THE "SENSE" AND NON-SENSE OF JUSTICE
JOHN RAWLS'S A THEORY OF JUSTICE


Surely, virtue is not the ruin of those who possess her, nor is justice destructive of a city.

Aristotle, Politics.

I cannot stand forward, and give praise or blame to any thing which relates to human actions, and human concerns, on a simple view of the object, as it stands stripped of every relation, in all the nakedness of metaphysical abstraction. Circumstances (which with some gentlemen pass for nothing) give in reality to every political principle its distinguishing colour, and discriminating effect. The circumstances are what render every civil and political scheme beneficial or noxious to mankind.

Burke, Reflections on the Revolution in France.

The specter of political philosophy, so recently banished from the workshops of a political science which aspired to be "scientific" and hence "value-free," has reappeared at the door in a new and very different garb, and is being welcomed as a long-lost friend. This, at any rate, is the impression one might derive from the reception being accorded to John Rawls's recently published A Theory of Justice.' So far as I know, no work by or about Aristotle, Hobbes, or Rousseau, has been the subject of an entire panel at any recent meeting of the American Political Science Association, or of three reviews in an issue (forthcoming) of the Association's journal, as Rawls's book is. To paraphrase Rousseau: what can explain this development? This question I think I can answer. What can justify it? Very little, I fear.

The explanation, of the acceptance and praise which A Theory of Justice has received from many social scientists is, I believe, a simple but unfortunate one: this book is not, as its author claims, a work of political philosophy. Rather, it is an ideological tract in which the author sets out, not to determine what justice is, but merely to specify the kind of institutions that a little voice within him-his "sense of justice"-demands. Rawls never considers the possibility that the opinions embodied in his "sense of justice" are in fact

1 All page numbers in parentheses within the text refer to this book.
derivative from an ideology that he has absorbed from his academic environment, an ideology that needs to be evaluated most critically in the light of reason. But for the very reason that Rawls's ideology accords so well with the political dogmas that are currently popular in the academic community, including the political science profession, it is unlikely to receive much severe testing from that quarter—the only quarter likely to pay significant attention to a 600-page tome of abstract and heavy-handed prose. Moreover, there is an additional reason why political scientists who fancy themselves "scientific" (according to the contemporary notion of what constitutes a social "science") are likely to prefer A Theory of Justice to the classic works of political philosophy. Rawls, unlike the great political philosophers, defines his enterprise in such a way that it is perfectly compatible with, and indeed seems to require as its complement, a "value-free" social science. If contemporary political science aspires to be "value-free," Rawls's notion of "political philosophy" is one that is "fact-free." He views "substantive political philosophy" as the application to political institutions of principles derived from "moral theory," which he distinguishes from "social theory" in the following terms:

while the theory of price, say, tries to account for the movements of the market by assumptions about the actual tendencies at work, the philosophically favored interpretation of the initial situation [from which the "principles of justice" are to be determined] incorporates conditions which it is thought reasonable to impose on the choice of principles. By contrast with social theory, the aim is to characterize this situation so that the principles that would be chosen, whatever they turn out to be, are acceptable from a moral point of view (120).

"Moral theory," in other words, has nothing to say about, and no need to investigate independently, "the actual tendencies at work" in political life. Although the determination of "the principles of justice" as Rawls understands it requires no empirical analysis of human nature or human behavior, it does presuppose a knowledge of "general laws and theories," such as "the principles of economic theory" and "the laws of human psychology" (137-8). Where are those "theories" to come from? Naturally, from those engaged in the study of "social theory," including such specialties as economics, game theory, and "political sociology."

Here, then, is a "political philosopher" after the "committed" social scientist's own heart. Not only does Rawls place the sanction of "philosophy" behind the tenets of contemporary academic "lib-
eralism"; he also pays humble deference to the social scientist's own enterprise, and promises not to get in his way by raising impolite questions about the relevance of "general laws and theories" to human behavior, or about the possibility of understanding political things without engaging at the same time in a rational consideration of "value" questions. By endorsing Rawls's "theory," the "post-behavioral" social scientist who wishes to display his concern for "values" without having to make the rational determination of political right a part of his scholarly enterprise would seem able to have his cake and eat it, too.

I do not believe that this purported resolution of the social scientist's dilemma will itself stand the test of rational analysis. Far from constituting a revival of political philosophy, A Theory of Justice is nothing more than an elaborate catalogue of political prejudices. Far from being even a reasonable partial justification of a particular political position, Rawls's "principles of justice," by virtue of their abstraction from political fact, are so vague, abstract, and inconsistent that they point to no particular political conclusions—certainly not to the ones Rawls claims to draw from them. No regeneration of political philosophy can be built upon the foundations laid by Rawls. In fact, for all of its defects, even the old "logical positivism" was more akin to philosophy than is Rawls's "moral theory." The positivist, having denied the existence of a knowable, objective standard against which particular opinions of justice or goodness could be weighed, fearlessly drew the necessary conclusion (even if he inevitably deviated from this conclusion in practice): no "value" is sounder than or superior to any other. Rawls does not believe, any more than the positivist did, that the nature of justice is determinable by reason: the explicit source of his view of justice is nothing more than a "sense" or "intuition." He is, moreover, aware that men's "opinions of justice are bound to clash" (355); hence there would seem to be no reason why men should prefer to follow the idiosyncratic dictates of Rawls's "sense of justice" rather than other opinions or "intuitions." Yet Rawls labels his "sense of justice" the "sense of justice," and demands that "laws and institutions . . . must be reformed or abolished" (3) if they fail to conform to it. Whereas the positivist, in line with the philosophic tradition, attempted to determine the truth by reason (even though his conclusions denied the possibility of political philosophy), Rawls wishes simply to impose on all men a standard of justice derived from his own "intuition."

Rawls's attempt to lay down a "theory of justice" which is not
grounded in a rational, empirical analysis of human nature and the nature of political life constitutes, an utter distortion of the function and method of political philosophy. It is no more possible to grasp the nature of justice while abstracting from the reality of political life than to describe political phenomena adequately while ignoring the question of what is good and just. Moreover, since Rawls uses his "theory" to justify intemperate attacks on "the injustice of existing institutions" and hence to urge men to uncompromising political action in accordance with the alleged dictates of that "theory," the consequences of this pseudo-philosophy may be more directly dangerous to a healthy polity than were those of the old, "value-free" political science. Thus I have set out in this essay to demonstrate the inadequacy of Rawls's account of justice, and to trace his failure to the defectiveness of his "philosophic" method as an approach to things political. At the same time, since Rawls's thought is so reflective of a widespread but poorly thought out, contradictory ideology that has a considerable following in the contemporary academic community, my critique will also aim to suggest some of the weaknesses of that ideology, and hence to inspire some political scientists to question it more than they have done. Perhaps in this way, the study of A Theory of Justice may lead men towards a revival of political philosophy, of ter all.

**Rawls's Intention**

Both the title Rawls has given his book and his statement of his purpose in writing it indicate that his starting-point, as compared with that of the great political philosophers of the Western tradition, is a peculiarly academic one. Whereas Plato or Hobbes, for instance, spoke directly of justice is, Rawls seeks rather to provide a "theory" of or about it. Furthermore, Rawls describes his central aim as being the provision of a superior alternative to prevailing "theories" of justice, rather than the correction of some identifiable error in the common opinions about what is just. The fundamental issue for him appears to be not the correctness of men's substantive political opinions, but rather the adequacy of existing "theories" as an account of those opinions.

The reason for Rawls's peculiar starting point may be gleaned from the "provisional" definition he sets forth of "moral philosophy," a category under which he apparently subsumes his own enterprise of "substantive political philosophy." Moral philosophy, Rawls asserts, is "the attempt to describe our moral capacity." Thus, insofar as the moral philosopher is concerned with justice,
one may regard a theory of justice as describing our sense of justice" (46). In other words, the "moral philosopher" need not investigate the nature of justice, because his starting point is the assumption that all normally rational men already know what justice is. "Under normal social circumstances," Rawls assumes, every normal adult develops a sense of justice," i.e., "a skill in judging things to be just and unjust, and in supporting these judgments by reasons. Moreover, we ordinarily have some desire to act in accord with these pronouncements . . ." (46). The judgments that ordinary men make, far from constituting a starting point for questioning, are the ultimate standard against which a "theory of justice" is to be tested. Just as an astronomer aims to set forth "theories" that describe the motions of the heavenly bodies, a "moral philosopher" aims to describe in some systematic way a set of "principles" according to which men's "sense of justice" appears to operate (46). Never does Rawls question the possibility of such a systematization, although (disclaiming any false modesty) he assures us that his task is "very difficult" (46).

Despite the seemingly academic character of this enterprise, however, Rawls is far from believing that the promulgation of a "theory of justice" is not utterly without practical bearing. Even though the final test of such a theory is its general correspondence to the "considered judgments" men already make, it is possible that as a result of the philosopher's discovery of the principles that those judgments seem generally to follow, an individual whose judgments previously deviated from those principles to some extent "may well revise his judgments to conform" to them, "especially . . . if he can find an explanation for the deviations which undermines his confidence in his original judgments and if the conception presented yields a judgment which he finds he can now accept" (48). This revision will not be the result of a recognition that the proffered principles adequately describe the nature of justice, however, but of the fact that the person to whom they are proffered finds them "intuitively appealing" (48).

But why is it desirable to bring about such a revision in men's judgments? The value of a "theory of justice," Rawls asserts, lies in its ability "to clarify and to order our thoughts ... to reduce disagreements and to bring divergent convictions more into line ..."(53). Such clarification and systematizing of men's judgments is politically desirable because a "well-ordered" society must be "effectively regulated by a public conception of justice" which "everyone accepts" (3-4). Rawls laments that "[e]xisting societies are . . . seldom well-ordered" because "what is just and unjust is usually in
dispute" (5). The reason for this disorder, he appears to believe, is that men base their judgments on particular "intuitions," rather than having a coherent set of principles to guide them. Rawls's aim, therefore, is to develop a conception of justice that can serve "as a replacement for existing conceptions" (11). Even though such a conception is ultimately to be validated by its conformity to men's "intuitions," once this conception has been accepted by them, it can serve to make their "considered judgments of justice converge" by "reducing . . . the reliance on intuitive judgments" in each particular case (44-5).

