

A THEORY OF JUSTICE AS RORSCHACH TEST

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ABSTRACT

This article takes up Brian Barry's suggestion that 'Somebody could write an article on "*A Theory of Justice as Rorschach Test*". Turning Barry's suggestion back onto his own work, and that of other influential interpreters who shaped the reception of Rawls in analytic political philosophy, it argues that these readers approached *Theory* with preconceived notions of the methods of analytic philosophy and the nature of a liberal theory. Whether as largely sympathetic or critical readers, they found in *Theory* the articulation of a liberal individualist political ideology resting on Kantian moral foundations that provided philosophical support for the capitalist welfare state. But alongside this dominant line of interpretation, one can also unearth a counter-narrative. If one allows one's preconceived notions of what a liberal theory in the analytic tradition should look like to be challenged, an alternative picture of Rawls can emerge. On this alternative view, Rawls has a holistic approach to justification with roots in post-analytic philosophy and the tradition of German idealism and his theory takes forward an idealist tradition of thought that stretched from Rousseau, Kant and Hegel up to Bernard Bosanquet.

KEYWORDS

John Rawls, *A Theory of Justice*, justice, liberalism, political philosophy, Brian Barry.

In a 1978 review of Robert Paul Wolff's *Understanding Rawls: A Reconstruction and Critique of A Theory of Justice* (Wolff 1977), Brian Barry quipped that 'Somebody could write an article on "*A Theory of Justice as Rorschach Test*"' (Barry 1978: 780). This article takes up Barry's semi-serious suggestion. Barry's comment was prompted by a perception that Wolff's interpretation of Rawls's 1971 book was at least as revealing about Wolff's Marxist preconceptions as it was about Rawls's theory. That may well be the case, but it is also true that Barry's own interpretation of Rawls - initially set forth in his *The Liberal Theory of Justice: A Critical Examination of the Principal Doctrines in A Theory of Justice by John Rawls* (Barry 1973), the first book-length response to Rawls - is similarly revealing about Barry's liberal preconceptions. Notwithstanding their ideological differences, these early books by Barry and Wolff helped

shape the way that *Theory* was received within the world of analytic political philosophy, with a focus on reconstructing and critiquing the logic of Rawls's original position argument. Within this dominant interpretive framework, the significance of Rawls's work quickly came to be understood as consisting largely in its presentation of a liberal egalitarian theory of distributive justice resting on Kantian moral foundations.

Barry suggested that 'there could be more systematic efforts to stand back from *A Theory of Justice* and look at it as a social document or the expression of a certain kind of liberal outlook'; considering the book as a Rorschach test would involve stepping back further to 'look at the people doing the looking' (Barry 1978: 780).¹ While I will not engage in assessing the personalities of critics of Rawls, I will examine, and call into question, the way in which the text has been interpreted as the expression of a certain kind of liberal outlook. In what follows, I will take a series of related propositions about *Theory* and its relationship to Rawls's later work that are – or at least were – so widely accepted as to appear banal and show that there are grounds for questioning each one. In doing so, I will draw upon not only Rawls's oeuvre, but also secondary literature that constitutes a 'dissident strain' (Laden 2003: 372) in the voluminous literature on Rawls. The present exercise is located somewhere between a reception analysis (Laborde 2002) and the delineation of alternative frameworks, or 'blueprints', for reading Rawls's work (Laden 2003). In surveying diametrically opposing ways in which Rawls's work has been received, two different pictures of *Theory* will emerge. What this exercise lacks in analytical depth may be compensated for by a breadth of evidence that cumulatively suggests the need to rethink much of what is still received wisdom about Rawls's text.

Such an analysis will of course manifest its own contestable preconceptions. While there is widespread agreement concerning the historical significance of *Theory*, there is no consensus, overlapping or otherwise, on how the book should be read. Jonathan Wolff summed up the situation nicely in a review of three important introductions to Rawls – by Samuel Freeman (2007), Thomas Pogge (2007), and Catherine Audard (2007) – that followed in the wake of Rawls' death in 2002. Wolff concludes:

As for Rawls's legacy in political philosophy, there is simply nothing on the horizon that has any chance of displacing *A Theory of Justice* as the book all students of the subject must study in detail. As for their teachers, each has their own view of how the book is to be understood, and on reading these three books will no doubt conclude: you read Rawls your way; I read Rawls Rawls's way (Wolff 2008).

¹ Thomas Firey has also observed that '*A Theory of Justice* seems a sort of moral Rorschach test; in its pages, almost any reader can see whatever political system he or she prefers' (Firey 2006).

Are there any general guidelines that can be offered for differentiating better interpretations from worse, or are we fated to remain in the situation of ‘you read Rawls your way; I read Rawls Rawls’s way’? I will proceed on the following not uncontroversial premises. First, the philosophical hermeneutics of Hans-Georg Gadamer (2003 [1960]) teaches us that there is no interpretation of a text that is uninfluenced by preconceptions; indeed, such preconceptions, or ‘prejudices’, are not obstacles to understanding but form the productive basis upon which a reading of a text is possible. What is important is an openness to dialogue with a text that puts those preconceptions in play and is open to them being challenged. Second, if in reading Rawls’s work one follows the same kind of principle of interpretive charity that Rawls applied to his own reading of the history of political philosophy, then one will, initially at least, interpret a doctrine as a whole and in its best light, rather than seeking to refute particular claims (see Rawls 2000: xvi-xviii; 2007: xii-xv). Third, and relatedly, such an interpretation should take account of the full breadth of Rawls’s oeuvre, including, importantly, his lectures on the histories of moral and political philosophy, which provide an essential resource for understanding how Rawls developed his theory through ‘conversing with the tradition’ of ethics and how he saw his theory as continuing this tradition (Nussbaum 1999; Lloyd 2014; Bejan 2021).

Before turning to the first proposition I will discuss, let me indulge in a personal recollection that puts my own interpretive cards on the table. I first read *Theory* for an introductory political theory course that in standard fashion included reading selected sections of part one of *Theory* that served as the target for apparently devastating criticisms. I returned to the text in graduate school after developing an interest in the work of Jürgen Habermas. Thinking that I would relate Habermas’s work to something with which I was already familiar, I turned to the 1995 debate between Rawls and Habermas, expecting Habermas’s critical social theory to wipe the floor with the crude Anglo-Saxon atomistic liberalism that I took Rawls’s theory to represent, crude in the sense of purporting to derive timeless, universal principles from a rational choice standpoint that abstracted away entirely from a background social theory or historical reflection. However, the more I was drawn into Rawls’s work, the less it seemed to fit with the standard preconceptions that I brought to the text. It was only when, with the aid of a dissident strain of secondary literature and Rawls’s lectures on moral and political philosophy, I began to look at not just Habermas but also Rawls as the inheritor of a broad tradition stretching through Rousseau, Kant, Hegel, Marx and beyond that his work gradually began to make sense as an integrated whole. I concluded that in terms of its frame of reference, substantive concerns, and methodology, Rawls’s work was in many respects closer to the post-Kantian tradition of German philosophy than to the mainstream tradition of analytic political philosophy (Gledhill 2011).

