

A REVIEW ESSAY ON JOHN RAWLS'
JUSTICE AS FAIRNESS: A RESTATEMENT

Talbot Brewer

*Talbot Brewer is Assistant Professor of Philosophy at the University of Virginia. The author of *The Bounds of Choice: Unchosen Virtues, Unchosen Commitments* (2000), he is currently working on a book about moral psychology and practical reason.*

John Rawls. *Justice as Fairness: A Restatement*. Cambridge, MA: Harvard University Press, 2001.

PHILOSOPHY LIVES NOT IN STATIC THESES AND perfected arguments but in dialogical exchange, where no conclusion is definitive and no word the last. Thus philosophers can never satisfactorily finish but only abandon their works. In this light, John Rawls' *Justice as Fairness: A Restatement* shines not only because of the subtlety and interest of the multiple dialogues from which it has arisen, but also because of the tenacity with which Rawls kept alive these exchanges before failing health finally forced him to abandon the work to his publisher. Successive vintages of the book have been circulating in manuscript form for the better part of two decades. These manuscripts provide a series of snapshots of an open-ended and engaging conversation between Rawls and a host of brilliant commentators, both friendly and unfriendly, about the tenability of the main claims and arguments of Rawls' seminal work of 1971, *A Theory of Justice*.

The last of these "snapshots," *Justice as Fairness* is at once the most recent, most concise (214 pages), and most accessible of Rawls' three major works on justice, and it will doubtless challenge *A Theory of Justice*

as the standard introduction to his thought. This would be a fine thing provided that readers keep in mind that it is potentially misleading to talk about Rawls' theory, rather than about his ongoing theorizing. Taken singly, any one of his essays can teach us a great deal about political theory. However, when we consider them all together, what comes into view is arguably the most important of Rawls' lessons for aspiring philosophers: the exemplary portrait of a life in philosophy, one marked by an unflagging spirit of inquiry, a humble readiness to listen to and learn from others, and a perpetual refusal of dogmatism of all sorts.

There is a striking analogy between the ideal of philosophical inquiry that Rawls' life and corpus *exemplify*, and the ideal of public reasoning that his recent works, including *Justice as Fairness, reexamined* (91-2).¹ Just as Rawls' works have arisen from a life-long commitment to open-ended and respectful philosophical conversation, so too Rawls has become more and more explicit in his commitment to open and respectful public reasoning amongst citizens about the justifiability of the basic structure of their polity. As Rawls has placed greater emphasis on democratic deliberation, he has articulated an extremely interesting picture of the bonds of civic friendship needed to foster and sustain such deliberation. This emphasis on civic friendship helps to immunize Rawls' particular brand of liberalism against the simplest and most direct formulations of the common charge that liberalism is objectionably individualistic. This, however, does not mean that communitarian criticisms of Rawls' mature position are without merit. There is reason for concern that the neutralitarian cast of Rawlsian civic friendship might effectively defang public deliberation of the non-neutral moral criticism needed to respond effectively to the rise of consumerist conceptions of the good—conceptions that are corrosive not only of traditional community but also of the civic friendship on which Rawls' own ideal of political society depends.

Philosophical accounts of justice take their shape to a great extent from the guiding preoccupations of those who create them. Rawls' guiding

¹ This and all other parenthetical page citations refer to John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press, 2001).

preoccupation, from his earliest work to the present, has been to figure out how the exercise of political power could possibly be made justifiable to each individual member of a citizenry marked by intractable disagreements about the human good. His philosophical reflections have always begun from the assumption that firmly held and deeply discordant convictions about the human good are present, indeed all too present, in contemporary liberal democracies (2-4, 33-6). His abiding aim has been to show how the exercise of political power might be rendered justifiable to all even in the face of this vibrant pluralism.

While Rawls is an heir to the social contract tradition, he has always been keenly aware that the laws and institutions of the state cannot plausibly be legitimated by actual voluntary agreement or consent (15). We are born into political society and face steep costs if we leave, hence we cannot be supposed to have agreed voluntarily to its terms and conditions. This is troubling because laws and political institutions have a pervasive and far-reaching influence on our life prospects, and even on the evaluative outlook we use in assessing these very institutions and laws (94). It is all the more troubling because these laws and institutions are backed by the threatened deployment of a near monopoly on coercive force, and this threat seems capable of securing acquiescence even to morally dubious demands.

