knowledge. It is only once the ethical life of the state is fully actualized (via philosophical reflection) that citizens come to adopt the preservation of their

Kant) is ultimately subservient to moral philosophy – reason itself tells us everything we need to know about rights and duties (despite the anthropological objection).

¹⁸ Of course, Hegel does not consider a *rational* social world a *perfect* social world. See, for example, Hegel 1991, §14 and §258A. See also Avineri 1972, p. 39: “This method is not an acquiescence in what is, but a critical understanding of it with a view to its transformation.”

institutional milieu – for Hegel, this is another way of describing *the common good* – as their own end.

For Rawls too philosophy rightly leads to the acceptance and affirmation of prevailing (*well-ordered*) arrangements. When institutions are shown to protect our status as equal citizens, they are the proper objects of reconciliation; and when they fail to do so, philosophy contributes to the task of closing the gap between principles and outcomes. Says Rawls in this vein: “It is a matter of understanding what earlier principles require under changed circumstances and of insisting that they now be honoured in existing institutions” (Rawls 1993, p. xxix).¹⁹ This takes us back to the important distinction between reconciliation and resignation: philosophy shows that a just social world *is* possible, and that the (principled) foundation of the just (political) community is implicit in our social, cultural and political history.

As we have already seen, the historical episode most obviously associated with “philosophy as reconciliation” is the Reformation (it is at the heart of both *Philosophy of Right* and *Political Liberalism*). Citizens, that is, need to be made to see that the split of Christendom is not the disaster it was once thought to be (and that, in fact, it is accompanied by rather salutary consequences – toleration and equal liberty). If, for Hegel, significant pluralism happens to be a distinguishing feature of modernity it must be preserved as ultimately rational – as serving an ethical purpose.²⁰ And, as we have already seen, the Introduction to *Political Liberalism* makes clear that Rawls himself subscribes to some form of the “cunning of reason” doctrine that characterizes Hegel’s thought: the free exercise of reason, which inevitably leads to doctrinal pluralism, is *the* essential precondition of the liberal milieu. Justice as fairness is the attempt to systemize this historical truth: “Political philosophy may try to calm our frustration and rage against our society and its history by showing us the way in which its institutions, when properly understood, from a philosophical point of view, are rational, and developed over time as they did to attain their present, rational form. When political philosophy acts in this role, it must guard against the danger of being simply a defense [sic] of an unjust and unworthy status quo” (Rawls 2007, p. 10).

In the end, the *virtue* of philosophy is that it contributes to – it *makes possible* – the essential transition from a *modus vivendi* to stability *for the right reasons* (Rawls 1993, p. xvii).²¹ What is a *modus vivendi*? Here, groups regard cooperation as a kind of fragile compromise, one that is willingly broken in the event of a shift in the prevailing balance of power (Rawls 2001, §58). According to Rawls, the post-Reformation principle of toleration was regarded this way: Catholics and Protestants accepted it reluctantly, as the only tenable alternative to civil war. Had either faith become dominant, the principle would no longer have been followed (*ibid.*). Stability (for the right reasons), by contrast, is the expression of citizens’ deeper commitment to underlying justice principles. We have already seen how the sense of justice is the outcome of citizens’ “institutional education” (see Section 1.2.3 above). Here, we are

¹⁹ See note 18.

²⁰ Rawls emphasizes the following passage from *Philosophy of Right*, §270, in his *Lectures*: “Far from it being, or ever having been, a misfortune for the state if the Church is divided, it is *through this division alone* that the state has been able to fulfil its destiny as self-conscious rationality and ethical life.”

²¹ The fact that Rawls speaks of the necessity of such a transition calls into question the accuracy of Sen’s critique. See note 14.

emphasizing the practice of philosophy as an essential contributor to this process of political socialization.

Says Rawls in this vein: “Political philosophy may contribute to how a people think of their social and political institutions as a whole, of themselves as citizens, and of their basic aims and purposes as a society with a history – a nation – as opposed to their aims and purposes as individuals” (Rawls 2007, p. 10). Again: a “political conception of justice [...] plays a role in strengthening the roots of democratic thoughts and attitudes” (Rawls 2007, p. 7). In other words, when we speak of the *virtue* of philosophy, we are describing the role that philosophy plays not only in demonstrating the possibility of the well-ordered political community – its *actual existence* – but in strengthening citizens’ commitment to a particular freedom-guaranteeing institutional milieu (as emblematic of a shared political project over generations).