Given recent and ongoing efforts to historicize Rawls's work, these claims may no longer appear as incredible as they once might. After 50 years, the canonization of *Theory* is well-advanced and it might well be that the history of political philosophy will remember the book more in the way that Rawls himself came to present it, as the continuation of the tradition of the liberalism of freedom, to which Rousseau is a precursor and in which Rawls includes Kant, Hegel, and 'less obviously' J.S. Mill (Rawls 1999: 15n7, 127; 2000: 330), and less in the manner that Barry's book helped to popularise as the foremost exponent of the liberal theory of justice.

1. RAWLS REVIVED ANALYTIC POLITICAL PHILOSOPHY

The idea that Rawls revived political philosophy is a commonplace. When it comes to this proposition, my intention is not so much to take issue with the conventional narrative according to which Rawls revived the moribund discipline after Peter Laslett's famous 1956 declaration that 'for the moment anyway political philosophy is dead' (Laslett 1956: vii), although this narrative can certainly be questioned (see e.g. Matravers 2008). My concern is rather with the nature of the discipline that Rawls is taken to have resurrected, particularly the idea that Rawls revived *analytic* political philosophy (see e.g. Gališanka 2021). What is presumably meant by this is principally that Rawls revived Anglophone political philosophy, given that it was the high analytic philosophy of logical positivism that was the perceived culprit for the death of political philosophy. Rather than reviving analytic political philosophy, Rawls was showing that it was still possible to do political philosophy after the advent of analytic philosophy.

With respect to Rawls's relationship with analytic philosophy, there are two extremes to be avoided, both the idea that Rawls was uninfluenced by the current of ideas represented by logical positivism and the idea that he simply swam with this current. Marc Bevir and Andrius Gališanka argue convincingly against two 'folk narratives':

Where one folk narrative sees Rawls as rescuing political philosophy from positivism, we argue that his early project drew on the modernism and positivism of the Vienna Circle. Yet, where the other folk narrative sees Rawls as entrenching a positivist and analytic approach to philosophy, we argue that he later followed W.V.O. Quine and Ludwig Wittgenstein in their naturalistic and holistic rejections of positivism that came to characterize post-analytic philosophy (Bever and Gališanka 2012: 702; c.f. Bok 2017).

Any adequate engagement with Rawls's methodology must therefore take account of Rawls's early view of ethics as a science, but also the development of this view in a post-analytic, holistic direction (see also Reidy 2014; Gališanka 2019). C.F. Delaney offered an early critique of the failure of critics to engage with Rawls's conception of philosophical method. 'It is my conviction', he argued, 'that much of the criticism of

John Rawls' *A Theory of Justice* misses its mark precisely because of a failure to appreciate the distinctive methodological structure of this work' (Delaney 1977: 153). Delaney emphasised the need to assess the theory as a whole and to assess it comparatively rather than absolutely, considering its attraction in relation to its leading competitors, such as utilitarianism. Finally, he argued against 'the critic whose ultimate weapon is the counterexample', arguing not that counterexamples were worthless, but rather that in the absence of an alternative theory, counterexamples alone would not refute Rawls's theory (Delaney 1977:153). Speculating on the reason why analytic critics such as R.M. Hare (1975) had been so dismissive of the methodological approach of *Theory*, Delaney suggested that it is the 'methodological break with much of the recent analytic tradition rather than his substantive conclusions that is the real source of discontent on the part of many of Rawls's critics' (Delaney 1977: 157n5; see also Krishnan 2021).

Rawls's book was seized upon not only because it helped overcome logical positivism's attacks on normative theory, but also because it offered the prospect of reviving the kind of model of the application of philosophy to public affairs characteristic of classical utilitarianism. This general view of the 'use of political theory' – this being treated as synonymous with political philosophy – was clearly expressed by John Plamenatz and adopted and elaborated upon by Philip Pettit. As Plamenatz put it, 'By political theory I do not mean explanations of how governments function; I mean systematic thinking about the purposes of government' (Plamenatz 1960: 37). As Pettit elaborates:

Political theory is a normative discipline, designed to let us evaluate rather than explain; in this it resembles moral or ethical theory. What distinguishes it among normative disciplines is that it is designed to facilitate in particular the evaluation of government or, if that is something more general, the state (Pettit 1991: 1).

This is the conception of political philosophy, crucially influenced by utilitarianism, that Bernard Williams (2005) refers to, pejoratively, as political moralism, in which political philosophy is seen as applied moral philosophy focused on the goals of government. But this underestimates the depth of Rawls's critique of utilitarianism, not simply as a theory of justice but as an approach to normative justification, an idea to which I will return. Moreover, this narrative, with Rawls picking up the baton from classical utilitarianism, glosses over the dominance of idealism in the early twentieth century (Wolff 2013). It is worth recalling that Laslett discussed political philosophy far more broadly as concerned, not simply with the purposes of government, but with 'political and social relationships at the widest possible level of generality' and the tradition that he argued had lapsed was one that he takes to have extended from Hobbes in the

seventeenth century to Bernard Bosanquet in the early twentieth century (Laslett 1956: vii).

The reference to Bosanquet is likely to strike a discordant note for many contemporary readers. The traditions of British and American idealism are largely the preserve of specialists and few would see Rawls as having any important affinities with this tradition.² But Laslett was not alone in taking this view of the canon of political philosophy. In his 1975 review of Rawls's magnum opus, John W. Chapman pronounced that '*A Theory of Justice* is an achievement of the first order. In this century only Bernard Bosanquet's *Philosophical Theory of the State* begins to compare with it' (Chapman 1975: 591).³ Indeed, Chapman went further, arguing not only that Rawls's book ranked alongside Bosanquet's in terms of significance, but that the two were engaged in essentially the same philosophical project. Bosanquet himself had observed that 'few lines of affiliation are better established in the history of philosophy than that between Rousseau's declaration that liberty is the quality of man and the philosophy of Right as it developed from Kant to Hegel' (Bosanquet 2013 [1899]: 235-36). For Chapman:

In the perspective of western moral and political philosophy, I think that Rawls's theory of justice is best seen as the culmination of the effort, begun by Kant and Hegel, and carried forward by T.H. Green, Bernard Bosanquet, and the other British and American idealists, to adapt Rousseau's theory of the general will to the modern state (Chapman 1975: 590).⁴

It is fair to say that this line of interpretation has not been influential. It was taken up, however, by one of Chapman's students, Gerald Gaus, who in his first book – the now anachronistically titled *The Modern Liberal Theory of Man* (Gaus 1983) – argued

² Jonathan Wolff comments: 'Idealism, as understood in Hegelian terms, has for a long time remained largely of historical interest in contemporary thought. Although there has been a revival of interest in idealist political thought, it still remains only on the fringes of Anglo-American political philosophy, except as an object of intellectual history. It seems that we are yet to see any serious attempt to revive any strong form of neo-Hegelianism in political philosophy, although some of Hegel's ideas about moral community have influenced current criticisms of liberal thought' (Wolff 2013: 798).

³ Albeit *Philosophical Theory of the State* was published in 1899.