These basic facts about political power imply that it must meet a very high justificatory demand. In Rawls' view, they imply that political power can be legitimate only if exercised in accordance with basic principles justifiable to all citizens on terms that each can reasonably be expected to accept (40-1, 89-92). Rawls calls this the liberal principle of legitimacy, and it is the closest thing his anti-foundationalist theory has to a foundational postulate. If this principle is not foundational, this is because it arises in its turn from Rawls' attempt to take seriously the democratic notion that the members of a properly constituted polity are not mere subjects but citizens, and hence in some important sense the authors of the laws to which they are subject. Whenever citizens cannot be offered an acceptable justification of the basic laws they are forced to obey, the idea that they are the authors of those laws is exposed as mere ideological cant.

As in earlier work, so too in *Justice as Fairness*, Rawls makes use of his well-known “original position” thought experiment to identify principles of justice that can meet this daunting justificatory demand (80-3). Those familiar with Rawls’ work will recall that the original position is an abstract bargaining situation in which citizens (or, as he sometimes puts it, their representatives) must settle once and for all upon the basic principles that will structure their cooperation. The parties to the original position are situated equally in the sense that none has greater power than any other to set the agenda or steer the discussion, and all must agree unanimously to whatever arrangement is struck. Further, the parties must choose principles from behind a “veil of ignorance” that hides from view their own race, ethnicity, sex, age, and economic class, as well as their own religious or secular convictions about what makes life worth living (85-9). Rawls claims that the principles of justice that rational deliberators would choose in the original position are precisely those we ourselves ought to accept. This is how he generates his own favored principles, which call for a robust scheme of equal basic liberties and a strict form of equality of opportunity, and which permit inequalities in income and wealth only to the extent that these inequalities work to the greatest possible benefit of the least well off.

Over the years, a number of philosophers have pressed Rawls to clarify exactly how a hypothetical agreement can impose authoritative requirements upon those who have not actually made it.² After all, we are bound only by those contracts we *actually* have signed, and not by those we *might* have signed nor even by those we *ought rationally* to have signed. Rawls’ answer is that the original position generates authoritative requirements because it successfully captures convictions we have, here and now, about how citizens ought to justify the basic principles of their polity. As Rawls explains:

if we are reasonable, it is one of our considered convictions that the fact that we occupy a particular social position, say,

² See, for example, Ronald Dworkin, “Justice and Rights” in *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977) 150–183.

is not a good reason for us to accept, or to expect others to accept, a conception of justice that favors those in that position. If we are wealthy, or poor, we do not expect everyone else to accept a basic structure favoring the wealthy, or the poor, simply for that reason. To model this and other similar convictions, we do not let the parties know the social position of the persons they represent. The same idea is extended to other features of persons by the veil of ignorance. (18)

Rawls need not deny that those who engage in public debate are often motivated by purely egoistic or parochial interests. No doubt this happens all the time. He can rest his case on the commonplace observation that public speakers almost always camouflage egoistic and parochial interests in the language of the public good. Even when this language is hypocritical, the hypocrisy itself testifies to a shared recognition that egoistic and parochial interests lack genuine justificatory force in public debate about basic questions of justice. The veil of ignorance is designed to provide a vivid heuristic representation of this widely recognized norm of public justification. If each aspect of the original position could be shown to represent commonly acknowledged norms of public discourse, then we could use the original position to determine how our polity would have to be restructured in order to live up to the norms of public justification we already affirm (whether explicitly or implicitly through the tribute paid by hypocrisy). This is how the original position is supposed to get its authority.