If such a task is to be accomplished, Rawls believes, a new "theory of justice" must be developed, because "our present theories are primitive and have grave defects"(52). In particular, he has aimed "to work out a theory of justice that represents an alternative to" the "utilitarian thought" that has "long dominated our philosophical tradition" (22, 52). The proof that utilitarianism is defective is not any identifiable political consequences to which Rawls can show it has led, but simply the fact that as a theory it "easily arouses" "persistent misgivings" (52).

Utilitarianism violates men's "sense of justice," Rawls believes, because it derives the standards by which men are to be governed from a consideration of the general or average "utility," rather than placing preeminent emphasis on the equal rights and liberties which "common sense" dictates are due to each individual (28). "Classical" utilitarianism, as Rawls presents it, derives all moral principles "from the one end of attaining the greatest balance of satisfaction" in a society. "Thus there is no reason in principle" according to the classical utilitarian "why the violation of the liberty of a few might not be made right by the greater good shared by many" (26). Similarly, a modified form of utilitarianism, the principle of "average utility," would seem to allow in principle that even such an evidently unjust institution as slavery could be legitimated if it could be shown that the satisfactions that the slaveholder gains from this institution are sufficiently great as to outweigh the suffering which his slaves endure (167). Both forms of utilitarianism, Rawls believes, fail "to take seriously the distinction between persons" and "to recognize the separateness of life and experience" (27, 187, 191). Treating the community as if it were a single individual, utilitarianism aims to "balance satisfactions and dissatisfactions" within the community "[j]ust as an individual balances present and future gains against present and future losses" (24). But our "sense of justice" tells us that it is wrong to demand, as utilitarianism does,
that we "accept the greater advantages of others as a sufficient reason for lower expectations over the whole course of our life" (178). Human beings should be regarded, as Kant taught, "as ends in themselves," rather than as means to maximizing the "expectations of others" or the societal "balance of satisfaction" (26, 180). It is "more realistic," given human desires, to design "the social order on a principle of reciprocal advantage" (178).

The essential defect of utilitarianism, according to Rawls, is common to all "teleological" theories of justice, which derive "the right" from "the good." Rawls's theory of "justice as fairness" is by contrast a "deontological" one: it specifies that "the concept of right is prior to that of the good" (30, 396). Thus this theory aims to identify those principles that accord best with men's "sense of justice," without regard to whether they "maximize the good" or advance the "particular ends" of the members of the community. But because "justice is the first virtue of social institutions," and "the collective activity of justice is the preeminent form of human flourishing," it is necessary that we choose justice uncompromisingly "above all else" (3, 374, 529). Neither the commands of religion nor any "prior standard of human excellence" can be allowed to interfere with the absolute commands of justice (208, 327).

Rawls's Derivation of "the Principles of Justice"

In order to develop a conception of justice which does guarantee that every individual receives his due, Rawls turns to the notion of a "social contract" among free and equal "moral persons" who are "fairly situated" with respect to one another (19, 120, 211, 244). Unlike the famous "social contract" philosophers who preceded him, however, Rawls makes no attempt to demonstrate that the "original position" from which the terms of the "contract" are to be inferred is one which ever has existed or could exist (12, 120). He makes no attempt, in other words, to demonstrate that it has a foundation in nature. The justification for choosing the "original position" as a starting point is simply that it corresponds to Rawls's "conception" of men as "equal moral persons," and that he believes it will lead to the establishment of principles of justice that best correspond to the "considered judgments" which men's "sense of justice" dictates.

The most striking feature of Rawls's "original position," as compared with the "social contract" philosophers' descriptions of a prepolitical "State of Nature," is what Rawls calls the "veil of ignorance." This "veil" prevents the "parties" to the "original posi-
Lion" from knowing anything about their respective natural talents and abilities or about their "conceptions of the good." Thus it is designed to lead them, as a result of a "rational" calculation of their respective self-interests, to agree on "principles of justice" that are truly impartial, not only among different individuals, but among different "conceptions of the good," even those stemming from different religious beliefs or from fundamentally different political ideologies. The only "knowledge" of "the good" which Rawls allows them is a "theory" of "primary goods," which "are things which it is supposed a rational man wants whatever else he wants" (92), and hence are allegedly objective among different particular conceptions of the good. The "primary social goods" are "rights and liberties, opportunities and powers, income and wealth." In addition, "[a] very important primary good is a sense of one's own worth," which, however, "for simplicity" Rawls "leave[s] aside" in his initial determination of the principles of justice (92).

Rawls's "veil of ignorance" is an utterly fantastic device. Such a device is absolutely necessary, however, if he is to carry out his intention of laying down a conception of justice which is "prior" to that of the good. It is the nature of men, as philosophers as diverse as Plato and Hobbes have pointed out, to prefer the good-what each individual believes is good for him-to the just. Were an actual body of men to be assembled with a view to choosing "principles of justice," it is likely that they would choose "principles" that reflected the dominant view of what is good, including their beliefs about what God has commanded. In demanding that men choose a "conception of justice" which is allegedly indifferent among different views of the good, Rawls is asking them to go against their natures. He can bring about such a result only in speech-by virtue of a theoretical construction of which it is impossible to conceive any actual counterpart.

It is instructive to consider for a moment why Hobbes (to take one "social contract" philosopher) did not need to hypothesize such an impossible device as the "veil of ignorance." Hobbes's "state of nature" is meant to be an account of what the life of men, given their natures, would be like if only the restraints of government were removed. By pointing out the disastrous consequences of a non-political condition, Hobbes aims to indicate the fundamental reason why government is needed, and the precedence which this end-the security of men's lives-must take over any other concep-

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1 Plato, Republic, 505d; Hobbes, Leviathan, chap. 15, par. 3; chap. 17, par. 2.
tion of the good. Before one can conceive of any "principles of justice" being adopted among men, Hobbes believes, one must first presuppose the establishment of a government with the power necessary to enforce such principles. And given the primacy of the need of self-preservation over any other good-including justice itself-and the fact that varied means may at times have to be adopted to secure this good, Hobbes concludes that the sovereign must be left with the final authority to determine the rules that are to govern the lives of his subjects.

Because Hobbes attempted to take men's natures as they are and to derive the principles of government from them, he was able to show that men who did not live under a "veil of ignorance," but who had a full knowledge of their respective self-interests, would be likely to agree on those principles. Hobbes's teaching has a consequence, however, which Rawls cannot accept: even though the fundamental standard of justice for Hobbes is men's equality of right, those rights require for their enforcement that all political power be given up to a sovereign man or body which has absolute authority to determine the best means by which they may be secured. In the name of a particular conception of what is good for man-his comfortable self-preservation-the sovereign must regulate men's religious belief, the content of their speech, the distribution of property, and all other facets of their life. Thus, even though Hobbes sets a much more limited end for government than did classical or medieval political philosophers, and recommends that the sovereign leave to the individual subject a liberty to do as he likes in matters which do not affect the common security, he subordinates men's rights to liberty and equality of treatment to the attainment, by whatever means circumstances may dictate, of the one fundamental goal that all are presumed to desire.

Whereas Hobbes takes his bearings by men's nature, Rawls has set out to correct "the arbitrariness found in nature" (15, 102, 191), in the name of his particular conception of what justice requires. He admits as "relevant" to the determination of the fundamental principles of justice-the principles which are to govern everything else, including the structure of government itself-only such facets of men's nature as accord with his "conception" of men as equal "moral persons" (12-13, 18, 120, 141). It remains to be considered whether principles so devised can be at all viable, and whether they are in fact, as Rawls contends, "objective" among different particular conceptions of the good.

It is Rawls's contention that men in an "original position" such
as he has described would be led by a "rational" view of their respective self-interests to agree on "two principles of justice," and an order of "priority" between them, that he lays out. The first of these principles specifies that "each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all." The "priority" of this principle means that "liberty can be restricted only for the sake of liberty," and not for the sake of any other good. The "second principle" relating to the distribution of "primary goods" other than liberty consists of two parts: "social and economic inequalities are to be arranged . . . to the greatest benefit of the least advantaged" (the "difference principle"), but they must first of all be "attached to offices and positions open to all under conditions of fair equality of opportunity" (302).

In another article, I have tried to show that Rawls's claim that the above principles could be derived solely from the "knowledge" of "general facts" which he allots to the parties to his "original position" is fallacious. In the present essay, however, my intention is to focus my analysis of these principles on that part of A Theory of Justice which seems to have the most direct relevance to the concerns of political scientists: Part II, entitled "Institutions." It is here that Rawls proposes to test his "principles of justice" by comparing them with "our considered judgments of justice," through a delineation of "their consequences for institutions and ... their implications for fundamental social policy" (152). Through a critical examination of this part of the book, I aim to demonstrate that Rawls's principles do not have the "objective" status he attributes to them; and that they fail to provide a standard for political (in the broad sense) institutions that is either meaningful, feasible, or just.