⁴ The questions of how and when this tradition influenced Rawls's own thinking may be illuminated by further archival research, but the Harvard University Archives collection HUM 48.1 'Books from the personal library of John Rawls, 1915-2002' (available at: <https://id.lib.harvard.edu/ead/hua36010/catalog>; accessed 15 October 2021), a selection of volumes 'chosen because they provide an important resource for research into the origins and development of Rawls's concept of a just liberal society', is suggestive. While unsurprisingly wide-ranging, the collection includes not only works by and on Rousseau, Kant, and Hegel, but Green's *Lectures on the Principles of Political Obligation*, Bosanquet's *Philosophical Theory of the State* and F.H. Bradley's *Ethical Studies*. (Rawls's familiarity with Bradley is attested to by *Theory* and is something I touch upon below).

that there was a tradition of liberal thought running from J.S. Mill through T.H. Green, Bernard Bosanquet, L.T. Hobhouse and John Dewey to Rawls. This offers a tantalizing glimpse of a road not taken. Instead of succumbing to the seductive allure of the dichotomy between individualism and communitarianism, which prevailed in the liberal-communitarian debate of the 1980s, political philosophy might have focused on the liberal tradition, not as an individualist ideology, but rather as a philosophical tradition concerned with reconciling individuality and sociability.

There was available from the start, then, a fundamentally different framework for making sense of the historical significance of Rawls's work than the analytic framework that came to predominate. When Barry looked for historical precedents to Rawls's book, he reached back to Henry Sidgwick's *The Methods of Ethics* (Sidgwick 1981 [1907]), arguing that both are

comprehensive and systematic statements of a thoroughgoing liberal position; and both, it might be added, appear at a time when liberalism is becoming unfashionable, dismissed in smart circles as shallow compared with the deep (not to say unfathomable) truths of Hegel or a Hegelianized Marx (Barry 1973: 4).⁵

There is no question of Rawls's admiration for Sidgwick as the high point of the classical utilitarian tradition, and of their shared penchant for meticulous and exhaustive analysis. But in recruiting Rawls for the defence of an embattled liberalism, Barry's line of interpretation obscured the affinities between Rawls's project and (some of) the truths of Hegel. Both Barry and Wolff recognised that *Theory* set Rawls's original position argument – adumbrated in Rawls's 1958 paper 'Justice as Fairness' (Rawls 1999 [1958]) – in a new light but were unsure what to make of the new theory as a whole. After analytically reconstructing and critiquing Rawls's theory, Wolff concludes:

The logical status of Rawls's theory is unclear, I suggest, because, in addition to his conception of rational choice and his settled moral convictions about particular matters of social justice, Rawls also has an extremely powerful commitment to an Idealist conception of the harmonious and organic society. Particularly in the latter portions of *A Theory of Justice*, this conception is brought heavily into play and assumes more and more of the weight of the argument (Wolff 1977: 190).

These early engagements with *Theory* at least sought to come to some assessment of the work as a whole. For subsequent readers, the agenda would be set by analyses of the original position (esp. Nagel 1975; Dworkin 1975), with the separation of Rawls's 'contract' and 'coherence' arguments (Lyons 1975) facilitating discussion of the original position in isolation from reflective equilibrium and the stability argument of part three

⁵ John Horton notes the 'embattled' position of liberalism in 1970s Britain; see Horton (2002: 154).

of *Theory*, this despite Rawls cautioning that ‘without consideration of the argument of the last part, the theory of justice will be misunderstood’ (Rawls 1971/1999: ix/xviii).

Rawls’s overall relationship to varied traditions of theoretical and practical philosophy is well summed up by Samuel Freeman:

Though raised within the Anglo-American analytic tradition in philosophy, Rawls is mainly responding to problems set forth by the major moral and political philosophers since Hobbes. For this reason, Rawls’s lectures on the history of moral and political philosophy provide valuable insights into Rawls’s own work ... Rawls is as systematic as any of the great European philosophers of former centuries, and thus it is difficult to understand and appreciate his arguments without seeing their place within the larger context of his entire theory and its relationship to his historical predecessors. Both methodologically and stylistically he departs from the analytic tradition. (His friend Burton Dreben once compared Rawls’s methodological holism with Hegel’s, and said of *A Theory of Justice*, ‘It reads like it was translated from the original German.’) On the other hand Rawls is as meticulous as any other analytic moral philosopher in setting forth the premises and assumptions supporting his main conclusions (Freeman 2007: 28).

This view has recently been criticised for its ‘memorializing of Rawls’ and neglect of his contemporary influences (Smith 2021: 19). But while there is some truth to this, the influence of contemporary currents of thought remains in the background of *Theory*, or confined to footnotes, because of Rawls’s principal focus on responding to problems bequeathed by the traditions of moral and political philosophy. It is in this context that philosophical interpretations of Rawls’s work should situate the overall ambitions of *Theory*.

Under the influence of initial readers like Barry and Wolff, *Theory* was somewhat ironically established as the founding text in the canon of contemporary analytic political philosophy on the basis of arguments that few if any analytic philosophers found to be cogent or clearly formulated. The Rawls industry prospered precisely because of the perceived need to reconstruct, reformulate, and extend Rawls’s arguments. But there was from the start an alternative framework with the potential to make better sense of Rawls’s aspirations. Barry held a view that continues to be expressed by analytic political philosophers that ‘there is a line of intellectual tradition that runs from John Stuart Mill and another from Hegel’ (Wolff 2013: 813). Barry’s own work is very much in the tradition of Mill’s *On Liberty*, and it is to this tradition that he assigns Rawls.⁶ Other interpreters like Chapman, however, were alive to the possibility of reading *Theory* within what Rawls himself would later call the tradition of the liberalism of

⁶ Paul Kelly describes Barry’s work as ‘located in a “British” tradition of political philosophy that runs back via H.L.A. Hart, through Henry Sidgwick to utilitarians such as Mill’ (Kelly 2002: 119).

freedom and as seeking to reconcile the truths of the two intellectual traditions represented by Mill and Hegel.⁷ Rawls certainly employed the tool of (post-) analytic philosophy, but the substance of his theory in many ways marked the resumption of the idealist tradition extending up to Bosanquet.

2. RAWLS PROPOSES A LIBERAL EGALITARIAN THEORY OF DISTRIBUTIVE JUSTICE THAT IS HIGHLY KANTIAN IN NATURE

In Barry's hands, the tentative and exploratory indefinite article in Rawls's title is replaced by the ideological self-confidence conveyed by the definite article: rather than *a* theory of justice, Rawls became for Barry the leading contemporary exponent – and proponent – of *the* liberal theory of justice. Whether as largely sympathetic or critical readers, Barry and Wolff contributed to the perception, now so widely shared as to appear banal, that the significance of *Theory* lies principally in its proposing a liberal egalitarian theory of distributive justice that is highly Kantian in nature. However, building upon the alternative way of understanding Rawls's relationship to the philosophical tradition that I began to explore in the previous section, I will suggest that each element of this proposition should be treated more carefully than is commonly assumed.

a) Rawls proposes a liberal egalitarian theory of distributive justice that is highly Kantian in nature

If there is one thing about *Theory* that can unequivocally be agreed upon then surely it is the fact that it proposes a *liberal* theory of justice. Barry described the book's significance thus:

As I see it, then, the significance of *A Theory of Justice* is as a statement of liberalism which isolates its crucial features by making private property in the means of production, distribution and exchange a contingent matter rather than an essential part of the doctrine and introduces a principle of distribution which could, suitably interpreted and with certain factual assumptions, have egalitarian implications (Barry 1973: 166).⁸

⁷ One could say that for Rawls, Mill makes it into this tradition because of his discovery of a Coleridgean counterweight to his youthful Benthamism (see Rawls 2007: 251-313).