We might ask, though, whether all elements of the original position really do capture plausible norms of public debate. Over the years, there has been particularly fierce criticism of that “layer” of the veil of ignorance that deprives bargainers of knowledge of their own conceptions of the good. The other layers of the veil can be justified straightforwardly on grounds of impartiality. After all, it is hard to see what impartial use could be made of knowledge of one’s race, sex, age or economic class in the course of debates about basic constitutional laws. Yet while it is true that knowledge of one’s religious or philosophical convictions could be put to use in securing extra advantages for oneself and the groups to which one belongs, this same knowledge could also be put to purely impartial use. We might draw upon it to articulate a more satis-

factory and determinate understanding of what exactly the impartial pursuit of the common good requires. For instance, if a bargainer were aware of her own conviction that the good life centers on an intimate relationship with God, she might draw upon that supposed insight in order to articulate and argue for principles that encourage and support religious devotion, and she might do this in hopes of benefiting every citizen equally. Similarly, a convinced hedonistic utilitarian could draw upon his supposed insight into the human good to forward laws that maximize the pleasure and minimize the pain of the entire populace. If such arguments are inadmissible in debates about basic laws, this cannot be because they violate the norm of impartiality.

Rawls' communitarian critics have sometimes suggested that in stripping his hypothetical deliberators of their identity-conferring convictions and attachments, Rawls implicitly affirms an objectionably individualist conception of agents and an implausibly choice-centric conception of their goods.³ According to these critics, the strangely denuded deliberators of the original position can be authoritative representatives of real persons only if they depict what is essential to these persons. Thus, in making use of the original position, Rawls commits himself to the claim that the essence of persons consists not in their particular projects, commitments, or personal attachments, which are omitted from the original position, but rather in a generic capacity for voluntarily undertaking such commitments.⁴

Over the past decade, Rawls has come to think that it would be fatal to his entire project if he were in fact relying upon these broadly Kantian conceptions of personhood and value. His principles of justice would then be grounded in a controversial conception of the human good, and hence could reasonably be rejected by citizens who affirm other such conceptions. In other words, he would fail his own standard of legitimacy. To meet that standard, Rawls has sought in *Justice as Fairness*

³ The best expression of this line of criticism is found in Michael Sandel's *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982) 47–65.

⁴ Rawls briefly discusses and sets aside this criticism on page 22 of *Justice as Fairness*.

to recast his theory in the shape of what he now calls a purely political liberalism—that is, a liberalism built up from normative commitments found in the public political culture of Western liberal democracies, and tailored to the narrow task of governing specifically political aspects of our lives (40-1, 153-7). In keeping with this project, Rawls must show how our public political culture itself vindicates the restriction on reason-giving represented by the layer of the veil under dispute. But what recognizable norm of public justification is represented by the bargainers' ignorance of their own identity-conferring convictions?

If Rawls has a good answer to this question, it lies in his distinctive understanding of pluralism. Throughout his career, Rawls has affirmed the fact of pluralism, understood as the presence in contemporary liberal democracies of devotees of a wide variety of fundamentally conflicting conceptions of the human good. In *Justice as Fairness*, as in other recent work, Rawls insists upon the fact of *reasonable* pluralism as a way of making clear that citizens are generally quite reasonable to affirm these conflicting conceptions of the good (33-4, 84). Rawls backs the claim that pluralism is reasonable with a distinctive account of its genesis. As Rawls sees it, when the feeble light of human reason is put to use in attempting to illuminate the point of human life, it faces severe obstacles—“burdens of judgment,” as he calls them—that make far-reaching disagreement almost inevitable (35). Pluralism, then, ought to be seen as the natural result of reasoned inquiry into the good under the freest, hence most propitious, historical conditions. To affirm this explanation of pluralism is at once to recognize an important truth, inscribed in history, about the nature and limits of human reason, and also to adopt an appropriately respectful view towards those fellow citizens with whom one disagrees about the human good. It is to see their convictions as products of the same sort of good-faith attempt to discern the good that has yielded one's own very different convictions.

If we affirm the fact of reasonable pluralism so construed, this has very important implications for the public justification of basic laws. For if citizens are perfectly reasonable to affirm a wide array of irreconcilable conceptions of the good, then they cannot reasonably be expected to accept arguments that depend essentially upon idiosyncratic elements of any single one of these conceptions. Thus, if we seek to make politi-

cal power legitimate by exercising it in accordance with principles that each and every citizen can reasonably be expected to accept, the justification of those principles must not presuppose the truth or superiority of any particular comprehensive view of the good. The disputed layer of the veil of ignorance is supposed to represent this broadly neutralistarian norm of public justification.