The Application of the "Two Principles": Rawls's "Four-Stage Sequence"

The dichotomy that exists in Rawls's thought between "moral theory" and the analysis of the facts of political life is clearly evidenced in his account of a hypothetical "four-stage sequence" in which the "principles of justice" he has laid down are to be applied to institutions. Each "stage" in the series represents a greater level of particularity in the decisions being made, and a consequently less

8 At the time the present essay was completed, the article referred to had just been submitted for publication. Readers wishing to see it may contact me for the reference.
stringent imposition of the "veil of ignorance." In distinguishing these "stages," Rawls assumes that it is possible, in thought at least, to isolate completely decisions about which principles are "just" from decisions about what sorts of institutions are actually feasible. Thus, only after the first "stage" (the "original position" in which the "two principles of justice" were established) has been completed is a hypothetical "constitutional convention" to "decide upon the justice of political forms" in light of those principles and "choose a constitution" with a view to securing the maximum "equal liberty" that, as the "first principle" asserts, is the most fundamental requirement of justice (196, 199). Although the "delegates" to this convention, unlike the "parties" to the "original position," are allowed "to know the relevant general facts about their society," they are not permitted to question the previously agreed upon "principles of justice" in light of those facts (let alone in light of their "conceptions of the good," of which they are still kept ignorant). Rather, their task is simply "by running through the feasible just constitutions" (i.e., those which secure "the liberties of equal citizenship," including "liberty of conscience, freedom of thought, liberty of the person, and equal political rights"), to settle upon the one constitution "that in the existing circumstances will most probably result in effective and just social arrangements" (197-8). While Rawls's language here suggests a distinction between a constitution's being "just" and its being "effective" or "feasible," he apparently assumes that in all cases some constitution conforming to his definition of "justice" will also be "feasible"; it is this assumption which enables him to postpone the determination of feasibility until after the "principles of justice" have been agreed upon. 4

Once a particular constitution has been chosen, it is to provide the rules "for reconciling conflicting opinions of justice" at the third or "legislative" stage, where "representative legislator[s]" enact "social and economic policies ... aimed [in accordance with Rawls's 'second principle] at maximizing the long-term expectations of the least advantaged under conditions of fair equality of opportunity, subject to the equal liberties being maintained" (196, 199). Again, Rawls presupposes the possibility of completely severing decisions of "principle" from those involving particulars: his description of "the political process" specified by the constitution "as a machine which makes social decisions when the views of representatives and their constituents are fed into it" (196) strikingly

It is significant that Rawls, in demanding that the "principles of justice" be determined prior to the institution of government, reverses Hobbes' order.
resembles the discredited "mechanical" theory of jurisprudence, according to which "constitutional" interpretations are entirely separable from judgments of "policy." A similar kind of abstraction is implicit in Rawls's distinction of a fourth "stage" in which the policies agreed upon by legislators are to be applied "to particular cases by judges and administrators" and followed "by citizens generally": Rawls gives no evidence of recognizing the inevitably political, policymaking character of administrative as well as judicial functions. Thus, even though it is only at this "last stage" that the "veil of ignorance" is entirely lifted, Rawls assumes that a responsible administrator's or judge's knowledge of particulars should in no way cause him to question the legislative "policies" that have been adopted in accordance with "constitutional" principles that represent, in turn, the application to politics of "the principles of justice." "Conclusions from these principles . . . override considerations of prudence . . ." (135); the only legitimate ground for questioning the justness of a policy comes, not from a prudential awareness of its consequences, but from a belief that it does not correspond to Rawls's "principles." Thus the extent of an individual citizen's obligation to obey the law can be determined only from a theoretical doctrine specifying "the grounds and limits of political duty and obligation" in light of "the original position," i.e., in the full darkness about particulars that the "veil of ignorance" guarantees (199-200).

The division of political decision-making into the sequence of "stages" described above is necessitated by Rawls's intention of establishing the "priority" of justice to "the good," and consequently defining a concept of justice upon which men could supposedly agree despite the most extensive disagreement in their political judgments, their religious beliefs, or their "conceptions of the good." Rawls seems to be aware that a limitation of men's minds by the application of a "veil of ignorance" at each stage prior to the last would be impossible to achieve in practice. Despite its lack of correspondence to reality, however, he intends his "four-stage sequence" as a model of the kind of reasoning upon which actual human beings should attempt to base their judgments of justice.

I do not believe that Rawls's "four-stage sequence" can serve the function he desires. Rawls's exclusion from the minds of his constitution- and law-makers of critical knowledge of particular facts, and of their "conceptions of the good," I shall attempt to demonstrate, inevitably leads to a barren and politically destructive formalism. Rawls can claim that the consequences of his "two princi-
pies" are "just" only because he ignores all real objections to them, and can make them seem meaningful only through a series of non sequiturs and unjustified "assumptions" about reality. In the succeeding sections of this article, I shall attempt to document Rawls's failure to develop meaningful and valid standards of justice by examining his application of each of his "two principles" to politics, and his doctrine of "civil disobedience."

The "Priority" of "Equal Liberty"

In accordance with his claim that the requirements of "liberty" must be "prior" to all other goods, Rawls aims to incorporate these requirements in a "constitution" which is to limit the determinations of "legislators" about how other "primary goods" are to be promoted. Thus, Chapter IV of A Theory of Justice, which constitutes the first section of Part II, is devoted to the description of a "workable" constitution that satisfies the first principle of justice by securing the equal liberties to which all men are entitled. Although "[t]he main institutions of this structure are those of a constitutional democracy," Rawls does "not argue that these arrangements are the only ones that are just," but aims only "to show that the principles of justice . . . define a workable political conception, and are a reasonable approximation to and extension of our considered judgments" (195).

Given the "priority" that Rawls attaches to liberty as the goal of a just constitution, and the sharp dichotomy he lays down between this end and other "primary goods," it would seem that his first task in describing a satisfactory constitution must be to give a specific, substantive meaning to the term "liberty." Most surprisingly, however, Rawls does not think that such a definition is necessary. Rawls believes that he can "bypass the dispute about the meaning of liberty" because "this debate is not concerned with definitions at all, but rather with the relative values of the several liberties when they come into conflict" (201). "Fortunately, however," Rawls asserts, "we do not often have to assess the relative total importance of the different liberties" (230). His remarkable solution to the problem of resolving such conflicts as that between "political liberty," understood as simple majoritarianism, and the protection of other liberties through constitutional restrictions on the majority will, is as follows:

Usually the way to proceed is to apply the principle of equal advantage in adjusting the complete system of freedom. We are not
called upon either to abandon the principle of participation entirely or to allow it unlimited sway. Instead, we should narrow or widen its extent up to the point where the danger to liberty from the marginal loss in control over those holding political power just balances the security of liberty gained by the greater use of constitutional devices. . . . It is a question of weighing against one another small variations in the extent and definition of the different liberties. The priority of liberty ... allows although it does not require that some liberties, say those covered by the principle of participation, are less essential in that their main role is to protect the remaining freedoms. Different opinions about the value of the liberties will, of course, affect how different persons think the full scheme of freedom should be arranged.... Ideally these conflicts [among different liberties] will not occur and it should be possible, under favorable conditions anyway, to find a constitutional procedure that allows a sufficient scope for the value of participation without jeopardizing the other liberties (230).

All that Rawls has managed to say about the relative importance of the different "liberties" and their compatibility with one another, in the most extensive discussion of the problem that he ever provides, is that he will ignore the question! This failure is not incidental, I believe, but is the necessary outcome of Rawls's very approach to the nature of justice. In attempting to maintain the "priority" of liberty to other goods, and in seeking to provide a definition of "justice" upon which men can agree despite their differing conceptions of the good, Rawls is forced to avoid defining liberty in terms of the uses to which it is put. But any agreement that Rawls can secure on the "priority" of liberty without providing such a definition is, as the long quotation above indicates, a purely formal one, which gives us no guidance as to how institutions should be structured. In fact, Rawls dismisses such questions as how far majority rule should be constitutionally limited, or how far the "successful working" of "constitutional mechanisms" to protect certain liberties "presupposes certain underlying social conditions," as "matters" that "lie outside the theory of justice" (229). How far is Rawls's conception of "substantive political philosophy," as he terms his enterprise (202), from the "architectonic" science, providing guidance to statesmen and citizens, of which Aristotle wrote!

Rawls grants at one point that liberty is only meaningful with reference to "what it is that [men] are free to do or not to do" (202). Yet he does not seem to realize that as a consequence of this fact, his general principle that "liberty can be restricted only for the sake of liberty" (302) is utterly meaningless. It remains meaningless even when Rawls limits it to liberties that are "basic" (204)- not only
because he never systematically specifies which liberties are "basic," and why, but also because the most fundamental conflicts are among the most "basic" liberties.

Were one to take Rawls's "first principle" literally, it would prevent there being any clear justification for the institution of any sort of constitution, government, or laws restricting men's liberty to do as they please. If "it is by and large true that a greater liberty is preferable," why should men agree to give up the absolute liberty they would seemingly enjoy without government? Rawls replies that the preferability of the greatest liberty "holds primarily for the system of liberty as a whole, and not for each particular liberty. Clearly when the liberties are left unrestricted they collide with one another" (203). But if the value of the different liberties cannot be weighed in terms of some standard other than liberty, why may one not rationally prefer those liberties which one could enjoy outside of a political state to those which it provides? It is no answer to say, even if it were possible to demonstrate, that there are more liberties available under a system of law, or that the "system of liberty as a whole" is greater under law-for why may one not "value" the liberties that come from not being under law more than any of the legal liberties? Clearly, one cannot determine how far different liberties should be limited or protected without some substantive standard derived from the nature of human desires and needs, such as Hobbes's principle of the primary importance of self-preservation. But to grant such a standard is to concede that the maximization of an undefined "equal liberty" cannot be primary.

Rawls cannot maintain any intelligible distinction between his abstract concept of "liberty" and the other goods to which he holds it is "prior," let alone to justify that "priority." He holds, in fact, that "the worth of liberty to persons and groups is proportional to their capacity to advance their ends" (204). But if the value of liberty is simply instrumental to other ends, why may men not rationally choose to sacrifice liberty if they believe that so doing will better secure their ends?

Rawls's only answer to this question seems to be that his conception of the "original position" in which men are "represented" as free and equal "moral persons," with varying "conceptions of the good" that they must be left free to follow, precludes such a choice (12-13, 211, 448). But Rawls himself cannot and does not maintain such an "objectivity" among different views of the good. Rather, through the meaning he implicitly gives to "liberty" and through his "theory of primary goods," Rawls imposes a particular view of the
good on men—albeit an extremely low view, and one which he never attempts to justify by reason. This procedure is evident in his "arguments for an equal liberty of conscience," which he "assume[s] ... can be generalized . . . to support the principle of equal liberty" as a whole (211), so that he can dispense with any attempt to argue for the other forms of liberty he demands.