⁸ Barry would later write: 'Why was this extremely long, poorly organized and stylistically undistinguished book such a smash hit? It was immensely ambitious in its claims to deduce principles of justice from the construction of an "original position" and at the same time could be regarded as constituting a massive synthesis of contemporary liberal political thinking' (Barry 1980: 284-85).

It would be perverse to deny that Rawls's conception of justice is a liberal conception in fundamentally important senses – after all, it gives lexical priority to a principle of equal basic liberties – or to deny the fact that, as I have already discussed, it is part of the liberal tradition broadly conceived. But there should be greater pause before reading *Theory* as a statement of liberalism. It is noteworthy that the term 'liberalism' does not appear in Rawls's index for *Theory* (Laden 2006: 341)⁹ And while it appears three times in the text, none of these involve Rawls describing his own theory. Moreover, the situation is little different with the term 'liberal'. It is also absent from the index and while it appears 18 times in the text, on none of these occasions is it used by Rawls to describe his own theory (Holbo 2008). The only entry in the index to liberalism or its cognates is to 'liberal equality', but then this is an interpretation of the idea of inequalities being to 'everyone's advantage' that Rawls describes as based on the principle of efficiency and which he rejects in favour of the idea of democratic equality expressed by the difference principle (Rawls 1971/1999: 65/57).

The most pertinent question to ask is not so much 'When did Rawls become a "liberal"?' (Holbo 2008); this happened almost immediately, with the books of Barry and Wolff playing an important role in this reception.¹⁰ Rather, the question is, What sort of a liberal did Rawls become and why? A first issue concerns the sense in which *Theory* proposes a liberal outlook or, one could say, ideological worldview. Both Barry and Wolff, from their competing perspective, co-opted *Theory* as part of an ideological dispute between liberalism and Marxism. Rawls, though, was loathe to describe his theory as an ideological intervention. In the preface to the French translation of *Theory*, Rawls writes:

As with any political conception, readers are likely to see it as having a location on the political spectrum. But the terms used to describe these locations are different in different countries. In the United States this conception has been referred to as liberal, sometimes as left-liberal; in England it has been seen as social democratic, and in some ways as labor ... [T]hese descriptions are for others to make. What is important for me are the central aims and ideas of justice as fairness as a philosophical conception for a constitutional democracy. My hope is that it will seem reasonable and useful, even if not fully convincing, to a wide range of thoughtful political opinion, and thereby express as essential part of the common core of the democratic tradition (Rawls 1999 [1987]: 415-16).

Rawls regarded *Theory* as first and foremost a contribution to the tradition of democratic constitutional thought rather than to the ideological tradition of liberalism. To

⁹ An interesting discussion of the significance of this fact appeared on the blog *Crooked Timber* beginning with a post by John Holbo (2008).

¹⁰ In a comment on Holbo's (2008) post, Jacob T. Levy points to Barry's book as evidence of how Rawls immediately became a representative of liberalism.

be sure, there is an overlap here – in his domestic theory Rawls begins from a tradition of *liberal* democratic constitutionalism – and of course Rawls’s reluctance to admit the ideological valence of his theory could be decoded as itself an ideological manoeuvre. But it is the burden of Rawls’s later work to argue that the political principles of liberal democratic constitutionalism can be reasonably endorsed on bases other than a comprehensive liberal doctrine, and an interpretation of Rawls should begin by at least taking this aspiration seriously. Barry’s conviction that a liberal outlook is not only a sufficient but a necessary condition for endorsing liberal institutions explains his scepticism towards Rawls’s later work (Barry 1990).

What of the broader question of Rawls’s relationship to the liberal tradition? As Anthony Laden has written:

Much of the reception of Rawls’s work, both in North America and in Europe, has been deeply influenced by his readers’ prior understanding of what constitutes liberalism, and their assumption that Rawls’s theory fits squarely within that framework ... What if Rawls’s work is not best understood through the lens of a prior understanding of what liberalism is? ... If we do not begin reading Rawls with the assumption that he is developing a version of liberalism, then we do not have to assume that his view shares many of the supposedly essential features of liberalism: a suspicion of the state, a purely instrumentalist conception of politics, a strident individualism, a commitment to capitalist economic structures or a commitment to cordon off the domestic sphere from political influence and regulation (Laden 2003: 341-42).

When Rawls is assigned a place in the liberal tradition, this tends to be a foreshortened view of a tradition containing Locke, Mill and perhaps Kant. We might further ask, with Andrés de Francisco:

What sort of liberal is Rawls? What sort of liberal is a philosopher who makes the citizen (and not the individual) the subject of his political liberalism; who starts from a normative-political definition of the citizen as moral person with moral powers; who makes overlapping consensus (and not the balance of interests) his theory’s central regulative ideal; who makes reasonableness (rather than strategic rationality) the principle that is to guide discussion among free and equal citizens; and who has such a patently constitutive-civic conception of primary goods? Add to this that Rawls declares his theory of the good society compatible with the tradition of classical republicanism and thinks it capable of answering Marx’s four main criticism of liberalism. Truly, Rawls is not an easy thinker to situate as a philosopher of liberty: it is difficult to decide whether his theory is best interpreted in terms of the republican tradition or in the terms of the liberal tradition (de Francisco 2006: 270).

While this refers to republican themes that emerge, or become more pronounced, in Rawls’s later work, when one considers the basis of Rawls’s two principles of justice in *Theory*, and what is involved in realizing these principles within social institutions,

there are strong grounds for seeing Rawls as already committed to a republican idea of freedom as non-domination rather than a liberal conception of negative liberty (Costa 2009). Why was Rawls assimilated to the latter tradition despite his professed desire to sidestep the controversy surrounding Isaiah Berlin's dichotomy between negative and positive liberty (Rawls 1971/1999: 201/176)? Again, the answer may lie in the failure of the alternative framework discussed in the previous section to take hold. The idea of freedom as non-domination continues to be understood largely with reference to the neo-Roman tradition and it is only relatively recently that there has been an acknowledgement, even among republicans, that there is, in Philip Pettit's terms, not only an Italian-Atlantic tradition of republicanism, but also a Franco-German tradition comprising Rousseau, Kant, and Hegel (Pettit 2013; see further Gledhill 2015a).

b) Rawls proposes a liberal egalitarian theory of distributive justice that is highly Kantian in nature

As already adverted to in Barry's overall assessment of the significance of *Theory*, he was sceptical that the logic of Rawls's arguments for his two principles of justice led robustly to an egalitarian idea of economic distribution. I will return to this issue when discussing the sense in which Rawls proposes principles of distributive justice. What I am interested in here is the broader nature of the egalitarian vision that Rawls's theory expresses and in questioning a reading of Rawls as a liberal egalitarian that derives from the work of Ronald Dworkin and was popularised by Will Kymlicka. As was perhaps common with a whole generation of readers of *Theory*, my own initial reception of Rawls's ideas was mediated by Kymlicka's *Contemporary Political Philosophy: An Introduction*, first published in 1990 (Kymlicka 1990). Combining a remarkably compendious survey of the contemporary literature with a strong narrative thread, Kymlicka placed Rawls's theory into a logical story regarding the development of egalitarian thinking. Following Dworkin, Kymlicka's book is premised on the idea that all modern political theories are based on the foundational value of equality; all provide an interpretation of what it means for governments to treat their citizens with equal concern and respect. On an initial reading, the logic of Kymlicka's argument appeared to move ineluctably from utilitarianism to Rawls's and then finally Dworkin's theories of liberal equality.