Rawls has qualms about portraying his liberalism as neutral about the good, since he grounds his theory partly on ideas of the good that he takes to be latent in the public political culture (154). Still, he has attempted to justify his theory on terms that do not presuppose the truth or superiority of any particular comprehensive conception of the good. Thus he thinks he is in a position to say, "The aims of the basic institutions and public policy of justice as fairness can be said to be neutral with respect to comprehensive doctrines and their associated conceptions of the good" (153n). Further, he thinks that citizens who argue in public about constitutional essentials must not draw from or rely upon their comprehensive views about the good (90, 116).

Once we understand its origins, Rawls imagines that we will come to see pluralism not as a fate to be lamented but as a condition to be welcomed, since it arises from the free employment of human reason in pursuit of answers to inescapably important questions, and since it can be eliminated only by state oppression (5, 191-2). If we accept Rawls' idea that a community is a social group bound together by a shared comprehensive conception of the good, then this prediction can be put more provocatively: we will come to welcome rather than lament the fact that our polity is not a community (199). If we do come to welcome the absence of political community and cease to nurse aspirations to remake the polity in the image of our favored notion of the good, we are ready to join in what Rawls calls an overlapping consensus on liberal principles of justice (184-8, 192-5). Such liberal rights as freedom of conscience and the free exercise of religion will then cease to appear as disappointing alternatives to some imagined communal utopia; rather, they will appear as ideal norms of cooperation that ought to be upheld even when shifting power relations make it possible to oppress others with impunity (195).

Perhaps Rawls is right that an ideal overlapping consensus is not a political community—though, as he himself admits, this is partly a terminological question (198-200). Still, this Rawlsian ideal of political society hardly resembles the atomistic vision associated with classical liberalism and contemporary libertarianism, in which individuals are motivated to cooperate with each other because (and only to the extent that) doing so furthers their own interests. An overlapping consensus is built upon a highly demanding form of reciprocal respect and egalitarian concern—a form Rawls does not hesitate to call “civic friendship” (126). Further, Rawls thinks that no democracy can attain to its own constitutive ideals unless it fosters such civic friendship.

Here we return again to the heart of Rawls’ recent political philosophy: the ideal of democratic self-rule. In *Justice as Fairness* and other recent works, Rawls rejects the widespread idea of democracy as a simple majoritarian method for aggregating individual interests into social decisions, and favors what is sometimes called a deliberative ideal of democracy (146). Interestingly, deliberative ideals of democracy have recently arisen more or less independently amongst leading figures in Anglo-American and German philosophical circles, and the topic has come to provide a focus of fruitful conversation between these circles. Of Rawls’ many contributions to this evolving trans-Atlantic dialogue, perhaps the most important has been his notion of public reason (91-2, 116). For Rawls, the impartial and neutralitarian ideal of public justification reflected in the original position also applies to the everyday political debates through which democratic citizens continuously construct their own collective future. Whenever we debate about or vote on basic questions of justice, we must seek reasons whose force we can expect other citizens to recognize, despite the fact that they do not share our parochial interests and can reasonably disagree with our fully elaborated conception of the good. If we are to reason as a public and not as an aggregate of mutually disinterested egoists, we must make a sincere effort to locate such reasons.

Rawls portrays this ideal of public reason as a product of the original position thought experiment (89). If this is supposed to substantiate the ideal, then his argument is distressingly circular, since the ideal is almost precisely the one mirrored in the structure of the original posi-

tion, and none of the results of the original position would be authoritative unless we already had good reason to affirm this ideal. This, however, does not mean that Rawls' ideal of public reason is unmotivated; it only means that it is more fundamental to Rawls' theory than his explicit argument would suggest.⁵

This deliberative interpretation of the democratic ideal poses a challenge to the orthodox notion that democracy is merely a fair method for aggregating individual preferences into social decisions and does not make any particular demands on how citizens are to formulate the preferences expressed by their votes. There is a clear sense in which this orthodox notion of democracy acknowledges the equal standing of all citizens: it allots to each citizen exactly one vote in referenda and elections. However, this same sort of democracy countenances great and undeserved disparities in effective political power. For instance, those citizens who have the bad fortune of affirming minoritarian convictions and interests will have little power to shape the law in ways that reflect even their most urgent concerns. For precisely this reason, democratic electoral procedures are often supplemented in practice with what might appear to be extra-democratic judicial protections of basic individual rights.