Rawls begins his discussion of "equal liberty of conscience" by presupposing its conclusion: he asserts, without reasoning or evidence, that "[t]he question of equal liberty of conscience is settled. It is one of the fixed points of our considered judgments of justice" (206). As usual, Rawls seems to assume that the dictates of his own "sense of justice" represent the unanimous verdict of all rational men. He wants to indicate, however, how "the question of equal liberty of conscience . . . illustrates the nature of the argument for the principle of equal liberty" from the standpoint of the "original position." His "argument" is simply this:

... it seems evident that the parties [in the "original position"] must choose principles that secure the integrity of their religious and moral freedom. They do not know, of course, what their religious or moral convictions are, or what is the particular content of their moral or religious obligations as they interpret them. Indeed, they do not know that they think of themselves as having such obligations. . . . Further, the parties do not know how their religious or moral view fares in their society. . . . All they know is that they have obligations which they interpret in this way... . Now it seems that equal liberty of conscience is the only principle that the persons in the original position can acknowledge. They cannot take chances with their liberty by permitting the dominant religious or moral doctrine to persecute others if it wishes (206-7).

It is not only persecution and suppression that the principle of "equal liberty of conscience" as Rawls interprets it proscribes. "The state can favor no particular religion and no penalties or disabilities may be attached to any religious affiliation or lack thereof" (212). Moreover, since "the parties" in the "original position" "do not share a conception of the good" or "an agreed criterion of perfection," they cannot agree to allow government to regulate men's behavior so as to promote their excellence or perfection (327). Not even "sexual relationships" which are thought to be "degrading and shameful" can be restricted unless they "interfere with the basic liberties of others"; there are no "duties to self" in the name of which men might choose to be governed (248, 331).

We may leave aside the contradictoriness of Rawls's description of the "parties" in the "original position"—for instance, the fact
that they "know . . . that they have obligations" even though "they do not know that they think of themselves as having "moral or religious obligations." (What other kind of obligation does Rawls have in mind?) We may even ignore the question of how a "doctrine" could "persecute others" or even "wish" to do so. What we are left with is simply an untenable argument. Rawls has not shown at all that parties in the "original position," even those who were ignorant of their specific "religious or moral convictions," would opt for the principle of "equal liberty" as he interprets it. If they knew that they had "religious or moral convictions" at all, they would be likely to adopt the "principle" that whatever the true religion or morality is, men should be governed in accordance with it.

To this Rawls will reply that although the parties do not know what their religious and moral convictions are, they do know that there are differences among their respective convictions, and hence that the principle I have stated cannot be applied without violating the "obligations" that some have to their beliefs, or to their descendents who would share such beliefs. "[A]n understanding of religious obligation and of philosophical and moral first principles shows that we cannot expect others to acquiesce in an inferior liberty. Much less can we ask them to recognize us as the proper interpreter of their religious duties or moral obligations" (208). In other words, since religious persons cannot allow those of differing faiths to interpret their "obligations," all must agree to make Rawls the supreme and final interpreter of those obligations! But Rawls has in no way justified his claim to be such an interpreter. What "philosophical and moral first principles" Rawls has in mind, or whence they are derived, he does not make clear. But there is no evident set of principles by which Rawls could demonstrate to a religious person that one's "obligation" to protect others' "equal liberty" to be atheists takes precedence over his duty to God. Far from even trying to provide such a demonstration, Rawls merely asserts that "[i]t is unnecessary . . . to argue against" the religious man's view (208).

The speciousness of Rawls's claim that his view of justice is "prior" to or independent of any particular view of the good, any "particular interpretation of religious truth," and "any special metaphysical or philosophical doctrine" (214, 217) is fully manifest here. To say that the principle of "equal liberty of conscience" as Rawls states it is compatible with all moral and religious convictions is absurd. By agreeing to establish a society in which the government took no care for men's religious beliefs or moral conduct but left
everyone free, in effect, to "do his own thing," the "parties" to the "original position" would be committing themselves to the institution of a materialistic, self-seeking way of life for the citizenry as a whole in which neither religion nor morality would be taken seriously. Regardless of whether or not the reader is a religious believer himself, he might reasonably doubt that such a society would be truly conducive to men's well being. Yet Rawls refuses to consider whether, as many great political philosophers and at least some of America's Founding Fathers believed, public support for religion-to say 'nothing of morality-is necessary to the preservation of a free regime. It is simply ruled out by his definition of "justice."

In assuming the primary importance of men's coming to an "agreement" rather than their pursuing a way of life that is in accordance with the commands of God or the requirements of their natural perfection, Rawls follows Hobbes's line of thought. Hobbes, however, did not begin his argument from an assumption that whatever men's "sense of justice" tells them is correct. Hobbes was aware, as Rawls is not, that the content of men's "sense of justice" varies considerably from one society to another, depending on what they have been taught. As a philosopher in the true sense, Hobbes did not rest content with what his society taught him, however, but looked to nature as his standard. Through his description of the "state of nature," he attempted to uncover those needs that are most natural or fundamental to man, and to determine how men's opinions about justice might be revised so as to make possible the greatest degree of satisfaction of those needs.

Hobbes, unlike Rawls, knew that it would be impossible to demonstrate the primacy of the need for "agreement" over the claims of religion without giving men reason to believe that those claims, insofar as they conflict with the terms of the "agreement," are false. He attempted to do so both by a reinterpretation of Scripture aimed at showing that it is compatible with the principle of absolute obedience to the civil sovereign, and by an epistemological teaching which suggests the impossibility of the kind of knowledge to which the adherents of revealed religion lay claim. Hobbes was furthermore aware that to demonstrate the primacy of respecting men's "equal rights" over the need to direct men towards their natural perfection would require him to show that the former policy was more conducive to the securing of what men by nature desire and pursue, the satisfaction of their most natural needs. He aimed to do this through his account of the "State of Nature" and through a new
teaching about the proper function and construction of government that he believed would radically improve the human condition.

Rawl's doctrine of "equal liberty of conscience" is wholly dependent on Hobbes's teaching, even though he does not seem to realize it. Merely denying that his argument rests on "skepticism in philosophy or indifference to religion" (214) does not make this denial correct. Contrary to his disclaimers, Rawl's teaching certainly does "require that government view religious matters as things indifferent" and imply "that the criteria of excellence lack a rational basis" (212, 328). Of course there are grounds other than a Hobbesian skepticism on which one might defend a reasonable principle of religious toleration and oppose overly zealous moral crusades. But no ground other than an extreme moral and religious skepticism (if that) would support Rawl's doctrinaire demand that the government regard the promotion of religion and human excellence as wholly outside the sphere of legitimate public concern and regulation.

Rawl's "theory of primary goods" is simply the obverse side of this skepticism, and is similarly derivative from Hobbes's principles. Rawls reveals the dogmatic relativism about morality and religion which in reality pervades his thought by referring to the so-called primary goods as "objective" ones, in contradistinction to the goods of holiness or natural perfection (155, 517, 532, 554). He believes that the "primary" goods are "objective" among different "final ends" because they "are things that it is rational to want whatever else one wants" (253). But from the fact that one needs some degree of liberty, opportunity, and even income to pursue any end, it does not at all follow that society should be so structured as to maximize individuals' freedom from external restraint, equal influence in the political process, and wealth. Nor is one thereby entitled to define (as Rawls does) an "ideal of the person" in terms of the willingness to grant these things to others, an "ideal" which is to take precedence over all other ends (327).

Far from being "objective" among different views of the good, Rawls's "theory of primary goods" and his demand for the maximization of men's freedom from external restraint appear to allow only one version of the "good" society a liberal, commercial, democracy composed of self-seeking individuals devoted to the pur-

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suit of private pleasures. Underlying this view of the just society is a particular view of the individual good which Rawls elaborates in Part III of *A Theory of Justice*. He defines a person's good as "the successful execution of a rational plan of life," with "rationality" being understood in purely "instrumental" terms as "taking the most effective means to given ends" (14, 408, 432). There is no intrinsic value to the attainment of any particular end; what counts is only that an individual should feel satisfied. Hence, if a man finds that his "only pleasure is to count blades of grass ... the good for this man is indeed counting blades of grass" (432). Regardless of the character of the goals which different groups of men may seek "we are not to try to rank them in value" (53). Although Rawls denies that "a just and good society must wait upon a high material standard of life" (290), his definition of "income and wealth" as "primary goods" presupposes that the wealthier a man is, the better off he is (396). Rawls does not in fact regard even liberty itself as having any intrinsic value apart from its conduciveness to the attainment of other ends. Thus "the worth of liberty to persons and groups is proportional to their capacity to advance their ends" (204); the "fair value of political liberty" depends on how much "property and wealth" one possesses (226); there is no intrinsic worth to actively participating in politics (227), any more than to the process of thinking (418), or to the attainment of truth (419). If what is good for man is simply feeling satisfied, the closest approximation to Rawls's version of the good society would seem to be a herd of contented cows.

*Political Equality*

While Rawls's view of the human good as the secure and untroubled pursuit of private pleasures follows directly from Hobbes's teaching, there is one important element of Rawls's "theory of primary goods" that seems to go beyond Hobbes, namely, his demand that individuals enjoy an equality of political influence so as to secure the "primary good" of "self-respect" (221-5). This aspect of Rawls's teaching seems to reflect the influence of Rousseau. Rawls has not, however, considered the conditions that Rousseau pointed out are necessary for the attainment of this political equality, or realized their incompatibility with his Hobbesian principles.