As Samuel Scheffler has argued, however, this risks perpetuating an 'egalocentric narrative' of the history of political philosophy (Scheffler 2003a: 16n27). Once more, there is evidence of a failure to appreciate the depth of the differences between Rawls and utilitarianism, the fact that for Rawls political philosophy is not fundamentally concerned with the way in which governments should treat their citizens, but rather with an ideal of how persons should relate to one another as free and equal citizens, and

consequently how Rawls's criticisms of utilitarianism are not limited to its conception of justice but its approach to philosophical justification. Dworkin's way of understanding equality as a sovereign virtue treats it as the 'virtue of sovereigns' (Scheffler 2003b). As in Pettit's definition of political theory, the idea of a higher law that constitutes and guides the exercise of the sovereignty of the state (which for Rawls is ultimately the exercise of sovereign power by a democratic people) is conflated with principles to guide the actions of government.¹¹

On this egalitarian way of reading the history of contemporary political philosophy, the most pressing question became specifying the correct 'currency of egalitarian justice' (Cohen 1989). Rawls became an early proponent of – or at least a precursor to – luck egalitarianism. The luck egalitarian reading of Rawls's egalitarianism has been widely challenged (see e.g. Mandle 2009) and is perhaps less popular than it once was. But the depth of the contrast between a distributive paradigm of justice that stems from a broadly utilitarian tradition and the political way of thinking about justice deriving from Rousseau and Kant is less widely appreciated. Rainer Forst has gone so far as to describe a 'paradigmatic incompatibility' between these two approaches, highlighting how the goods- and recipient-oriented paradigm of luck egalitarianism obscures the more fundamental egalitarian demands of Rawlsian justice:

[T]he *political* question of who determines the structures of production and distribution and in what ways is disregarded, as though a great distribution machine – a neutral 'distributor' – could exist that only needs to be programmed correctly using the right 'metric' of justice (Forst 2020: 155-56).¹²

The recipient-oriented paradigm reduces political justice to distributive justice. On the alternative agent-oriented way of looking at justice which Rawls follows, economic justice is a corollary of – and could only come about through – political justice. Political justice requires a framework of justification, and a resulting framework of institutions, that incorporates the egalitarian demand of respecting persons as free and equal citizens.

¹¹ For the idea that Rawls's theory is concerned with articulating the 'higher law' of constitutional democracy, see Reidy (2020).

¹² The term 'distributor' comes from Cohen (2011: 61). In critiquing the distributive paradigm, Forst joins Iris Young (1990) who by contrast, however, treated Rawls as an exponent rather than a critic of this paradigm.

c) Rawls proposes a liberal egalitarian theory of distributive justice that is highly Kantian in nature

Before considering further the implications of Rawls's egalitarianism for the sense in which he proposes a theory of distributive justice, it is worth pausing to consider the sense in which Rawls proposes a *theory*. For Barry, Rawls's theory had the character of expounding certain doctrines, and he focused his critical attentions on refuting the logical derivation or deduction of primary goods and Rawls's principles of justice. Wolff did likewise. However, when one turns to Rawls's most extensive reflections on the role of political philosophy, one finds him arguing that 'a liberal political philosophy' – by which he means by this time a form of political liberalism as opposed to a comprehensive liberal doctrine – 'which, of course, accepts and defends the idea of constitutional democracy, is not to be seen as a theory, so to speak' (Rawls 2007: 1). This is somewhat perplexing coming from the author of *A Theory of Justice*, but Rawls clarifies what he means to some degree by emphasising that political philosophers are not to be seen as experts with privileged access to fundamental truths. Instead, the merit of political philosophy, followed by the characteristic Rawlsian qualification 'to the extent that it has any', is taken to lie in the fact 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: 1).

What sort of theory is proposed in *Theory*, then? As David Reidy writes, 'For Rawls, a "theory" of justice is a framework of thought within which alternative conceptions of justice are systematically compared' (Reidy 2013: 5). In Rawls's work, a procedure of justification and substantive principles of justice are closely intertwined. But while the label 'theory' would most commonly be applied to the substantive principles of justice as fairness, this might be better referred to as a conception of justice, with the term 'theory' reserved for the procedure of justification within which Rawls proposes that this conception of justice would emerge as the most reasonable, namely the procedure of what Rawls would come to call wide and general reflective equilibrium working through the original position.

It is here that my discussion overlaps most significantly with that of Anthony Laden in his reflections after 30 years of readings *Theory* (Laden 2003; see also Matan 2004). Laden contrasts a 'standard blueprint' for reading Rawls with an 'alternative blueprint'. According to the standard blueprint, Rawls proposes a theory of the sort familiar in analytic philosophy, namely a deductive argument that seeks to show the rationality of justice through the centrepiece original position argument. On the other hand, according to the alternative blueprint, Rawls is 'looking for a publicly justifiable basis for social unity in a democratic society, rather than trying to show the rationality of justice', and

this justification is developed most fully in the picture of public reason and political deliberation in political liberalism (Laden 2003: 380n30). While Laden notes that the alternative blueprint is not simply applicable to Rawls's later work, his description of it tends to present the project of political liberalism as supplanting rather than revising and extending that of *Theory*. It is worth considering, then, how *Theory*, and its original position argument, might be reinterpreted in light of such an alternative blueprint.

One of the most interesting readings along these lines is offered by Catherine Audard. As she observes, Rawls's principles of justice were far from new, and Rawls disclaimed any originality. Rather, 'the *justification method* is the most innovative part of the book' (Audard 2007: 7). As Audard puts it:

[M]y interpretation of the unity of Rawls' project is that it aims to generate the justification of justice, not to impose it from the start. This is the central point. No moral doctrine can play such a *foundational* role as this would contradict the very autonomy of the persons concerned and impose on them values that are possibly not fully theirs. *Political morality is not straightforward applied moral philosophy*. The genius of Rawls is to switch the onus on the justification process itself so that the moral doctrine of equal respect for persons can be adopted as a *result* for political purposes, not as a starting point (Audard 2007: 7, emphasis in original).

To this day, critics of Rawls, assuming a foundationalist model of justification, take him to task for failing to explain what justifies the original position (Chambers 2021). But as Audard argues contra interpreters like Dworkin (1975) and Charles Larmore (1999), the original position does not have, and does not require, a moral foundation. Rather, the values of freedom and equality are embodied in a procedure that aims to be self-justifying. That is, the theory aims to construct a conception of justice, and a consequent well-ordered society, from the point of view of which its starting point could retrospectively be recognised as justified through its capacity to bring about the free and reasonable collective endorsement of citizens.

In discussing what Rawls means by a *theory* of justice, I have emphasised that a theory provides a framework of thought and that its aim is fundamentally practical. Before leaving this issue, let me briefly indicate the implications of this view for an aspect of Rawls's theory that has recently faced sustained criticism, namely what Rawls means by the idea that a theory of justice should begin with ideal or strict compliance theory. The nature of Rawls's approach is well-summarised by Alexander Kaufman in a response to Amartya Sen's (2006) critique of Rawls's ideal theory approach:

While Rawls's explicit adoption of an ideal theoretical approach has invited misconstruction, Rawls's approach is ideal only in the sense that the discussion abstracts away from issues of partial compliance. There is no effort to sketch a unique set of perfectly just institutions. Far from aiming for completeness in moral judgment, Rawls's theory sets out an open-ended framework that identifies the considerations fundamentally relevant

to judgment, but which assigns considerable autonomy to persons individually and collectively in determining the specific requirements of justice (Kaufman 2018: 230-31).