On Rawls' deliberative conception of the democratic ideal, the judicial enforcement of basic liberal rights is not an external limit on the democratic ideal but rather the democratic ideal's proper consummation. If the Rawlsian model of democracy were realized in practice, citizens would not be penalized simply because their particular convictions and interests put them in a minority. In reasoning and voting on basic matters of justice, each citizen would take into account the stringency, and not merely the number, of the interests served or frustrated by proposed laws. Given the great stringency of the interests protected by individual rights, these rights would follow as fixed substantive results

⁵ Josh Cohen makes a similar point about the structure of Rawls' theory in "Deliberation and Democratic Legitimacy," in James Bohman and William Rehg, eds., *Deliberative Democracy: Essays on Reason and Politics* (Cambridge, MA: MIT Press, 1997) 67-91; see especially 70-1.

of proper democratic deliberation. It would not necessarily be undemocratic, then, for a well-formulated list of basic rights to be entrenched in a constitution and protected against majoritarian infringement by unelected judges.⁶

When we meet this exacting Rawlsian standard of public deliberation, we recognize our fellow citizens as equals who cannot be subjected to coercive laws unless they can reasonably be expected to accept the justification of those laws. In so doing, we make it possible for all citizens to secure a very important and distinctively political sort of freedom. As noted above, citizens are born into political society and cannot possibly be thought actually to have authored the laws to which they are subject. However, if our polity answers to the Rawlsian democratic ideal, each citizen can reflectively affirm the basic laws of their polity as requirements that they could reasonably have imposed upon themselves. When citizens attain the recognizably Hegelian end of grasping the reasonable in the actual, they secure what Rawls regards as the furthest achievable stretch of political freedom (3-4, 94). Such freedom would almost certainly be unavailable to many citizens of a polity whose commitment to democracy extended only to majoritarian voting.

Rawls' current view is forthrightly individualist in the sense that it requires that laws and institutions be justifiable to each and every individual, and this fundamental requirement yields in turn a robust set of individual rights. The position sketched out in *Justice as Fairness* might also be called individualist in the sense that citizens must attempt to set aside the defining convictions of their particular communities when they enter the public forum and reason together as citizens. However, this neutralitarian requirement is grounded in a demanding ideal of reciprocal respect and concern, or civic friendship. In an ideal Rawlsian social order, the behavior appropriate to the political forum would be entirely unlike the egoistic behavior appropriate in the market. Citizens

⁶ On these matters, see Rawls' *Political Liberalism* (New York: Columbia University Press, 1993) 231-40. See also Josh Cohen, "Procedure and Substance in Deliberative Democracy," in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton: Princeton University Press, 1996) 95-119.

would not be concerned primarily about their own good when they spoke and acted in the public forum, but would instead be motivated by a desire to identify and enact laws that all have reason to affirm (116-8). If individualism is understood as the thesis that individuals are not obliged to consider the needs and interests of others in their political deliberations, or that they need do so only when it serves their own interests, then Rawls is no individualist.⁷

Rawls' rejection of this latter sort of individualism shows up not merely in his ideal of public deliberation but also in his substantive claims about the just laws and institutions that would arise from ideal deliberation. This anti-individualism is perhaps nowhere more evident than in Rawls' continued affirmation of his well-known "difference principle," which limits inequalities in income and wealth by requiring that any such inequalities must work to the greatest possible benefit of the least advantaged (42-3, 59-60). The difference principle amounts to a public recognition that our skills and talents are developed, and take on the distinctive value they have, only within a broader scheme of voluntary cooperation (57, 75). For instance, the skills of the computer programmer could hardly be developed, and might not be very valuable, in a society of hunters and gatherers. Since our developed skills and their particular value cannot be seen as individual achievements, we cannot be said to deserve any and all benefits produced when we put these skills to use. We are entitled to benefit from them, by Rawls' lights, only within a general scheme of cooperation that is beneficial to all and maximally beneficial to the least well off.