Works Cited

- Avineri, Shlomo. Hegel’s Theory of the Modern State. Cambridge: Cambridge University Press, 1972.
- Beiner, Ronald. “John Rawls’s Genealogy of Liberalism.” Forthcoming from Cambridge University Press.
- Beiner, Ronald. Political Judgment. Chicago: Chicago University Press, 1983.
- Benhabib, Seyla. “Judgment and the Moral Foundation of Politics in Arendt’s Thought.” *Political Theory* 16, 1 (1988): pp. 29 – 51.
- Cohen. G.A. Rescuing Justice and Equality. Cambridge: Harvard University Press, 2008.
- Evans, Richard, J. The Coming of the Third Reich. New York: The Penguin Group, Inc., 2003.
- Freeman, Samuel. “Introduction: John Rawls – An Overview.” In: The Cambridge Companion to Rawls. Ed. Samuel Freeman. Cambridge: Cambridge University Press, 2003. pp. 1 – 61.
- Hardimon, Michael. Hegel’s Social Philosophy: The Project of Reconciliation. Cambridge: Cambridge University Press, 1994.
- Hegel, G.W.F. Elements of the Philosophy of Right. Ed. and Trans. Allen W. Wood. Cambridge: Cambridge University Press, 1991.
- Herman, Barbara. “The Practice of Moral Judgment.” *The Journal of Philosophy* 82, 8 (Aug 1985): pp. 414 – 436.

Kant, Immanuel. Critique of Practical Reason. Trans. L.W. Beck. Indianapolis: Bobbs-Merrill, 1956.

Kant, Immanuel. Critique of Pure Reason. Trans. N. Kemp Smith. New York: St. Martin's Press, 1965.

Kant, Immanuel. Groundwork of the Metaphysics of Morals. Trans. H.D. Paton. New York: Harper and Row, 1964.

Kant, Immanuel. "Idea for a Universal History With a Cosmopolitan Purpose." In: Kant: Political Writings. Ed. H.S. Reiss. Cambridge: Cambridge University Press, 1970. pp. 41 – 53.

Kant, Immanuel. The Metaphysics of Morals. Trans. Mary Gregor. Cambridge: Cambridge University Press, 1996.

Kant, Immanuel. "On the Common Saying: 'This May Be True In Theory, But It Does Not Apply In Practice.'" In: Kant: Political Writings. Ed. H.S. Reiss. Cambridge: Cambridge University Press, 1970. pp. 61 – 92.

Moore, Jennifer. "Kant's ethical community." *Journal of Value Inquiry* 26 (1992): 51 – 71.

Rawls, John. "The Idea of Public Reason Revisited." In: The Law of Peoples. Cambridge: Harvard University Press, 1999c. pp. 131 – 180.

Rawls, John. Justice as Fairness: A Restatement. Ed. Erin Kelly. Cambridge: Harvard University Press, 2001.

Rawls, John. "Kantian Constructivism in Moral Theory." Collected Papers. Ed. Samuel Freeman. Cambridge: Harvard University Press, 1999a. pp. 303 – 358.

Rawls, John. The Law of Peoples. Cambridge: Harvard University Press, 1999b.

Rawls, John. Lectures on the History of Moral Philosophy. Ed. Barbara Herman. Cambridge: Harvard University Press, 2000.

Rawls, John. Lectures on the History of Political Philosophy. Ed. Samuel Freeman. Cambridge: Harvard University Press, 2007.

Rawls, John. Political Liberalism. New York: Columbia University Press, 1993.

Rawls, John. A Theory of Justice. Cambridge: Harvard University Press, 1971.

Schneewind, J.B. “Autonomy, Obligation and Virtue: An overview of Kant’s moral philosophy.” In: The Cambridge Companion to Kant. Ed. Paul Guyer. Cambridge: Cambridge University Press, 1992. pp. 309 – 341.

Sen, Amartya. The Idea of Justice. Cambridge: Harvard University Press, 2009.

Shirer, William L. The Rise and Fall of the Third Reich. New York: Touchstone Press, 1959.

Taylor, Charles. Hegel and Modern Society. Cambridge: Cambridge University Press, 1979.