Again, one might consider how Sidgwick sets Rawls's agenda but also how far his own approach moves away from the utilitarian tradition in a Kantian direction. Sidgwick had argued that individuals' duties could not consist in 'the effort to attain an ideal state of social relations' and therefore that '[t]he inquiry into the morality of an ideal society can ... be at best but a preliminary investigation, after which the step from the ideal to the actual, in accordance with reason, remains to be taken' (Sidgwick 1981 [1907]: 19-20). But, following Kant's view of the relationship between theory and practice, Rawls argues that a framework of ideal principles can and should directly guide practical judgement (Gledhill 2012, 2014a; see also Thiebaut 2008;).

d) Rawls proposes a liberal egalitarian theory of distributive justice that is highly Kantian in nature

I argued above that Rawls's egalitarianism should not be reduced to distributive egalitarianism: the difference principle comes in as one aspect of what it means to realize a conception of political justice. Barry expressed scepticism about reducing judgements about distributive justice to one master principle. It would be Robert Nozick's *Anarchy, State, and Utopia* (Nozick 1974), published the year after Barry's book, that cemented a connection between Rawls's theory of justice and a particular understanding of distributive justice, specifically the idea that a theory of distributive justice involves principles that seek to maintain a distributive pattern.¹³ Barry was (in)famously dismissive of Nozick's libertarian challenge (Barry 1975). The terms of the debate came to be consolidated in large part through the influence of G.A. Cohen. Rather than questioning the idea that the difference principle sought to maintain a distributive pattern, Cohen, in a 1977 paper that later became the first chapter of his *Self-ownership, Freedom, and Equality*, sought to show 'how patterns preserve liberty' (Cohen 1995: 19-37).

As Kaufman argues, however, the very idea that the difference principle is a patterned principle is a myth. Observing that 'Nozick's discomfort with systematic theorizing ... limits his appreciation of the structure of Rawls's argument' (Kaufman 2004: 561), Kaufman argues that what really divides Rawls and Nozick is their method of justification. Whereas Rawls argues that a conception of justice must establish criteria for assessing historically generated claims of entitlement, Nozick makes the foundationalist assumption that historical entitlements must be taken as given. For Nozick, a

¹³ Katrina Forrester argues that '[i]t was in response to Nozick that Rawls's followers became "Rawlsian" and established the contours of the new philosophy' (Forrester 2019: 129).

theory of justice can assess whether historical entitlements are being respected but cannot provide criteria for an ongoing assessment of the justification of these entitlements.

In *Theory*, Rawls refers to his topic as being not simply distributive justice but *social* justice (Rawls 1971/1999: 7/6). In clarifying in *Justice as Fairness: A Restatement* how he understands the problem of distributive justice, Rawls distinguishes his conception of distributive justice from the idea of allocative justice (Rawls 2001: 50-52). The problem of allocative justice, as endorsed by classical utilitarianism and rejected by Nozick, concerns establishing a distributive principle for guiding the allocation of goods among individuals who are not engaged in social cooperation. Social justice, on the other hand, is concerned with rules for the basic structure of society that constitute a system of cooperative economic production, and not simply with the distribution of commodities to separate individuals.

This contrast is essential for understanding what the institutional realization of Rawls's theory requires. Supporters and critics alike read Rawls as an ideological defender of the capitalist welfare state. Wolff described *Theory* as 'a philosophical *apologia* for an egalitarian brand of liberal welfare-state capitalism' (Wolff 1977: 195). Barry in fact develops a swingeing critique of Rawls's second principle of justice, arguing that Rawls does not deliver on the potentially radical implications of focusing on the position of the least well-off and ends up proposing little that would disturb the status quo. Concluding that Rawls is largely an 'unreconstructed Gladstonian liberal' - i.e. a defender of a laissez-faire classical liberalism - Barry argues for a more interventionist role for the (welfare) state to remedy the sources of poverty in 'having children, being sick or unemployed for a long periods, being old or being disabled' (Barry 1973: 50).

One of the first articles to question the consensus that Rawls's theory sought to provide a philosophical justification for the capitalist welfare state was Arthur DiQuattro's 'Rawls and Left Criticism' (DiQuattro 1983). DiQuattro argued that Rawls's theory ruled out a class-divided society and interpreted the difference principle as 'ruling out capitalism as just while admitting the possibility of a just socialism' (DiQuattro 1983: 53). This line of interpretation was extended by Richard Krouse and Michael McPherson (1988), who likewise sought to rebut the readings of Barry and Wolff and systematically developed the idea that from the standpoint of Rawlsian justice, property-owning democracy is superior to welfare state capitalism. With the benefit of hindsight, in the revised edition of *Theory*, Rawls acknowledged that if he were to write the book again he would 'distinguish more sharply the idea of a property-owning democracy ... from the idea of a welfare state' (Rawls 1971/1999: -/xiv). Today, the incompatibility of Rawls's theory with welfare state capitalism, and its possible realization through a regime of either property-owning democracy or liberal (democratic) socialism, is widely acknowledged and discussed (see e.g. O'Neill and Williamson 2012).

e) *Rawls proposes a liberal egalitarian theory of distributive justice that is highly Kantian in nature*

In the preface to the original edition of *Theory*, Rawls describes his revival of the social contract tradition as leading to a theory that is ‘highly Kantian in nature’ (Rawls 1971/1999: viii/xviii). The exact nature of Rawls’s Kantianism is complicated, however. Barry describes Rawls as ‘being to Kant as Sidgwick was to Hume and Bentham’, placing Kant’s ideas into a ‘rigorous and fully developed form’ (Barry 1973: 3). Like much of the ensuing discussion, Wolf focused on Rawls’s Kantian interpretation of his theory in general and of the original position in particular. Early critics of ‘Rawls’s Kantianism’ like Andrew Levine (1974) argued that Rawls’s non-metaphysical rendering of Kant left him unable to fulfil his expressed intention of moving beyond the confines of the utilitarian, empiricist tradition. As I have suggested already, however, an alternative way of interpreting Rawls’s Kantianism is available that sees him not simply as introducing Kantian idea into a framework established by the utilitarian tradition but as continuing a line of thinking that begins with Rousseau and continues with Hegel.