⁷ It is a perplexing question whether those theorists who analogize the market and the forum, and who celebrate majoritarian democratic procedures as efficient means of attaining high levels of aggregate satisfaction, are overly individualistic or not sufficiently individualistic. They might be deemed overly individualistic in the sense that they encourage individual citizens to engage in politics with only their own good in view. On the other hand, they might be deemed insufficiently individualistic in the sense that their conception of efficiency implicitly regards gains to one person as compensations for losses to another, and citizens can affirm this normative outlook only if they are so exceedingly altruistic as to be indifferent between their own good and that of each of their fellow citizens.

This Rawlsian vision of reciprocally concerned political society is likely to seem especially inspiring to those who share Rawls' guiding preoccupation with rendering political power legitimate in the face of vibrant pluralism. Rawls succeeds in articulating an attractive middle ground between the libertarian's inapt celebration of possessive individualism and the communitarian's potentially dystopian nostalgia for homogeneous political community. However, Rawls' vision is likely to be less satisfying to those who begin with a different guiding concern—for instance, with the concern that our picture of the human good has been disfigured by the exhortations to consumerism that so frequently arrest our attention, or the related concern that our beliefs about the good have been hollowed and attenuated to the point where they no longer amount to true convictions, but amount instead to idiosyncratic tastes or dispensable personal styles. Rawls has shown little sign of serious preoccupation with this family of possibilities. Indeed, by beginning with the fact of reasonable pluralism, and the official explanation of pluralism as the product of reasoned inquiry into the human good under propitious conditions, he sets aside these concerns from the start.⁸ It is hardly surprising, then, that the ideal of articulation that Rawls articulates in *Justice as Fairness* is ill-suited to respond to these concerns.

The past decade has seen a great deal of valuable writing, much of it written in a Rawlsian vein, about the threats that liberalism can pose to minoritarian cultures.⁹ There has been far less attention to the threats that liberalism can pose to a majoritarian culture, yet this topic is equally worthy of attention. If one asks which conception of the good has the most effective army of missionaries today, the answer is very likely to be the conception on which almost all commercial advertising happens to converge: the conception that views the consumption of goods and services as the highway to the good life. This, however, does not mean that consumerism is a majoritarian conception of the good. What

8 "Historical experience," Rawls confidently claims, "shows that many ways of life pass the test of enduring and gaining adherents over time in a democratic society" (155).

9 For a good sampling, see Will Kymlicka, ed., *The Rights of Minority Cultures* (Oxford: Oxford University Press: 1995).

is distinctive about its army of missionaries is that many of them are entirely unconvinced of the consumption-centered view of the good that their collective efforts more-or-less accidentally promote. Nevertheless, the promotion of this view is backed by vast financial resources and informed by careful research on the manipulation of desire and the psychology of identity-formation. The resulting proselytism poses an equal-opportunity threat to minoritarian and majoritarian cultures alike.

Rawls simply does not recognize that the free hand of a market economy can pose a serious threat to the diversity and vibrancy of the cultural commons. In fact, he asserts repeatedly and explicitly in *Justice as Fairness* that the Western liberal democracies are marked by vibrant pluralism, and that this pluralism can be eliminated only by “the oppressive use of state power to establish a particular doctrine and to silence dissent.”¹⁰ In a world where billions of dollars are spent each year on marketing to children, all in hopes of securing what advertising professionals call a share of mind amongst youths, this represents a serious misconstrual of the nature and provenance of the most threatening forms of oppression that confront us.

If we seek to emulate Rawlsian neutralitarian virtues of public reasoning, we will be bound to respect the ascendant consumerist conception of the good, like all others, as the product of reasoned efforts to discern difficult truths about the human good. This will foreclose the possibility of a potentially liberating critique of consumerist (and perhaps other) conceptions of the good as ideological expressions of the power relations that structure our social world. It will also foreclose many of the most effective arguments for limiting the power of commercial advertisers to shape the “ideo-sphere” in which we must live our lives and raise our children.