Like Rousseau, Rawls believes that an individual's self-respect and consequently his happiness are dependent on there being a fundamental equality of condition between himself and others, including political equality. Rousseau, however, recognized that a truly egalitarian, simply democratic regime could be maintained only in
a small, frugal community, whose citizens participate directly in the making of laws and are patriotic, pious, and virtuous. 6 Far from admitting these conditions, we have seen, Rawls undermines them by setting forth "principles of justice" that deny to the government the authority to promote religion or educate its citizens to virtue, that direct it to promote a maximal increase in each citizen's wealth, and that dispense with any obligation on the part of the citizenry themselves to take a care for their own or each other's virtue and piety. The equal sanctity of each man's "plan of life" as asserted by Rawls means "do your own thing and leave others alone." Were a community of such non-religious, amoral, self-seeking men to let itself be governed directly by the will of the majority, it would soon destroy itself. Alternatively, however, if what Rawls has in mind (as he appears to) is a large, commercial republic in which the popular will is filtered through representatives and limited by a constitution and a system of checks and balances, and in which commercial prosperity makes up for the defect in strength caused by the people's lack of virtue, then he will have to resign himself to there being an inequality of status and political influence among the citizens. But Rawls is unwilling to accept this, either. While he wishes representatives to be more than "mere agents of their constituents" since their first responsibility is "to pass just and effective legislation," (227) his demands concerning the electoral structure of a "just" constitution show no evidence of reflection on how this end can be brought about. His precepts that political parties should "be autonomous with respect to private demands" and "must advance some conception of the public good" in order "to win office"; that "each vote" should have "approximately the same weight in determining the outcome of elections"; that "gerrymandering" should be prevented; and that "representatives" should "be responsive to the felt interests of the electorate" (222-7) could have been drawn from the program of a Reform Democratic Club in New York City; certainly they are not derived from any evident "philosophic" reflection on how the end of substantive justice can be secured, nor do they show any awareness of the practical objections that might be raised concerning both the feasibility and the desirability of these proposals. 7 Having laid down these precepts,

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7 For a consideration of the kind of issues with which Rawls fails to deal in endorsing the doctrinaire principle "one man, one vote," cf. Robert Horwitz, "Reapportionment in Hawaii," and Harvey C. Mansfield, Jr., "Impartial Repre-
Rawls hastens to excuse himself from having to defend them by "emphasizing that our discussion is part of the theory of justice and must not be taken for a theory of the political system" (227). But how can one determine what a "just" political system would be without considering, empirically and rationally, the nature of politics? What entitles Rawls to call his proposals "an ideal arrangement . . . which defines a standard for judging actual institutions" (227)? Since Rawls has not at all demonstrated the likelihood that these proposals would lead to substantively "just and effective legislation," he has not justified their "ideal" status in any way.

In his treatment of political equality, as in other areas, Rawls's procedure is to lay down contradictory requirements allegedly drawn from a "theory," to avoid considering the actual political problems and difficulties to which they give rise, and to imply that all departures from his contradictory principles, however necessary, are something less than just: We may observe further instances of this procedure in Rawls's application of his "second principle of justice," the "difference principle" with its qualifications, to the problem of devising "just" institutions.

The "Difference Principle"

A. Theory

Rawls's "second principle," we recall, specifies that "social and economic inequalities are to be arranged . . . to the greatest benefit of the least advantaged," subject to the proviso that they must be "attached to offices and positions open to all under conditions of fair equality of opportunity." Political inequalities are ruled out entirely, we have seen, on the ground that they violate the equality of political liberty that is, to be protected by the "first principle." Whether they can be so sharply distinguished from "social and economic" inequalities is open to question; but Rawls does not take up this question. Nor is it at all clear what Rawls means by "social" inequalities, or how they are to be controlled. His discussion of the "second principle" is limited almost exclusively to economic matters. Here, as elsewhere, we note the materialistic bias of Rawls's conception of the good.

The bizarre assumption upon which the "difference principle" rests is that "no one deserves his place in the distribution of natural assets" (311), and consequently that society must be dedicated to "nullify[ing] the accidents of natural endowment" as well as those of "social circumstance" in the distribution of "political and economic advantage" (15). Rawls appears to have derived his assumption about the undeservedness of "natural assets" from the philosophy of Kant. But he seems unaware of the dependence of this doctrine in Kant's thought on what he arbitrarily dismisses as its "metaphysical surroundings" (264). And the inference he derives from it about the purpose of society directly contradicts Kant's notion of morality.

Kant's denial that "natural assets" are "deserved" stems from his dichotomy between the realms of nature and of freedom. Given the purposelessly deterministic character that modern science apparently reveals nature to have, Kant argues, no natural talent or ability can entitle man, as individual or as species, to claim any true superiority to a mere stone. Insofar as man acts in accordance with his "natural" inclinations, he is determined by the same laws that gave the stone its nature. The one faculty which enables man to rise above the rest of nature, Kant believes, is his reason. By acting in accordance with the commands of morality as they are dictated by reason alone, man expresses his unique freedom from external determination. The purely rational, and hence free, character of morality is due to its universality: the fundamental principle of morality, the "categorical imperative," is based, Kant contends, on the simple "idea" of man as a rational being and of the treatment that reason necessarily shows such a being to deserve. The political embodiment of the categorical imperative-Kant's model of the just society-is a state which recognizes men's equality as rational, moral beings by treating them impartially, i.e., by securing their equal rights.

Rawls frequently employs Kantian phraseology to justify the command that men obey his "principles of justice"-e.g., he claims that by following these principles men "most fully reveal their independence from natural contingencies and social accident" (255). But this claim is entirely illegitimate, because Rawls has not even attempted to demonstrate that his principles are derivable from the dictates of a universal reason. On the contrary, we have seen, he traces them to nothing more than a "sense" or "intuition." There is no reason to believe that in following an irrational "sense," man transcends in any way the behavior of the irrational animals.

It is not only the ground, but the content of Rawls's "principles
of justice," that contradicts the Kantian morality. The "difference principle" directly violates the Kantian dictum that each man is an end in himself, entitled to have his fundamental rights respected equally with those of his fellows. A government which treated men equally would be obliged to protect each man's right to develop his talents and enjoy the fruit of his labors, Rawls, on the contrary, treats the "distribution" of men's "natural talents," including even their "character," as a "collective asset" which is to be utilized for the special benefit of one class: the "least advantaged" (101, 103, 319). His aim is to equalize, not men's opportunities, but their achievements: "institutions are ranked by how effectively they guarantee the conditions for all equally to further their aims" (97; emphasis added); and resources should be allocated "so as to improve the long-term expectation of the least favored" by nature, even at the expense of "the more intelligent" (101).

Rawls justifies the above policies by claiming "that undeserved inequalities call for redress," and that "since inequalities of birth and natural endowment are undeserved, these inequalities are somehow to be compensated for" (100). His aim is to treat men in accordance with his view of them as "equal moral beings." But in treating men unequally so as to make them equal, on the assumption that each man's individual qualities are a "collective asset to which he has no moral claim," Rawls commits exactly the sin for which he reproached the "utilitarian": failing "to take seriously the distinction between persons" (27). What constitutes the identity of a person is his nature. It is therefore nonsensical to assert, as Rawls does, that "everyone benefits when the difference principle is satisfied" because "the representative man" whose nature is unknown allegedly "gains" from it (80). Actual human beings cannot be "represented" by a being who has in effect no nature.

Whereas Kant aimed to show how man, by following the dictates of a morality derivable purely from reason, could transcend nature, Rawls's aim is a much more radical one: to transform nature. But this aim rests on nothing more than Rawls's own fiat. From the Kantian principle that "no one deserves his natural assets," it does not follow that other men "deserve" the fruits of these assets more than he does. Rawl's demand that the "natural distribution" of talents be "redressed" in no way represents a respect for humanity as such. Rather, Rawls wishes to transform humanity into something completely foreign to men's nature: a race of "equal"
beings who, regardless of their native talents, achieve-so far as is possible-the same results.

Like all ideologues, Rawls is at his most vehement when his ground is weakest. Thus he summarily dismisses the contention "that the person with greater natural endowments deserves those assets and the superior character that made their development possible," and hence "deserves the greater advantages that he could achieve with them," as "surely incorrect" because it conflicts with what "seems to be one of the fixed points of our considered judg-
ments. . . ." (103-4). "The notion of desert," Rawls asserts, "seems not to apply to these cases" (104). "Of course," as Rawls himself concedes, "none of this is strictly speaking an argument" (104). But it is the only "argument" he supplies in support of his view.

Far from representing the "considered judgments" of anyone but himself, Rawls's "difference principle" is so much in opposi-
tion to common sense that Rawls must strive to transform language itself in order to argue for it. Thus, even though "[t]here is a tendency for common sense to suppose that income and wealth, and the good things in life generally, should be distributed according to moral desert" (310), or, as in the above example, according to men's effort and ability, Rawls simply "rejects this conception" of desert (310). But what meaning, then, is the term "desert" to have? An-
swer: "a just scheme gives each person his due, that is, it allots to each what he is entitled to as defined by the scheme itself" (313: emphasis added). Rawls's aim, it appears, is to redefine the very term "desert" so that it will mean nothing other than "what accords with Rawls's two principles." Thus may he hope to secure his "principles" against any objection; but he can hardly claim to have solved the problem of justice,

In order to see the absurdity of Rawls's conception of "desert," one need only raise the question of why, in his endeavor to "re-
dress" nature's "injustice," he stops at equalizing the "distri-
bution" of goods among human beings. If no individual man deserves to enjoy the fruit of his talents and labors, why should the human race enjoy goods which the other animals, by virtue of their natures, do not? Should we not dedicate humanity to the service of the beasts, who were "unjustly" treated 'through nature's failure to give them the power of reason that men enjoy'? Once Rawls has rejected both reason and nature as standards for determining an individual's desert, he has deprived himself of any ground upon which to reject
such a proposition. All he can say is that his "sense of justice" does not require it. But by such a method of argument, one can say anything.