The fact that Rawls’s theory is not *simply* Kantian but inherits a tradition extending through Rousseau, Kant, and Hegel has received increasing attention (see esp. Laden 2001; Bercuson 2014). Nevertheless, in her entry on Hegel for the *Cambridge Rawls Lexicon*, Sibyl Schwarzenbach could still justifiably write that ‘Many still today consider John Rawls a straightforward Kantian and thus the degree to which his theory has been influenced by the thought of G.W.F. Hegel ... goes largely unnoticed’ (Schwarzenbach 2014: 339). Schwarzenbach’s 1991 article ‘Rawls, Hegel and Communitarianism’ remains one of the most incisive discussions of the Hegelian aspects of Rawls’s theory.¹⁴ Questioning dominant readings of Rawls that placed him firmly in the analytic tradition of atomistic individualism, Schwarzenbach’s thesis, in outline, is that *Theory* ‘stands squarely in the tradition of the German *Rechtslehre*’ and, more specifically, ‘retains much of the fundamental structure of Hegel’s political theory while detaching this structure from its background metaphysics of absolute idealism’ (Schwarzenbach 1991: 550, 541). As Chapman had observed, Rawls’s story of moral transformation proceeds through ‘three Hegelian phases’ (Chapman 1975: 589). As with Rousseau’s *Social Contract* and *Emile*, Rawls’s theory has two stages – first identifying the conception of justice that best comports with our natures as free and equal persons and then showing that such a conception is consistent with our moral psychology and would be stable – but the account of social institutions in part two of *Theory* is the fulcrum upon which the

¹⁴ For further discussion and references, see Gledhill (2020); Gledhill and Stein (2020).

theory pivots. If Rousseau's theory of the general will can be realized within the basic structure of the modern democratic state, then persons growing up within these institutions might be educated to a conception of themselves as free and equal citizens. As Schwarzenbach acutely observes:

Whether one is reading Hegel's *Philosophy of Right* or Rawls's *A Theory of Justice*, the movement is from 'abstract to concrete', from the minimal moral requirements of political personality (set forth in abstract right and the original position) to an account of those background economic and political institutions supporting such a conception until both works end, finally, with a reading of man's 'social nature' (Schwarzenbach 1991: 555).

Joining these insights into the way Rawls's theory takes forward the tradition of Rousseau, Kant, and Hegel with Audard's insights into how the theory seeks to generate the justification of justice offers a key for unlocking a systematic reading of the text as a whole.

Schwarzenbach thereby joined other interpreters who saw the communitarian critique of *Theory*, most influentially in the work of Michael Sandel (1982), as fundamentally misdirected.¹⁵ For Wayne Proudfoot, Rawls was 'distinguished from much of the tradition of liberalism by his vision of an ethical community, and by the celebration of communal and social values which pervades his work' (Proudfoot 1978: 267). Observing that misconstruals of Rawls as narrowly individualist grew out of a 'false concretization of his "people in the original position"', Delaney concluded that 'With regard to the charge of atomism, not only does Rawls take cognizance of the social and historical nature of man but he finds the communitarian claims made in reference to these features of human existence totally uncontroversial' (Delaney 1983: 114, 116). Roberto Alejandro went so far as to refer to 'Rawls's communitarianism', observing that 'Most discussions of Rawls's philosophy tend to neglect the strong communitarian strand of his theory' (Alejandro 1993: 75).

Freed from the strictures of the analytic tradition, and the foreshortened perspective of Rawls's theory as an atomistic liberal individualism, one can return to *Theory* with fresh eyes. After introducing the Kantian interpretation of justice as fairness and turning to the concept of justice in political economy, Rawls writes:

¹⁵ Also relevant here is the light that Rawls's senior thesis (Rawls 2009) sheds on *Theory* and his evolving interest in the idea of ethical community. Intellectual historians might complain that extant discussions are speculative rather than based on archival evidence (Bok 2017: 155; Smith 2021: 2n5), but I think a degree of speculation is both inevitable and warranted. I offer my own speculative reflections in Gledhill (2015b).

Since the original position can be given a Kantian interpretation, this conception of justice does indeed have affinities with idealism. Kant sought to give a philosophical foundation to Rousseau's idea of the general will. The theory of justice in turn tries to present a natural procedural rendering of Kant's conception of the kingdom of ends, and of the notions of autonomy and the categorical imperative ... In this way the underlying structure of Kant's doctrine is detached from its metaphysical surroundings so that it can be seen more clearly and presented relatively free from objection. There is another resemblance to idealism: justice as fairness has a central place for the value of community, and how this comes about depends upon the Kantian interpretation. I discuss this topic in Part Three. The essential idea is that we want to account for the social values, for the intrinsic good of institutional, community, and associative activities, by a conception of justice that in its theoretical basis is individualistic (Rawls 1971/1999: 264/233).

The theory may be highly Kantian in nature, but it interprets Kant as providing a deeper basis for Rousseau's idea of the general will and, in the spirit of Hegelian idealism, seeks to realize this general will within social institutions so as to realize an ideal of community. Rawls would go on to interpret Hegel as a 'moderately progressive reform-minded liberal' and an exemplar, alongside Mill and Kant, of the liberalism of freedom. Rawls adds parenthetically, '*A Theory of Justice* is also a liberalism of freedom and learns much from them' (Rawls 2000: 330).

Another notable passage in *Theory* appears in the context of Rawls's discussion of principles for individuals but has implications for understanding the architectonic of the theory as a whole. Rawls remarks:

That principles for individuals are chosen first shows the social nature of the virtue of justice, its intimate connection with social practices so often noted by idealists. When Bradley says that the individual is a bare abstraction, he can be interpreted to say, without too much distortion, that a person's obligations and duties presuppose a moral conception of institutions and therefore that the content of just institutions must be defined before the requirements for individuals can be set out ... Therefore to establish a complete conception of right, the parties in the original position are to choose in a definite order not only a conceptions of justice but also principles to go with each major concept falling under the concept of right (Rawls 1971/1999: 110/95).¹⁶

This discussion appears alongside a systematic diagram indicating how a complete conception of right begins with the concept of right for social systems and institutions

¹⁶ Jonathan Wolff counters, 'While it is also often noted that Rawls, in *A Theory of Justice*, quotes Bradley approvingly ... it has to be recognized that Rawls reads this phrase largely in institutional terms – i.e. what duties you have depends on institutional facts – rather than in the metaphysical and moral terms implied by holistic forms of idealism' (Wolff 2013: 799). But this leaves open the possibility that an idealist conception of the person might be developed independently of a metaphysical theory of the state.

and then works inwards to principles for individuals and outwards to the law of nations.¹⁷ The fact that the idea of *Theory* as part of a complete conception of right has received little if any discussion shows both the neglect – and the potential value – of reading *Theory*, as though translated from the original German, in the tradition of the German *Rechtslehre* or, one could even say, as a contribution to the philosophical science of right.

3. RAWLS'S LATER WORK COMPROMISES THE AMBITIONS OF A *THEORY OF JUSTICE*

The final proposition I will discuss concerns the relationship between *Theory* and Rawls's later work. My discussion will be brief and simply indicate first how Barry's reception of Rawls's later work was representative of the widely shared view that it represented an unwarranted renunciation of the ambitions of *Theory* and, second, gesture at how the alternative way of reading Rawls that I have adumbrated would challenge this contention.

Barry offered little discussion of part three of *Theory*, concerned with the problem of stability, beyond admitting to 'having had some fun' discussing the implausibility of Rawls's Aristotelian principle (Barry 1973: 159). Notoriously, he concluded his review of Rawls's *Political Liberalism* (Rawls 1993) in the following terms:

I believe that, as time goes by, *A Theory of Justice* will stand out with increasing clarity as by far the most significant contribution to political philosophy produced this century. Only one thing threatens to obscure that achievement: the publication of *Political Liberalism* (Barry 1995: 915).

There is widespread acceptance of the idea that *Political Liberalism* gives up much of the ambition of *Theory*. If it is not seen as an abandonment of the substantive position of *Theory*, it is at least seen as concerned with the weaker demands of legitimacy rather than justice (Estlund 1996). However, as Patrick Neal has observed, offering an alternative reading that counters 'misunderstandings' of Rawls's political turn:

The 'practical turn', which most commentators have taken to be a retreat from the ambition embodied originally in *A Theory of Justice*, appears instead as the mark of an even bolder enterprise than the original – an attempt not merely to theorize about justice, but to realize it (Neal 1994: 111).