In general, it seems to me that *Justice as Fairness* is insufficiently attentive to socio-political power and its effect on the convictions that we

¹⁰ The quotation is from 84, but similar claims are made on 34, 187–8, and 197.

bring to the task of political theorizing. This shows up quite clearly in Rawls' understanding of the process by which theories of justice are to be justified. In Rawls' view, a theory is justified if and only if it is affirmed after a process of reflection that has brought each of its postulates into a stable equilibrium not only with one's other convictions but with the considered convictions of other members of one's polity (29-32). The pursuit of reflective equilibrium has three stages: first, one identifies an account of justice that requires the fewest revisions to one's pre-theoretical convictions; second, one considers other theories and the arguments for them and readjusts one's convictions to arrive at a more considered equilibrium; third, one engages in public reasoning about justice aimed at bringing all citizens into reflective convergence on a single view of justice. At no stage in this process does Rawls seem to envision citizens engaging in critical scrutiny of the way in which the power relations in which they are embedded might have shaped, and perhaps misshaped, the convictions they are attempting to bring into equilibrium. Such critical scrutiny could in principle occur in the second or third stage, but when Rawls himself considers the merits of alternative theories, he rarely attends to the power relations that might have shaped them or drawn us to them. Furthermore, Rawls' ideal of public reasoning counts decisively against raising such issues in the third stage, during public conversation about justice. To raise such considerations would be to view the convictions of others as ill-considered or unreasoned, and this would be to deny the view of disagreement expressed by Rawls' doctrine of the burdens of judgment, hence to reject Rawls' particular notion of reasonable pluralism and to depart from his favored standard of public civility.

No doubt some will find these worries about consumerism overblown and will welcome whatever constraints Rawlsian liberalism might offer on anti-consumerist jeremiads. I don't think that such a position can consistently be maintained by those liberals who purport to be friends of autonomy. More to the point, I don't think it can consistently be sustained by a Rawlsian liberal. There are, I think, deep tensions between Rawls' broadly neutralitarian ideals of public reason and civic friendship that emerge in *Justice as Fairness*, and at least two other key elements of the book. Put another way, his theory is not yet in reflective equilibrium. The first problem is that we cannot protect the strin-

gent interests of the devotees of anti-materialist conceptions of the human good without preserving a broader cultural milieu within which they have a realistic hope of reproducing their devotion in their children. The second problem is that those whose evaluative outlooks are markedly consumerist are unlikely to manifest the civic virtues demanded by Rawlsian liberal democracy. If consumerist values are ascendant in private life, they are likely to reshape behavior in the public forum. Yet if the public forum is not distinguished from the market—if citizens enter it with an eye to securing whatever results would give them more of what they themselves want—then the ideal of public reason cannot get off the ground. In my mind, these tensions in *Justice as Fairness* point towards a need to reconsider yet again the nature and terms of the Rawlsian “conversation of justice.”¹¹ I said at the outset that there is a striking analogy between the respectful and open-ended discourse exemplified by Rawls the philosopher and the discursive democratic ideal that his most recent work recommends. What I have tried to show is that there are dangers in applying academic ideals of discourse to political society at large. When respect for considered views of the good is extended to ill-considered views held as the upshot of prolonged immersion in a consumerist milieu, the polity loses the sort of dialogue it needs to work out institutional means for keeping consumerism in its place. A common communitarian complaint about liberalism is that it cannot create a common culture sufficiently robust to bind citizens together in a single polity, united by a shared evaluative outlook. In my view, a more pressing concern is that liberal neutralitarian ideals of public dialogue might unwittingly abet the rise of a consumerist monoculture whose underlying homogeneity is camouflaged by a veneer of diverse tastes in cuisine and occasions for feast. Then reasonable pluralism will appear not, as it does in *Justice as Fairness*, as a fixed starting point with which theory must reckon, but rather as the object of the nostalgic yearnings of certain untimely souls.

¹¹ This term is borrowed from Stanley Cavell’s “The Conversation of Justice,” in *Conditions Handsome and Unhandsome: The Constitution of Emersonian Perfectionism* (Chicago: University of Chicago Press, 1990).