B. Practice

Given the arbitrary notion of "desert" on which it is based, one might well view with alarm the attempt to enforce Rawls's "difference principle" as the essence of tyranny. But Rawls himself, in describing a "just" system of "political economy," does not adhere to that notion of desert. The reader who has considered what appear to be the radically "levelling" implications of the "difference principle" will be shocked by the conventionality of the consequences for policy that Rawls actually draws from it. His standard of a just "political economy" requires nothing more than a competitive "market system," government sponsorship of education to promote "equal chances of education and culture for persons similarly endowed and motivated," progressive taxation, and the guarantee of a "social minimum" through such devices as social security or a "negative income tax" (275; emphasis added). Education, then, is not to overcome men's inequalities, but to provide the equality of opportunity in which these inequalities can be most fully developed. But how can Rawls justify such a policy, in view of his previous assertions? Answer: "as I have defined it, the second principle only requires equal life prospects . . . for those similarly endowed and motivated" (301; emphasis added). As Rawls giveth, Rawls taketh away. But underlying this contradiction of his earlier treatment of "desert" is the sudden recognition that to carry out that line of reasoning might require the abolition of the family (74, 301, 511). One may applaud Rawls's scruples, if not his consistency, in refusing to advocate such a step.

If Rawls's proposals for education will not bring about the radical egalitarianism that he had led the reader to expect, there is no indication that his other prescriptions for "political economy" will bring men closer to this result, either. How large a weight should the egalitarian principle of "need" represented by the "social minimum" be given? An "appropriate" one (276). Tax policies should insure that "as far as possible inequalities founded on either" birth or intelligence "should satisfy the difference principle" and should not "exceed a certain limit." What limit?

Naturally, where this limit lies is a matter of political judgment
THE "SENSE" AND NON-SENSE OF JUSTICE

guided by theory, good sense, and plain hunch, at least within a certain range. On this sort of question the theory of justice has nothing specific to say. Its aim is to formulate the principles that are to regulate the background institutions (278).

But Rawls has formulated no meaningful "principles"; he has merely endorsed the policies of the modern welfare state as appealing to his "sense of justice." The fact that he has furnished no standards by which one could determine whether an actual inequality is or is not "unjust" according to his principles does not prevent him, however, from taking the opportunity to denounce "the injustice of existing institutions" (279; cf. also 87, 226, 520). Like the "difference principle" itself, this kind of *obiter dictum* has helped to win Rawls's book a certain popularity among the chicly "radical": Rawls apparently wished to show that even "philosophers" like himself can be "relevant." But Rawls's judgment of "existing institutions" is unsupported, and it would be impossible to show that such institutions, or any institutions, violate the "difference principle" as Rawls has stated it. The "justness" of an inequality supposedly depends on whether it benefits those who enjoy less than equal "advantages": but Rawls's abstract conception of "political philosophy" saves him from having to investigate what things actually are beneficial to the "least advantaged," or to anyone. As he acknowledges, his "theory" does not even imply that hereditary inequalities or a "hierarchical class structure" are necessarily unjust (300-2). "[I]n theory the difference principle permits indefinitely large inequalities in return for small gains to the less favored ..." (536).

Rawls justifies the acceptance of inequalities in accordance with the "difference principle" by rhetorically asking, "if there are inequalities in the basic structure that work to make everyone better off in comparison with the benchmark of initial equality, why not permit them?" (151). Since the proposition is practically a tautology, it would be hard to object to it. What it *abstracts* from, however, as Rawls admits, is the human passion of *envy*, and the effect that extensive inequalities might have on everyone's attainment of the equality of "self-respect" to which Rawls believes they are entitled (143-4 151, 181, 442). In applying the "difference principle" to the problem of defining a just "political economy," in fact, Rawls arbitrarily *avoided including* "self-respect" in his calculations, even though he regards it as the "most important" "primary good" (92, 440).
What can justify Rawls's disregard of the problem of envy in defining "just" institutions? In the first place, we are told that

the difference principle . . . presupposes . . . a certain theory of social institutions. . . . it relies on the idea that in a competitive economy . . . with an open class system excessive inequalities will not be the rule. Given the distribution of natural assets and the laws of motivation, great disparities will not long persist (158).

But Rawls neither specifies what the criterion of "excessiveness" is, nor in any way demonstrates the truth (or even indicates the source) of this "theory." Contrary to Rawls's assumption, recent research has shown what philosophers like Locke already knew: that equality of opportunity need not greatly reduce the extent of inequalities in income among individuals. The fact that "great disparities" may "not long persist" among different families from one generation to another in not likely to mitigate the feelings of envy which individuals may experience towards those who are "better off."

In denying that the application of the "difference principle" in the manner specified above will give rise to strong feelings of envy, Rawls argues further that is because his "contract conception of justice supports the self-esteem of citizens" by viewing them as equally "deserving from a moral point of view" and insuring them political equality, "the less fortunate have no cause to consider themselves inferior and the public principles generally accepted underwrite their self-assurance" (536). Once again, Rawls's approach is wholly abstract, and is contradicted by the nature of things. What actually happens in a democratic society where equality of opportunity prevails and "primary goods" are pursued, and the reason for it, was noted by that acute observer, Alexis de Tocqueville:

One must not blind himself to the fact that democratic institutions most successfully develop sentiments of envy in the human heart. This is not because they provide the means for everybody to rise to the level of everybody else but because these means are constantly proving inadequate in the hands of those using them. Democratic institutions awaken and flatter the passion for equality without ever being able to satisfy it entirely. This complete equality is always slipping through the people's fingers at the moment when

they think to grasp it, fleeing, as Pascal says, in an eternal flight; the people grow heated in search of this blessing, all the more precious because it is near enough to be seen but too far off to be tasted. They are excited by the chance and irritated by the uncertainty of success; the excitement is followed by weariness and then by bitterness. In that state anything which in any way transcends the people seems an obstacle to their desires, and they are tired by the sight of any superiority, however legitimate.  

No matter how a people strives for it, all the conditions of life can never be perfectly equal. Even if, by misfortune, such an absolute dead level were attained, there would still be inequalities of intelligence which, coming directly from God, will ever escape the laws of man.

No matter, therefore, how democratic the social condition and political constitution of a people may be, one can be sure that each and every citizen will be aware of dominating positions near him, and it is a safe guess that he will always be looking doggedly just in that direction. When inequality is the general rule in society, the greatest inequalities attract no attention. When everything is more or less level, the slightest variation is noticed. Hence the more equal men are, the more insatiable will be their longing for equality.

... That is the reason for the strange melancholy often haunting inhabitants of democracies in the midst of abundance, and of that disgust with life sometimes gripping them in calm and easy circumstances.

As in his treatment of political equality, Rawls in the application of his "difference principle" has attempted to keep a foot in each of two canoes that are headed in opposite directions: the Hobbesian-Lockean view of the good as the maximization of individuals' material prosperity through the development of talents (and therefore of inequalities), and the Rousseauean view which identifies the good and just society as one in which men are actually equal, and consequently in which the development of talents, individual differences, and wealth must be severely limited. To decide the relative merits of these two views is a most serious issue of political philosophy; but Rawls contributes nothing to its resolution. Like the contemporary "New Left," he is unwilling to face the fact that his demands for equality and community on the one hand and for the promotion of material prosperity and individual freedom from restraint on the other are in conflict with one another.

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er. Such a refusal to face the contradictions contained in one's opinions is the very opposite of Socratic dialectic.

"Civil Disobedience"

This survey of the questionable consequences of Rawls's view of "justice" as applied to institutions would be incomplete without a brief look at the doctrine of "civil disobedience" which he sets forth in his chapter on "Duty and Obligation." Rawls makes no attempt to justify this doctrine by an analysis of the likely decision of the "parties" to his "original position." Instead, he simply asserts that "when they adopt the majority principle the parties agree to put up with unjust laws only on certain conditions," and that it "could not have been within the meaning of the duty of justice in the original position" that the parties be "required to acquiesce in the denial of [their] own and others' basic liberties" (355). No clear definition of what the "basic liberties" are, what limitation of them constitutes a "denial" of liberty as opposed to a necessary restraint, or how the different liberties are to be balanced against one another has been offered by Rawls. Nor has he demonstrated that, assuming his view of justice could be made consistent, anything approximating it is politically actualizable. Nonetheless, Rawls is confident that while "we submit our conduct to democratic authority only to the extent necessary to share equitably in the inevitable imperfections of a constitutional system," it is never "necessary" to deny men's "basic liberties" or to distribute "the burden of injustice" unevenly "over different groups in society" (355).

The consequence of this abstract view of things is a radically subjectivistic view of the obligations of citizenship that, if it were widely adopted, would be destructive of any regime, and that, for this reason, is not at all likely to be chosen by parties in a prepolitical "original position" who are in any sense rational and aware of political realities. Although Rawls concedes "that there is a limit on the extent to which civil disobedience can be engaged in without leading to a breakdown in respect for law" (374), his teaching would encourage disobedience whenever an individual feels that "a basic liberty" has been abridged (372), that his government's aims in a war are "sufficiently dubious" (381), or even that "the public decision concerning the level of savings" is wrong (296). Rawls sees no need for a regime to instill in its citizenry a loyalty that will lead them to make sacrifices and even risk their lives for their country;
quite the contrary, "[g]iven the often predatory aims of state power, and the tendency of men to defer to their government's decision to wage war," Rawls finds that "a general willingness to resist the state's claims is all the more necessary" (382).

But what reason is there to believe that an individual citizen is on the average more likely to be right about whether a certain policy is justifiable than a properly constituted government? Indeed, by what standard is the citizen to determine whether the government's policies are "sufficiently" unjust to legitimize disobedience to the law? Rawls provides no substantive answer to either of these questions. He asserts that it is "often clear" that the basic liberties "are not being honored" (372). (One is reminded again of the "mechanical" account of judicial review.) Even if this assertion were true, it would not be the question upon which the legitimation of disobedience must turn; the question is rather whether the deviation from Rawls's "principles of justice" is or is not necessary or justifiable in the circumstances. Rawls simply leaves such judgments "to intuition" (246). The only guidance that he provides for judging actual policies is meaninglessly formal: "[a] law or policy is sufficiently just . . . if, when we try to imagine how the ideal procedure [the decision of 'rational,' 'objective,' 'impartial' legislators `who are conscientiously trying to follow the principles of justice]' would work out, we conclude that most persons taking part in this procedure . . . would favor that law or policy" (357). Yet Rawls denies that even "if many rational persons were to try to simulate the conditions of the ideal procedure and conducted their reasoning and discussion accordingly, a large majority anyway would be almost certainly right" (358). It clearly follows, then, that different individuals who tried to "imagine" the outcome of an "ideal procedure" would come to different conclusions about it. Indeed, Rawls himself is unable to specify substantive criteria for judging the "just" policy in given circumstances: his reference to an "ideal procedure" is mere buckpassing. In encouraging individuals to disobey the law whenever their guesses about the "ideal procedure" disagree with the government's, therefore, Rawls is simply encouraging anarchy.