¹⁷ I will not take up here the question this raises about how Rawls's conception of justice applies to individuals, although see Gledhill (2014b).

Neal opines that Rawls ‘has fallen into a kind of megalomania with regard to the powers of theory’ (Neal 1994: 111), but the alternative interpretive framework I have been exploring at least suggests answers to why Rawls would think it so important to address the problem of stability. Julius Sensat offers an insightful suggestion in this direction, acknowledging that

one might wonder why the discipline of political philosophy, in working out a conception of justice, for instance, should proceed in light of any envisaged social role for itself. Why isn’t the soundness of its arguments all that matters? Why can’t it work out what justice amounts to without worrying about whether the doctrine that answers this question is capable of filling some pre-assigned social role? The fact that Rawls’s project proceeds in this self-reflective way, envisaging a role for itself in the maintenance and reproduction of a just society, is a deep fact about it, one that is to a large degree rooted in the modern idealist tradition in political philosophy, running from Rousseau, say, through Kant, Fichte and Hegel (Sensat 2007: 1; see also Sensat 2016: 160).

One might end up agreeing with Neal that Rawls has enormously over-exaggerated expectations for the role of political philosophy, but before Rawls’s hopes for the role of political philosophy can be assessed they first need to at least be understood.

Barry’s assessment of Rawls’s early working out of what would become *The Law of Peoples* (Rawls 1999) was of a piece with his verdict on *Political Liberalism* (Barry 1995: 913). Indeed, Barry was one of the first to apply Rawls’s theory to international relations and to argue that a global original position should take account of the relative position of the least well-off individuals across the globe and not be limited to representing the choice of principles of cooperation between peoples (Barry 1973: 128-33). The dominant view has been that Rawls has two theories of justice, domestic and international, that fail to fit together (Pogge 2006). In considering instead the unity of Rawls’s work, and the way in which the domestic and international theories are two moments in one overall procedure of theory construction (Wenar 2004, 2006; Reidy 2020), one might productively return to Rawls’s aspiration to construct a complete conception of right in which the realization of the concept of right in social systems and institutions is followed by the realization of the concept of right in the law of nations (see further Gledhill 2013).

4. CONCLUSION

Reflecting on how his teachings had been taken up in France, Marx is reported by Engels to have written: ‘One thing is certain, it is that I am not a Marxist’. If the line of interpretation I have been pursuing is convincing, then Rawls could equally have written that he was not a Rawlsian. There is of course an inevitable historical asymmetry

between the founder of a school of thought and its followers which meant in Rawls's case that he had to establish a framework of justification that would entitle him to make normative claims rather than simply working within a received framework. But more than this, there is a deeper sense in which the ways that *Theory* was read, and the approaches to political philosophy it was taken to license, were often fundamentally at variance with Rawls's understanding of the nature and role of political philosophy.

Turning Barry's suggestion that somebody could write an article on *A Theory of Justice* as Rorschach Test back onto his own work, and that of other influential interpreters who shaped the reception of Rawls in analytic political philosophy, such as Wolff, Dworkin, Kymlicka, Nozick and Cohen, I have suggested that these readers approached *Theory* with preconceived notions of the methods of analytic philosophy and the nature of a liberal theory. Whether as largely sympathetic or critical readers, they found in *Theory* the articulation of a liberal individualist political ideology, resting on Kantian moral foundations, that provided philosophical support for the capitalist welfare state. But alongside this dominant line of interpretation, one can also unearth a counter-narrative. If one allows one's preconceived notions of what a liberal theory in the analytic tradition should look like to be challenged, an alternative picture of Rawls emerges. On this alternative view, Rawls has a holistic approach to justification with roots in post-analytic philosophy and the tradition of German idealism. His theory takes its place in the tradition of a liberalism of freedom that does not stand in opposition to republicanism but rather takes forward the Franco-German republican tradition of Rousseau, Kant, and Hegel. Far from being simply a theory of distributive justice to be applied by governments to bring about a distributive pattern within a taken-for-granted structure of capitalist institutions, Rawls's theory provides a framework for guiding collective practical judgement in the direction of transforming the basic institutions of society so that they more fully realize an ideal of social cooperation between free and equal citizens.

Even - or perhaps, especially - after 50 years, then, there is work to be done to move beyond a focus on fragmentary concepts and arguments in Rawls's work and to understand it as a philosophical system in relation to other philosophical systems. Such a focus is of more than merely antiquarian interest. Rawls's work has been taken to have established a 'methodological blueprint' (Floyd 2017) for doing political philosophy, but I have argued that serious questions can be raised about dominant understandings of this blueprint. If *Theory* is the foundational text of contemporary political philosophy, then a historically informed philosophical excavation of these foundations might well show that they provide far less support for what is now practiced in the name of political philosophy than would commonly be supposed.

Much fascinating work is being done historicizing Rawls's work with the aid of material from his archives, including, for example, uncovering its 'consistent vision of philosophy and democracy' (Reidy 2017: 265). However, so far this has not focused on understanding *Theory* in the way that it aspired to be understood, namely as part of the canon of moral and political philosophy. To take the most significant example, Katrina Forrester's masterful *In the Shadow of Justice* (Forrester 2019) is less about Rawls than it is about Rawlsianism, liberal egalitarianism, the philosophy of public affairs and their ideological adherents such as Barry; her historization of Rawls does not focus on reinterpreting *Theory* but on its 'political effects' (Forrester 2020: 22). An alternative approach that sought to place Rawls within the history of political philosophy might apply to Rawls's work his own lessons about reading texts. Sharon Lloyd reports that

Rawls regretted the tendency of much philosophical training to encourage students to attempt refutations of fragmentary arguments rather than to seek to understand the overall design of the philosophers' work, and to mine it for elements of truth useful in building our own theories (Lloyd 2014: 529).

In taking this lesson to heart, I have suggested that we could do worse than return to Chapman's early view of *Theory* as the 'culmination of the effort, begun by Kant and Hegel, and carried forward by T. H. Green, Bernard Bosanquet, and the other British and American idealists, to adapt Rousseau's theory of the general will to the modern state'.

Invocation of Hegel's aphorism that the 'The Owl of Minerva spreads its wings only with the falling of the dusk' has been a common trope in discussions of *Theory* from its first publication (Oberdiek 1972; Schwarzenbach 1991; Smith 2021; Eich 2021); Barry invoked it himself (Barry 2001: 7-8). But if what I have been arguing about the nature of Rawls's theory is accepted, then the challenge is even more fundamental than Barry supposed. Rather than assuming, as Barry did in his last book (Barry 2005), that we have good theories of social justice in hand and what matters is largely redoubling our efforts to achieve social justice in practice, it might rather be necessary to go back and re-examine the bases of these theories. We might have to 'learn to do our own thinking for ourselves' (Skinner 1969: 52), not, *pace* Quentin Skinner, cut off from a living tradition of political philosophy but rather using Rawls's work as an exemplar in the same way that Rawls himself treated canonical texts in the history of moral and political philosophy and thinking about how to keep alive the spirit of Rawls's approach under changed historical conditions.

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