Underlying Rawls's doctrine of "civil disobedience" is a political psychology which, not being based on any serious observation of human nature, suffers from a gross ivory-tower naivete. From the fact "that an injured minority is tempted to believe its claims are as strong as those of any, other" (375), Rawls infers nothing about the disposition of men to believe that they have a just ground for dis-
obeying the law even when such is not the case at all. In this theorist’s fantastic vision, civil disobedience is simply "one of the stabilizing devices of a constitutional system, although by definition an illegal one" (383). To those who "may object to this theory of civil disobedience that it is unrealistic," Rawls responds that he has "assumed throughout that we have to do with a nearly just society" (386; emphasis added). He does not consider what the effect of widespread disobedience to law may be on the perpetuation of such a society. "The theory of justice has nothing specific to say about these practical considerations" (376). Rawls concludes his discussion of this subject by disclaiming all responsibility for its consequences: "if justified civil disobedience seems to threaten civic concord, the responsibility falls not upon those who protest but upon those whose abuse of authority and power justifies such opposition" (390-1). Après moi, le deluge.

Unlike the great political philosophers of the past, Rawls has wholly ignored the psychological factors that are necessary to the support of any regime, and has severely underestimated the difficulty of maintaining one that is reasonably just. He assumes that the main determinant of whether people will support a regime is the extent of its correspondence to the abstract standard of perfect "justice" that he has arbitrarily constructed. He nowhere demonstrates the general existence in men of a "sense of justice" having the strength and objectivity that he attributes to it. (Indeed, were all men to have such a faculty, there would be no need for government at all). Rawls does not take into account men’s tendency to be biased judges in their own cases, and to demand more than their due; nor does he demonstrate that there is in men an innate love of mere equality, as opposed to a desire to acquire as much as they can at the expense of others." Above all, Rawls fails to consider how the encouragement of disobedience to law may undermine that reverence for law that both ancient and modern political thinkers have held is essential to the maintenance of any regime, but most especially a free one. For the maintenance of "free institutions," Rawls places his faith in their "natural strength" (219); he makes no effort to explain the relative rarity in history of long-standing free regimes, let alone the utter absence of anything like his "ideal" society. Thus far does the severance of political "philosophy" from political fact take us.

If Rawls’s view of the obligations of citizens is unrealistic and unfeasible, it is also a mockery of justice. Rawls’s "democrat" is not one who assumes any obligation to abide by the decision of a democratic government, but merely "one who believes that a democratic constitution" is most likely to "yield just and effective legislation." (296). Since even in a democracy "the people may still decide wrongly," Rawls’s "democrat" will not believe that there is anything "sacrosanct about the public decision" and will feel free to disobey it in the name of his own view of what "justice" requires— even while reaping all the benefits that accrue to him from other citizens’ obedience to the law (296). Although Rawls denies that "the injustice of a law" is "in general, a sufficient reason for not adhering to it" unless it exceeds "certain limits of injustice," the determination of these limits in practice, we have seen, turns out to be for all intents and purposes a subjective one which need not take into account whether circumstances make a real improvement of things possible or whether one’s act of disobedience is likely to make things worse rather than better. Thus the individual’s obligation to obey the law of even a fundamentally just regime is hardly a serious one. In fact, Rawls denies that "citizens generally, as opposed to elected and appointed officials, have any "political obligation, strictly speaking" (114). His reason for this denial seems to be that, since officials enjoy the privileges of office, they must act so as to justify this enjoyment; whereas ordinary citizens, being guaranteed only the equal privileges of citizenship to which their merely being alive entitles them, do not owe anything in return for these privileges.

The defect of this "theory of political obligation," like that of the other parts of Rawls’s "theory of justice," lies in Rawls’s failure to derive his "principles" from a realistic, examination of the nature of political life. Had Rawls seriously considered, as Hobbes did, the alternative to the maintenance of civil society, he would have recognized that the citizens of any decent regime have much for which they can be said to be "obligated" to it. The actual alternative to the preservation of a civic order is not likely to resemble the "original position" from which Rawls claims to derive his principles: a mere state of nondecision among "free and equal" parties who are "mutually disinterested" and free from envy and hostile passions towards one another (127-8, 143-4, 151). Rather, such an alternative is likely to come far closer to the "state of nature" that Hobbes described—a condition of the "war of every man against every man" in which life is "solitary, poor, nasty, brutish and short." The ever-present danger of such a condition, or something approximating it, given the nature of men, constitutes a strong reason why citizens
should be discouraged from disobeying laws with which they disagree, except under the gravest of circumstances—generally those in which a regime as a whole (such as the Communist and Nazi tyrannies of the present century) is so rotten as to deserve to be undermined by any form of resistance, "civil" or otherwise. One ought not to delude oneself or others into thinking that disobedience to the law is likely to serve as a "stabilizing device" in most circumstances: to disobey a law, even for the best of motives, is far more likely to weaken the fabric of law, and hence of the political order upon which any possibility of justice depends."

"Moral Theory" vs. Political Philosophy

I have endeavored to demonstrate that Rawls's "theory of justice" fails to provide a standard for judging political institutions that is either just or even meaningful. His "two principles" taken by themselves are so vague, abstract, and contradictory that it would be impossible to demonstrate that any actual regime does or does not correspond to them. When Rawls attempts to apply these principles to institutions, on the other hand, he states demands which can neither be derived from those principles nor constitute a viable standard for any political community. His prescriptions for institutions are a strange combination of deference to existing practices (the welfare state, the notion of a competitive economy in which equality of opportunity is secured only for persons "similarly endowed and motivated"), without regard to whether these practices actually accord with his "principles"; and wholly unrealistic demands (for the legitimation of "civil disobedience" on a wide scale, for mild or unenforced "penal sanctions" (240), for a precise equality of political influence) without regard to whether they are politically actualizable or even consistent with one another.

In this concluding section of my discussion, I wish to trace the above defects of Rawls's account of justice to their root: the impossi-bility in principle of a science of "moral theory" such as Rawls describes. By assuming that the problem of justice could be resolved by a "theory" that expressed the dictates of a universal "sense of justice," Rawls failed to recognize the essentially controversial character of justice. The notion that an agreement on "the principles of justice" can be secured among people who continue to have an unlimited "diversity of philosophical and religious belief, and of po-

litical and social doctrines" (127), or whose "ideals" and "interests" are "irreconcilably opposed" (129), is a ridiculous one which is refuted by political events each day. It is simply not possible to determine the objective meaning of justice unless one deals with the concrete issues of what is good for men, and of how and to what extent the conflict among both the real and the perceived interests of men can be reconciled.

What prevents Rawls from dealing with these substantive issues, I have tried to indicate, is his essentially relativistic, "non-cognitivist" approach to moral, political, and religious questions. Rawls on the one hand wants all men to agree to the dictates of his so-called "sense of justice"; but on the other hand, he seems to recognize the impossibility of demonstrating by reason, in a concrete, meaningful way, that the "conception of the good" embodied in his "sense" is actually good for men. Thus he is led to claim a "deontological" status for his notion of justice: because it is derived from what Rawls claims is a "moral point of view," a "point of view" which must be supreme, he allows "no questions [to be] asked" about its conduciveness to men's well being or perfection (94, 120). But this "solution" will not work. Insofar as Rawls tries to make his "principles" appear "objective" among different "conceptions of the good," they remain so abstract as to entail no identifiable consequences. On the other hand, to the extent that he does ordain specific sorts of institutions and practices, he deprives his account of justice of any claim to "objectivity," in the sense either of neutrality or of rationality.

Why is Rawls himself seemingly unaware of these difficulties? The reason, I believe, is the abstractness of his starting-point, which was noted earlier. Rather than beginning his analysis of justice from within the political horizon where controversies about it actually arise, Rawls assumed from the outset that the problem of justice was an essentially "theoretical" one. Thus the alternative views of justice which he considered were abstractly constructed "theories," having (in Rawls's version of them, at least) little or no substantive content themselves. The "issue" that served as Rawls's justification for writing his book—the alleged defective-ness of alternative moral "theories," especially utilitarianism—was, I believe, a spurious one, because those "theories" as Rawls constructs them are as abstract and unrelated to reality as is his own. Each of these "theories" conceives of men in a wholly unreal way—as isolated individuals among whom different quantities of unspecified "satisfactions" are to be distributed. But it is simply not possi-
ble to determine what a "just distribution" of "goods" would be unless one knows what things are good for men, given their natures; what the relative value of the different good things is; how much of them is available; how far different goods are compatible with one another; and how far it is possible for government to determine their distribution. There are no such things as "satisfactions" that are qualitatively different but quantitatively commensurable, just as there are no such beings as "persons" who "have moral convictions" but "do not know what these convictions are" (220). Because there is no conceivable human situation which could resemble Rawls's "original position," the debate over which set of "principles" would be "accepted" in such a situation has no possible relevance to human affairs.

In order to see what is wrong with Rawls's approach, and how it differs from political philosophy, one need only contrast it with the dialectical analyses of different opinions about justice that are set forth in Book I of Plato's *Republic* and Book III of Aristotle's *Politics*. The views of justice that these authors consider are drawn, not from the writings of "theorists," but from the political realm itself. Plato and Aristotle attempt to lay out the presuppositions of the diverse political opinions that are held by the fundamental variety of political classes and psychological types of men. None of these various positions may correspond to what Rawls would call "a moral point of view"—but they do represent the beliefs of actual human beings who are actively concerned to promote their respective well being as they perceive it. These are the beliefs with which the statesman—and any thinker who purports to give him guidance about the nature of political justice—must deal.

By confronting the various opinions about justice with one another—in a rational, nonviolent emulation of the confrontation that actually occurs in politics—Plato and Aristotle aim to refine out the defects of each opinion in the light of reason, and hence to arrive at a definition of justice that is humanly relevant because it is derived from the nature of human wants and needs, and that is objectively valid because it gives each claim what *reason* determines as its due. The agreement towards which each philosopher guides his simulated political debate is meant to be a model of the agreement towards which political men would actually be led if only political life were ruled strictly by reason. Since the unfettered rule of reason or philosophy is most unlikely, given the fact that most men are lovers of other things more than they are of the truth, the conception of justice, and of the simply just regime, at which philosophy
arrives must remain only a model. But even though the "best regimes" sketched by Plato and Aristotle may not be politically actualizable (nor even simply desirable), viable standards for judging actual institutions, and for guiding political action, can be derived from these regimes, because they are based on a consideration of men's nature. The nature of justice, in other words, is dependent on that of the human good: only to the extent that there can exist a common good among the members of a political community, such that political society can satisfy men's most fundamental and natural desires and needs, is justice worth pursuing. And one can determine the just or right ordering of a political community only in light of an understanding of the common good.

Whereas Plato and Aristotle worked out their notions of justice by taking the various claims of actual human beings seriously, and determining the extent to which those claims could be reconciled with one another through a rational critique of the conception of the good implicit in each one, we have seen that Rawls follows an entirely opposite procedure. Beginning with the assumption that the dictates of his own "sense of justice" are entirely correct, Rawls thinks that he can lead other men to "agree" on those dictates by simply dismissing out of hand all claims that conflict with them as of "no value" (261). Thus the "agreement" at which he arrives is an entirely artificial one that has no reference to the actual claims and interests of humanity. Not only does Rawls limit his consideration of alternative views to other "theories" that have been deprived of substantive political content, he "tests" these "theories" only by examining whether they would lead to consequences that are more or less in accordance with his "sense of justice" than those of his own "theory"! It is as if the Republic had been written, not by Plato, but by Cephalus, who had selected a cast of characters for the dialogue with a view, not to their representing the variety of actual political beliefs and claims, but rather to their either already agreeing with him or their being so pliable that they would assent to anything he said after he had pronounced it "immoral" to do otherwise. But Cephalus's view of justice, for all its limitations, at least has a basis in political reality that Rawls's view lacks.

To look to the Republic and the Politics as models of the procedure which political philosophy must follow in no way requires one to presuppose the truth of their substantive answer to the question of the nature of justice, and of the best regime. The issue between the semi-aristocratic political teaching of Aristotle, for instance, and the libertarian, egalitarian teaching of such modern
thinkers as Hobbes and Locke, is a most critical and difficult one, which anyone seriously interested in the problem of justice must reconsider for himself. What is suggested here is simply that such questions cannot be resolved by a procedure such as Rawls has followed. Rawls's attempt to determine the nature of justice and of the good society in abstraction from the nature of the human good and from the facts of human nature and political life represents a break with the entire tradition of political philosophy, as exemplified even by such a recent and "liberal" thinker as John Stuart Mill. In fact, even if one presupposes the truth of liberalism, Rawls's approach to the problem of justice is wholly unsatisfactory, and in no way represents the improvement over Mill's approach that he claims it to be.

Whatever the defects of his utilitarian "theory," Mill at least had a degree of political awareness that saved him from the barren doctrinalism to which Rawls's "theory" leads. Yet it is just Mill's attempt to derive substantive standards of political right from the nature of man and political society to which Rawls objects. Rawls denies that Mill's arguments on behalf of liberty, "cogent as they are," can serve as a ground of political right, because "they . . . will not, it seems, justify an equal liberty for all" (210). By deriving the argument for liberty from what would serve "human ends," Mill left open the possibility, at least in principle, that those ends would best be promoted by limiting the liberty of some men more than others (210-11). By contrast, Rawls claims, his own theory of "[j]ustice as fairness provides . . . strong arguments for an equal liberty of conscience" and for the other "equal liberties" (211). But what "arguments" are these? Merely the circular contention that "equal liberty" accords with Rawls's "sense of justice"-regardless of its political consequences! The alleged superiority of Rawls's "deontological" theory to Mill's "teleological" one means simply that Rawls refuses to consider empirically whether the consequences of his demands would be beneficial to men. Because Mill's argument for liberty rests on "precarious calculations" and "controversial and uncertain premises" (211), Rawls's alternative approach is simply to assert that justice requires "equal liberty" and not allow any controversy about it.

So long as Rawls avoids considering political realities, it may appear that he has set forth what has been described as "the sort of solid theoretical underpinning that social democrats have
needed to ground their views of social justice." It is easy enough for him to score points with some of his readers by telling them that he is in favor of everyone's pursuing his own "conception of the good," without admitting that genuinely different "conceptions of the good" are incompatible with one another and would require conflicting conditions for their realization. It is similarly easy for Rawls to favor both an equality of political influence for all and the securing of men's rights even against the majority will, without considering the extent to which these two objects are compatible: he need only disappear offstage with the remark that "I do not wish to pursue these matters further" (231), or leave the question to be resolved by "political sociology" (226-7). In promising men everything they desire without considering whether and how these things may be attained, Rawls emulates the politician who favors increases in public spending for every conceivable purpose but absents himself from any discussion of how tax revenues are to be raised to pay for them.

Much as Rawls may wish, however, "to postpone the day of reckoning as long as possible" and "try to arrange society so that it never comes" (303), it comes quite soon. Once Rawls begins to treat the application of his "theory" to political life, he is forced to retract the substantive claims he had made in his purported refutations of other "theories." Thus he admits that Mill may have been correct in opposing an "equal political liberty" for all men (232-3). Nor does he make any attempt to refute Burke's and Hegel's contention that political society requires a hereditary, aristocratic ruling class if it is to be well governed, and consequently "that the whole of society including the least favored benefit from certain restrictions on equality of opportunity" (300-1). He concedes in a footnote that even a feudal system might be compatible with his "two principles" (74n.) Some liberalism

The only qualification Rawls adds to these arguments on behalf of an inequality of liberty and privilege is that in addition to showing that it benefits "the whole of society including the least favored," the advocate of inequality "must also claim that the attempt to eliminate these inequalities would so interfere with the social

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system and the operations of the economy that in the long run any-
way the opportunities of the disadvantages would be even more lim-
ited" (301). But this qualification is a meaningless one, and adds
nothing to what Burke and Hegel said. It presupposes an isolation
of the good of "the least favored" from that of "the whole of soci-
ety" that does not correspond to the realities of political life. All
men exist as members of political societies, upon whose well being
their own particular welfare depends. No one's life, liberty, or prop-
erty—to say nothing of nobler goods—would have any security in a
society that was not well governed, or to which the loyalty of all
classes was not maintained. It is for this reason that the question of
how a particular class deserves to be treated cannot be settled except
in light of a determination of the good of "the whole of society:" 
Even if it were not unjust arbitrarily to "single out" one class, such
as "the disadvantaged," for special treatment, without regard to the
effect that such treatment would have on "the whole of society" but
merely because one's "ethos" commands it (319), to do so would not
even be beneficial to that class. If one sought to expand "the oppor-
tunities of the disadvantaged" by policies which harmed "the whole
of society" by alienating other classes or causing the quality of
government to deteriorate, one would in the long run, but more
fundamentally, be harming "the disadvantaged" as well.

Obviously, different conceptions of the common good will en-
tail greater relative benefits for different classes. But one cannot ob-
jectively evaluate these different conceptions except in light of a ra-
tional consideration of the nature of the human good and of a
thoughtful, empirical study of political life which determines the
extent to which that good can be attained for the members of a po-
litical society, and the most likely means of its attainment. Because
Rawls has neglected to base his account on justice on such an in-
vestigation his "theory," we have seen, provides no more "support"
for liberalism or "social democracy" than it does for feudalism.

Rawls's failure to develop meaningful standards for the deter-
mination of "just institutions" demonstrates, I believe, that "moral
theory" is a sorry substitute for political philosophy. Just as politi-
cal phenomena cannot be understood by a "value-free" political sci-
ence that is blind to their essential justice and injustice, the nature

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15 Some of the dangers that may result when government policies are
judged solely in the light of their promise to benefit the "underdog" in some man-
ner, without regard to the effect such policies have on political society as a whole,
have recently been discussed by Aaron Wildavsky in his article "Government and
of justice will not be illuminated by an abstract "theory" that ignores the facts of political life and human nature and that presupposes the truth of the author's unexamined political prejudices.

The widespread attention being paid to *A Theory of Justice* among political scientists appears to signify a growing awareness of the inadequacy of positivistic social science. But books such as this will not supply what is lacking. It is astonishing that political scientists who consider themselves "toughminded" should render honor to *A Theory of Justice*, overlooking its vagueness, formalism, and inconsistency, while dismissing a work with the substantive richness and precision of Aristotle's *Politics* as "unscientific." Such standards indicate how far we have traveled from an awareness of the true meaning of political philosophy, and from a consciousness of what is politically important.

The question of justice, I have tried to show, is inseparable from that of the common good. It is the proper task of a political science worthy of the name to endeavor to determine the nature of the common good, and of the means by which it may be promoted in particular circumstances. The particular issues of policy with which the political scientist must deal point ultimately to the questions of the nature of justice, of the best regime, and of the best way of life. To attempt to answer these questions would require that one examine, with an open mind, the various conceptions of the good and the just that are embodied in different sorts of regime, and that one weigh the reasons that are given on behalf of each form of government and way of life by its most serious advocates. It would require, in other words, that one engage in political philosophy, as that pursuit was understood by thinkers from Plato to Nietzsche. The way of access to this study is still open: it lies in the serious and critical reading of the writings which the great political philosophers have bequeathed to us. Such books raise the issues that "moral theory" obfuscates.

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